

578. From mid-March, units were redeployed from Western Slavonia to municipalities in northern Bosnia.<sup>2120</sup> Bijeljina was the first municipality to be taken on 1 April by so-called “volunteer” groups from Serbia whilst the JNA was undergoing its metamorphosis.<sup>2121</sup>

579. The VRS developed in two stages, from 1 April to 15 June, and from 15 June until early 1993.<sup>2122</sup> The first period was when the JNA was operating as the *de facto* army of the SDS and the RS, seizing control of territory at the municipal and regional levels. The second stage, which actually commenced in early May,<sup>2123</sup> was when the VRS was technically established<sup>2124</sup> and operations began to achieve the strategic goals of the RS.<sup>2125</sup>

580. During the first period, the JNA continued its presence in BiH and intervened directly in conflicts occurring there, whilst the SDS supplied municipal and regional TO units to secure and liberate their municipalities together with the police.<sup>2126</sup> A good example of this is the situation in Kotor Varoš where the 122<sup>nd</sup> light brigade was based at the Vlašić plateau from mid-March with a command post in Maslovare,<sup>2127</sup> [REDACTED]<sup>2128</sup>

581. The decision to withdraw the JNA from BiH caused unrest and some confusion on all levels.<sup>2129</sup> Both sides were anxious to stop the JNA from withdrawing.<sup>2130</sup> Although the Defence describe Colonel Hasan Efendić’s<sup>2131</sup> order as a “call to war,”<sup>2132</sup> within the context of events, it is clear that everyone was unhappy with the idea that equipment and material would be removed by the JNA.<sup>2133</sup> In any event, the Efendić order was immediately and publicly disavowed.<sup>2134</sup>

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<sup>2120</sup> See, e.g., P60.3. The 10<sup>th</sup> Partisan Division of the 5<sup>th</sup> Corps was redeployed to Sanksi Most on 1 April 1992; Brown, T.18638; [REDACTED]. The 122<sup>nd</sup> light brigade was redeployed to Vlašić plateau on 18 March.

<sup>2121</sup> AF1419.

<sup>2122</sup> P1781, pp.10-11.

<sup>2123</sup> Note that the VRS Analysis report (P1781, pp.10-11) notes that the second stage included the period from 3 May with the establishment of the Main Staff.

<sup>2124</sup> See para 584.

<sup>2125</sup> P1803, para.1.67.

<sup>2126</sup> AF993; P1781, p.10. Under cross examination, Brown does not agree that this period was irregular and characterised by the lack of a chain of command. Rather, he describes this as a transitional period and that the 1KK was moving closer to the position of the SDS and integrating TO units into its structure; Brown, T.18871-3.

<sup>2127</sup> ST-197, T.14397. In Vlasenica, the JNA supplied some APCs for the takeover on 21 April. When the JNA officially withdrew a month later, these vehicles and their commanders remained; ST-137, T.14634-5.

<sup>2128</sup> [REDACTED]. See also P2418

<sup>2129</sup> P1803, paras.1.31-2; Milovanović, T.18230-1.

<sup>2130</sup> P551.

<sup>2131</sup> Commander of the BiH TO staff.

<sup>2132</sup> 1D151. See Brown, T.19119-21; Donia, T.5037-8; Mišković, T.15290-4; [REDACTED]; Tutuš, T.7785-6.

<sup>2133</sup> Milovanović, T.18230.

<sup>2134</sup> AF207.

582. Milovanović testified that he was ordered back to Bosnia from Macedonia on 8 May by the rump Presidency of the SFRY and became the Chief of Staff of the VRS and deputy commander under Mladić.<sup>2135</sup>

583. In the meantime, on 16 April the RS Defence Ministry had issued a decision on the establishment of the TO as an army of the Serbian Republic of BiH and declared an imminent state of war.<sup>2136</sup> TO units were formally incorporated into the VRS when it came into existence.<sup>2137</sup>

584. The VRS Main Staff was established on the eve of the BSA session of 12 May and was initially made up of 12 members, including Mladić, Milovanović and Talić.<sup>2138</sup> The VRS began functioning immediately.<sup>2139</sup> The leadership consisted of ex-JNA Serbs, and units remained structured as they existed in the JNA.<sup>2140</sup> Mladić ordered that all non-Serbs who remained were to be sent on leave immediately so their status could be determined by the SFRY.<sup>2141</sup>

585. On 15 May, the UN Security Council demanded that the JNA in BiH come under the authority of the BiH Government, or withdraw or disband.<sup>2142</sup>

586. On 19 May the JNA technically withdrew from BiH, enabling its Bosnian Serb members to "remain in that army if we wanted."<sup>2143</sup> Despite the technical withdrawal, General Milovanović's choice of words confirms the fact that the JNA essentially morphed into the VRS without any significant changes.<sup>2144</sup> The VRS inherited the manpower of the JNA, its equipment, weaponry and expertise.<sup>2145</sup> General Kadijević stated "the Muslim-Croat horde never got hold of a single plane, helicopter, tank, armoured personnel carrier, gun, mortar, motor vehicle."<sup>2146</sup>

587. Accordingly, the VRS had a massive advantage against the other ethnic forces. It had experience in combat and was able to use the same modus operandi in the BiH that had been

<sup>2135</sup> Milovanović,T.18229-30.

<sup>2136</sup> 1D170;P1803, para 2.11;AF116.

<sup>2137</sup> P1781,p.13.

<sup>2138</sup> Milovanović, T.18235-6. *See also* Mladić's notebook;P.1753,pp.256-63. (Re meeting as early as 6-7 May on the establishment of the VRS with senior SDS leaders, including Karadžić and Krajšnik);Brown,T.18757.

<sup>2139</sup> Brown,T.18862-3.

<sup>2140</sup> P1803,paras.1.61-71,3.10-2;P1781,p11.

<sup>2141</sup> P1803,paras.1.127-38. Citing VRS Main Staff instruction dated 9 June;P1747. Note that Brown did not accept the Defence proposition that the army was justified in dismissing non-Serbs because they would have been a security threat in the context of an inter-ethnic war. He testified that they were removed not because they contravened any military or ethnic code;Brown,T.18880-2; *see also* P1295.18;Selak,T.18108-10.

<sup>2142</sup> AF167;Security Council Resolution 752.

<sup>2143</sup> Milovanović,T.18231;AF168.

<sup>2144</sup> Milovanović,T.18230;AF124;AF168;AF170;AF173;AF176; *see also* Selak,T.18142-3;Brown T.18863-4.

<sup>2145</sup> AF176. Note that Defence expert, Kovačević, confirmed that the tanks and aircraft used in operations in July 1992 in Kotor Varoš were former JNA equipment;P2014;V.Kovačević,T.23914-5.

<sup>2146</sup> P19,p.5;Donia,T.400-1.

successful in Croatia.<sup>2147</sup> The 1993 VRS combat report confirms that their combat hardware, personnel and reserves were inherited from the JNA,<sup>2148</sup> and that the Muslims were nowhere near as well-equipped.<sup>2149</sup> From June 1992, the total VRS strength was 177,341 members.<sup>2150</sup> By 1993, it was an army of over 210,000 members.<sup>2151</sup>

588. On 15 June, “the organised life and combat operations of the VRS actually started.”<sup>2152</sup> The Presidency issued a decision which set out the command hierarchy and operational groups of the VRS.<sup>2153</sup> However, the army was in full operation before this date.<sup>2154</sup> General mobilisation had occurred on 21 May.<sup>2155</sup> Larger operations, such as Jajce and Operation Corridor, were successfully carried out within weeks.<sup>2156</sup>

589. Mladić and his commanders took the six strategic goals announced by Karadžić and turned them into operational imperatives.<sup>2157</sup>

590. General Kadijević, summarised the evolution of the JNA into the VRS as follows:

The units and headquarters of the JNA formed the backbone of the army of the Serb republic, complete with weaponry and equipment. That army, with the full support the Serb people, which is required in any modern war, protected the Serb people and created the military conditions for an adequate political solution which would meet its national interests and goals to the extent, of course, that present international circumstances allow.<sup>2158</sup>

### (iii) Mladić

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<sup>2147</sup> P1803,paras.1.19-28;Brown,T.18640.

<sup>2148</sup> P1781,pp.11,68,77. The proposition that the JNA handed over its combat hardware and personnel to the VRS was accepted by Defence expert Kovačević;V.Kovačević,T.24133-4.

<sup>2149</sup> P1781,p.14.

<sup>2150</sup> P1781,p.70.

<sup>2151</sup> P1781,p.73. Note that Kovačević was unable to support his assertion in p.3 of his report (2D159) that only up to 3% of the mobilised police and army forces were professionals,V.Kovačević,T.24000-8.

<sup>2152</sup> P1781,p.11;Brown,T.18665-6;P1803,paras.1.67-9;ID534.

<sup>2153</sup> ID53

<sup>2154</sup> P1803,paras.1.68-9,1.1116;Brown,T.18706-8; 2D1, a 1KK combat report dated 8 June noting units were mopping up areas in Prijedor and Ključ; P1785, a 23 June report states that the situation is under control in these areas; P1795, Talic's order 2 days prior to the takeover of Kotor Varoš, following from Mladić's order 3 days prior (P1794), specifically ordering the 122<sup>nd</sup> brigade to secure territory and step up measures of full control.

<sup>2155</sup> P1778,Brown,T.18653-8;*See also* P262.

<sup>2156</sup> Main Staff Directive #1 is dated 6 June and orders the securing of the Semberija-Bosnian Krajina corridor to be conducted within 8 days;P1794,p.3;Brown,T.18784-5.

<sup>2157</sup> P1803,paras.1.38-42,2.212-8,Brown,T.18644-5;P1796;P1293.Directive #1 dated 6 June:P1794. Directive #2 dated 27 July;P1797.Directive #4, dated 19 November;P1780;Brown,T.18590-1. (Directive #3 was not tendered into evidence but is referred to within Directive #4); Directive #1 dated 6 June;P1794. *See also* Directive #2 dated 27 July;P1797 and Directive #4, dated 19 November;P1780;Brown,T.18590-1. (Directive #3 was not tendered into evidence but is referred to within Directive #4).

<sup>2158</sup> P18;Donia,T.397.

591. General Mladić was a key member of the JCE and his contributions were essential to the achievement of the strategic objectives of the Serbs. Appointed commander of its Main Staff on 12 May,<sup>2159</sup> Mladić addressed the Assembly at some length and stated:

Those who think that we can keep whatever our tank and our soldier can reach, those times are long gone, that's the past perfect. Our tanks and our soldiers need to be where our hearths are. If we have taken something in this war that was not ours, we need to keep hold of it so that in political negotiations we can get those things that were ours, and that we cannot get in any other way. In other words, define the territories clearly.<sup>2160</sup>

592. Even before the creation of the VRS, General Mladić was already actively engaged in coordinating the forces fighting on behalf of the RS. On 13 May he told Unković from Iličić CS that the most important thing was that all the military formations in that area were put under the command of the 4<sup>th</sup> Corps under Colonel Gagović. When Mladić was informed that some of Arkan's men were present in Iličić, he told Unković that they were under his (Mladić's) command.<sup>2161</sup>

593. Belatedly, on 28 July, Mladić issued an order on the "Disarmament of paramilitary formations".<sup>2162</sup> By that late stage, most of the serious damage by paramilitaries had been done.

594. Following its creation, the VRS was the primary force in achieving the territorial goals set out in the strategic objectives. Mladić, through his Main Staff, issued "Directives" designed to reach those goals.<sup>2163</sup> Directive 4 of 19 November is of particular interest as it is not only reflective of the territorial objectives, but also the ethnic objective with regard to the task assigned to the Drina Corps:

[P]ersistently defend Višegrad (the dam), Zvornik and the corridor [...] exhaust the enemy, inflict the heaviest possible losses on him, and force him to leave the Birač, Žepa and Goražde areas together with the Muslim population.<sup>2164</sup>

595. Mladić was fully engaged in carrying out his role in the common plan as can be plainly seen simply from a review of his notebooks kept during the conflict.<sup>2165</sup> He had regular meetings with his Main Staff and with subordinate commanders.<sup>2166</sup> Mladić also met regularly with the Presidency<sup>2167</sup> and attended BSA sessions.<sup>2168</sup> He also travelled often throughout the RS and frequently met with

<sup>2159</sup> L42;P754,p.57.

<sup>2160</sup> P74,p.38.

<sup>2161</sup> P1184.

<sup>2162</sup> P1284.56. *See also* P591;P1757,pp.246-72..

<sup>2163</sup> P1794;P1797;P1780.

<sup>2164</sup> P1780,p.5. *See also* P1385.1

<sup>2165</sup> P1751;P1753;P1755;P1757;P1759;P1761;P1762;P1764;P1765;P1805.

<sup>2166</sup> *See,e.g.,* P1755,pp.160-5,172-9,188-96,222-6,299-308.

<sup>2167</sup> *See,e.g.,* P1755,pp.45-8 (1 June),pp.308-16 (10 July);P1757,pp.16-25 (2,4 August),pp.131-55 (2 September).

<sup>2168</sup> *See,e.g.,* P430,p.19 (14-15 September).

civilian authorities and municipal police to hear about the situation on the ground.<sup>2169</sup> Mladić sometimes was teamed with Karadžić for these sessions.<sup>2170</sup> He also met with STANIŠIĆ. Both men attended the Supreme Command meeting held on 20 December.<sup>2171</sup>

### **III. THE ACCUSED'S CRIMINAL RESPONSIBILITY UNDER JOINT CRIMINAL ENTERPRISE LIABILITY**

#### **A. Introduction**

596. The Accused participated in the common purpose through their actions and omissions,<sup>2172</sup> and their participation significantly contributed to its implementation. As set out in this Section, they contributed to the common purpose in a number of ways, including:

- Participating in the creation of the common plan and the formation of the Serb organs and Serb forces that implemented that plan through the forcible takeovers of the charged municipalities and the crimes charged in the Indictment;<sup>2173</sup>
- Participating in the formation of Serb policy – including serving on key Serb governing organs – in order to secure the takeovers of the charged municipalities, and ultimately, the forcible removal of the non-Serb population;
- Communicating, cooperating and coordinating with Serb political and military leaders at the republic, regional and municipal levels, including facilitating joint VRS/RSMUP operations aimed ultimately at achieving the common plan;
- Creating and commanding members of the RSMUP who acted in coordination with other JCE members and Serb forces;
- Facilitating the establishment and operation of detention facilities; and
- Failing to protect the non-Serb population and adequately investigate crimes committed against them.

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<sup>2169</sup> P430,p.19;P1759,pp.40-58.

<sup>2170</sup> See,e.g. P1755,pp.247-72. Re a meeting in Zvornik on 30 June;P1477,p.3. Combat report 4 June noting that Mladić and Karadžić attended a meeting of the SAO Herzegovina Assembly in Bileća.

<sup>2171</sup> ID173.

<sup>2172</sup> *Kvočka* AJ,paras.187,421,556;*Gotovina* TJ,paras.2571-4,2581-3.

<sup>2173</sup> Planning a crime may constitute a contribution to the execution of the common purpose. *Kanyarukiga* AJ, Separate Opinion of Judge Pocar,para.4; *see,e.g., Krajišnik* AJ, paras.216(a),(b),217-9;*Popović* TJ,paras.1299,1302,1408.

597. In making these significant contributions to the common plan, the Accused, together with other JCE members, shared the intent to commit the crimes alleged in the Indictment and to participate in the common plan. Their actions, failures and form of participation in the JCE show their intent. Their continuous participation in the criminal plan from inception to achievement – including by failing to investigate or punish those committing the indicted crimes – despite their knowledge that the criminal plan encompassed commission of these crimes, shows their intent to further the JCE and to commit these crimes.<sup>2174</sup>

598. In the alternative to liability under JCE I for all crimes charged in the Indictment, the Accused are liable under JCE III for each of the crimes other than those encompassed by the common purpose to forcibly expel the non-Serb population. In implementing that objective, it was foreseeable to them that acts of persecution (such as forced displacement, appropriation or plunder of property, imposition and maintenance of restrictive and discriminatory measures on non-Serbs), murder, extermination torture, cruel treatment, inhumane acts, unlawful detention, detention under inhumane conditions, and wanton destruction might be committed.

599. The Accused were aware that these other crimes were possible consequences of implementing the JCE to create an ethnically pure Serbian state and willingly participated in the JCE. From the outset, they knew the goals, the scale and the violent means to implement the JCE to which they significantly contributed. They were at all times well-apprised of the situation on the ground, including the crimes repeatedly committed by the Serb forces furthering the common purpose. They knew of the criminal propensity of some of these forces, including their own subordinates. However, at no time, did the Accused instruct their subordinates to protect non-Serbs against those committing crimes or to stop committing crimes against them. They also knew that thousands of non-Serbs were detained in camps and other various locations following the municipalities' takeovers. In these circumstances, it was foreseeable to the Accused that the various discriminatory and criminal acts charged in the Indictment would be committed as part of the campaign to forcibly expel non-Serbs. The Accused were aware that Serb forces harboured ethnic animosity toward the victim population and thus were aware that they might commit persecutions.

600. The Accused carried out each of the persecutory acts or omissions charged in the Indictment,<sup>2175</sup> with the specific intent to discriminate on political, racial, religious or ethnic grounds.<sup>2176</sup> The evidence as a whole – including evidence showing the systematic nature of the

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<sup>2174</sup> *Krajišnik* AJ, paras.204,697; *Milutinović* TJ (Vol.III),paras.463-465; *Popović* TJ,para.1717.

<sup>2175</sup> *Blaškić* AJ,para.164.

<sup>2176</sup> *Kvočka* AJ,para.439. See also *Krajišnik* TJ,para.782

crimes committed against non-Serbs and the general attitude of the Accused<sup>2177</sup> – shows that the Accused targeted their victims on the basis of the fact that these victims were Croats, Muslims or otherwise non-Serb.

### **B. STANIŠIĆ contributed significantly to the common plan**

#### **1. STANIŠIĆ contributed to the creation of the plan**

601. STANIŠIĆ participated in the early stages of the creation of the common plan by providing crucial information to the SDS leadership, from his position in the Sarajevo SUP. He was trusted by Karadžić and Krajišnik as a key leader of the emerging Serb parallel institutions.

602. STANIŠIĆ was a founding member of the SDS party, and was appointed to his leadership position within the BiHMUP (as chief of SUP Sarajevo) by that party.<sup>2178</sup> Additionally, STANIŠIĆ was close to Karadžić and repeatedly had his support.<sup>2179</sup> For example, during July 1991, when STANIŠIĆ was under investigation for providing weapons to SJBs Pale and Ilidža, Karadžić supported STANIŠIĆ through Mandić's office.<sup>2180</sup>

603. STANIŠIĆ was involved in the process of regionalisation as a member of the “regionalisation staff” of the Pale SDS Town Board from 25 September 1991. STANIŠIĆ was to “coordinate the implementation of the Decision and conclusions for the region of the City of Sarajevo” issued at an SDS Conference held in Pale on 7 September 1991.<sup>2181</sup> Months prior to the conflict, STANIŠIĆ was also involved with MANDIĆ in removing 560 Heckler arms from the BiHMUP and distributing them to Serbs in Sokolac, Rogatica, Han Pijesak and Pale.<sup>2182</sup>

604. Part of SDS policy was positioning Serbs in key posts in the BiHMUP (which later facilitated the take-overs of CSBs and SJBs).<sup>2183</sup> [REDACTED]<sup>2184</sup> However, STANIŠIĆ on behalf of the SDS personally intervened to oppose this personnel change.<sup>2185</sup>

605. STANIŠIĆ was instrumental in the ethnic split within the BiHMUP. As Karadžić noted during a December 1993 BSA session:

<sup>2177</sup> *Kvočka AJ*, para.460.

<sup>2178</sup> P883;P888;P1999,pp.56-57;Zepinić,T.5707-8;[REDACTED].

<sup>2179</sup> See e.g. P1149;P1135;P1108;P1152;P1999,p.52;Đerić,T.2373-6,T.2521-2;Đerić,P179.2,T27064-71.

<sup>2180</sup> P721;P722.

<sup>2181</sup> P1467.

<sup>2182</sup> P1999,p.164.

<sup>2183</sup> Nielsen,P508,paras.14,41;P716;P719;P720;P722;P893;P521,p.4.

<sup>2184</sup> [REDACTED].

<sup>2185</sup> ST-155,[REDACTED], T.12122-7;P1500.4;[REDACTED].

We can never forget that Mićo STANIŠIĆ was a member of the Preparatory Committee for establishing the Party [...]. He put his name on our list in the MUP and in the MUP he fought to prevail, i.e. for a balance of Serbian cadres, much more, not much more than but in contrast to the likes of Žepinić who was our unsuccessful cadre, and we did not even know Žepinić, he was not a member of our party, and he did the best he could for establishing and separating the MUP at the beginning of April 1992, by establishing the checkpoint at Vraca, thanks to which we have Grbavica [...].<sup>2186</sup>

606. On 19 December 1991, the Variant A/B Instructions directed municipal SDS leaders to form parallel Serb institutions.<sup>2187</sup> STANIŠIĆ received these instructions on 21 December.<sup>2188</sup> At the same time, the Ministerial Council was established to serve as a Serb government-in-waiting, and STANIŠIĆ was elected Minister without Portfolio (Žepinić, then Deputy-Minister of the BiHMUP, was named Minister of Internal Affairs).<sup>2189</sup> The Council was responsible for developing a work plan for the political, territorial and economic organisation of an ethnically consolidated Serb republic separate from BiH.<sup>2190</sup>

607. STANIŠIĆ attended the first meeting of the Ministerial Council on 13 January at which the Council decided that “defining of ethnic territory” and “establishment of government organs in the territory” were priorities springing from the 9 January RS Declaration.<sup>2191</sup> The Council appointed STANIŠIĆ head of a working group entrusted with developing the “organisation and scope of national security”.<sup>2192</sup> [REDACTED]<sup>2193</sup> as he was instructed to do by the BSL, and even accepted an appointment as assistant to the BiHMUP Minister three days after the 11 February meeting in Banja Luka laid the groundwork for creating a Serb MUP.<sup>2194</sup>

2. STANIŠIĆ participated in the formation of Serb bodies and forces that implemented the forcible takeovers of the municipalities

608. STANIŠIĆ also developed the institutions that would forcibly takeover municipalities throughout BiH. His focus was the civilian police, which was the only armed force of the RS until the activation of the VRS on 19 May.<sup>2195</sup>

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<sup>2186</sup> P1999,p.57.

<sup>2187</sup> P69.

<sup>2188</sup> P69,p.12 ;Hanson,P434,para.13;P1154,p.3.

<sup>2189</sup> P180;P267,p.5.

<sup>2190</sup> P180;P267;P268.

<sup>2191</sup> L29.

<sup>2192</sup> P268.

<sup>2193</sup> [REDACTED];Žepinić,T.5805-8.

<sup>2194</sup> P906;ID135.

<sup>2195</sup> Nielsen,P508,para.191;2D36,p.2;P625.

609. [REDACTED]<sup>2196</sup> During the first two meetings of the Ministerial Council, it was decided to establish an ethnically divided MUP, and this was weeks before the statement of principles produced by Ambassador Cutileiro.<sup>2197</sup>

610. On 11 February, STANIŠIĆ met with high-ranking Serb members of the BiHMUP in Banja Luka. This was a key moment in the creation of the RSMUP. Four of the five future CSB chiefs were present, including ŽUPIJANIN, as well as the future RSMUP Deputy-Minister Mandić and Head of Public Security Čedo Kljajić. STANIŠIĆ announced that the decision of the Ministerial Council to ethnically divide the BiHMUP was already being implemented. The conclusions reached at the meeting included carrying out “all preparations necessary for the functioning of a Serbian MUP”.<sup>2198</sup>

611. The fact the meeting was held in the Hotel Bosna and not CSB Banja Luka suggests it was clandestine except to the BSL.<sup>2199</sup> On 13 February, Mandić sent a telegram only to STANIŠIĆ and the five future CSB chiefs of the RSMUP, asking them to arrange a meeting with senior members of the BiHMUP in their areas.<sup>2200</sup> At an SDS meeting at the Holiday Inn in Sarajevo on 14 February, Karadžić ordered the implementation of the second level of the Variant A/B Instructions.<sup>2201</sup> At a subsequent meeting (probably late March) in Pale, STANIŠIĆ instructed leading Serb members of BiHMUP to disobey any orders issued by their Muslim superiors if they were contrary to the interests of the Serbian people,<sup>2202</sup> a policy ŽUPIJANIN had already begun implementing.<sup>2203</sup>

612. ŽEPINIĆ was neither invited to, nor knew about, the 11 February meeting.<sup>2204</sup> In fact, the BSL was dissatisfied with his commitment to the Serb cause and therefore side-lined him from talks regarding the division of the BiHMUP.<sup>2205</sup> STANIŠIĆ led the group that demanded Žepinić's resignation when it became clear that he was the sole objector to the split of the BiHMUP. Žepinić testified that STANIŠIĆ threatened to kill him with a gun on that occasion.<sup>2206</sup> It is undisputed that

<sup>2196</sup> [REDACTED].

<sup>2197</sup> P267;P268.

<sup>2198</sup> 1D135.

<sup>2199</sup> Mandić,T.9703,T.9799-800. One of the conclusions was to inform the Council of Ministers of the meeting results. Despite a suggestion that demands should be sent to Delimustafić the conclusions do not reflect any such decision.

<sup>2200</sup> P527.

<sup>2201</sup> P1841,p.24.

<sup>2202</sup> Šćekić,T.6528-9.

<sup>2203</sup> P864,p.2.

<sup>2204</sup> Žepinić,T.5804-5.

<sup>2205</sup> P10,pp.36-37;P903 (“Žepinić should resign [...] if he is not able to protect Serbian cadres”);P890;P898;P724.

<sup>2206</sup> Žepinić,T.5827-32 Present were Karadžić, Koljević, Plavšić, Đerić, STANIŠIĆ and Mandić. The Defence declined to put to Žepinić that this was untrue. See T.5955-61. Mandić disputed the presence of some of the participants and that there was a gun,T.9697.

Žepinić resigned as a result of the altercation<sup>2207</sup> and was subsequently arrested by STANIŠIĆ in Belgrade and detained for four months.<sup>2208</sup>

613. Leading up to his appointment as RSMUP Minister on 24 March, STANIŠIĆ kept close contact with the SDS leadership and was heavily involved in the “barricades” incident in Sarajevo on 1 March<sup>2209</sup> which was apparently a BSL attempt to disrupt the pending referendum.<sup>2210</sup> Đukić, SDS Executive Board President, listed Serb demands that had to be met before the barricades would be taken down.<sup>2211</sup> That day, STANIŠIĆ told Đukić that he had attended the checkpoints himself, that all went well, and that it was “live practice”.<sup>2212</sup> STANIŠIĆ spoke with SJB Pale Chief Koroman to ensure that SDS requirements were implemented on the ground.<sup>2213</sup> He also informed Karadžić that the negotiations were successful and that conditions had been met for both parties to withdraw from the barricades.<sup>2214</sup> Karadžić instructed him to coordinate with the army.<sup>2215</sup> Đukić later reported to Karadžić that everything was well-organised, Sarajevo was under complete blockade, the army had been consulted, and “Mićo” was still with him, to which Karadžić expressed approval.<sup>2216</sup>

614. During this same period, the RS Constitution and various laws, including the LIA, were adopted. STANIŠIĆ was aware that there was no turning back and that a forceful division of the BiHMUP was the next step. By mid-March, the BSA’s calls for the creation of a Serbian MUP could not have been expressed more clearly.<sup>2217</sup>

615. On 24 March the BSA appointed STANIŠIĆ Minister of the Interior,<sup>2218</sup> and on 27 March the BSA declared the creation of the RSMUP.<sup>2219</sup> Three days later, while attending the review and swearing-in ceremony for 230 members of the police force of SAO Romanija in Sokolac,<sup>2220</sup> STANIŠIĆ (one day prematurely) publicly announced, “As of today the Serbian Republic of Bosnia

<sup>2207</sup> P912.

<sup>2208</sup> Žepinić,T.5833-40;P913.

<sup>2209</sup> P908;P911;P643.Mandić at T.9692-5,T.9807-8 denied any personal or SDS involvement, but see P735. Andan testified that Mandić and Đukić orchestrated the barricades; Andan,T.21384-5.

<sup>2210</sup> See Donia,P32,pp. 50-51.

<sup>2211</sup> Nielsen,P508,para.62.

<sup>2212</sup> P910.

<sup>2213</sup> P1111.

<sup>2214</sup> P1110,p.7.

<sup>2215</sup> P1110,p.8.

<sup>2216</sup> P1195.

<sup>2217</sup> P708,pp.22,36.

<sup>2218</sup> P198,p.9.

<sup>2219</sup> AF115;P353.

<sup>2220</sup> 1D633.

and Herzegovina has its own police force [...] As of today we will act as the police of the Serbian Republic of Bosnia and Herzegovina.”<sup>2221</sup>

616. STANIŠIĆ also became a member of the NSC, formed on 27 March.<sup>2222</sup> The NSC was technically an advisory organ to the BSA on political, legal and security issues.<sup>2223</sup> However, in practice it exercised the powers of the presidency until acting presidents were named. The NSC issued instructions to, and received reports from, municipal CSs and TOs. The NSC also met in joint sessions with the Government for taking decisions on military, political and administrative matters.<sup>2224</sup>

617. Preparation for the division of the BiHMUP culminated in a 31 March telegram from Mandić (STANIŠIĆ’s Deputy RSMUP Minister) to all members of the newly established RSMUP:

On the day this Law comes into force, the Security Services Centres and Public Security Stations of SRBiH MUP on the territory of the Serbian Republic of Bosnia and Herzegovina are abolished and cease to function, and their authority i.e., tasks and duties within the competence of organs of internal affairs are taken over by the above-mentioned organisational units of MUP of the Serbian Republic of Bosnia and Herzegovina.<sup>2225</sup>

618. This announcement was disseminated to all police stations and STANIŠIĆ referenced this dispatch as a document on which SJBs could rely to justify splitting from BiHMUP in their municipalities.<sup>2226</sup> Despite protests from Delimustafić and the independent BiHMUP union to remain united,<sup>2227</sup> STANIŠIĆ swiftly ensured that Serbs did not respond to such pleas by his dispatch on 3 April stating, “We are warning again to abide by the Serb Republic of BiH Constitution and Law on Internal Affairs as well as the orders issued by Mićo STANIŠIĆ, Minister of Interior.”<sup>2228</sup>

619. STANIŠIĆ knew which Serb personnel he could depend on to form the RSMUP. On 1 April 1992, he appointed several new RSMUP employees,<sup>2229</sup> including the five CSB chiefs who would be key in implementing the plan: ŽUPLJANIN in Banja Luka, Bjelošević in Doboj, Cvjetić in Sarajevo, Ješurić in Bijeljina and Savić in Trebinje, all participants in the JCE. The participation of Bjelošević in crimes charged in the Indictment was addressed during the trial. He and ŽUPLJANIN

<sup>2221</sup> 1D633.

<sup>2222</sup> P1838;L327.

<sup>2223</sup> L327.

<sup>2224</sup> P711;P204;P208;P212;P214.

<sup>2225</sup> P353;P1126.

<sup>2226</sup> P1126,p.10;P1837.

<sup>2227</sup> 1D136;P29.

<sup>2228</sup> P534.

<sup>2229</sup> P1000;P1408-P1416;P1448;P2016.

supported one another, as illustrated by ŽUPLJANIN's suggestion that incriminating intelligence on Bjelošević be removed from an SNB Banja Luka report.<sup>2230</sup> Krsto Savić, a member of the SDS,<sup>2231</sup> has been convicted of war crimes by the BiH State court.<sup>2232</sup> Cvijetić died during the conflict.<sup>2233</sup> As for Ješurić, he was described by Milorad Davidović as a founding member of the SDS in Bijeljina who pressured Davidović (unsuccessfully) to join the SDS under threat of losing his position as SJB Bijeljina chief.<sup>2234</sup> Ješurić was allegedly involved in money laundering, smuggling and illegally issuing papers for stolen cars.<sup>2235</sup>

620. On 6 April Mandić organised the forcible take-over of the BiHMUP academy at Vraca.<sup>2236</sup> That day, Žepinić overheard STANIŠIĆ on police radio discussing the attack with Momčilo Mandić and his brother Mladen.<sup>2237</sup> Vraca became the first seat of the RSMUP.

3. STANIŠIĆ participated in the development of Serb policy at the leadership level in order to secure the takeovers of the municipalities and forcible removal of the non-Serb population

621. The takeovers of municipalities followed shortly after the RSMUP came into existence. STANIŠIĆ ensured that the plan was implemented by Serb police under his command. STANIŠIĆ's positions within the Government put him in regular contact with the highest levels of the BSL on security-related issues. STANIŠIĆ also had regular contact with high-level police officials in Serbia regarding equipment and materiel for the RSMUP.<sup>2238</sup> He secured weapons from Serbia and sought the assistance of the Federal MUP's special police brigade to form his own special police unit,<sup>2239</sup> which was led by Milenko Karišik.<sup>2240</sup> Karišik's unit participated in the persecution of non-Serbs in Zvornik following the arrest of the Yellow Wasps.<sup>2241</sup>

622. As non-Serb police officers were being dismissed, STANIŠIĆ's RSMUP was recruiting Serbs, including "thieves and criminals", who were willing to fight to create a Serbian state.<sup>2242</sup> The RSMUP leadership started meeting to sort out logistical matters.<sup>2243</sup> According to the September

<sup>2230</sup> P2400.

<sup>2231</sup> Njeguš,T.11485,T.11488.

<sup>2232</sup> Krulj,T.1966.

<sup>2233</sup> P1318.15,p.5.

<sup>2234</sup> M.Davidović,P1557.7,T.15283-6,T.15222-3;P1557.1,paras.10-11.

<sup>2235</sup> M.Davidović,P1557.5,T.14399-400;M.Davidović,T.13522-3;[REDACTED].

<sup>2236</sup> P735.

<sup>2237</sup> Žepinić,T.5832-3;*see also* Nielsen,P508,para.94.

<sup>2238</sup> M.Davidović,P.1557.3,T.14192;P1557.1,paras.39,51.

<sup>2239</sup> M.Davidović,P1557.1,paras.39-46;P541;P1127.

<sup>2240</sup> M.Davidović T.13533;P907 (video 0:26:35).

<sup>2241</sup> M.Davidović T.13591-3.

<sup>2242</sup> P400,p.17.

<sup>2243</sup> P541.

1992 draft of the RSMUP Rulebook on Internal Organisation, the Ministry employed 11,240 workers – compared with 10,195 workers in all of the BiHMUP in January 1990.<sup>2244</sup>

623. Following Variant A/B instructions Serb CSs issued decisions designed to take power in targeted municipalities. For example, Vlasenica CS declared a state of imminent threat of war, based on NSC decisions.<sup>2245</sup> By mid-April, takeovers, followed by forcible removal of non-Serbs, had taken place in Bijeljina, Pale, Gacko, Žvornik, Bosanski Šamac, Sanski Most and Višegrad. All but four Indictment municipalities were taken over before the VRS came into existence.<sup>2246</sup>

624. To implement the common plan, the BSL relied on a number of collaborators, and two pivotal entities were the army and police.<sup>2247</sup> The role of the RSMUP in the overall plan was crucial. Police helped seize power in the targeted municipalities and attacked non-Serb settlements,<sup>2248</sup> rounded up and arrested non-Serb civilians,<sup>2249</sup> and established, secured and maintained detention facilities for non-Serbs.<sup>2250</sup> In performing these tasks, the RSMUP cooperated with the regional and municipal CSs, the JNA/VRS, Serb paramilitary groups and the SDS leadership.<sup>2251</sup>

625. In a speech made at 12 May Security Day parade in Banja Luka, STANIŠIĆ espoused the propaganda of the Serb cause, including making a derogatory reference to the Turkish police. The event is a striking illustration of the importance of the police to the criminal enterprise; prominent RS politicians joined STANIŠIĆ and ŽUPLJANIN on a balcony, from where they proudly addressed the public and praised the new Serb police.<sup>2252</sup> On 15 May, STANIŠIĆ ordered that all authorised officials of RSMUP be organised into “war units”. The order provided that a Staff be created “in order to command and control the overall forces of the Ministry,” and STANIŠIĆ named himself as commander of that Staff. Other members of the Staff included all the CSB chiefs.<sup>2253</sup>

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<sup>2244</sup> P615;P850.

<sup>2245</sup> P1057.

<sup>2246</sup> Serbs seized power in Kotor Varoš, Teslić and Bileća in June 1992.

<sup>2247</sup> See Section III.D.

<sup>2248</sup> See, e.g., AF205;AF640;Lukač,P2160,T.1653-6.

<sup>2249</sup> See, e.g., AF302;AF476-480;AF504;ST-008,T.19200-3;AF505;AF519;AF545;A.Džafić,P962.1,pp.13-14;AF577;AF662;Todorović,P2128,T.9107-12.

<sup>2250</sup> AF317;AF319-324;AF884.

<sup>2251</sup> See Section II.D.2;II.D.3.

<sup>2252</sup> P1393,p.1.

<sup>2253</sup> 1D46.

626. STANIŠIĆ participated in the development of RS policy. He was involved in the detail of specific decrees,<sup>2254</sup> and participated in meetings where the Government discussed the exchange of prisoners and the current political and security situation in the RS.<sup>2255</sup> His work in the government helped further the strategic objectives enunciated at the BSA on 12 May.<sup>2256</sup> As STANIŠIĆ stated on 14 September, “The MUP is being used as an organ for exercising power” and “[W]e followed all orders”.<sup>2257</sup>

#### 4. STANIŠIĆ communicated and coordinated with Serb political and military leaders

627. From the outset, STANIŠIĆ was a member of the elite group dedicated to creating a separate Serbian state.<sup>2258</sup> The Ministerial Council consisted of high-ranking SDS members, including STANIŠIĆ,<sup>2259</sup> and was effectively a government-in-waiting. As a member of the NSC,<sup>2260</sup> he participated in making military and security decisions.<sup>2261</sup> The NSC met jointly with the Government 11 times from mid-April to mid-May.<sup>2262</sup>

628. Karadžić insisted that STANIŠIĆ be appointed as RSMUP Minister, despite the fact that Mandić was the most senior police officer in the new Government. Mandić was friends with STANIŠIĆ before the conflict and the two met “quite often” to discuss matters during 1992.<sup>2263</sup> The SDS nominated both STANIŠIĆ and Mandić as party candidates, and Karadžić appointed them so that the government could not vet them.<sup>2264</sup>

629. Almost immediately after the MUP split, Mandić started usurping STANIŠIĆ’s powers within the RSMUP. STANIŠIĆ complained about this to Karadžić, who suggested that Mandić be removed and transferred to the RSMOJ. STANIŠIĆ agreed, cementing his ties with Karadžić.<sup>2265</sup> However, STANIŠIĆ continued to cooperate with Mandić, as shown when Mandić asked and

<sup>2254</sup> P240;P853.

<sup>2255</sup> P200,p.2;P242.

<sup>2256</sup> P187;P74.

<sup>2257</sup> P272.

<sup>2258</sup> See P1109 (Karadžić naming STANIŠIĆ and Mandić as SDS members who were trusted with tasks for the cause). In his prior testimony, Mandić confirmed that no one entered the Government without the consent and support of Karadžić and Krajšnik, and that STANIŠIĆ was one of Karadžić’s trusted advisors. Mandić,P1318.1,T.8621-2,T.8634. *But see* Mandić,T.9429-30.

<sup>2259</sup> Mandić,P1318.1,T.8615-6;P10;P180.

<sup>2260</sup> Mandić,P1318.3,T.8743.

<sup>2261</sup> Mandić,P1318.7,T.9124-5.

<sup>2262</sup> P204;P205;P206;P711;P207;P208;P209;P210;P211;P212;P213;P214.

<sup>2263</sup> Mandić,P1318.5,T.8950-2. *See also* P739,p.4. Although during his testimony in this case Mandić tried to minimise STANIŠIĆ’s power and participation within the BSL, this is in direct contrast to his Krajšnik testimony. Mandić,P1318.1,T8634;Mandić,P1318.2,T.8646-7.

<sup>2264</sup> Deric,P179.2. T.27064-5;*see also* Mačar,T.22930.

<sup>2265</sup> P1162,p.3. *See* Mandić’s explanation at T.9459-62.

STANIŠIĆ agreed to supply police escorts for 400 persons being released from Kula prison by Mandić.<sup>2266</sup>

630. In the early months of the conflict, STANIŠIĆ held telephone conversations with the highest BSL members – including Karadžić, Koljević, Plavšić, Đerić and Subotić – on a variety of matters related to the ongoing conflict.<sup>2267</sup> STANIŠIĆ also liaised with the paramilitary groups entrusted by the SDS with takeover operations prior to the formal establishment of the VRS.<sup>2268</sup> STANIŠIĆ, along with other high-level Serbs, including Karadžić and Krajšnik, also personally met with Arkan to discuss future actions for his group on a number of occasions, including a meeting in Belgrade at the beginning of the conflict. STANIŠIĆ made a deal with Arkan that in exchange for assisting in “liberating” Sarajevo he and his men could loot whatever they managed to seize.<sup>2269</sup>

631. STANIŠIĆ also coordinated with the army.<sup>2270</sup> RSMUP’s 17 July report to the Presidency noted that as soon as the VRS came into existence the RSMUP had effectively cooperated and coordinated with it.<sup>2271</sup> Based on issues regarding VRS-RSMUP relationships raised at the 11 July RSMUP Collegium, STANIŠIĆ met with Mladić on 27 July to ensure “more effective co-operation and coordinated action.”<sup>2272</sup>

632. RSMUP was, in the words of Kovač, the “strongest structure within the state”,<sup>2273</sup> and the Government depended upon STANIŠIĆ to carry out several specific tasks. For example, at its 15 June session, the Government discussed a report on prisoner exchanges and appointed STANIŠIĆ to a working group investigating this “extremely important, complex and delicate” problem, which could cause “a number of negative consequences” if insufficient attention were paid to it.<sup>2274</sup> Trbojević testified that after STANIŠIĆ’s appointment, this working group never met because of the hostility between STANIŠIĆ and Mandić on one hand, and Trbojević and Đerić on the other.<sup>2275</sup>

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<sup>2266</sup> Mandić,P1318.4,T.8871.

<sup>2267</sup> See e.g. P1120;P1147;P1155;P1162;P1156;P1133;P202;P203;P1114.

<sup>2268</sup> M.Davidović,P1557.04,T.14249-58.

<sup>2269</sup> M.Davidović,P1557.04,T.14250-8;M. Davidović,P1557.01,para.125.

<sup>2270</sup> P1169, intercept in which STANIŠIĆ calls Miroslave Gagović, a JNA MP Commander, to give specific direction on action to be taken on the ground,14 May 1992. *See also* P236 which states that the Ministry of the Interior and the Main Staff must independently and jointly control the transport of goods, vehicles and travellers.p.3.

<sup>2271</sup> P427.08,p.4. *See also* RSMUP Performance Report for April-June 1992,P573,p.11, which notes “First and foremost, co-ordinated action has been achieved in combat activities with the Serbian Army.”

<sup>2272</sup> P427.8,p.6;Mladić notebook,P1755,pp.373-4;Milovanović,T.18266-7.

<sup>2273</sup> Kovač,T.27151.

<sup>2274</sup> P427.11.

<sup>2275</sup> Trbojević,P427.2,T.11501-2.

633. At the Government's 4 July session it concluded that it had not yet taken a position on the criteria regarding moving out of the Muslim population from the RS and entrusted the RSMUP with "preparing information on this issue that the Government would consider and take the appropriate standpoint."<sup>2276</sup> The Government entrusted STANIŠIĆ with this assignment because he was in an operational ministry and had people on the ground.<sup>2277</sup>

634. STANIŠIĆ (and Mandić) reported to the Government on the existence of detention facilities in "every municipality," including those in Trnopolje, Omarska and Bileća.<sup>2278</sup> He also informed the Government of the mistreatment of persons in these facilities.<sup>2279</sup> On 3 August, Mladić directed his subordinates to work with the RSMUP to prepare the POW camps for foreign journalists.<sup>2280</sup>

635. As RSMUP Minister, STANIŠIĆ had a dual role. When police were used in military matters, he reported to Karadžić as Supreme Commander and coordinated with the VRS. For all other aspects of his portfolio, he was supposed to report to Đerić and Trbojević.<sup>2281</sup>

636. However, the evidence shows STANIŠIĆ considered himself directly accountable to Karadžić and Krajišnik, rather than to Đerić and Trbojević, his *de jure* superiors.<sup>2282</sup> In both Đerić's and Trbojević's views, STANIŠIĆ belonged to Karadžić.<sup>2283</sup>

637. These tensions led Đerić to seek to remove STANIŠIĆ (and Mandić for similar reasons) towards the end of 1992. Karadžić, however, supported these two ministers and considered himself to be the supreme holder of power. As a result, Đerić eventually resigned.<sup>2284</sup> Notwithstanding, STANIŠIĆ remained as the RSMUP Minister until January 1993.<sup>2285</sup> He continued to issue orders to his subordinates. Karadžić and Krajišnik continued to telephone and meet with him. As a member of the Supreme Command, he attended a meeting of that organ on 20 December 1992.<sup>2286</sup>

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<sup>2276</sup> P236,p.4-5. Although STANIŠIĆ was not present at this meeting, his assistant Pero Vujičić attended for RSMUP, and STANIŠIĆ attended the very next 37<sup>th</sup> session of the Government at which the minutes for the 36<sup>th</sup> were approved. See P237,pp.1,3.

<sup>2277</sup> Đerić,T.2361-2;P236,p.4.

<sup>2278</sup> Đerić,P179.02,T27109-14.

<sup>2279</sup> Mandić,P1318.09,T.9368-9.

<sup>2280</sup> P1683.

<sup>2281</sup> Đerić,T.2283.

<sup>2282</sup> Mandić,T.9718;Mandić,P1318.8,T.9301-3.

<sup>2283</sup> Đerić,P179.3,T.27148;Đerić,T.2359-60,T.2364;P247,p.4; Trbojević,T.4244-66;Trbojević,P427.3,T.11617-8.

<sup>2284</sup> Đerić,P179.2,T.27065-71;see also Trbojević,T4144-6;P272;P400.

<sup>2285</sup> On 19 January 1993, Ratko Adžić was appointed the new RSMUP Minister. L328.

<sup>2286</sup> See,e.g.,P985,pp.16-57;1D48;1D173;1D258;1D538;1D796;P256;P855;P1011;P1288.

5. STANIŠIĆ commanded RSMUP members acting in coordination with CSs, VRS and other Serb forces and assisted in coordinating joint VRS-RSMUP operations

638. The strategic goals of the Serbian people could not have been achieved without STANIŠIĆ’s contributions. He had direct authority over the entire RSMUP police force, and he ordered them to engage in operations either directly or through his senior police officials. STANIŠIĆ also had a Special Police Detachment (with approximately 170 members) headed by Karišik, and a Special Police Platoon headed by Duško Malović (with 25-30 members), that reported directly to him.<sup>2287</sup> In April-May, he actively directed RSMUP members engaged in fighting in the Sarajevo area. On 30 April he instructed the police in Sarajevo to cease fire in connection with ongoing negotiations in London.<sup>2288</sup> During the following two days, in conversations with Karišik about ongoing fighting, STANIŠIĆ gave orders to “take down” certain targets.<sup>2289</sup> STANIŠIĆ also commanded his subordinates in operations at lower levels, as evidenced by his call for the deployment of members of Palc SJB to Vraca in early May to assist with the fighting there.<sup>2290</sup>

639. On 15 April the RS Presidency declared a state of “imminent threat of war” and called for territory-wide mobilisation.<sup>2291</sup> On 16 April RS Minister of Defence Subotić notified the ARK and other SAOs as well as all “Serbian municipalities” of the mobilisation.<sup>2292</sup> In addition to describing the structure of the TO, the document stated that a decision on “other components of the armed forces” would be adopted “pursuant to an agreement on the political organisation of BiH and the status of the JNA.”<sup>2293</sup> Mobilisation in the RS was to begin on 21 May 1992.<sup>2294</sup> Pursuant to the Presidency Decision, the Government also issued an order on mobilisation to be delivered to the Army, the Ministry of National Defence, the RSMUP, and all the CSs of the RS.<sup>2295</sup> This reflects the parallel chains of command, one in the RSMUP and another in the civil authorities, where the local SJB chief was a member of the municipal CS but still in the RSMUP chain of command.<sup>2296</sup>

640. Regarding mobilisation, Karadžić issued “Guidelines” on the functioning of defence forces. Those guidelines gave the RSMUP the following tasks:

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<sup>2287</sup> Planojević, T.16404; M. Davidović, T.13606; Kovač, T.27170-2; P795; P862; P1418; P1422; P2460, p.5-6; P530, Art.36.

<sup>2288</sup> P1163.

<sup>2289</sup> P1165; P1148; P1166; P1169.

<sup>2290</sup> P1455, p.3.

<sup>2291</sup> P183.

<sup>2292</sup> ID170.

<sup>2293</sup> ID170.

<sup>2294</sup> ID171.

<sup>2295</sup> P262.

<sup>2296</sup> Hanson, T.4422-3.

[RSMUP] will pass a special act on internal structure of the [RSMUP] in wartime conditions, and instructions and orders as per how to perform tasks and duties [...]

Both active and reserve police, as well as the members of units for special tasks, which are not a part of the wartime structure of the [MUP] will be given to the disposal to Army units or other wartime tasks.<sup>2297</sup>

641. STANIŠIĆ had already on 15 May issued his order on the wartime organisation of the RSMUP in order to monitor combat operations and regular activities of his police.<sup>2298</sup> One day later he issued a dispatch to his subordinate CSB chiefs to send daily reports including information about combat activities, including whether it involved any coordination with the Army.<sup>2299</sup> War units were indeed established at the lower levels of the RSMUP. On 2 August, Drljača notified his superiors, pursuant to STANIŠIĆ's original order of 15 May (and a later order by Župljanin), that Prijedor SJB was establishing a police battalion.<sup>2300</sup> In November, Župljanin issued an order setting up a brigade of 1,448 members from war units of the Banja Luka CSB. He noted that it was done in accordance with STANIŠIĆ's 15 May order (as well as "consent of the Ministry") and on the basis of a dispatch from the 1KK of the VRS.<sup>2301</sup>

642. On 6 July STANIŠIĆ authored a document entitled "Some Basic Principles of the MUP When Applying Wartime Procedures" explaining why he issued the procedures in his 15 May order, and addressing problems and conditions for successful operation in implementing these procedures.<sup>2302</sup> He notes that war units serve multiple purposes: in addition to regular duties they exercise "specialist operative duties" such as "neutralising sabotage and terrorist groups, organised criminal activities of armed individuals and so on, in cooperation with" the army (not "coordinated action").<sup>2303</sup> STANIŠIĆ therefore did not envision that RSMUP war units would be performing combat operations solely as re-subordinated units to the army.

643. As early as May 1992, the Government recognised the importance of good working relations between the RSMUP and the VRS and suggested joint meetings.<sup>2304</sup> STANIŠIĆ emphasised the importance of working with the VRS at the 11 July collegium meeting in Belgrade

<sup>2297</sup> P1977,para.9 (undated but after 20 May).

<sup>2298</sup> 1D46.

<sup>2299</sup> P173;P374,p.5.

<sup>2300</sup> P1562.

<sup>2301</sup> [REDACTED];P1668.

<sup>2302</sup> P853.

<sup>2303</sup> P853,p.2.

<sup>2304</sup> P216,p.3;P220,p.5.

and sought input from his personnel to prepare a joint meeting with the VRS to work out problems.<sup>2305</sup>

644. After the VRS was able to organise itself and it was less necessary for the RSMUP to be directly involved in combat operations, STANIŠIĆ assisted the army by giving them his surplus manpower. On 27 July STANIŠIĆ ordered his CSBs to reduce the number of police in their regions (including any special police detachments) and place these surplus officers at the disposal of VRS.<sup>2306</sup> Later that day, STANIŠIĆ and Trbojević met with VRS Generals Mladić and Milovanović and Colonel Tolimir.<sup>2307</sup> Trbojević discussed joint RSMUP-VRS patrols and border crossings. STANIŠIĆ is noted in Mladić's notebook as stating:

According to the structure, 80% are now in the army, so we should clarify our responsibilities. We should be linked up, cooperate more and link up. Cooperation was insufficient.

I sent an order this morning that within 5 days, on placing a whole section of the forces within the competence of the army. We will have regular forces, and a special detachment at the level of the republic. Strengthening of the detachment will be to the detriment of certain [SAOs] and certain leaders [...]

The [RSMUP] has sole jurisdiction in its territory.<sup>2308</sup>

645. Shortly after the international outcry in early August over camps and collection centres in the Prijedor area, STANIŠIĆ issued an order to his CSB chiefs reminding them of their obligations regarding persons "held and detained". He noted, "security of collection centres shall be the direct responsibility of the Serbian Army and, if they do not have enough men for these duties, it shall therefore be necessary to engage members of the reserve police for these tasks and to place them at the army's disposition."<sup>2309</sup> In October, STANIŠIĆ again provided additional resources to the VRS when he ordered all CSBs and SJBs located in municipalities "not directly affected by combat activities" to put their reserve police at the disposal of the Army.<sup>2310</sup>

646. However, even towards the end of 1992 STANISIĆ's police were still being called upon to cooperate in dealing with non-Serbs captured in ongoing battles for territory. For example, Colonel Galić ordered that once captives taken in battle had been processed by VRS organs they "shall be

<sup>2305</sup> P160,pp.24-25;P427.8,p.6.

<sup>2306</sup> 1D176.

<sup>2307</sup> P1755,pp.373-5;Milovanović,T.18266-7.

<sup>2308</sup> P1755,pp.373-5. See 1D176.

<sup>2309</sup> 1D55.

<sup>2310</sup> 1D49.

accommodated in the KPD ‘Kula’ where they shall be given over to the MUP organs and the exchange commissions for their further treatment.”<sup>2311</sup>

647. Cooperation between the RSMUP and VRS was mutual, as both soldiers and police officers were encouraged to work together in the common struggle. On 12 September, Galić instructed his troops to “[s]ecure absolute concordance and unity at all levels with civilian authorities and MUP forces...because we have common goals.”<sup>2312</sup> The importance of the VRS-RSMUP relationship is reflected in the fact that the RSMUP Minister was designated as a member of the Supreme Command of the VRS.<sup>2313</sup>

6. STANIŠIĆ facilitated the establishment and operation of detention facilities where non-Serb detainees were mistreated and killed

648. The detention facilities established throughout the RS, where non-Serbs were detained under inhumane conditions and subjected to brutal – and often deadly – treatment, were a central component of the plan to forcibly remove the non-Serb population from the RS. STANIŠIĆ knew of the existence and conditions of these facilities from the 11 July collegium meeting. Indeed, the evidence shows that STANIŠIĆ was aware of them from the beginning of the conflict, by virtue of his position not only as RSMUP Minister (and as a superior who required strict reporting from his subordinates), but also from his position in the Government, to which reports were also given. As RSMUP Minister, STANIŠIĆ’s approval (at times explicit and at other times tacit) was essential for his subordinates to continue to engage in these tasks, as he had the power to end police participation in the maintenance of these facilities. As a member of the Government, his refusal to confront the issue of detention facilities until forced to react due to international outcry contributed to ensuring that the detention facilities were neither fully debated nor investigated by the BSL..

(a) STANIŠIĆ was aware of, and supported, the role of the police in establishing and operating detention Facilities at which non-Serbs were held

649. As shown throughout Section II.D.2, the RSMUP played an important role in establishing and operating detention facilities in which the non-Serbs were held. As the number of detention facilities grew, increasingly more police became involved in guarding the thousands of non-Serbs

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<sup>2311</sup> P859.

<sup>2312</sup> P745.

<sup>2313</sup> 1D172.

imprisoned therein, including military facilities such as Manjača.<sup>2314</sup> In October, ŽUPLJANIN informed STANIŠIĆ that in the period of July-September alone, 239 policemen had participated in securing ARK detention facilities.<sup>2315</sup> Despite this overwhelming evidence, STANIŠIĆ claims that such prisons were under the RSMOJ.<sup>2316</sup> Unsurprisingly, Mandić equally tried to evade any responsibility over the detention facilities by stating that the army and the police controlled them.<sup>2317</sup>

650. During the takeover of the Vraca police school on 6 April, about 400 non-Serb police cadets were arrested and detained. STANIŠIĆ ordered his Head of SNB Škipina to interrogate them and then organise with BiH authorities their exchange for Serb prisoners including JNA military policeman (later VRS battalion commander), Radomir Kojić.<sup>2318</sup> On 18 April, Kojić called STANIŠIĆ in relation to another group of non-Serbs arrested in Sokolac who were to be delivered to Vraca (presumably the police school) as the army had no space. Kojić stated, “[T]hey can beat them, they can do whatever they fucking want. And then we will move them, because we have no space here”, to which STANIŠIĆ replied, “Tine.”<sup>2319</sup> During the same conversation, another Battalion commander, Radislav Ilić,<sup>2320</sup> informed STANIŠIĆ that 49 Muslims from Foča had been arrested. STANIŠIĆ replied that they should be “sent to work”, undoubtedly referring to forced labour. Ilić informed STANIŠIĆ that he had already contacted Škipina, and that the detainees had gone on hunger strike, to which STANIŠIĆ replied, “So what?”<sup>2321</sup>

651. Clearly the Government knew civilians were being held in detention facilities in the RS. On 28 April Đerić sent an order informing the TO headquarters and RSMUP that prisoners, both military and civilian, should be treated according to international standards.<sup>2322</sup> Until the creation of a commission for the exchange of prisoners, the RSMUP was in charge of prisoner exchanges.<sup>2323</sup>

652. On 8 May, a Central Exchange Commission was created by RS authorities.<sup>2324</sup> RSMUP Assistant Minister Kljajić asked Slobodan Marković to represent the RSMUP on the CEC, a

<sup>2314</sup> P392.

<sup>2315</sup> P621,p.7.

<sup>2316</sup> P2308,pp. 31-3 ;P2309 pp.30-4.

<sup>2317</sup> Mandić,P1318.10,T.9441.

<sup>2318</sup> Crnčalo,P1466.1,T.5321;Škipina,T.8300-4;P735,p.5;Mandić,T.9808-9;P732,p.3;P985.

<sup>2319</sup> P1115,p.2.

<sup>2320</sup> See P1455.

<sup>2321</sup> P1115,p.9.

<sup>2322</sup> P185,p.2.

<sup>2323</sup> P207,p.1.

<sup>2324</sup> P179.18.

position Marković held until April 1993.<sup>2325</sup> By the time the CEC was established, detention facilities existed in Bosanski Šamac, Brčko, Doboj, Pale, Vogošća and Zvornik. Most detention facilities in the ARK and other parts of the RS were to open by the end of the month.

653. One of Marković's first actions as a CEC member was when, on 14 May, approximately 400 Muslim men who had been detained in Bratunac arrived in Pale. Marković drew up the list and participated in this exchange whereby the detainees were taken to Visoko in non-Serb territory.<sup>2326</sup> Škipina informed STANIŠIĆ about this group of prisoners the day after they were taken to Visoko.<sup>2327</sup> On 20 May, the RSMUP also received information that between 12-20 May 156 persons were detained in KPID Butmir, operated by SJB Kula, and that their status needed resolution.<sup>2328</sup> Already at this early stage international media was reporting that Serb forces were holding hostages and operating concentration camps. However, in a 24 May letter to the U.S. Secretary of State, Đerić insisted such reports were false.<sup>2329</sup>

654. On 5 June Planojević sent a memorandum to all CSBs about reporting crimes. At the end he wrote, "We also wish to point out to you that in treating civilians and prisoners of war you must strictly observe the provisions of the international laws of war."<sup>2330</sup> This afterthought was, no doubt, prompted by the 22 May agreement between the parties to the conflict at an ICRC conference in Geneva.<sup>2331</sup> Clearly the RSMUP was aware that civilians were detained.

655. On 6 June the CEC sent a memorandum to, *inter alia*, the RSMUP, CSBs and SJBs with respect to all SJBs "whose employees are securing facilities housing prisoners of war, *i.e.* persons in custody".<sup>2332</sup> The CEC instructed police to submit lists of prisoners to the municipal exchange commissions, and limit access to detention facilities to certain government officials. In essence, the detention of non-Serbs became a centralised operation.<sup>2333</sup>

656. At a 10 June Presidency meeting, Đerić was ordered to report "on detainees with proposed measures."<sup>2334</sup> That same day at a Government meeting attended by STANIŠIĆ it was decided that

<sup>2325</sup> Marković,T.12641;P1501.

<sup>2326</sup> Marković,T.12655-6;P179.17.

<sup>2327</sup> Škipina,T.8308-13.

<sup>2328</sup> P1318.21.

<sup>2329</sup> P179.16.

<sup>2330</sup> P568,p.2.

<sup>2331</sup> 1D791.

<sup>2332</sup> P427.7.

<sup>2333</sup> Mandić,T.9492-3.

<sup>2334</sup> P261.

the RSMOJ should report about prisoners “with a special attention on the treatment of civilian population, prisoners of war, accommodation, food, etc.”<sup>2335</sup> This decision was prompted by complaints about the mistreatment of the civilian population as, by this time, the government knew there were “mini-prisons” in every municipality.<sup>2336</sup>

657. On 26 June, the CEC received a memorandum from its BiH counterpart, in which Filip Vuković complained that the Serb side had not released all the agreed prisoners. In addition, he informed the CEC that 3,441 prisoners were yet to be exchanged.<sup>2337</sup> Marković, as the RSMUP representative on the CEC, had to coordinate this with the SJB chiefs in charge of detention facilities in the municipalities. Although he claimed he had not received this document,<sup>2338</sup> that same day Mandić and Krajišnik were already discussing the substance of the memorandum.<sup>2339</sup> Vuković’s opinion was that detainees should be sent to their places of residence, otherwise “this would signify typical deportation, exile and ethnic cleansing”.<sup>2340</sup> This was echoed in the Mazowiecki report of 28 August: “The detention of civilians is clearly being used as a method of pressuring them to leave the territory.”<sup>2341</sup>

658. After the 11 July RSMUP collegium meeting, STANIŠIĆ reported the conclusions to Karadžić and Đerić a week later, reciting ŽUPLJANIN’s report that:

The Army, crisis staffs and war presidencies have requested that the Army round up or capture as many Muslim civilians as possible, and they leave such undefined camps to internal affairs organs. The conditions in some of these camps are poor: there is no food, individuals sometimes do not observe international norms, etc.<sup>2342</sup>

STANIŠIĆ’s concerns were not humanitarian, but rather were (1) to deflect criticism by shifting responsibility for this situation to others,<sup>2343</sup> and (2) to free up police manpower, as the use of policemen in operating detention facilities “consumed many man-hours and detracted from the police’s performance of other tasks.”<sup>2344</sup>

<sup>2335</sup> P179.7,p.3.

<sup>2336</sup> Mandić,T.9492.

<sup>2337</sup> P1318.24.

<sup>2338</sup> Marković,T.12662-4.

<sup>2339</sup> P1134.

<sup>2340</sup> P1318.24,p.5.

<sup>2341</sup> P1993,p.7.

<sup>2342</sup> P427.8,p.3.

<sup>2343</sup> See P1791, p.2.

<sup>2344</sup> Nielsen,P508,para.298;P583,p.1.

659. In a 20 July memorandum, ŽUPLJANIN informed STANIŠIĆ that in the ARK many detainees were arrested and detained without any criminal charges filed against them.<sup>2345</sup> The Government discussed the issue of “unlawful treatment of war prisoners” during the 22 July session.<sup>2346</sup> In Doboj, a Commission was formed to establish the conditions and reasons behind the detention of detainees and its report was sent to STANIŠIĆ at his request.<sup>2347</sup> However no real action was taken until the international media reported the appalling conditions in the camps.<sup>2348</sup>

660. On 26 July, President Izetbegović informed Lord Carrington, chairman of the EC Conference on Yugoslavia, that at least 57 “concentration camps” holding an estimated 95,000 detainees, existed on the territory of the RS.<sup>2349</sup> This claim was quickly brought to the attention of the RS authorities who requested an explanation from the RSMUP. On 28 July, the RSMOJ was also asked to report on living conditions in penal and correctional centres as well as “concentration centres”. In addition, the Government decided to meet in Banja Luka with ŽUPLJANIN to discuss the disbanding of such camps, however, the meeting was to be scheduled for 29 August – a sign that this was not a top priority for the Government.<sup>2350</sup>

(b) STANIŠIĆ aided in the Government’s “cover-up” of the detention facilities

661. On 6 August the Presidency ordered STANIŠIĆ and Mandić to examine through their respective SJBs and prison administrations the “behaviour by Serbian authorities of [sic] prisoners of war and the living conditions of prisoners held in prisons in municipalities where such cases exist” and then file a joint report.<sup>2351</sup>

662. The international media and the ICRC were finally allowed to visit rumored concentration camps in Prijedor in early August.<sup>2352</sup> Despite efforts to disguise the true extent and nature of the Prijedor detention facilities,<sup>2353</sup> the international delegation observed during their 5 August visit clear signs that non-Serb detainees at Omarska and Trnopolje suffered from inhumane conditions and physical abuse.<sup>2354</sup> On 7 August, Karadžić responded to a 25 July ICRC report concluding that

<sup>2345</sup> P583.

<sup>2346</sup> P200,p.7.

<sup>2347</sup> P590;O.Petrović,T.10012;Bjelošević,T.19717.

<sup>2348</sup> P427.20;P1357;P1358;P806.

<sup>2349</sup> P1318.35.

<sup>2350</sup> P247,p.10-11.

<sup>2351</sup> P427.18;P191.

<sup>2352</sup> P427.20,pp.2-3;P807.

<sup>2353</sup> Nielsen,P508,para.301;*See also e.g.* P1683;1D770.

<sup>2354</sup> P427.20,p.3;P1357.

Manjača camp was not suitable for the detention of civilians and should be closed. Although he claimed to accept the ICRC's remarks, he focused on drawing their attention to crimes committed against Serbs in BiH detention facilities.<sup>2355</sup>

663. On 8 August, Kovač sent a letter to the Government proposing to change the status of detainees to that of refugees,<sup>2356</sup> and on that same day, in advance of carrying out any investigation into the detention facilities, STANIŠIĆ ordered the release of all detained civilians immediately.<sup>2357</sup>

664. STANIŠIĆ then issued two brief orders on 10 and 17 August instructing his subordinates to hand over detention facilities to the VRS, inform the RSMUP of any “wild prisons” or mistreatment of POWs or “refugees”, and comply with the international law regarding the treatment of POWs and civilian “refugees”.<sup>2358</sup> While more strongly worded than Planović’s 5 June memorandum, and for the first time acknowledging that the police were directly responsible for the detention and inhumane treatment of civilians, these orders failed to provide details on how the police were to implement these orders or verify that they complied with them. Moreover, they were devoid of any instructions on investigating police officers and others responsible for past abuses of non-Serb detainees.<sup>2359</sup> Nor were his RSMUP inspectors instructed to investigate these detention facilities or ensure subordinate organs complied with his orders.<sup>2360</sup> As a result, non-Serb civilians continued to be held and mistreated at many detention facilities beyond August, including, *inter alia*, Trnopolje, Manjača, Sušica, Batković, Kotor Varoš prison, Donji Vakuf’s Vrbašpromet and TO warehouses, Bileća’s Dački dom, Planjo’s House, Doboј central prison, and the Bosanski Šamac police station as well as at a number of the SJBs.<sup>2361</sup> At the end of September, CSB Banja Luka was still deporting “travellers” from Trnopolje to Croatia.<sup>2362</sup>

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<sup>2355</sup> P179.13,p.7 (BCS);P179.13,p.2-3.

<sup>2356</sup> P192. The memorandum referred to civilian non-Serb detainees only as “refugees”, creating the impression that these non-Serbs were not being held against their will but rather were trying to escape the conflict. STANIŠIĆ adopted this practice in his subsequent orders.

<sup>2357</sup> 1D563.

<sup>2358</sup> 1D55;1D56. STANIŠIĆ never expressly acknowledged that the civilian “refugees” were in fact detainees or hostages (as ŽUPLJANIN referred to them), or that they were almost exclusively non-Serbs.

<sup>2359</sup> Although an RSMUP representative participated in an RS commission formed in August to visit the detention facilities, the reports produced by the commission were clearly aimed at concealing the true nature of these facilities and the criminal responsibility of those operating them.

<sup>2360</sup> See,e.g.,Gajić,T.12838-9,T.12845-6,T.12932-6;P406,p.1. None of the other RSMUP inspectors who testified in this case mentioned receiving any instructions to investigate the detention facilities. See also Tuševljak,T.22626-9.

<sup>2361</sup> See Section II.D.2.

<sup>2362</sup> P1905.

665. On 9 August, the Government formed two joint RSMUP-RSMOJ commissions to look into conditions in detention centres and speed up the procedure of categorising detainees.<sup>2363</sup> The commission visited several facilities and filed a report in mid-August.<sup>2364</sup> The positive conclusions of these reports about conditions in the camps were in complete contrast, not only to the reports made by international organisations, but also to the many prior reports received by the CSBs and the Government.<sup>2365</sup>

666. A further report was issued by the RSMOJ on 22 October following an inspection of Vlasenica, Zvornik, Brčko, Prijedor, Sanski Most, Doboj, Banja Luka, Iličići and Hadžići. The seriousness of the conditions on the ground were once again minimised in another effort to cover up crimes committed in RS municipalities.<sup>2366</sup> As explained by Trbojević, none of the camps listed in 22 October report could have been considered to be “legal camps.”<sup>2367</sup> While the commissions were creating sham reports, the RS authorities at all levels of government were engaged in covering up the reality of the detention facilities.<sup>2368</sup>

667. On 6 September the Presidency dedicated its entire session to the issue of Manjača camp.<sup>2369</sup> It decided to “pardon and [...] spare the persons named in the list enclosed”, concealing its intention to phase out these camps which were becoming too costly politically. Only on 27 October did the RS Government reach the conclusion that “existing illegal camps and assembly centers are to be dissolved as soon as possible”, and in their place, existing penal institutions were to be used to detain “prisoners and inmates”.<sup>2370</sup> Of course, by then the various makeshift detention facilities established by the police and military had already served their primary purpose of gathering and expelling the non-Serb population from RS-held territory. The issue of investigating these illegal camps and prosecuting perpetrators was not discussed by the Government.<sup>2371</sup>

668. Although the information contained in the Government commission reports was grossly inconsistent with other information available to STANIŠIĆ regarding the number of detention facilities and the conditions within, he did not question the accuracy of these reports. Nor did he

<sup>2363</sup> P427.13,p.4;P193;P165.

<sup>2364</sup> P194.

<sup>2365</sup> See e.g. P1599;P1727.4;P160 p.7;P179.7;P427.8;P583;P200;P247,p.10; P179.3. See also Nielsen,P508,paras.305-9.

<sup>2366</sup> P393.

<sup>2367</sup> Trbojević,P427.3,T.11548.

<sup>2368</sup> See,e.g.,[REDACTED];Sejmenović,T.17457-8;[REDACTED];P1683;1D12.

<sup>2369</sup> P1281.

<sup>2370</sup> P253,p.6.

<sup>2371</sup> Trbojević,P427.3,T.11550.

verify the reports from SJB chiefs such as Drljača or Kondić asserting that detention facilities no longer existed in their municipalities.<sup>2372</sup>

7. STANIŠIĆ failed to take adequate measures to protect the non-Serb population and ensure that crimes committed against them were investigated and prosecuted

669. During the period of the indictment, STANIŠIĆ was the highest ranking police official in the RS and therefore was ultimately responsible for protecting the entire civilian population in the RS. By taking no concrete actions to protect the non-Serb population and ensure that crimes committed against them were adequately investigated and prosecuted, he significantly contributed to the common plan. Under this Tribunal's jurisprudence, a JCE member's contribution to the common plan may be through omissions rather than positive acts.<sup>2373</sup> Criminal liability for an omission under Article 7(1) requires that (1) the accused had the legal duty to act, (2) he had the ability to act and (3) he failed to do so.<sup>2374</sup> Although, generally, culpable omission liability requires that the omission resulted in the commission of the crime (*i.e.*, that the required act would have likely prevented the crimes), participation in a JCE does not require that the contribution be *conditio sine qua non* for the crime to be carried out.<sup>2375</sup> It is sufficient that the omission contributed significantly to furthering the common design, *i.e.*, had STANIŠIĆ acted pursuant to his legal duty, he would have made it more difficult for the other JCE members to forcefully remove the non-Serb population from the RS. Similarly, in establishing the accused's ability to act, it need not be shown that he had the means to prevent the crimes altogether. It is sufficient that STANIŠIĆ had the means to alleviate the situation with regard to recurring crimes against the non-Serb population.<sup>2376</sup>

670. Section V addresses STANIŠIĆ's failure to act with regard to the crimes and serious derelictions of duty committed by his subordinates against the non-Serb population; therefore, this section concentrates on his general failure to protect the non-Serb population and investigate crimes committed against them. However, as STANIŠIĆ's omissions under command responsibility constituted a significant contribution to the common plan, those omissions are incorporated by reference herein.

<sup>2372</sup> 2D95;P972.

<sup>2373</sup> *Kvočka* AJ,para.187.

<sup>2374</sup> *Galić* AJ,para.175;*Blaškić* AJ,para.663;*Mrkšić* AJ,paras.49,154;*Orić* AJ,para.43;*Ntagerura* AJ,paras.333-5;*Rutaganira* TJ,paras.68-73;*Nyiramusuhuko* TJ,paras.5597,5893-9.

<sup>2375</sup> *Vasiljević* AJ,para.102.

<sup>2376</sup> *Blaškić* AJ,para.668 (a commander was under the duty to intervene and alleviate the danger of persons under his protection);*Nyiramusuhuko* TJ,paras.5901-3.

(a) STANIŠIĆ had the duty to act

671. STANIŠIĆ’s legal duty to act to protect the non-Serb population derives from both RS domestic and international law. Article 12 of the LIA required members of the RSMUP to “protect human lives and dignity when executing their duties.” Articles 33, 35 and 42 imposed further obligations on STANIŠIĆ to protect all citizens.<sup>2377</sup>

672. Article 48 of the criminal code applicable in 1992 imposed an obligation on every RS citizen to render assistance to a person whose life is in imminent danger.<sup>2378</sup> Although this provision provides a justification for failure to act (where there is a danger to oneself or others), as the *Rutaganira* Trial Chamber held:

violence to physical well-being suffered by thousand of people during the said events affects the very fundamental interests of Humanity as a whole, and the protection of such interests cannot be counterbalanced by the mere personal risk that may have been faced by any person in a position of authority who failed to act in order to assist people whose lives were in danger.<sup>2379</sup>

The RS LIA expressly required authorised police officials to “execute the duties of national and public security even when their life is endangered.”<sup>2380</sup>

673. In addition, Article 188 of the criminal code criminalised the failure of “an official or a competent person” to report a serious criminal offence discovered while performing their duties. Article 226 subjected an official to criminal penalties if they failed to carry out their official duty and as a result either procures a benefit or seriously violates another person’s rights. Article 24 penalised an official who breached laws or regulations by failing to carry out their supervisory duties or otherwise acted unconscientiously where such act caused a serious violation of civic rights.<sup>2381</sup>

674. STANIŠIĆ’s duty to act was also required by the laws and customs of war. Article 13 of the Geneva Convention III imposes a duty to protect POWs and Article 27 of the Geneva Convention IV imposes a duty to protect civilians against acts of violence.<sup>2382</sup> Articles 7 and 13 of Additional Protocol II of the Geneva Conventions contain similar obligations with regard to non-international conflicts. Furthermore, Common Article 3 of the Geneva Conventions “enshrines the prohibition against any violence against the life and person of those taking no active part in the hostilities,

<sup>2377</sup> P530.

<sup>2378</sup> P119,p.28.

<sup>2379</sup> *Rutaganira* TJ,para.81;See also *Nyiramasuhuko* TJ,para.5893.

<sup>2380</sup> P530,Article 41.

<sup>2381</sup> P119,pp.79,100,105.

<sup>2382</sup> *Mrkšić* AJ,para.151;*Blaškić* AJ,para.663.

including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other case.”<sup>2383</sup> These laws are applicable to this case because “[t]he Geneva Conventions are considered to be the expression of customary international law” and their violation entails criminal responsibility.<sup>2384</sup>

675. These laws and conventions required STANIŠIĆ to intervene and alleviate any danger to non-Serbs taking no active part in the conflict. In particular, as the highest-ranking police official in the RS, he was required to care for non-Serb detainees at detention facilities under the control of his subordinates.<sup>2385</sup> STANIŠIĆ recognised this obligation in August when he informed his CSB chiefs that they “are personally responsible for the lives of people who are being held and detained, and for preventing any form of abuse in that area.”<sup>2386</sup> However, his duty was not limited to the confines of police-controlled facilities. As the Mrškić Appeals Chamber held, his duty to protect non-Serbs “applies from the time they fall into the power of the enemy until their final release and repatriation. It thus entails the obligation of each agent in charge of the protection or custody of the prisoners of war to ensure that their transfer to another agent will not diminish the protection the prisoners are entitled to.”<sup>2387</sup> Moreover, STANIŠIĆ owed a duty to protect non-Serb detainees “regardless of whether the investment of responsibility was made through explicit delegation such as through legislative enactment or a superior order, or as a result of [him] finding himself with *de facto* custody” over the detainees.<sup>2388</sup>

(b) STANIŠIĆ had the ability to act

676. STANIŠIĆ had significant power and resources available to protect the non-Serb population and investigate crimes against them. The 1992 RS LIA vested the police with the powers to, *inter alia*, protect the life and security of citizens,<sup>2389</sup> prevent and disclose criminal acts, track down and capture perpetrators, maintain law and order,<sup>2390</sup> protect certain individuals and buildings<sup>2391</sup> and conduct crime-detection investigations.<sup>2392</sup> With regard to criminal investigations, the police were

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<sup>2383</sup> Mrkšić AJ,para.70.

<sup>2384</sup> Krnojelac AJ,para.220;Mrkšić AJ,paras.70-3;Nyiramasuhuko TJ,paras.5895-99.

<sup>2385</sup> Blaškić AJ,paras.663,668.

<sup>2386</sup> 1D55.

<sup>2387</sup> Mrkšić AJ,paras.71,74.

<sup>2388</sup> Mrkšić AJ,para.73.

<sup>2389</sup> P530,Article12.

<sup>2390</sup> P530,Article 35.

<sup>2391</sup> P530,Article 33.

<sup>2392</sup> P530,Article 15.

responsible for investigating, identifying and arresting perpetrators of crimes, and reporting those crimes to the prosecutor's offices.<sup>2393</sup>

677. Until the prosecutor's office received from the police a criminal report against known perpetrators, supported by sufficient evidence of the crime charged, the prosecutor could not submit a request to initiate an investigation of the crime by an investigative judge.<sup>2394</sup> In addition to being a matter of criminal procedure, the prosecutor's offices simply lacked resources to investigate crimes themselves, and therefore relied entirely on the police to conduct all investigative work.<sup>2395</sup> Although during this preliminary investigation stage the prosecutor could request that the police work towards investigating, identifying and arresting a perpetrator, and make suggestions on how to do this, the police did not need such instructions to perform these tasks and worked independently.<sup>2396</sup> Moreover, the role of the courts prior to receiving a request to initiate an investigation from the prosecutor was limited to conducting an on-site investigation upon notification by, and with the assistance of, the police.<sup>2397</sup>

678. Even after the police submitted a criminal report against known perpetrators to the prosecutor's office, they continued to perform a crucial role in investigating and prosecuting the case. The investigative judge relied upon the police to execute search and arrest warrants, conduct forensic examinations, secure exhumation sites, preserve evidence and bring witnesses in for interviews.<sup>2398</sup> Moreover, while a prosecutor or investigative judge could change the legal qualification of a crime charged in a criminal report they did not have the power to charge new crimes revealed during the course of the investigation. Rather, the criminal report was returned to the police who had an ongoing (and independent) duty to supplement their criminal reports based on new facts, evidence or crimes committed by the perpetrators.<sup>2399</sup> Hence, the police both stood at the threshold of a criminal investigation and were essential for its successful completion. At either

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<sup>2393</sup> P120,pp.43-6 (See in particular Article 151(5));Delić,T.1517-9;Perić,T.10486-7,T.10658-66;Gojković,T.11744-5. Although citizens could also report minor crimes to the prosecutor's offices, this rarely happened. When it did, the prosecutor's offices sent the report to the police to collect evidence;Gačinović,P1609.1,para.6;Vasić,T.13686-9.

<sup>2394</sup> Kovačević,T.14156-8,T.14178;Delić,T.1523;Perić,T.10487-8;Vasić,T.13866-7;1D356;1D360. Until the police filed an unknown perpetrator criminal report with the prosecutor's office, the police daily events logbook, crime police's open case logbook and crime register would reflect this deficiency. See Vasić,P1558.1,paras.9,14-15;[REDACTED]. Filing these reports therefore served an administrative and auditing purpose.

<sup>2395</sup> Gačinović,T.15108-10.

<sup>2396</sup> Gačinović,P1609.1,para.9;Perić,T.10488,T.10561;P115,pp.5-6.

<sup>2397</sup> Delić,T.1521;Gojković,T.11744;Simeunović,T.13300-1,T.13304-5.

<sup>2398</sup> Gačinović,P1609.1,para.11;Gojković,T.11744-5,T.11779;Delić,T.1520-2,T.1596;Simeunović,T.13305-6.

<sup>2399</sup> Simeunović,T.13305-6,T.13401-4;P120,p.44.

stage, if they failed to take action, the prosecutor's offices and courts were unable to pursue the case.<sup>2400</sup>

679. Contrary to the assertions made in some RSMUP reports,<sup>2401</sup> while the number of criminal cases filed and prosecuted during the Indictment period varied over time, and from municipality to municipality, the evidence shows that the criminal justice system generally functioned in each of the charged municipalities.<sup>2402</sup> The police arrested suspects, conducted investigations and filed criminal reports. The prosecution service received criminal reports, initiated criminal investigations by investigative judges and filed indictments. The courts conducted trials and rendered judgments.<sup>2403</sup>

680. Beyond overseeing the investigative work of his subordinate organs, STANIŠIĆ and his immediate subordinates also had the power to engage in all these police activities directly, particularly to assist in complex criminal investigations.<sup>2404</sup> For example, in September STANIŠIĆ issued a remand order for a Serb suspected of deterring citizens from combating the enemy by spreading propaganda.<sup>2405</sup>

681. In addition to his powers to investigate, STANIŠIĆ had significant resources available to protect the non-Serb population and investigate crimes against them. Although STANIŠIĆ bemoaned a lack of expert staff in Internal Affairs organs,<sup>2406</sup> this was the result of his own doing. RSMUP initiated measures, including solemn declaration to the RS and police insignias with the Serbian flag, aimed at removing all non-Serb employees from its ranks.<sup>2407</sup> As a result, by June/July 1992, only six non-Serb employees remained in the RSMUP, excluding Banja Luka, which retained 142 active and reserve non-Serb employees out of a total police force of 8,500.<sup>2408</sup> STANIŠIĆ took no action (such as choosing a less offensive insignia, meeting with non-Serb police representatives to address their concerns, or appointing non-Serbs to leadership positions) to retain non-Serb police

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<sup>2400</sup> Delić, T.1526.

<sup>2401</sup> See, e.g., P427.8, p.3.

<sup>2402</sup> Some smaller municipalities such as Ilijaš, Vogošća, Pale, Gacko, Bileća, Bosanski Šamac, Donji Vakuf and Skender Vakuf utilised the prosecutor's offices and courts of neighboring municipalities.

<sup>2403</sup> See, e.g., Gačinović, P1609.1; Gačinović, P1609.4; [REDACTED]; [REDACTED]; Gačinović, T.15030-1; [REDACTED]; [REDACTED]; [REDACTED]; 1D354; 1D358; 2D97; [REDACTED]; P1365; P1445; P1446; P1482; P1483; P1540; P1542; P1574; P1575; P2353; P2371; P2382; 1D327.

<sup>2404</sup> P530, Art.33.

<sup>2405</sup> See e.g., 1D326; Gojković, T.11746-8.

<sup>2406</sup> P625, p.14.

<sup>2407</sup> P353, p.2; P534; P538; Radulović, T.10751.

<sup>2408</sup> P1421, pp.1-2; P160, p.7. From the beginning of the conflict, STANIŠIĆ was personally interested in how many non-Serbs remained in the police force. P543.

officers, but focused instead on “winning over of Serbian employees and their inclusion in the joint struggle” and implementing a personnel policy that emphasised “Serbian patriotism.”<sup>2409</sup>

682. Even after the RSMUP removed almost all non-Serbs STANIŠIĆ still had a sizeable police force.<sup>2410</sup> This included special police units, police war units, and numerous uniformed police and crime inspectors, both at RSMUP headquarters and in his CSBs and SJBs.<sup>2411</sup> It is also significant to note that the Indictment charges only 20 of the at least 73 municipalities in which STANIŠIĆ maintained SJBs.<sup>2412</sup> Many of these SJBs in uncharged municipalities had significant police forces and were located in predominantly Serb areas that remained largely unaffected by the conflict.<sup>2413</sup> Were STANIŠIĆ so inclined, he had the authority to move his police force to locations where the non-Serb population required more protection.<sup>2414</sup>

683. The Defence have argued that a significant portion of the police force was engaged in combat rather than law and order activities during the initial part of the Indictment period. To the extent this was true, it was a result of STANIŠIĆ’s decision on how to allocate his resources. That he chose to use a significant amount of this manpower to achieve the SDS goals of swiftly and forcefully taking over power and stamping out any non-Serb resistance in municipalities where the Serb population did not constitute an absolute majority,<sup>2415</sup> did not diminish his duty to allocate sufficient resources to preventing and punishing crimes against the non-Serb population. In STANIŠIĆ’s own words, “the function of the police in a legal state, that is, the function of the Ministry of the Interior, is prevention, it is the reporting of crimes, not arrests and beatings, doing things other agencies should do in a legal state.”<sup>2416</sup> In fact, when STANIŠIĆ chose, he did take concrete actions to prevent or punish crimes. However, as shown in the next Section, these actions were not directed at protecting the non-Serb population or investigating crimes committed against them.

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<sup>2409</sup> P625,pp.7,27.

<sup>2410</sup> P544,p.2;P624,p.2;*See also* P1421 (excluding CSB Banja Luka, RSMUP had 2,054 active employees as of 28 June).

<sup>2411</sup> Nielsen,P508,paras.218-35;P862;P795;P1418.

<sup>2412</sup> Mačar,T.23230;Nielsen,P508,pp.118-23.

<sup>2413</sup> *See,e.g.,*Vasić,T.13696-9,T.13870-1;P892.

<sup>2414</sup> P530,pp.20-1.

<sup>2415</sup> *See,e.g.,*Nielsen,P508,para.191;P400,pp.15-6 (STANIŠIĆ stating that the police’s “priority” was to defend the RS);P748,p.2 (“the participation of the police in combat activities [...] was the beginning of the Serbian people’s struggle and the SDS had its support primarily in the police”);P737;2D36,p.3.

<sup>2416</sup> P400,p.16.

(c) STANIŠIĆ failed to protect the non-Serb population

684. STANIŠIĆ was aware that the non-Serb civilian population in the RS was being subjected to various forms of persecution including, *inter alia*, ethnically-motivated serious crimes, imprisonment in detention facilities where they were held “hostage” and subjected to inhumane treatment, and expulsion from the RS. He was also aware that his subordinates acquiesced to, and often participated, in this persecution.<sup>2417</sup> Indeed, this information was available to the general public through the media.<sup>2418</sup>

685. Moreover, from the CSB and SJB crime registers, which were regularly made available to STANIŠIĆ’s RSMUP inspectors during their onsite inspections,<sup>2419</sup> it was apparent that in all municipalities charged in the Indictment, the police reported almost no serious crimes (*i.e.*, crimes of violence) committed by Serbs against non-Serb victims.<sup>2420</sup> In the municipalities where the police filed a handful of criminal reports for serious crimes against non-Serbs, typically they filed unknown perpetrator criminal reports,<sup>2421</sup> with almost no supporting documentation,<sup>2422</sup> thereby preventing the prosecution service and courts from taking any action on the cases.<sup>2423</sup> In the few instances when a criminal report was filed by the police against known Serb perpetrators for a serious crime against non-Serb victims, the case was rarely prosecuted during the 1992-1995

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<sup>2417</sup> See, e.g., P155; P160, pp. 7, 9; P163, pp. 5-9, 11; P192; P338, p. 3; P393, pp. 2-3; P427, 8, p. 3; P432, 12; P440; P568; P583; P595, p. 4; P633, pp. 2-3; P748, p. 2; P842; P866, pp. 1-2; P1093; 2D25, p. 2; 1D66; M. Davidović, T. 13544-6. In November, STANIŠIĆ sent a letter to RS Prime Minister Đerić blaming him for failing to take action to prevent war crimes and crimes against humanity. P190. Đerić testified that this letter was a counter-manoeuvre STANIŠIĆ made in response to Đerić’s decision to replace STANIŠIĆ. Đerić, T. 2537-9. It nonetheless shows that STANIŠIĆ was fully aware of the widespread crimes committed against the non-Serb population.

<sup>2418</sup> See e.g., Borovčanin, T. 6672.

<sup>2419</sup> Borovčanin, T. 6849-50; Andan, T. 21574-6; Orašanin, T. 21872-3, T. 22034-7; Vasić, P1558.1, pp. 24-25; Vasić, T. 13679; Vasić, T. 13772.

<sup>2420</sup> Gaćinović, P1609.1; Gaćinović, P1609.4; [REDACTED]; [REDACTED]; Delić, T. 1557-60; Gojković, T. 11750-3, T. 11756-7, T. 11760, T. 11766-71; Draško, T. 12303-13; Appendix IV. In 1992, the police filed criminal reports for only four crimes charged in the Indictment schedules. Gaćinović, T. 15016-7. Three of them (Miće Group crimes in Teslić, August killing outside Manjača and Korićanske Stijene massacre), involving police perpetrators, were inadequately investigated by the Accused as detailed in Section V.C.5.c. The fourth (killing of detainees at Planjo’s House) is discussed below.

<sup>2421</sup> See e.g., Perić, T. 10487-8; Perić, P1361.2, pp. 56-7; Orašanin, T. 22123. Compare 1D542 (all unknown perpetrator criminal reports filed by CSB Doboj involved non-Serb victims) with 1D358, entries 3-4, 7, 9-10, 15, 19, 21, 23, 26, 33 (showing that all 11 murders involving Serb victims were solved). See also Orašanin, T. 22034-7.

<sup>2422</sup> Delić, T. 1744-51; Gaćinović, T. 15118-25. Examples of poorly documented unknown perpetrator criminal reports include: 1D39; 1D356; 1D357; 1D359; 1D360; 1D361; 1D481; 1D491; P115; P116; 2D101. Initially, the police may not have known the ethnicity of the victim until they conducted preliminary interviews.

<sup>2423</sup> Gaćinović, T. 15027-30. Orašanin claimed that upon learning of the excessive number of unknown perpetrator crime reports involving serious crimes against non-Serb victims, the RSMUP formed an operative group to collect information to elucidate these crimes; Orašanin, T. 22037-8. Even if he were to be believed, it is unclear what measures this group implemented and what it achieved as the 11 unknown perpetrator cases involving non-Serb murder victims remain unsolved and sparsely documented; 1D358; Vasić, T. 13663-4.

conflict. The system of denying non-Serbs access to the criminal justice system was practically foolproof.

686. In contrast, the RSMUP inspectors would have seen from the crime registers in several municipalities (such as Doboj, Teslić and Vlasenica) the mass arrest of non-Serbs for illegal weapons or armed rebellion.<sup>2424</sup> This was done to justify the detention and eventual expulsion of the non-Serb civilian population.<sup>2425</sup> That these cases lacked sufficient evidence and never resulted in indictments corroborates Perić's evidence.<sup>2426</sup>

687. Late in the trial, the Defence suggested that some of the evidence the police gathered in 1992 helped convict Serb perpetrators of serious crimes against non-Serbs several years after the conflict had ended. The case files they tendered to support this proposition show little, if any, investigation by police into these crimes in 1992.<sup>2427</sup> The fact remains that the police did not fulfil their duty to fully investigate these cases and arrest the perpetrators in 1992, or in subsequent years of the conflict,<sup>2428</sup> and as a result the perpetrators were allowed to continue to commit crimes against non-Serbs with impunity.

688. Despite the information available to STANIŠIĆ regarding widespread crimes, danger and discrimination faced by the non-Serb population, there were only two instances in which he took any specific action with regard to these problems.<sup>2429</sup> One instance was when he issued a two-sentence order to ŽUPLJANIN to investigate the Korićanske Stijene incident.<sup>2430</sup> STANIŠIĆ's failure to investigate and punish his subordinates for this crime is addressed in Section III.B.7.

689. The second instance was with regard to non-Serbs held at police-operated detention facilities. Although STANIŠIĆ was aware from April that his subordinates were arresting and detaining large numbers non-Serb civilians,<sup>2431</sup> the sole pre-August instruction emanating from

<sup>2424</sup> Gačinović, P1609.1, p.46; Gačinović, P1609.4, pp.36,44; Perić, T.10527-9, T.10534-6, T.10675; P1365; ST-179, T.7495-6; [REDACTED]; [REDACTED]; O.Petrović, T.9867-72; P1311.

<sup>2425</sup> Perić, P1361.2, pp.54-6.

<sup>2426</sup> Gačinović, T.15025, T.15115-25. See also P1446, pp.16-58 (large numbers of non-Serbs charged with illegal weapons but never prosecuted).

<sup>2427</sup> 1D596; 1D597; 1D598; 1D599; 1D601.

<sup>2428</sup> Gačinović, P1609.1; Gačinović, P1609.4; Gačinović, T.15027-8.

<sup>2429</sup> The Defence suggested that STANIŠIĆ took action on a third occasion, after Milan Lukić kidnapped a group of Muslim citizens of Serbia from Sjeverin (Serbia); P1484. Mačar testified that the MUP in Serbia informed the RSMUP about this crime. Around the same time, Miloš Zuban ordered 50 members of the RSMUP Special Police Detachment to Rudo to control the border with Serbia, prevent crimes and other activities using combat equipment. The order did not refer to the kidnapping incident, but the Defence asserted that this order was "also in reference" to that incident; Mačar, T.23022-3, T.23030. The crime in fact occurred in Serbia and there is no evidence that the police filed any criminal report; Draško, T.12314-22; Mačar, T.23031-2, T.23041-2; 1D651; 1D652, p.2.

<sup>2430</sup> P847.

<sup>2431</sup> See Section V.B. Failure by a person with authority to release detainees commits the offense of unlawful confinement if they do not exercise that power upon learning the detainees have not been afforded the procedural rights

RSMUP headquarters on this issue was Planojević's 5 June memorandum, in which he commented that the police should strictly follow humanitarian law in their treatment of civilians and POWs.<sup>2432</sup> This comment makes no reference to the treatment of detainees who were not POWs, that is, the vast majority of non-Serb detainees held at police-operated detention facilities. Moreover, it does not provide any guidance on what specific actions the police must take to protect non-Serbs in their custody or any threat of punishment if they failed to obey the laws of war.

690. Only in mid-August, after the international outcry over the Prijedor detention facilities, did STANIŠIĆ issue three brief orders that, for the reasons described in the previous subsection, did not adequately protect the non-Serb at these facilities or investigate the crimes committed against them. Moreover, STANIŠIĆ's instruction that the police hand over the "collection centres" to the army did not absolve him of his duty to protect these detainees. Although Manjača camp, Batković camp, Planjo's House and the Doboj prison were operated primarily by the military or RSMOJ, STANIŠIĆ had a duty to assure himself that the non-Serbs the police transferred to these facilities would be safe at their new location.<sup>2433</sup>

691. Rather than addressing the need to protect non-Serbs and investigate crimes against them, STANIŠIĆ instead chose to focus his police resources on two political prerogatives during 1992: the protection of war booty and the investigation of war crimes against Serbs. His actions on these issues show that he could act to prevent or investigate crimes when he chose.

(i) STANIŠIĆ focused his resources on combating looting of RS property

692. At the 24 May Government session, it was concluded that the RSMUP would prepare "complete and scrupulous information" regarding the security situation in the RS, paying "[s]pecial attention to the issues of crime, protection of *state* and personal property of *Serb people....*"<sup>2434</sup> In June and July the Government issued decrees establishing procedures for surrendering "war booty" to the Government and formed a commission to investigate plundering.<sup>2435</sup> The police and army's performance in implementing these regulations was a prominent issue for the Government, RSMUP

to which they are entitled. *Čelebici Case AJ*, para.379. The evidence shows that STANIŠIĆ was aware that non-Serbs were being held for periods well-beyond the three days the police were permitted to detain them without a court order. Moreover, he had the power to release these detainees, as evidenced by his 8 August order; 1D563.

<sup>2432</sup> P568. During his interview, STANIŠIĆ confirmed he issued no such order in respect to detention facilities.

STANIŠIĆ,P2309,pp.30-4.

<sup>2433</sup> See *Mrkšić AJ*,paras.71-74.

<sup>2434</sup> P179.6.(emphasis added).

<sup>2435</sup> P196;P197;L78.

and VRS throughout 1992.<sup>2436</sup> Of particular concern was the protection of the large inventory of *Golf* vehicles at the TAS factory.<sup>2437</sup> The day after the Government issued the 24 May conclusion, Đerić wrote to the RSMUP Undersecretary Kljajić to clarify that it “refers especially to facts about the vehicles from the TAS compound in Vogošća, oil in Ilidža, etc.”<sup>2438</sup>

693. Prompted by the Government, STANIŠIĆ expended considerable resources to solve the problem of vehicle thefts.<sup>2439</sup> In May, STANIŠIĆ arranged for a small military unit to secure the TAS factor to prevent future thefts.<sup>2440</sup> In July, both the RSMUP and CSB Sarajevo sent inspectors to Vogošća to report on the work done on this matter, and the police held meetings with municipal officials, judges and prosecutors at which the vehicle thefts were the primary topic.<sup>2441</sup> Later that month, Mačar, ordered 12 SJBs and one of the RSMUP special police detachments to collect data on a number of issues pertaining to TAS vehicles in their locations, and a week later he sent a reminder emphasising the priority of this investigation.<sup>2442</sup> On 23 August, STANIŠIĆ sent a memorandum to CSB Sarajevo noting that the Government had concluded that “it was high time the MUP compiled a report on the theft of ‘Golf’-make cars from ‘TAS’ and on the necessity to start confiscating booty,” and ordering the CSB to immediately compile a report on its work to date on this case.<sup>2443</sup> STANIŠIĆ confirmed that he took direct control of the TAS Operation: “[T]he police actually worked as ordered by me [...] on discovering this *Golf* scandal, as we called them. Because this was about 2,000 *Golf* cars....”<sup>2444</sup>

694. Mačar testified that Operation TAS continued for a number of years and implemented investigative measures in the entire territory of the RS, as well as Serbia and Montenegro.<sup>2445</sup> Between July-September, 564 police officers manned 54 vehicle checkpoints around the clock in the CSB Sarajevo region, and SJBs Vlasenica and Zvornik alone checked 780 vehicles and confiscated 79 of them.<sup>2446</sup> The SJBs clearly understood the priority of this issue. Despite the large number of crimes being committed against the non-Serb population of Vlasenica in June-July, the

<sup>2436</sup> See, e.g., P160, p.23; P553; P1976; 1D64; Nielsen, P508, paras. 279-80; P1803, p.9, paras. 2.176-86.

<sup>2437</sup> See, e.g., Nielsen, P508, paras. 256-7, 259, 395; P277, p.2; P245, p.6; P428, p.9; P400, p.49; 1D95; Trbojević, T.4240-1.

<sup>2438</sup> P188.

<sup>2439</sup> Planojević, T.16432; ST-179, T.7493-4; Tuševljak, T.22257-8.

<sup>2440</sup> Mačar, T.23287-9.

<sup>2441</sup> 1D106; 1D182; Gojković, T.11748-50; ST-127, T.11901-3.

<sup>2442</sup> 1D93; 1D183 (both copying STANIŠIĆ). Mačar became directly involved in the TAS issue; Planojević, T.16423-5.

<sup>2443</sup> 1D94; Borovčanin, T.6779-80.

<sup>2444</sup> STANIŠIĆ, P2305, p.11. In fact, STANIŠIĆ resumed his work on this matter as RSMUP Minister in 1994; Borovčanin, T.6811.

<sup>2445</sup> Mačar, T.22929-30. See also Borovčanin, T.6778; Tuševljak, T.22618-9. The RSMUP also provided direct assistance to CSBs in resolving vehicle thefts in other regions. See 1D488; 1D523; Tuševljak, T.22620.

<sup>2446</sup> P793, p.4. See also P997; P348, p.43; [REDACTED]; Đokanović, T.3663; Panić, T.2954.

SJB Vlasenica chief reported that the most common crime in the area was the transport of misappropriated passenger vehicles.”<sup>2447</sup>

695. In September, under renewed pressure from the Government to resolve the problem of the TAS vehicle thefts, RSMUP headquarters ordered CSB Romanija-Birač to assemble a team of 30 experienced police officers from different municipalities to assist SJB Vogošća combat these thefts.<sup>2448</sup> By November, after considerable work, this issue was reported as having been largely resolved.<sup>2449</sup> In fact, a number of SJB Vogošća police officers, including the SJB chief and commander, were removed from the police for not only failing to prevent these thefts but facilitating them.<sup>2450</sup> Nevertheless, during the 20 December meeting of the Supreme Command, STANIŠIĆ still spoke about the need to investigate the *Golf* vehicle thefts.<sup>2451</sup>

696. The enormous amount of time and resources the RSMUP dedicated to investigating the TAS vehicle thefts in 1992 is difficult to calculate, but Mačar could not name any comparable investigations.<sup>2452</sup> The TAS Operation was also dangerous police work; however, as ST-179 noted, “[T]he police had to perform their duties regardless of the risks involved.”<sup>2453</sup> While ST-179 correctly stated STANIŠIĆ’s and the witness’ subordinates legal duty to act, this stands in stark contrast to police reaction to serious crimes committed against the non-Serb population. Indeed, while SJB Vlasenica was busy manning vehicle checkpoints, six police officers stood aside while ten paramilitaries executed 30 non-Serbs (who had been detained at the SJB Vlasenica prison) at Nova Kasaba, purportedly because they believed they were outnumbered.<sup>2454</sup>

(ii) STANIŠIĆ also focused his resources on documenting and investigating war crimes against Serbs

697. Another priority for the BSL in 1992 was the documentation and investigation of war crimes against the Serb population. At the NSC meeting on 18 April, it was decided to create a War Crimes Commission which would “primarily and on a priority basis” address crimes against Serbs. On 17 June the RS Presidency instructed the Government to draft a decision on the establishment of a “State Documentation Centre which will gather all genuine documents on crimes committed against

<sup>2447</sup> P994,p.2.

<sup>2448</sup> P627,pp.3-5;1D578;Tuševljak,T.22257-9.

<sup>2449</sup> P627,pp4-5;1D579.

<sup>2450</sup> 1D579,p.3;1D84;1D184;1D186;1D187.

<sup>2451</sup> 1D173,p.3.

<sup>2452</sup> Mačar,T.23256-8.

<sup>2453</sup> ST-179,T.7494.

<sup>2454</sup> P866,pp.1-2.

the Serbian people during this war.”<sup>2455</sup> This Documentation Centre functioned in 1992 and the police played a role in collecting documents for it.<sup>2456</sup> At least one primary purpose of the Commission and Documentation Centre was political – to show the world that Serbs were victims in the conflict.<sup>2457</sup> By July the RS Presidency appointed members of the “Commission for Investigating War Crimes Committed against the Serbian People in BH.”<sup>2458</sup>

698. The Government’s priorities were reflected in STANIŠIĆ’s repeated efforts to ensure war crimes against Serbs – committed both within and outside the RS – were documented and criminally investigated by his subordinates. On 16 May, he ordered his CSB chiefs to include in their daily reports information on their activities in the “collection of information and documents on war crimes against the Serbs,” which included “conducting an on-site investigation with the entire team in all cases of crimes against the Serbs [...].”<sup>2459</sup> To prepare a report for the Government, two weeks later STANIŠIĆ ordered his CSB chiefs to “list the cases of serious crimes committed against the Serbs living in the territory under the control of the MUP of the former SRBiH”.<sup>2460</sup> Although Planojević’s 5 June memorandum, which instructed CSBs to “[p]ay special attention to discovering the perpetrators of war crimes”, did not limit this work to war crimes against Serbs, it did not expressly include such crimes committed against non-Serbs either.<sup>2461</sup> Nor did the SJBs interpret this instruction as including them; throughout 1992 they consistently reported war crimes committed only against Serbs.<sup>2462</sup>

699. Although Tuševljak reported at the 11 July RSMUP collegium meeting in Belgrade that war crimes committed by Serbs were “also documented”, the conclusion adopted at the meeting remained focused on preventing and documenting war crimes committed by the “enemy”.<sup>2463</sup> Tuševljak got the message – in his subsequent orders and reports he only referred to war crimes against Serbs.<sup>2464</sup> The documentation and investigation of war crimes against Serbs remained an RSMUP priority throughout 1992. A topic on the agenda of the 21 December 1992 meeting of the

<sup>2455</sup> P224;P275.

<sup>2456</sup> Gojković,T.11771-2.

<sup>2457</sup> P1284.55,p.28;P173,p.1;P856.

<sup>2458</sup> P1975.

<sup>2459</sup> P173,p.3.

<sup>2460</sup> 1D62,p.3. This same document reflected the RSMUP ’s other priority as well – the TAS vehicle thefts.

<sup>2461</sup> P568.

<sup>2462</sup> See,e.g.,P1441,p.2;P2064;P2362;P1945;1D571,p.2;1D594;[REDACTED];P1424;P166,p.3,5 (read with P1424);P793,p.6;P2375;P405,pp.6-7;P1098.18. The VRS likewise limited its investigation of war crimes to those involving Serb victims; P1089.19;P1098.20;P685.

<sup>2463</sup> P160,pp.19,22. Following this meeting, STANIŠIĆ distributed war crimes questionnaires to his CSBs, instructing that it should be completed regardless of the ethnicity of the “perpetrator.” However, the questionnaire clarifies that the intended perpetrators were those within the “membership of enemy formation”; 1D63,pp.1,4.

<sup>2464</sup> P2374;P2375,p.1;P793,p.6.

senior crime prevention chiefs was “the process of documenting crimes, war crimes against the Serbian civilian population.”<sup>2465</sup>

700. In addition to documenting war crimes against Serb victims allegedly committed in 1992, the police also investigated and filed criminal reports for these crimes. Although some witnesses agreed with the Defense’s suggestion that only the military courts had jurisdiction over war crimes, the evidence shows that not only did the police (as well as the civilian courts and prosecutor’s offices) have jurisdiction over these crimes when committed by civilians, but they exercised that jurisdiction when the victims were Serbs.<sup>2466</sup> Moreover, STANIŠIĆ’s own witness testified that in 1992-1993 he filed a significant number of criminal reports charging non-Serbs with war crimes against Serb victims.<sup>2467</sup> Even if a police official were under the mistaken belief that he did not have jurisdiction to investigate a war crime, he could have filed a criminal report for a crime over which he knew for certain fell within his jurisdiction, such as aggravated murder.<sup>2468</sup>

701. It is also clear that the RSMUP expended considerable resources in documenting and investigating war crimes committed against Serbs. CSB Sarajevo reported in October that “documentary material on the genocide against the Serbian people is a separate matter and the Sector is putting in the maximum effort to ensure that this work is carried out and recorded properly.”<sup>2469</sup> In its report for the April-December period, the RSMUP reported, “The focus of the operative work in CSBs and SJBs was on detection, documenting and reporting members of the enemy army who had committed acts of genocide against the Serbian people, torched or destroyed immovable property, cultural and religious monuments and other assets.”<sup>2470</sup>

702. In contrast, the police filed only one criminal report against a Serb perpetrator for a war crime against non-Serbs.<sup>2471</sup> That report, against the deputy warden of Planjo’s House for the

<sup>2465</sup> P1098.17. Borovčanin could only recall investigations of war crimes against Serbs; Borovčanin, T.6671-4. Njeguš expressed shock at the number of RSMUP instructions limited to Serb victims of war crimes; Njeguš, T.11470-88[REDACTED]. Likewise, Tuševljak admitted that the only war crime criminal reports that he submitted were those committed against Serbs; Tuševljak, T.22687-722, T.22731-7. Even in his current position as Head of the Centre for War Crimes Investigations, he has worked only on cases where Serbs were victims or non-Serbs were perpetrators; [REDACTED].

<sup>2466</sup> See, e.g., Gaćinović, P1609.1, paras. 13, 31; Gaćinović, P1609.4, paras. 33, 52; Gaćinović, P1609.3, para. 3; Draško, T.12308-13, T.12379-85; P1482, pp. 4-14; P1483; Jovičinac, T.26762-3; [REDACTED]; Vasić, T.13867-70; [REDACTED]; Simeunović, T.13334; P2377; P1542, p. 3; 1D354, p. 16; [REDACTED]; 1D188, p. 3 (read with Tuševljak T.22699-70, T.22712); P1441, p. 2; P2362; P1424, p. 2; P166, pp. 3-5. Read with P1424); P2375, p. 1; P1284.7, Art. 13, para. 4 (limiting military court jurisdiction over war crimes to perpetrators who were members of the military or POWs).

<sup>2467</sup> Tuševljak, T.22687-722, T.22731-6; P2372; P2373; P2376; P2378; P2379; P2380; P2381; P2382. To the extent the VRS was also investigating and prosecuting war crimes, they likewise focused solely on war crimes against Serb victims. See P1284.55, pp. 18, 26-32.

<sup>2468</sup> Kovačević, T.14246.

<sup>2469</sup> P793, p. 6; P2375, p. 1.

<sup>2470</sup> P625, p. 15.

<sup>2471</sup> 1D189. See generally Gaćinović, P1609.1; Gaćinović, P1609.4; [REDACTED]; [REDACTED].

murder of nine non-Serb detainees in December, was filed by SJB Vogošća with the military prosecutor's office. Subsequently, it was transferred to the civilian prosecutor because the perpetrator was not a member of the military.<sup>2472</sup> [REDACTED]<sup>2473</sup> The case was suspended in 1993.<sup>2474</sup>

(iii) STANIŠIĆ's operation against the Yellow Wasps

703. STANIŠIĆ's operation against the Yellow Wasps in Zvornik at the end of July shows that he could take concrete, effective measures to prevent crime if and when he chose to do so. It also illustrates STANIŠIĆ's two priorities in 1992 discussed in subsections (i)-(ii) above. The operation was aimed at preventing the Yellow Wasps from engaging in vehicle theft, and the subsequent police investigation was limited to this crime. Although the police had information that members of the Yellow Wasps had committed war crimes against non-Serb victims, these crimes were never fully investigated or reported by the police.

704. In general, the Government and RSMUP's actions to curtail the activities of Serb paramilitary groups were closely linked to the issue of war booty. For the first few months of the conflict, these paramilitaries were considered by the BSL as valuable allies, and their activities often took place alongside or in the wake of military or police operations.<sup>2475</sup> For example, after Arkan and his men helped take over Bijeljina in April, President Plavšić publicly thanked and kissed Arkan for saving the local Serb population from the Muslim threat.<sup>2476</sup> Thereafter, paramilitary groups in Bijeljina assisted the police with patrols and arrests of non-Serbs, while continuing to commit crimes against the non-Serb population.<sup>2477</sup> As M.Davidović testified, STANIŠIĆ could not have been unaware of these crimes, particularly those committed by Arkan's group.<sup>2478</sup>

705. In a 3 August report to STANIŠIĆ, Borovčanin stated that paramilitary formations in CSB Sarajevo's municipalities "were responding and helping the units of the Serbian Army and police but obviously they have some special motives for the war, they choose the area and they don't want to put themselves under the Army command, or the Army doesn't want them in its formations."<sup>2479</sup>

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<sup>2472</sup> P2377.

<sup>2473</sup> [REDACTED].

<sup>2474</sup> Gojković,T.11769-70.

<sup>2475</sup> Nielsen,P508,para.361;Panić,T.2888.

<sup>2476</sup> AF1429;P1989,pp.7-10.

<sup>2477</sup> AF1422,P410,p.2;P1890;P638,pp.2-4;Nielsen,P508,para.269.

<sup>2478</sup> M.Davidović,T.13544-5;M.Davidović,P1557.1,para.125.

<sup>2479</sup> P730,p.2. *See also* P646.

Although Borovčanin testified at trial that he wished the paramilitaries had never helped the police because they were prone to looting, he confirmed the accuracy of this information.<sup>2480</sup> In addition, CSB Trebinje reported to RSMUP that while police were engaged in combat activities, paramilitary groups began performing police activities, and unlawfully confiscating property.<sup>2481</sup>

706. In a July report on paramilitaries, the VRS reported that the great majority of paramilitary groups were motivated by war profiteering and looting, “with very few honorable exceptions who know and accept the goals of the Serb struggle.”<sup>2482</sup>

707. Even after the paramilitaries became a nuisance to the BSI, the solution was not to arrest and prosecute them. Instead, the policy was to either place them under the command of the army or the police, or expel them from RS territory.<sup>2483</sup> In fact, ŽUPLJANIN led the way in this policy, absorbing the Banja Luka SOS into his CSB Banja Luka Special Police Detachment in May.<sup>2484</sup> As this policy permitted the paramilitaries to either commit crimes against the non-Serbs under the protection of the police or army,<sup>2485</sup> or reconstitute themselves and return to the RS to continue their criminal activities, it neither diminished the impunity with which crimes were committed against the non-Serb population nor alleviated the climate of fear that drove non-Serbs from the RS.

708. The one deviation from this absorption-or-expulsion policy was the Yellow Wasps. This paramilitary group, consisting of Serbs from Serbia as well as local recruits, began operating in Zvornik in April under the patronage of the Serb CS assisting the Serb TO, VRS and police in conducting operations and patrols.<sup>2486</sup> They were also involved in serious crimes committed against non-Serb civilians detained at the various detention facilities in Zvornik, including two operated by the police – the Karakaj technical school and Čelopek cultural center.<sup>2487</sup> In May, STANIŠIĆ and Mandić attended a meeting at which the Zvornik SDS President reported that paramilitary groups were “acting on their own, stopping people, searching them, looting, killing and so on.” STANIŠIĆ and Mandić responded that they were trying to establish their ministries and therefore did not have personnel to assist with these problems.<sup>2488</sup> In mid-June, RS War Commissioner Đokanović reported to the Presidency that in Zvornik he observed elderly non-Serbs fleeing into Serbia and

<sup>2480</sup> Borovčanin,T.6682.

<sup>2481</sup> P162,p.1.

<sup>2482</sup> P591,p.1.

<sup>2483</sup> P712;P570;ST-179,T.7548;P866,p.2;1D176,p.2;P163,p.8;Nielsen,P508,paras.361-4. *See also* Brown,P1803 paras.

<sup>2484</sup> 2.57-2.72

<sup>2484</sup> *See* Section II.D.2.d.

<sup>2485</sup> Radulović,T.10777-9;P1390.

<sup>2486</sup> Panic,T.2888,T.2894,T.2909;[REDACTED];[REDACTED];[REDACTED];Nielsen,P508,para.365.

<sup>2487</sup> ST-215,T.14893-4;Panic,T.2896,T.2904.

<sup>2488</sup> ST-215,T.14884-90. *See also* Skipina,T.8381-4.

learned this was caused by the Yellow Wasps and other paramilitaries operating there. Against Đokanović's recommendation, President Karadžić nevertheless appointed the President of the SDS CS to the municipal war commission.<sup>2489</sup> On 3-4 July, after another visit to Zvornik, Đokanović and Koljević met with STANIŠIĆ and informed him that paramilitaries in Zvornik were committing war crimes.<sup>2490</sup>

709. However, STANIŠIĆ took no measures against the Yellow Wasps until they began confiscating *Golf* vehicles he believed were being illegally exported to Serbia at a checkpoint at Karakaj.<sup>2491</sup> In particular, between 15-20 July a number of members of the RS leadership were stopped at this checkpoint – including Trbojević, Mandić and RS Minister of Information Ostojić – where they were harassed and physically abused by the Yellow Wasps. In the case of Mandić, they seized a convoy of *Golf* vehicles he was escorting to Serbia.<sup>2492</sup> Around the same period, members of the Yellow Wasps, including their leader Vojin Vučković, traveled to Pale where they informed President Plavšić that looted *Golfs* from the TAS factory were being smuggled across the Zvornik border with Serbia. They also met with SJB Pale Chief Koroman, who provided them with weapons and blank vehicle registration forms in exchange for returning some vehicles they had seized from his police.<sup>2493</sup>

710. STANIŠIĆ was aware that the Yellow Wasps were harassing Government officials at the Karakaj checkpoint and committing vehicle thefts,<sup>2494</sup> and was told by the SDS leadership (including Karadžić and Karajišnik) to do something about it.<sup>2495</sup> The final straw came when STANIŠIĆ was harassed at the checkpoint. Within days he ordered the RSMUP special police unit, with manpower from the SJBs Zvornik and Vlasenica, to take decisive action against this paramilitary group.<sup>2496</sup> He asked M.Davidović to lead the action,<sup>2497</sup> who in turn formed a unit of approximately 14 from the SFRY SUP and 50 from the military police. STANIŠIĆ insisted that the RSMUP Special Police Detachment (with 150 men), under the command of Karišik participate in

<sup>2489</sup> Đokanović,T.3578-9,T.3583.

<sup>2490</sup> Đokanović,T.3586-90. *See also* Andan,T.21682-3 (police knowledge of Yellow Wasp crimes against non-Serbs did not increase the sense of urgency to conduct operation).

<sup>2491</sup> P1536,p.3 (checkpoint established on 8 July).

<sup>2492</sup> Trbojević,T.4231-2;[REDACTED];[REDACTED];ST-

121,T.3682;M.Davidović,P1557.1,para.127;Planojević,T.16447-8;P1533,p.7. Several witnesses testified that STANIŠIĆ's operation against the Yellow Wasps was motivated by these checkpoint incidents.

Đokanović,T.3589;Trbojević,T.4231-2;M.Davidović,P1557.4,T.14293-4;ST-179,T.7520-3.

<sup>2493</sup> [REDACTED];[REDACTED];ST-121,T.3681-3;M.Davidović,P1557.1,para.127;P833,pp.2-3;P834,p.1;P1533,p.5.

<sup>2494</sup> Trbojević,T.4232;ID74;Derić,T.2510 (Government only informed about the Yellow Wasps' economic crimes).

<sup>2495</sup> M.Davidović,P1557.1,para.126;M.Davidović,T.13616-7.

<sup>2496</sup> ST-179,T.7520-3. Although ST-179 did not provide a date when STANIŠIĆ was stopped at the checkpoint, he noted that the incident occurred after Ostojić was stopped, which occurred between 15-20 July.[REDACTED]. The context of ST-179's testimony suggests the incident involving STANIŠIĆ happened a few days before the operation.

<sup>2497</sup> M.Davidović,P1557.4,T.14293-4.

the operation. M.Davidović was reluctant to use them because of their criminal proclivities and lack of training.<sup>2498</sup> Nonetheless the operation occurred on 29-30 July, and police found 56 keys of *Golf* cars during their searches.<sup>2499</sup> Approximately 65-80 members of the Yellow Wasps were arrested. STANIŠIĆ arrived in Žvornik the next day for a briefing.<sup>2500</sup>

711. Although STANIŠIĆ knew that the Yellow Wasps had committed serious crimes against the Muslim population, the purpose for the arrest, and the police investigation that followed, was limited to the vehicle thefts.<sup>2501</sup> [REDACTED]<sup>2502</sup> [REDACTED].<sup>2503</sup> On 8 August, SJB Bijeljina Chief Andan filed a criminal report against 11 Yellow Wasps charging them with aggravated theft, primarily of *Golf* vehicles.<sup>2504</sup> Nothing in the police's criminal report – or the official notes of interviews and other documentation submitted along with it – indicated that the Yellow Wasps had committed any crimes against non-Serbs. The investigative judge therefore limited her investigation to vehicle thefts.<sup>2505</sup> Because aggravated theft did not require mandatory detention the judge released the perpetrators on 28 August.<sup>2506</sup> She testified that had the police informed her of the crimes Yellow Wasps had committed against non-Serbs in Čelopek and elsewhere, she would have taken measures to ensure they were not released.<sup>2507</sup> After their release, members of the Yellow Wasps continued with criminal activities in the RS.<sup>2508</sup> The investigation against the members of the Yellow Wasps ceased, and although an indictment was eventually issued against them for aggravated theft in 1999, the case has yet to be tried.<sup>2509</sup>

712. Some witnesses sought to justify the limited police investigation by suggesting there was an agreement between the police and the military that only the RSMUP SNB and military police would investigate war crimes by the Yellow Wasps.<sup>2510</sup> This suggestion is implausible. The military held in detention only one member of the Yellow Wasps, Duško Vučković (Repić), and once the military

<sup>2498</sup> M.Davidović testified that he believed STANIŠIĆ wanted to include the special police in order to control the trade of goods with Serbia through its border with Žvornik. He was also concerned the unit would abuse its power, which it did by expelling non-Serbs from Žvornik after the arrest of the Yellow Wasps; M.Davidović,P1557.1,paras.126-32;M.Davidović,P1557.4,T.14294-7;M.Davidović,T.13591-3.

<sup>2499</sup> ID558.

<sup>2500</sup> ST-121,T.3678;1D75,p.1;M.Davidović,P1557.1,para.144.

<sup>2501</sup> [REDACTED];M.Davidović,P1557.4,T.14293-4,T.14313 (the reason STANIŠIĆ gave for the operation was to stop the vehicle thefts and looting, and after the operation, the police only investigated thefts);P317.18;1D558;[REDACTED];1D75.

<sup>2502</sup>[REDACTED];1D75;P317.7;[REDACTED];[REDACTED];P825-P834;P844;P1533;P2002-P2004.

<sup>2503</sup> [REDACTED];P1533;P349.

<sup>2504</sup> P322. The police took the remaining Yellow Wasps members to be absorbed into the VRS Drina Corps. M.Davidović,P1557.4,T.14302;M.Davidović, T.14301-2.

<sup>2505</sup> Simeunović,T.13325-8,T.13404-7;P1534;P1535;P1536;P1537.

<sup>2506</sup> P317.21;P120,p.55;Simeunović,T.13320-1;[REDACTED].

<sup>2507</sup> Simeunović,T.13321,T.13325-8;T.13402.

<sup>2508</sup> Andan,T.21526-7;Nielsen,P508,para.367.

<sup>2509</sup> P317.19;P1540,pp.10-11.

<sup>2510</sup> Mačar,T.23001-2;Panić,T.3012;Andan,T.21517.

prosecutor determined that he was not a member of the military, his case was returned to the civilian prosecutor for further proceedings.<sup>2511</sup> However, the investigative judge assigned to the case confirmed that the only charges against Repić were for aggravated theft.<sup>2512</sup> Moreover, members of the Žvornik reserve police were implicated in the Yellow Wasps' crimes against non-Serbs,<sup>2513</sup> and yet none were ever investigated. [REDACTED]<sup>2514</sup> Instead, in late 1993, the civilian authorities in Serbia filed a criminal report against V. Vučković and Repić for, *inter alia*, war crimes against non-Serb detainees at the Čelopek detention facility.<sup>2515</sup> They were tried and convicted of some of these crimes in 1996, and given lenient sentences (suspended sentence and 7 years imprisonment, respectively) in part because they had voluntarily participated in the fight to "liberate" Žvornik.<sup>2516</sup> The judgment noted that municipal authorities in Žvornik did not cooperate with Serbia's investigation of the case by providing a list of non-Serb victims.<sup>2517</sup>

### **C. ŽUPLJANIN contributed significantly to the common plan**

713. The evidence in this case shows that, of the CSB chiefs, ŽUPLJANIN alone was close to the top BSL. CSB Banja Luka had the largest AOR in the RS,<sup>2518</sup> and therefore its chief was a figure of importance not only within the ARK but also within the entire RSMUP. In the ARK he was a key player in the events leading to the political domination of Banja Luka by the local BSL.<sup>2519</sup> ŽUPLJANIN played a major role in establishing the RSMUP in the ARK, and throughout 1992 maintained close co-operation with military and political authorities in pursuit of the overall goals of the BSL. Above all he bears responsibility for ordering the police within his jurisdiction to take part in the forceful and unlawful operations to subjugate the municipalities. In the aftermath of these operations his police engaged in killings, looting and destruction, and took the paramount role in the unlawful detention and mistreatment, of non-Serb noncombatants.

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<sup>2511</sup> P1558,p.2.

<sup>2512</sup> Simeunović,T.13321-5,T.13328-9;P317.19.

<sup>2513</sup> See,e.g.,P1539;Smajlović,T.2754.

<sup>2514</sup> [REDACTED];P1284.55,pp.26-7 (only war crime investigation conducted in the jurisdiction of Eastern Bosnia Corps in 1992 was against a Croat).

<sup>2515</sup> 1D86.

<sup>2516</sup> P1979,pp.4-5,26-7.

<sup>2517</sup> P1979,pp.17-8. A list of detainees in fact existed. P1696;ST-221,T.17030.

<sup>2518</sup> See Charts P878;P1077.

<sup>2519</sup> See Sections II.D.2.c;II.D.3.a.

1. ŽUPLJANIN was closely connected with the BSL

714. While there is no documentary evidence to suggest that Župljanin was a member of the SDS during the 1991-1992 period, he clearly shared their ideals and was supported by the SDS for the position of CSB chief in 1991.<sup>2520</sup> Certainly he was in contact with members of the BSL during 1991, bypassing the BiHMUP chain of command,<sup>2521</sup> and indeed apparently ignoring instructions from Delimustafić.<sup>2522</sup> By the end of 1991 he was already co-operating with the BSL of the ARK.<sup>2523</sup> In January 1992 he was in Sarajevo to attend the BSA.<sup>2524</sup> Three days after the 11 February Banja Luka meeting of senior Serb police officials, he attended the SDS Sarajevo Holiday Inn meeting.<sup>2525</sup> On 2 March, during the Sarajevo barricades incident, ŽUPLJANIN phoned STANIŠIĆ and told him they had been following the events and were waiting for the sign indicating his forces were ready to help with a “total blockade.”<sup>2526</sup>

2. ŽUPLJANIN participated in the formation of Serb bodies and forces to implement takeovers

715. ŽUPLJANIN was not only ideologically committed to the Serb cause in BiH, but from an early stage was involved in the creation of forces which could help to establish a Serb state. In July 1991 despite being refused permission by Delimustafić he staged a “practice mobilisation” of the reserve police.<sup>2527</sup> [REDACTED]<sup>2528</sup>

716. By the time of the 11 February 1992 meeting in Banja Luka ŽUPLJANIN was clearly part of the core group of senior Serb police officials who were going to be allocated positions of responsibility when the RSMUP was officially brought into existence.<sup>2529</sup>

717. The official announcement of the RSMUP was on 31 March. However, ŽUPLJANIN’s press statement on 5 March made it clear that this was a *fait accompli* and that his power and influence would be used in “the interests of the Serbian people”:

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<sup>2520</sup> P1098.12;P2043. [REDACTED].

<sup>2521</sup> P895 (July 1991 letter from ŽUPLJANIN to Plavšić complaining about perceived attempts by Muslims to dominate the BiHMUP including using green paper for correspondence). On 4 August 1991, Plavšić informed Karadžić she had received a fax from ŽUPLJANIN about filling an SNB post; P766. By 13 August, Karadžić was referring to ŽUPLJANIN as “our man there”; P1178. *See also* P887;P1103;Žepinić,T.5732-6,T.5753-4.

<sup>2522</sup> P515;Nielsen,P508,paras.21-23.

<sup>2523</sup> P2061.

<sup>2524</sup> P1190.

<sup>2525</sup> P870;P1353.17.

<sup>2526</sup> P981;*see also* P911;P643;P529.

<sup>2527</sup> P515;Nielsen,P508,para.21.

<sup>2528</sup> [REDACTED];[REDACTED].

<sup>2529</sup> ID135.

ŽUPLJANIN informed journalists that at the last Assembly of the Serbian People in Sarajevo a decision was adopted to found an Interior Ministry of the Serbian Republic of BH, and in connection with this he made it clear that there was a plan to found five centres of the national security services. These would be in Banja Luka... in Doboj...in Trebinje...in Sarajevo...and in Ugljevik... ŽUPLJANIN replied that the Centre he was responsible for would not carry out any orders of the Bosnia and Herzegovina Interior Ministry that might possible [sic] be directed against the interests of the Serbian people.<sup>2530</sup>

718. ŽUPLJANIN was (re-)appointed as the CSB chief by STANIŠIĆ on 1 April.<sup>2531</sup> His CSB Banja Luka had approximately 150 employees, and the SJB had 300.<sup>2532</sup> [REDACTED]<sup>2533</sup> Nonetheless without any hindrance from the police, on 3 April the SOS was allowed to take-over Banja Luka.<sup>2534</sup> The whole episode bore striking similarity to the barricades incident in Sarajevo in March, but on this occasion the close involvement of ŽUPLJANIN with the BSL in Banja Luka is clear. He became a member of the municipal CS which was established to address the SOS demands,<sup>2535</sup> and on 3 April sent the first of many dispatches designed to make the RSMUP within his AOR wholly Serbian.<sup>2536</sup>

719. ŽUPLJANIN followed up that dispatch with further orders designed to ensure that the CSB and SJBs became a fully functioning part of the RSMUP. On 6 April, a meeting of the CSB collegium was held where instructions were given for the operation of the RSMUP.<sup>2537</sup> On 16 April, he ordered that (with the exception of Prijedor and Kotor Varoš) all officers who refused to take the solemn declaration were to be placed on “annual leave”.<sup>2538</sup> On 12 May, he told the *Glas* newspaper that “a single people has to have a single government and they have to submit to this government.” He then noted that “the problem with Prijedor has been settled, with Sanski Most, Bosanski Novi, Ključ also, and there just remain the problems of Jajce and Kotor-Varoš.”<sup>2539</sup> By 28 May, “annual leave” had become dismissal,<sup>2540</sup> which meant the officers lost insurance, pension rights and indeed their accommodation. The payrolls for the SNB Banja Luka reveal the erosion of

<sup>2530</sup> P864.

<sup>2531</sup> P1408. The ARK Assembly on 11 April endorsed that appointment. See P2075;P1417;1D776.

<sup>2532</sup> SZ-003,T.24482.

<sup>2533</sup> [REDACTED].

<sup>2534</sup> See Section II.D.2.c.

<sup>2535</sup> P536.

<sup>2536</sup> 1D137. In what can only be concluded was a gesture of contempt this was sent not only to the RSMUP and his subordinate SJBs, but to the BiHMUP. He also stated in this dispatch that the solemn declaration was “identical” to the one taken by the BiHMUP. However, it differed in one vital respect. See P510,Art.41;P530,Art.41. See also 1D140;2D18;P534;SZ-003,T.24499-504;[REDACTED];[REDACTED].

<sup>2537</sup> In the document that recorded the conclusions of the meeting ŽUPLJANIN referred to financing of reserve police, which needed to come from Municipal Assemblies. P355,p.4.

<sup>2538</sup> 2D18;1D814.

<sup>2539</sup> P560,p.2.

<sup>2540</sup> P377.

a multi-ethnic organisation.<sup>2541</sup> At the same time as he was creating an ethnically pure MUP he was also establishing it as a formidable fighting force.

3. Župljanin participated in the forming, financing, supplying, supporting and commanding of special police units in the ARK and SAO Northern Bosnia

720. ŽUPLJANIN created, supported and commanded police special units operating in the ARK and SAO Northern Bosnia from May-December 1992. These units conducted police and combat operations in Banja Luka, Prijedor, Sanski Most, Ključ, Donji Vakuf, Kotor Varoš, Bosanski Novi, Kupres, Šipovo, Mrkonjić Grad, Doboj, Modriča and Derventa.<sup>2542</sup> During their operations, members of these units committed widespread crimes against the non-Serb population,<sup>2543</sup> including a number of the crimes charged in the Indictment. Through these special police units, Župljanin was able to provide a significant and direct contribution to the implementation of the common plan in a number of Indictment municipalities.

721. Even prior to the conflict, ŽUPLJANIN exercised his power to establish and maintain special police units (sometimes referred to as police manoeuvring units, intervention platoons, and after the outbreak of the conflict, war units) in his AOR and could deploy these units with the approval of the Ministry of Interior. These regional and municipal special police units were linked to the Ministry's special police unit through the provision of equipment and training, and the latter could use part or all of the units established by ŽUPLJANIN if the need arose.<sup>2544</sup> STANIŠIĆ's 15 May "war unit" order confirmed ŽUPLJANIN's power to establish, finance, equip and maintain special police units under the CSB.<sup>2545</sup>

(i) CSB Banja Luka Special Police Detachment

722. During the Indictment period, the most ubiquitous and notorious of the special police units formed by ŽUPLJANIN was the CSB Banja Luka Special Police Detachment. ŽUPLJANIN publicly announced the formation of a special unit within the CSB on 15 April.<sup>2546</sup> On 17 April, the

<sup>2541</sup> 2D184;P1373;P2407;*see* SZ-002,T.25649-65

<sup>2542</sup> P629;P865,p.2;P2415;Radulović,T.10806,T.10847.

<sup>2543</sup> *See, e.g.,* P567;P659.

<sup>2544</sup> Žepinić,T.5852-3;[REDACTED];2D37.

<sup>2545</sup> 1D46. Pursuant to this order, STANIŠIĆ immediately appointed ŽUPLJANIN as a member of the Staff for Managing and Commanding the Forces of the Ministry, which exercised command and control over these units; P458.

<sup>2546</sup> P542;Nielsen,P508,para.222. *See also* P367,p.5

ARK Assembly passed a decision authorising ŽUPLJANIN to organise and replenish a “Special Purpose Police Detachment” within the CSB<sup>2547</sup>

723. Both ŽUPLJANIN and Banja Luka Municipal President Radić advocated absorbing SOS members into the reserve police despite the numerous crimes committed by them.<sup>2548</sup> The initial proposal was to place them within a special police unit of SJB Banja Luka; however, at a meeting in early April with ŽUPLJANIN, Radić and Brđanin, SJB Banja Luka Chief Tutuš refused to accept the SOS members under his command given their criminal histories and because he was convinced that only the Minister of Interior could authorise the formation of a special police unit, in accordance with the Law on Internal Affairs.<sup>2549</sup> ŽUPLJANIN therefore absorbed a large number of SOS members into the CSB Special Police Detachment.<sup>2550</sup> Despite their already poor reputation, ŽUPLJANIN praised the SOS members as first-rate, experienced fighters, during press interviews, and disagreed with General Talić’s public assertion that the SOS consisted mainly of deserters and persons of dubious morals.<sup>2551</sup> Likewise, when Radulović questioned why ŽUPLJANIN was admitting known criminals into the police force, ŽUPLJANIN told him they were “Serbian knights”.<sup>2552</sup>

724. To augment the SOS members, on 21 April ŽUPLJANIN requested all SJBs within his remit to propose candidates for the Detachment.<sup>2553</sup> He also sought from the JNA armoured vehicles, helicopters, heavy weapons, explosives, firearms and other materiel, all of which were supplied to the CSB with General Talić’s agreement.<sup>2554</sup> ŽUPLJANIN informed his subordinates and the media that the Detachment was an “elite” unit that would be given everything it needs, including “the most up-to-date combat equipment” and its members would have better incentives than other members of the police. Moreover, the Detachment would be led by “expert personnel” and “certainly be under total control”, and “if it is necessary for the detachment to fight together with the Army, it will be made available.”<sup>2555</sup> To display the strength of the Detachment to the RS leadership and the public, ŽUPLJANIN organised a parade in Banja Luka on 12 May.<sup>2556</sup> At the

<sup>2547</sup> 2D55. See also P550;P551,pp.2-3;P552;P560,pp.2-4.

<sup>2548</sup> P536;P1098.22;AF1053;[REDACTED];[REDACTED];[REDACTED].

<sup>2549</sup> Tutuš,T.7632-3;T.7649-53.

<sup>2550</sup> P552;P560,pp.3-4;P591,pp.4-5;Radulović,T.10779-81,T.10783-5;SZ-002,T.25689-90. SJB Banja Luka officials continued to refer to the Detachment as the SOS; P631,p.3. The remaining SOS members were assigned either to the reserve police or the ARK TO;P552.

<sup>2551</sup> P560,pp.2-4;P552.

<sup>2552</sup> Radulović,T.10777.

<sup>2553</sup> P2408;[REDACTED].

<sup>2554</sup> P548;P549; P552; P1127,p.5;Nielsen,P508(footnote.280).

<sup>2555</sup> P367,p.5;P560,p.3.

<sup>2556</sup> P368;P367,p.5;P560,p.3.

parade, STANIŠIĆ and ŽUPLJANIN, along with Karadžić, gave public speeches.<sup>2557</sup> [REDACTED]<sup>2558</sup> The combat vehicles supplied by the army were used by the Detachment in operations in Kotor Varoš, Banja Luka and Bosanski Novi.<sup>2559</sup>

725. ŽUPLJANIN's command and control of the CSB Banja Luka Special Police Detachment is evinced through his own actions. Detachment members had the status of police officers with their emoluments being paid by the RSMUP at least until 31 August.<sup>2560</sup> ŽUPLJANIN signed the payrolls of the Detachment,<sup>2561</sup> and certified that payments to the reserve police members of the Detachment conformed to the ARK Executive Council mandates.<sup>2562</sup> Even when a unit of the Detachment was temporarily deployed to the territory of CSB Doboj, payroll documents were received by ŽUPLJANIN's personal secretary.<sup>2563</sup> ŽUPLJANIN also approved decisions to change the employment status of Detachment members from reserve to active police officers.<sup>2564</sup> Moreover, ŽUPLJANIN signed the official identification document issued by CSB Banja Luka to all members of the Detachment, providing them with police powers to conduct arrests and searches without a warrant, requisition private vehicles and to carry and use firearms.<sup>2565</sup> Furthermore, Luban Ećim and SZ-002 were the *de facto* commanders of the Detachment, particularly after Mirko Lukić was seriously injured in an automobile accident towards the end of May.<sup>2566</sup> Nenad and Danko Kajkut were also members of SNB Banja Luka who held ranking positions within the Detachment.<sup>2567</sup> [REDACTED]<sup>2568</sup>

726. ŽUPLJANIN exercised ultimate authority over the activities of the Detachment. In Gajic's 5 August report to STANIŠIĆ, he noted the CSB not only formed and supported the Detachment but also "defined the tasks of the unit."<sup>2569</sup> For example, on 14 May 1992, the CSB "dispatched" a unit of the Detachment to Bosanski Novi, which proceeded to mistreat the non-Serb population in that

<sup>2557</sup> P562;P1080;P1393. The parade was also attended by Krajišnik, Koljević, Milan Martić Branko Đerić, Čedo Kljajić and Momčilo Mandić;P1393,p.2.

<sup>2558</sup> [REDACTED].

<sup>2559</sup> See,e.g.,ST-245,T.16734-5;[REDACTED];ST-241,T.16956-7;[REDACTED];Radulović,T.10958-9;[REDACTED];Rodić,T.8838-9;[REDACTED];P567;P1080;P1290;P1393;P2014.

<sup>2560</sup> P1502,p.2;P600.

<sup>2561</sup> See P2414;P2413;P1092.

<sup>2562</sup> See,e.g.,P2412,pp.1,9-10;P2413,pp.2,10-11.

<sup>2563</sup> 2D89 (indicating in handwriting that the 9<sup>th</sup> Company for Special Assignments Banja Luka payroll was received by ST-213);Sajinović,T.25330-3.

<sup>2564</sup> P2409.

<sup>2565</sup> 2D72,pp.11,23;P1502,p.2 (upon transfer to the VRS, Detachment members "will hand in their official identification documents and police equipment");Radulović,T.10808-11.

<sup>2566</sup> P2410,p.1;P1373,pp.3,10;P77,p.1;Radulović,T.10786,T.10792-3;Raljić,T.12395-6;SZ-002,T.25775-6;Nielsen,T.5579-80;Nielsen,P508,para.225. Under the Ministry of Interior rules, Mirko Lukić should have been appointed to his position within the Detachment by ŽUPLJANIN; Radulović,T.10786.

<sup>2567</sup> Radulović,T.10784.

<sup>2568</sup> [REDACTED];P1502.

<sup>2569</sup> P631,p.2.

municipality.<sup>2570</sup> In addition, during most of May, a unit of the Detachment – consisting of SNB reservists – was present in Kljuć observing the activities of the regular police at checkpoints, and after a short period, began committing crimes. Although members of the Detachment, who wore red berets, occasionally met with Chief Kondić at the SJB building and attended police briefings, they worked independently and reported to Banja Luka.<sup>2571</sup>

727. Around the same period, a unit of the Detachment was sent to CSB Doboј primarily to provide security to SNB Banja Luka inspectors who were assisting with the interrogation of non-Serbs held at the prison.<sup>2572</sup> As this was purely a police function and required the temporary assignment of CSB Banja Luka officials to another region, it can be inferred that ŽUPLJANIN authorised the Detachment to perform this assignment. Indeed, it was ŽUPLJANIN who ordered the withdrawal of the Detachment from Doboј in late May or early June.<sup>2573</sup> Approximately a week later, at a meeting at the CSB on 8 or 9 June, ŽUPLJANIN informed ST-197, Kotor Varoš CS President Nedeljko Đekanović and other representatives from Kotor Varoš that the CSB would send reinforcements to Kotor Varoš in two days to lead an operation in the municipality.<sup>2574</sup> On 11 June, the Detachment participated in the takeover of Kotor Varoš town.<sup>2575</sup> During the summer, a unit of the Detachment was sent to Sanski Most to conduct a joint operation with SJB Sanski Most to arrest a group of Muslims from Prijedor in the Ljubija mines region. [REDACTED]<sup>2576</sup>

728. In addition, CSB Banja Luka asserted disciplinary and criminal jurisdiction over Detachment members, although ŽUPLJANIN rarely chose to exercise this jurisdiction.<sup>2577</sup> In fact, the only occasion when members of the Detachment were arrested for committing a crime against a non-Serb, ŽUPLJANIN issued the order to release the members from prison.<sup>2578</sup> ŽUPLJANIN's complete failure to discipline or criminally investigate members of the Detachment for such crimes, as discussed further in Section III.C.7 of this brief, encouraged them to continue to engage in criminal activities against the non-Serb population.

<sup>2570</sup> P567.

<sup>2571</sup> ST-218T.15871-2 [REDACTED], T.15938-9;Dzafić,P962.1,p.8;P960.24,p.4.

<sup>2572</sup> Sajinović,T.25135-6,T.25323-6,T.25329-30. While in Doboј, Detachment members also participated in activities to "liberate" Doboј and committed numerous crimes against the non-Serb population. When they left Doboј, they took all their loot with them; P2415,p.1;P1337;Radulović,T.10798-804.

<sup>2573</sup> Radulović,T.10804-6.

<sup>2574</sup> ST-197,T.14406-9,T.14414-6;*see also* Dekanović,T.1495-1504;P76;P2396. Although when confronted with his prior statement during an OTP interview, ST-197 refused to confirm that the operation was discussed at this meeting (only that the CSB would send "reinforcements"), the Trial Chamber should afford more weight to the prior statement,(which is corroborated by other evidence), given that he had less of a motive to lie.

<sup>2575</sup> ST-197,T.14416-7,T.14450-2;P1579.

<sup>2576</sup> [REDACTED].

<sup>2577</sup> P865,p.3.

<sup>2578</sup> P1091;P586,p.2;Tutuš,T.7710-2;Nielsen,P508,para.226;P588,p.3.

729. Moreover, it is clear that ŽUPLJANIN monitored the activities of the Detachment. Every time Radulović informed ŽUPLJANIN of the criminal activities of the Detachment in Prijedor and Kotor Varoš, ŽUPLJANIN told him that he already received similar information from the local leadership, including the SJB chiefs and SNB inspectors.<sup>2579</sup> While the Detachment was in Kotor Varoš from June-August, ŽUPLJANIN visited the municipality on a number of occasions.<sup>2580</sup> After the Detachment participated with the VRS in a successful operation against non-Serbs in Vrbanjći on or about 25 June, ŽUPLJANIN was in Kotor Varoš informing the media that the non-Serbs had accepted, at least in part, the destruction and loss of life that could result from “this activity of ours”.<sup>2581</sup> A televised broadcast filmed around the same time shows a Detachment member escorting a group of detainees, most likely non-Serbs held at the sawmill.<sup>2582</sup>

730. Furthermore, at the end of July when STANIŠIĆ ordered, at the urging of Karadžić and the RS Assembly, that the CSBs disband all special police units,<sup>2583</sup> ŽUPLJANIN initially resisted this order at meetings held between 2-4 August with RSMUP Inspectors Gajić and Miroslavić. While acknowledging the “negativities” the Detachment faced, ŽUPLJANIN and his “associates” emphasised its positive results and insisted on maintaining a special police unit of 150 men “under direct command of the Centre Chief”. ŽUPLJANIN further informed the RSMUP inspectors that the Detachment would remain in the ARK until STANIŠIĆ reached a decision on his proposal.<sup>2584</sup> ŽUPLJANIN also spoke directly with STANIŠIĆ about this issue on 3 August.<sup>2585</sup> Only after Inspector Gajić presented STANIŠIĆ’s decision reaffirming his earlier order to ŽUPLJANIN, at a meeting on 6 August did ŽUPLJANIN agree to implement it but waited until 14 August before giving the order.<sup>2586</sup>

731. Members of the Detachment also considered ŽUPLJANIN their ultimate superior. When a policeman from SM Međdan in Banja Luka telephoned the Detachment for assistance in preventing an attack on the station by Vedran Mandić and his group, the Detachment duty officer informed the policeman that “only the Chief of the Banja Luka CSB or their commander could send their unit into action.”<sup>2587</sup> When ST-245 confronted the Detachment commander at Omarska camp regarding

<sup>2579</sup> Radulović, T.10808. See Raljić, T.12438-40.

<sup>2580</sup> See, e.g., Dekanović, T.1108; ST.241, T.16979-81; Krzić, T.5143-5.

<sup>2581</sup> P45, pp.1-2; ST-197, T.14439-44, T.14448-50; P81; Hanson, P82, p.1; [REDACTED].

<sup>2582</sup> P2014(8:00)(showing a police officer escorting prisoners near a logging truck); [REDACTED].

<sup>2583</sup> 1D176.

<sup>2584</sup> P631, pp.2-3; P865, pp.3-4; Nielsen, P508, para.229. Gajić testified that although ŽUPLJANIN “wasn’t as categorical immediately in his initial statements,” he agreed to disband the Detachment; Gajić, T.12829. However, ŽUPLJANIN’s conclusions enumerated in Gajić’s report clearly suggest he did not want to disband the Detachment.

<sup>2585</sup> P1010.

<sup>2586</sup> P1502, p.1. P600.

<sup>2587</sup> 2D57, p.8.

crimes they were committing against non-Serb detainees, the commander responded, “[Y]ou and I have nothing to do with each other. I have my own commander in Banja Luka.”<sup>2588</sup> Further, when police officers from SJB Banja Luka stopped a Detachment member driving a vehicle, the member informed them that he had taken the vehicle from a “Turk” and stated, “Call Stojan ŽUPLJANIN or Kesić for me so that I can talk to them. Who are you to stop me?” After his membership in the Detachment was verified, he was released.<sup>2589</sup> On another occasion, a Detachment member telephoned ŽUPLJANIN directly to demand the replacement of police officers responsible for arresting another Detachment member.<sup>2590</sup>

732. CSB and SJB officials likewise perceived the Detachment as under the command of the CSB, and therefore, ultimately under ŽUPLJANIN’s authority. Radulović, at all times, took ŽUPLJANIN to be the head in command of the Detachment and so informed him about the criminal activities of Detachment members.<sup>2591</sup> Tutuš and SJB Crime Prevention Chief Jošić submitted a number of official notes to CSB Banja Luka, often addressed directly to ŽUPLJANIN, regarding illegal activities of Detachment members because they believed it was the responsibility of ŽUPLJANIN to address these crimes.<sup>2592</sup> Other SJB chiefs, including Drljača, Bosanski Novi Chief Kutlija and Kotor Varoš Chief Tepić, also reported crimes committed by the Detachment against non-Serbs to the CSB or directly to ŽUPLJANIN.<sup>2593</sup>

733. Moreover, municipal CSs considered the Detachment to be under the command of ŽUPLJANIN. The president of the Petrovac CS wrote directly to ŽUPLJANIN to request that the Detachment be sent to his municipality to assist with maintaining law and order.<sup>2594</sup> After Detachment members killed a number of non-Serbs outside the health centre in Kotor Varoš, the CS president insisted that the matter had to be cleared up with ŽUPLJANIN, which was scheduled for the next day.<sup>2595</sup> Dekanović recalled speaking to ŽUPLJANIN about this and other crimes committed by the Detachment. ŽUPLJANIN never suggested he had no authority over the Detachment, but rather assured Dekanović he would take action to prevent them from

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<sup>2588</sup> ST-245,T.16733-7;P659.

<sup>2589</sup> P1082.

<sup>2590</sup> P1089,p.9.

<sup>2591</sup> Radulović,T.10804-9,T.10912-4. In mid-May, Radulović also proposed to CSB Banja Luka that it send the Detachment to Kotor Varoš – a proposal that ŽUPLJANIN eventually adopted; P2396;P76.

<sup>2592</sup> Tutuš,T.7687,T.7690-5;P584;P585;P1081;P1084;P1085;P1088;P1089.

<sup>2593</sup> P659 (addressed directly to ŽUPLJANIN);P567;P78,p.1;Radulović,T.10808;Raljić,T.12438-40.

<sup>2594</sup> P2411.

<sup>2595</sup> P81,p.1.

misbehaving.<sup>2596</sup> A week later, the CS called for another meeting with ŽUPLJANIN and Ećim in light of the behaviour of Detachment members.<sup>2597</sup>

734. Members of the VRS command considered the Detachment outside their jurisdiction and under exclusive control of CSB Banja Luka. In Kotor Varoš ST-197 did not concern himself with the criminal activities of the Detachment (including the killing of non-Serbs outside the health centre) because “all the actions carried out by the police, special or otherwise, were not a problem to the army because the army was doing its job, and the police was carrying on their work, within their competencies. [...] They were responsible for their own force and their own actions, just like army units are responsible to their commander for their actions.”<sup>2598</sup> ST-197’s testimony is corroborated by 16 July and 23 July subordinate formation orders from the Brigade Group Command and the Kotor Varoš Light Infantry Brigade Command, respectively, neither of which mentions the Detachment as a subordinated unit.<sup>2599</sup> Nor did General Talić list the Detachment among the units within the Vlašić Group (which included the 122<sup>nd</sup> Light Infantry Brigade).<sup>2600</sup> If the Detachment were in fact re-subordinated to the military, they would have been listed in them.<sup>2601</sup>

735. [REDACTED]<sup>2602</sup> [REDACTED]<sup>2603</sup> [REDACTED]<sup>2604</sup>

736. Although ŽUPLJANIN agreed to hand the Detachment over to the 1KK on 10 August,<sup>2605</sup> this never occurred. As a result, former members of the Detachment continued their criminal activities against non-Serbs. [REDACTED]

[REDACTED]<sup>2606</sup>

737. Moreover, on 21 August, Kotor Varoš President Đekanović informed his CS that members of the Detachment continued to exert pressure on non-Serb families to compel them to leave the municipality.<sup>2607</sup> And, on 29 August, the 1KK Command reported to VRS Main Staff, “The Banja

<sup>2596</sup> Dekanović,T.1108-10.

<sup>2597</sup> P85,p.1.

<sup>2598</sup> ST-197,T.14428-30.

<sup>2599</sup> P1787;2D133.

<sup>2600</sup> 1D390,p.1.

<sup>2601</sup> See Brown,T.18718-22;compare 1D390,p.2 (listing the MUP Battalion among re-subordinated units);1D468,p.2 (listing Doboj Police Battalion detachment among subordinated units). See also P1818,p.2 (RSMUP units in the Vlašić plateau were acting “on their own initiative and conducted actions there.”)

<sup>2602</sup> [REDACTED].

<sup>2603</sup> [REDACTED].

<sup>2604</sup> [REDACTED].

<sup>2605</sup> P1502,p.2.

<sup>2606</sup> [REDACTED]. See P1295.26,p.2.

<sup>2607</sup> P97;Đekanović,T.1168.

Luka CSB special detachment located in Kotor Varoš area has still not joined the 22<sup>nd</sup> [light brigade] and is causing serious problems on the ground.”<sup>2608</sup> A week later, the 1KK Commander reported to VRS Main Staff that “there is still resistance from the CSB” in placing its armed formations under the control of the army, and noted the rise of extremism against non-Serbs and continued efforts to place organs of the MUP “above military formations and the Army RiK system.”<sup>2609</sup>

738. [REDACTED]<sup>2610</sup> Rather, as ŽUPLJANIN reported in 1993, many Detachment members entered or returned to the ranks of the active or reserve police force at the CSB or one of the SJBs, or joined one of the special police units subsequently established by ŽUPLJANIN.<sup>2611</sup>

739. [REDACTED]<sup>2612</sup> [REDACTED]<sup>2613</sup> [REDACTED]<sup>2614</sup> despite the fact that Detachment payrolls, which he signed on behalf of Commander Lukić, and other documents placed him third in command.<sup>2615</sup> There is no evidence to corroborate SZ-002’s claim that the Detachment was under the command of Colonel Milan Stevilović.<sup>2616</sup> The claim put to Prosecution witnesses, was that Stevilović commanded a military special unit in Kotor Varoš that was entirely separate from the Detachment.<sup>2617</sup> [REDACTED]<sup>2618</sup>

740. Furthermore, SZ-002’s testimony that Slobodan Dubočanin commanded a unit of 20-30 men that was entirely separate from the Detachment and the police,<sup>2619</sup> is self-contradictory<sup>2620</sup> and not supported by other evidence. By his own admission, the Detachment closely coordinated its activities with Dubočanin and assisted with the distribution of pay to members of the Detachment upon approval from ŽUPLJANIN.<sup>2621</sup> Moreover, Dubočanin and his unit were uniformed and equipped as were members of the Detachment and operated from SJB Kotor Varoš.<sup>2622</sup> Dubočanin was filmed during the takeover of Kotor Varoš conducting an operation with Ećim and Nenad

<sup>2608</sup> P1666;[REDACTED].

<sup>2609</sup> P611,pp.2-3.

<sup>2610</sup> [REDACTED]

<sup>2611</sup> See 2D63;Krejić,T.14074-5

<sup>2612</sup> SZ-002,[REDACTED],T.25665-7,[REDACTED]. See Radulović,T.10913.

<sup>2613</sup> SZ-002,[REDACTED],T.25462-3,[REDACTED],T.25532,[REDACTED],T.25668-9,[REDACTED],T.25851-2,T.25862-4.

<sup>2614</sup> [REDACTED].

<sup>2615</sup> P1092,p.1;P2410,p.1;P2413,p.4;P2414,p.1. See also P1502,p.1;P2415.

<sup>2616</sup> SZ-002 made this assertion without knowing that Colonel Stevilović was the 1KK Security and intelligence Chief; SZ-002,T.25567-9.

<sup>2617</sup> ST-197,T.16251-2;[REDACTED].

<sup>2618</sup> [REDACTED].

<sup>2619</sup> SZ-002,T.25492-4.

<sup>2620</sup> See e.g., SZ-002,T.25469-70,T.25492-4,T.25497,[REDACTED].

<sup>2621</sup> SZ-002,T.25742-3,[REDACTED];P2414,p.12.

<sup>2622</sup> SZ-002,T.24853,T.25497;ST-197,T.14452-3;[REDACTED];[REDACTED];[REDACTED];P98;P134.

Kajkut, and he was also photographed with Detachment members.<sup>2623</sup> When Tutuš arrested two members of the Detachment in July, Dubočanin and Lukić demanded that he release the Detachment members from prison, stating that they had received the approval of ŽUPLJANIN for their release.<sup>2624</sup>

741. [REDACTED]<sup>2625</sup> Dubočanin's military booklet does not indicate that he was assigned to the Detachment, nor does it indicate that he was assigned to Colonel Stevilović's VRS Intelligence Department, and it incorrectly indicates that he was a member of ST-197's unit in Kneževi from October 1992 onwards.<sup>2626</sup> While Dubočanin is not listed on the Detachment payrolls, [REDACTED]<sup>2627</sup>

#### 4. Subsequent CSB Special Police Units

742. After disbanding the CSB Banja Luka Special Police Detachment, ŽUPLJANIN actively organised, supported and commanded CSB special police units in the ARK and other regions. These special units included several members of the former Detachment.<sup>2628</sup>

743. On 23 September, ŽUPLJANIN told SJB Kotor Varoš to prepare for a joint RSMUP/VRS operation,<sup>2629</sup> [REDACTED]<sup>2630</sup> [REDACTED]<sup>2631</sup> That same day, the commander of the Kotor Varoš Light Infantry Brigade issued an order of attack.<sup>2632</sup> By the beginning of October, only a small pocket surrounding the village of Većići was not under the control of the 1KK<sup>2633</sup> The Serb political and military leadership (including ŽUPLJANIN and SNB Inspector Pejić issued an ultimatum to the non-Serb population in Većići for their unconditional surrender and "evacuation" from RS-held territory,<sup>2634</sup> which led to the massacre of approximately 200 non-Serbs captured while escaping from the municipality on 4 November.<sup>2635</sup>

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<sup>2623</sup> ST-197,T.14450-2,[REDACTED];SZ-002,T.25815-7;Đekanović,T.1170-4;[REDACTED];P98;P134;P1579.

<sup>2624</sup> Tutuš,T.7710-1.

<sup>2625</sup> ST-197,T.14452-4; [REDACTED];[REDACTED];[REDACTED];[REDACTED];Đekanović,T.1109,T.1152,T.1466,T.1498-9.

<sup>2626</sup> 2D56;[REDACTED](according to the military booklet, Dubočanin was a soldier in the 1<sup>st</sup> Armoured Brigade under ST-144 between September 1991 and September 1992); ST-197,T.14453-4,[REDACTED],T.16254-5.

<sup>2627</sup> P441,p.3;[REDACTED];[REDACTED];P45,p.1;P1579.

<sup>2628</sup> See e.g., 2D63 (numbers 18,45,64-5,71,90,99-100,138,148,163,203,278).

<sup>2629</sup> P1021.

<sup>2630</sup> [REDACTED].

<sup>2631</sup> [REDACTED];[REDACTED].

<sup>2632</sup> P2416.

<sup>2633</sup> P1803,para.2.92.

<sup>2634</sup> Krzić,T.5143-5;Radulović,T.10916-8,T.11173-6;P1803,paras.2.92-

3;P459.10;P469;P1913,p.1;1D37;1D38;1D690;1D720,p.2.

<sup>2635</sup> Krzić,T.5147;P1803,paras.2.94-8;P1822;1D720,p.1. See Section II.D.2(q), para.473.

744. In addition to sending CSB special police units to Kotor Varoš, on 12 and 27 October ŽUPLJANIN formed further special units consisting of police from various SJBs, led by senior officials from the CSB. These units were re-subordinated to the VRS. In the case of the latter he gave instructions that the SJB chiefs must submit written reports to the CSB about the execution of the task when the police officers returned.<sup>2636</sup>

745. On 21 November, General Talić wrote to ŽUPLJANIN requesting him to prepare, organise and establish police units with the strength of at least two battalions to assist the 1KK and East Bosnia Corps in widening the corridor to Serbia.<sup>2637</sup> The next day, ŽUPLJANIN established, in accordance with STANIŠIĆ's 15 May order,<sup>2638</sup> and based on the consent of the RSMUP, a police brigade consisting of four battalions from war units of CSB Banja Luka. [REDACTED]<sup>2639</sup> [REDACTED]<sup>2640</sup> In December, ŽUPLJANIN appointed Ećim Commander of the first battalion, SZ-002 [REDACTED] and Nenad Kajkut commander of the first company of the first battalion.<sup>2641</sup>

746. [REDACTED]<sup>2642</sup> The brigade was then sent to Bosanski Šamac to participate an operation in Orašje alongside the 2KK and Serb police from Knin. [REDACTED]<sup>2643</sup>

#### (i) SJB Special Police Units

747. ŽUPLJANIN supported special units in the municipalities in his AOR. Prior to the conflict, these special units were ethnically mixed, although in most SJBs the majority of the unit members and commanders were Serb.<sup>2644</sup> In August 1991, special police officers from Serbia provided extensive special police training in Podgradči, Prijedor, to 300-400 Serbs from, *inter alia*, Prijedor, Prnjavor and Šipovo. The training was conducted secretly and focused on anti-terrorist combat. [REDACTED]<sup>2645</sup> In February 1992, CSB officials and military officers provided Serb members of special police units from at least 12 municipalities in the Banja Luka region with combat training (including the use of heavy weapons and explosives) at the Manjača JNA military training grounds. Non-Serb members attended the training but were only permitted to watch these exercises.<sup>2646</sup>

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<sup>2636</sup> P1802;P1888 P411.13.

<sup>2637</sup> P1668.

<sup>2638</sup> 1D46.

<sup>2639</sup> [REDACTED].

<sup>2640</sup> [REDACTED].

<sup>2641</sup> P1096.

<sup>2642</sup> [REDACTED],[REDACTED],[REDACTED],1D119,p.4;P1656;ST-197,T.16212-5.

<sup>2643</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>2644</sup> 2D37,p.2

<sup>2645</sup> [REDACTED].

<sup>2646</sup> A.Džafić,P962.1,pp.10-1;A.Džafić,T.6185;ST-218,T.15868-70. Traditionally, special police units were used primarily in crowd control activities. A.Džafić,T.6217-8;[REDACTED];ST-218,T.15987. Vračar recalled the combat

748. Once the conflict began and non-Serb police officers had been purged from the police, the SJB chiefs mobilised the special police units to assist in the takeover and cleansing of their respective municipalities.<sup>2647</sup> Given that mobilisation of special police units required the authorisation of the CSB chief pursuant to STANIŠIĆ's 15 May order,<sup>2648</sup> ŽUPLJANIN must have authorised their creation.<sup>2649</sup> Further, ŽUPLJANIN must have, at the very least, been aware of the activities of these police units through the regular reports and meetings of his SJB chiefs. Indeed, his primary concern was not the involvement of special units in the armed conflict, but rather that he was kept apprised of their activities. In May, pursuant to an order from STANIŠIĆ, he instructed the SJBs to inform him of all "special activities" of the police, including participation in combat.<sup>2650</sup> Around the same time, he ordered all SJB chiefs to obtain the prior consent of the CSB before engaging any police units in armed actions, particularly those in areas outside their territorial jurisdiction.<sup>2651</sup> In the CSB Banja Luka report to the RSMUP for April-December, ŽUPLJANIN wrote:

In accordance with regulations governing the activities in the area of defence preparations, the Centre worked on reinforcing and providing equipment for war-time units of the organs of internal affairs [...] Efforts were also made to form war-time sections in the newly-incorporated municipalities [and] establish links and cooperation between the SJB and the army [...] <sup>2652</sup>

749. The SJB Ključ Manoeuvring Unit and SJB Prijedor Police Intervention Platoon participated in crimes charged in the Indictment.<sup>2653</sup> The evidence shows that ŽUPLJANIN, at the very least, was aware of these units, and gave his authority to establish them. This awareness alone facilitated their creation and use by the SJB chiefs. There is also evidence that he actively supported their creation and operations. It is an unlikely coincidence that Kondić activated the Manoeuvring Unit immediately after meeting with Šamara and Škondrić, CSB Banja Luka inspectors assigned liaison responsibilities regarding special police units operating in the municipalities.<sup>2654</sup> [REDACTED]<sup>2655</sup> In July, Kondić informed the CSB that the SJB had equipped the Manoeuvring Unit with the necessary equipment and that "[t]he every emergence of this unit had the desired psychological

<sup>2647</sup> See e.g., [REDACTED] (SJB Prijedor Intervention Platoon consisted of all Serbs except one Croat and one Italian); Vračar, 2D180, T.23871-2.

<sup>2648</sup> 1D46.

<sup>2649</sup> See e.g., P1562.

<sup>2650</sup> P374, p.5; P173.

<sup>2651</sup> P376.

<sup>2652</sup> P624, p.13; P621, pp.31-2.

<sup>2653</sup> See Section II.D.2.(o), paras. 391-2.

<sup>2654</sup> A.Dzafić, P962.1, p.12; P567; P1502, p.1.

<sup>2655</sup> [REDACTED].

effect and it immediately became the main target of the Muslim fundamentalists and extremists.”<sup>2656</sup> That same month, members of the unit participated in the massacre of non-Serbs at Biljani.<sup>2657</sup>

750. [REDACTED]<sup>2658</sup> The platoon used at least two blue armoured vehicles, for its mopping up operations and escorting detainees to and from Omarska.<sup>2659</sup> From the end of May to at least mid-June, the CSB Banja Luka Special Police Detachment participated in the same operations against the non-Serb population as the Intervention Platoon.<sup>2660</sup> On 4 August, Drljača informed CSB Banja Luka that even after the fighting decreased in Prijedor, the 40 police officers from the Intervention Platoon continued to conduct “periodical inspections of the terrain.”<sup>2661</sup> [REDACTED]<sup>2662</sup> [REDACTED]<sup>2663</sup> [REDACTED]<sup>2664</sup>

##### 5. Assisted in coordination of joint VRS-RSMUP Operations

751. [REDACTED]<sup>2665</sup> From the declaration of the RSMUP, ŽUPLJANIN exercised them to the fullest extent in support of the JCE. As envisaged by the BSL, he did so in conjunction with the political and military authorities in the ARK.<sup>2666</sup> The CSB had already developed plans for its war organisation.<sup>2667</sup> As already discussed by 15 April, he was announcing the formation of the CSB Banja Luka Special Police Detachment.<sup>2668</sup> On 29 April he forwarded to the SJB’s Delimustafić’s telegram relating to the JNA withdrawal,<sup>2669</sup> but added that there was to be full mobilisation of police active and reserve forces.<sup>2670</sup> The following day, Drljača responded that he had carried out the order, and informed ŽUPLJANIN that Serb forces seized control of Prijedor.<sup>2671</sup> On 4 May, ŽUPLJANIN forwarded the ARK order regarding full mobilisation to the SJBs, again adding

<sup>2656</sup> P960.24,p.4.

<sup>2657</sup> See Section II.D.2.(o).paras.391-2.

<sup>2658</sup> [REDACTED];[REDACTED];ST-226,T.16048-9.

<sup>2659</sup> Sejmenović,T.17437;ST-245,T.16734-5;Mišković,T.15262-3; ST-226,T.16047-8,T.16050,T.16058-9;Murselović,T.15722;Sivac,T.13277;[REDACTED], [REDACTED];P1623.

<sup>2660</sup> P659;Radulović,T.10847-8;P865,p.2;[REDACTED];[REDACTED];P1035.

<sup>2661</sup> P669,p.2.

<sup>2662</sup> [REDACTED].

<sup>2663</sup> [REDACTED].

<sup>2664</sup> [REDACTED];[REDACTED].

<sup>2665</sup> [REDACTED].

<sup>2666</sup> See Section II.D.3.(a).

<sup>2667</sup> P1366.

<sup>2668</sup> P542.

<sup>2669</sup> ID150. The authorities of the ARK had also been trying to prevent the withdrawal. See P551.

<sup>2670</sup> Misković,T.15296-9.

<sup>2671</sup> P652.

instructions.<sup>2672</sup> The following day came the announcement of the ARK CS with ŽUPLJANIN as a member.<sup>2673</sup>

752. On 6 May, ŽUPLJANIN held another meeting of the Centre Council.<sup>2674</sup> Every SJB chief within the CSB AOR attended (except Kupreš). At that meeting, he clearly set out his authority: “All my orders conveyed orally, as well as those I may forward by dispatch, must be carried out: they are your law.”<sup>2675</sup> He also set out the plan of action. Subotić’s 16 April dispatch regarding the declaration of an imminent state of war ordered “the taking of necessary measures appropriate to the situation.”<sup>2676</sup> On 4 May, the ARK NDC referencing the instruction had set a deadline for the surrender of “illegal” weapons.<sup>2677</sup> ŽUPLJANIN referred to this instruction in the meeting of 6 May.

753. On 7 May a remarkable telephone call occurred between Ćedo Kljajić and ŽUPLJANIN, illustrating not only the nature of ŽUPLJANIN, but also covering a number of themes pertinent to the whole criminal enterprise.<sup>2678</sup> In the lengthy conversation, ŽUPLJANIN referred to the takeover of power in Ključ, describing the situation in Banja Luka as “relatively good” and saying that “[t]he Muslims have realised they’ve lost.”<sup>2679</sup> He offered help to Kljajić (who was in Sarajevo) by sending “a detachment.”<sup>2680</sup> When Kljajić said that the Serbs were holding everything around Sarajevo, ŽUPLJANIN suggested that the inhabitants should be kept hungry and thirsty.<sup>2681</sup> They discussed Serb officers who had not reported for duty in Sarajevo but were apparently in the ARK. Kljajić told ŽUPLJANIN to tell them that, on the orders of STANIŠIĆ, they had to report for combat assignments. Arrangements for both Kljajić and STANIŠIĆ to attend the 12 May parade were discussed along with the activities of Drašković in Vogošća.<sup>2682</sup>

754. On 11 May, ŽUPLJANIN sent procedural instructions to SJB chiefs, which included “when the deadline expires, weapons will be forcibly confiscated.”<sup>2683</sup> On 13 May, ŽUPLJANIN sent no

<sup>2672</sup> P555.

<sup>2673</sup> P556. The importance of his position may be seen from his presence on delegations to Knin and Pale. See P441 pp.17,21. The Defence suggestion (T.4626-7,T.4647-8) that ŽUPLJANIN was a member of the “war staff” but not the CS has never been supported by evidence.

<sup>2674</sup> P367.

<sup>2675</sup> P367,p.2.

<sup>2676</sup> 1D170,p.2.

<sup>2677</sup> P467.

<sup>2678</sup> P1124.

<sup>2679</sup> P1124,p.1.

<sup>2680</sup> P1124,p.3.

<sup>2681</sup> P1124,p.4.

<sup>2682</sup> P1124,pp.11, 13.

<sup>2683</sup> P370.

less than two dispatches with instructions to make concrete plans for the seizure of illegally owned weapons.<sup>2684</sup> On 15 May, the VRS noted those preparations and stated that “people fear possible inter-ethnic conflict.”<sup>2685</sup>

755. The takcovers were carried out in a co-ordinated effort by combined Serb forces: the VRS, the TO (before their integration into the VRS), the RSMUP and various paramilitary formations. While Župljanin liaised with his military counterpart, General Talić,<sup>2686</sup> his SJB chiefs, through their membership in municipal CSs, did the same at the municipal/brigade level.<sup>2687</sup> While the level of co-operation did not always run smoothly,<sup>2688</sup> all the armed forces shared the same goal of controlling the territory deemed to be Serb and eliminating any perceived threat to that control.<sup>2689</sup> According to its yearly report, the CSB provided 5,034 employees for combat operations.<sup>2690</sup>

756. Moreover, Župljanin personally oversaw many of the operations. He visited Prijedor in May before the deadline for the surrender,<sup>2691</sup> Kotor Varoš in July 1992,<sup>2692</sup> [REDACTED]<sup>2693</sup> took part in the negotiations for the surrender of Većići,<sup>2694</sup> and visited the Omarska and Manjača detention facilities.<sup>2695</sup>

757. ŽUPLJANIN’s relationship with the paramilitary organisations which operated in the ARK area during 1992 reflected the same dichotomy as seen in the VRS relationship with these groups, *i.e.*, toleration of their activities in the sense that no attempts were made to arrest them or curtail their activities while they were engaged in committing crimes against non-Serbs. Once their criminal activities spread to the Serb population and/or the complaints about their behaviour became too vociferous to ignore, then action might be taken.<sup>2696</sup>

758. One of the most notorious groups operating within the ARK area was Veljko Milanković’s Prnjavor group “Wolves of Vucjak.” In August 1991 they had been involved in the takeover of the

<sup>2684</sup> P1012;P561. *See also* P563.

<sup>2685</sup> P1786,p.1.

<sup>2686</sup> Talić was a member of the ARK CS and if he did not attend meetings sent one of his staff. *See e.g.*P1295.18. ST-174 observed meetings at the CSB between Župljanin,Talić and Brđanin. [REDACTED]. *See also* [REDACTED];[REDACTED].

<sup>2687</sup> *See* Section II.D.3.(a).

<sup>2688</sup> *See* Section V.6.

<sup>2689</sup> *See e.g.*P745.

<sup>2690</sup> P624.

<sup>2691</sup> Merdzanić T.18389;Sejmenović T.17414-7.

<sup>2692</sup> P2014.

<sup>2693</sup> P1656;*See also* [REDACTED].

<sup>2694</sup> P469.

<sup>2695</sup> P1622;Misković T.15347;A.Draganović T.3902-4;Šabanović T.912,T.945-56.

<sup>2696</sup> For an analysis of the relationship between the RSMUP and paramilitaries, *see* Nielsen,P508 paras.361-78. *See also* Brown,P1803 paras.2.65-2.70.

Mount Kozara transmitter (an action intended to prevent Sarajevo programmes being broadcast in the ARK). No action was taken to arrest them,<sup>2697</sup> but by November the situation had changed. ŽUPLJANIN pointed out that part of this group had been arrested and there were other groups operating in other municipalities who “were simply out of control and endangering their own Serbian people.”<sup>2698</sup>

759. In August 1992, a Miloš report discussing paramilitary formations noted: “such armed formations are for the moment tying themselves to individuals from the political structures and the MUP.”<sup>2699</sup> [REDACTED]<sup>2700</sup> In Donji Vakuf, the military complained about a group of paramilitaries who were actually seen to be collaborating with the police.<sup>2701</sup> The events concerning the Miće Group in Teslić will be discussed in Section V.C.5.(a).

#### 6. ŽUPLJANIN facilitated, established and oversaw detention facilities in the ARK

760. As discussed at para 528, the detention facilities in the ARK were among the primary means of removing the non-Serb population from the RS in furtherance of the common plan. Moreover, many of the violent crimes committed against the non-Serb population charged in the Indictment occurred at these facilities. The evidence presented at trial shows that not only was ŽUPLJANIN aware of the existence of the detention facilities throughout his AOR and the inhumane treatment of the detainees held within them, but he was also aware of the central role the police performed in establishing and maintaining these facilities. The evidence further shows that ŽUPLJANIN facilitated the operation of the detention facilities by ensuring that sufficient police resources were available to operate them. His knowledge and actions, combined with his failure to close or halt the abuse at the detention facilities, only until belatedly compelled to do so as a result of international pressure, both legitimised and perpetuated these detention facilities, thereby providing a significant contribution to achieving the common plan.

761. ŽUPLJANIN’s contribution to the existence and operation of the detention facilities in the ARK must be assessed in the context of two salient facts. First, of the 22 ARK detention facilities charged in the Indictment, only one, Manjača camp, was a POW facility under the jurisdiction of the VRS.<sup>2702</sup> All other facilities were, in ŽUPLJANIN’s words, “undefined camps” that the local

<sup>2697</sup> [REDACTED];Brown,P1803 paras.2.65-70.

<sup>2698</sup> P1139,p.3. His activities were discussed at an ARK Assembly meeting on 14 December 1991;P2061.

<sup>2699</sup> P1390.

<sup>2700</sup> [REDACTED].

<sup>2701</sup> P705.

<sup>2702</sup> Jovičinac,T.26779-80;P459.19,p.2.

Serb authorities left to the police to operate.<sup>2703</sup> This is why, when Muslim representatives complained to General Talić about the detention facilities throughout the ARK, he told them that he would send a memorandum to ŽUPLJANIN regarding the status of civilians held in ARK detention facilities other than Manjača camp.<sup>2704</sup> However, even Manjača camp was, in effect, a police facility, albeit secured primarily by the military. Not only were the vast majority of Manjača detainees brought to the camp by the police, but the police also participated directly in the interrogation, categorisation and decisions regarding the release or criminal charging of these detainees.<sup>2705</sup> Indeed, ŽUPLJANIN illustrated his ultimate responsibility for the fate of these detainees by ordering in late August (at the impetus of the “highest authorities” of the RS) that all SJBs create personal files for each detainee they brought to Manjača and determine which detainees should remain at the camp and which should be removed.<sup>2706</sup>

762. Second, the existence of these detention facilities, and the inhumane treatment of the non-Serbs imprisoned in them, was no secret. For example, on 6 June, SNB Banja Luka Inspector Radulović warned his superiors that ICRC representatives in Banja Luka “exhibit increasing interest in visiting the collection centres which hold persons of Muslim and Croatian nationality.”<sup>2707</sup> By mid-June, information about crimes committed against non-Serbs at the Prijedor facilities had reached SNB Serbia.<sup>2708</sup> On 22 June, Muslim representatives in Banja Luka complained to General Talić that several thousands of Muslims had been forcibly taken to improvised camps in the region.<sup>2709</sup> Banja Luka Mayor Radić recalled that Serbs and non-Serbs would inform him of the horrible conditions at the detention facilities in Prijedor, although as a municipal official he felt there was nothing he could do.<sup>2710</sup> [REDACTED]<sup>2711</sup> At the July BSA, Dr. Milovan Milanović, a member of the ARK CS, reported that in the region, “We have a huge problem with captured people of other nationalities, we have hundreds and thousands of these prisoners. We have a problem with captured Muslims, Croats [...].”<sup>2712</sup> When Cyrus Vance and Lord Owen visited Banja Luka in the autumn, the non-Serb leaders in Banja Luka informed them at

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<sup>2703</sup> P160,p.7. For police responsibility for the detention facilities charged in the Indictment.

<sup>2704</sup> P459.19,p.2;Krzić,P459.2,T.1539;*See also* P1818,p.2 (1KK report noting only one POW camp in the Corps AOR and complaining about attempts to shift responsibility for the other detention facilities to the military organs).

<sup>2705</sup> *See* Section II.D.2.(c)(i).

<sup>2706</sup> P603;P608.

<sup>2707</sup> P1391. *See also* P1392.

<sup>2708</sup> Radulović,T.10859,T.10877.

<sup>2709</sup> P459.18;P459.19.

<sup>2710</sup> Radić,P2096,T.7437-8;[REDACTED].

<sup>2711</sup> [REDACTED];*See also* P459.13,p.2;[REDACTED].

<sup>2712</sup> P199,p.31.

a press conference about the killing and mistreatment of non-Serbs held at Omarska, Manjača and Trnopolje detention facilities.<sup>2713</sup>

(a) Through his approving silence to information received from his subordinates, ŽUPLJANIN encouraged police participation in the detention facilities

763. As CSB chief, ŽUPLJANIN had access to much more, and timelier, information about the ARK detention facilities operated by the police than the VRS, Serb officials, international organisations and the general population. The evidence establishes that the SJBs in his AOR openly and regularly reported on police participation in the creation and operation of these detention facilities. For example:

- SJB Prijedor Chief Drljača sent CSB Banja Luka his 31 May order establishing the Omarska detention facility, and noted that this order would be supervised by Police Chief Dušan Janković “in collaboration with” the CSB.<sup>2714</sup> He then kept CSB Banja Luka and ŽUPLJANIN regularly apprised of the police involvement in the operation of Omarska, Keraterm and Trnopolje detention facilities where thousands of non-Serbs were held for categorisation.<sup>2715</sup> This included informing ŽUPLJANIN when members of the CSB Banja Luka Special Police Detachment were robbing and abusing detainees at Omarska.<sup>2716</sup>
- On or about 15 June, ST-207 met personally with ŽUPLJANIN and informed him about the mistreatment of detainees at the SJB building and that there were a number of casualties among them, but ŽUPLJANIN refused to intervene.<sup>2717</sup>
- On 17 June, ST-161 asked ŽUPLJANIN to intervene with the ARK and municipal authorities to establish the status of a large number of mostly Muslim prisoners held at detention facilities under the control of the SJB.<sup>2718</sup> On 2 July, ST-161 informed the CSB that since 27 May 391 non-Serbs had been detained and processed at the SJB, 250 of whom were then transported to Manjača camp. He also reported on 500 “able-bodied” persons who fled from combat areas “who are being treated as civilian prisoners, have been accommodated in the sports hall.”<sup>2719</sup> Approximately a month later, ST-161 informed

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<sup>2713</sup> Kržić, T, 5140-2.

<sup>2714</sup> P1560, p.3.

<sup>2715</sup> P657, pp.5-7; P668; P669, p.2; P670; P671; P672, pp.1-5; P677; See also [REDACTED].

<sup>2716</sup> P659.

<sup>2717</sup> P839, pp.13-4; P840, p.13; [REDACTED].

<sup>2718</sup> P411.21. On the same date, a CSB Banja Luka Inspector filed an official record concerning the killing of six non-Serb detainees who were being transferred by the police from Sanski Most to Manjača camp on 11 June; P383.

<sup>2719</sup> P117, p.1.

CSB Banja Luka that the SJB was still responsible for the operation of camps holding non-Serbs arrested during combat and clearing operations and repeated his request for clarification concerning the status of the prisoners (namely, whether they are “prisoners of war, civilian captives or prisoners”) and the various types of camps and prisons (namely, under whose competence they lie and who should be responsible for them).<sup>2720</sup> In mid-August, ST-161 reported to CSB Banja Luka that until 1 August, non-Serb detainees were held at the sports hall and Betonirka company, and that they were still being detained at Krings factory and the SJB building.<sup>2721</sup>

- In July, SJB Kljuć Chief Kondić informed CSB Banja Luka that in the previous two months the police had brought in and processed over 2,000 persons suspected of having participated in armed rebellion, sending 1,278 to Manjača camp, and noting that during this process “things happened that are not in the nature and are against the moral code of the Serbian people.”<sup>2722</sup> On 29 August, Kondić provided CSB Banja Luka with a list of 1,161 non-Serb prisoners the SJB had sent to Manjača camp.<sup>2723</sup> [REDACTED]<sup>2724</sup>
- On 5 August, SJB Donji Vakuf Chief Savković sent a report personally to ŽUPLJANIN informing him of the prison for non-Serbs brought in by the SJB and military police, some of whom had been transferred to Manjača camp, while about 60 remained under the care of the SJB.<sup>2725</sup> Three weeks later, he reported personally to ŽUPLJANIN that 61 non-Serbs were detained at the Vrbaspromet “remand/collection centre,” which was formed in May.<sup>2726</sup>
- On 15 August, SJB Bosanski Novi Chief Kutlija reported that on 9 July, the police transported by train 4,000 non-Serbs towards central Bosnia. However, at Ostružja, near Doboj, approximately 650-700 men of military age were transported back to Bosanski Novi and detained at the Mlakve stadium “reception centre.”<sup>2727</sup> Kutlija further reported that the police inspected the list of detainees and determined that none were of security

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<sup>2720</sup> P390,p.2.

<sup>2721</sup> P124;P391,pp.1-2.

<sup>2722</sup> P960.24,p.8.

<sup>2723</sup> P972.

<sup>2724</sup> [REDACTED].

<sup>2725</sup> P1037,p.2.

<sup>2726</sup> P1927.

<sup>2727</sup> P755,pp.3-4.

interest and among them were minor and elderly persons.<sup>2728</sup> This information was based on reports previously sent to the CSB.<sup>2729</sup>

764. Several of the aforementioned reports were provided pursuant to requests for information by CSB Banja Luka or the RSMUP.<sup>2730</sup> This further shows that the SJBs under ŽUPLJANIN's authority readily and regularly provided him with information concerning the detention facilities in their municipalities.

765. ŽUPLJANIN also received information concerning the detention facilities within his area of responsibility from his SNB inspectors. For instance, on 28 May, Radulović reported that “[a] huge number of persons have been arrested or have surrendered and the municipal authorities are having great difficulty in providing them with food and shelter, especially since there are many children, women and old people amongst them,” and two days later reported that “[t]he problem of detained and captured persons of Muslim background is still present, and one of the greatest problems is that of food and accommodation.”<sup>2731</sup> Radulović spoke directly to ŽUPLJANIN on a number of occasions about these detention facilities,<sup>2732</sup> including once in June immediately after he visited the Omarska, Keraterm and Trnopolje detention facilities.<sup>2733</sup> Radulović informed ŽUPLJANIN and Bulić of the inhumane conditions, signs of beatings and dead bodies that he had observed at these facilities. Although ŽUPLJANIN told Radulović that he would look into the matter, he responded in the same manner as he did to ST-207's information concerning the SJB Teslić detention facility, stating “Radule, it's a war” and that “this is happening”, before hastily leaving with Bulić for a football match.<sup>2734</sup> Some days later, ŽUPLJANIN told Radulović that he had received information confirming Radulović's report.<sup>2735</sup>

766. Radulović likewise reported directly to ŽUPLJANIN about the rapes and other abuses of non-Serb prisoners by members of the CSB Banja Luka Special Detachment at the sawmill in Kotor Varoš. Once again, ŽUPLJANIN's response to this information was, “Well it's wartime. Such

<sup>2728</sup> P755,p.2.

<sup>2729</sup> P755,p.7.

<sup>2730</sup> See e.g., P669;P390;P1037;P671;P124;P755;P672;P391;P677;P1927;P972.

<sup>2731</sup> P1376;P1377;Radulović,T.10853-7.

<sup>2732</sup> Radulović,T.10855.

<sup>2733</sup> Radulović,T.10861-5 [REDACTED]. Although Radulović could not give a precise date for his visit to the detention facilities, as he spent most of July in Teslić as acting SJB Chief, the visit was clearly in June. Goran Sajinović's evidence concerning Radulović's visit to Omarska is consistent with Radulović's testimony, although Sajinović was not with Radulović the entire time, and therefore, could not confirm everything Radulović observed; Sajinović,T.25145-51.

<sup>2734</sup> Radulović,T.10874-7. Sajinović confirmed that he and Radulović informed ŽUPLJANIN and Bulić about their visit to the Omarska and Keraterm detention facilities; Sajinović,T.25151-3.

<sup>2735</sup> Radulović,T.10878.

things happen.”<sup>2736</sup> During the summer, ŽUPLJANIN also received information concerning the mistreatment of non-Serb detainees in Kotor Varoš from SJB Kotor Varoš Chief Tepić and SNB Banja Luka Inspector Zdravko Pejić, both of whom were responsible for the interrogation and detention of detainees in that municipality.<sup>2737</sup>

767. ŽUPLJANIN also must have been aware of the large number of non-Serb detainees brought to the CSB for interrogations. At least some of these interrogations took place during the day on the same floor of the building as his office.<sup>2738</sup> [REDACTED]<sup>2739</sup>

768. ŽUPLJANIN conveyed some of the information he had obtained concerning the detention facilities under his jurisdiction to the RSMUP leadership at the 11 July meeting in Belgrade. During that meeting, he informed STANIŠIĆ and the other participants that the conditions at the “camps” run by the police “are bad – there is no food, some individuals do not observe international norms because, among other things, such collection centres are not adequate or there are other reasons.”<sup>2740</sup> Less than two weeks later, he wrote to STANIŠIĆ that during the months of April-July during armed conflicts in the ARK:

[R]epresentatives of the Army [...] and Police arrested a great number of citizens of Muslim and Croat nationality who were, depending on the number and the circumstances on [sic] the field, sent to various buildings like schools, centres, factory facilities, open air (playgrounds) and so on. According to our information, this situation involves several thousands of mostly military aged men.<sup>2741</sup>

769. Despite being informed by his SJB chiefs and other subordinates regarding the police role in establishing and maintaining detention facilities throughout the ARK, ŽUPLJANIN took no action towards regulating or closing these facilities until international pressure compelled him to do so in August.<sup>2742</sup> Even after that, ŽUPLJANIN took no concrete actions to investigate and punish any police officers for their role in establishing these illegal facilities and the crimes committed against non-Serb detainees held therein.<sup>2743</sup> His leadership status and awareness of these detention facilities, combined with his approving silence, encouraged his police subordinates (as well as all other

<sup>2736</sup> Radulović, T.10911-2.

<sup>2737</sup> Radulović, T.10912-4;[REDACTED];[REDACTED];ST-19,T.541;[REDACTED];P80;P81;P88;P96;P101;Brown,P1803,para.2.95.

<sup>2738</sup> ST-223,T.18023-4;[REDACTED].

<sup>2739</sup> ST-27,T.748-51[REDACTED].

<sup>2740</sup> P160,p.7.

<sup>2741</sup> P583,p.1.

<sup>2742</sup> See Section III.C.6.(d). Prior to August, the only order that Župljanin issued pertaining to persons detained at these police-run detention facilities was to prevent “unauthorised groups and individuals” from bringing citizens to these facilities. However, he qualified this order by instructing his subordinates that they need not release those persons brought by these groups and individuals if they were of “interest for security” and suggesting that they could guard such persons with the approval of the CSB;2D25,p.3.

<sup>2743</sup> See Section III.C.7.

members of Serb forces connected with the facilities) to continue to detain and mistreat thousands of non-Serbs.<sup>2744</sup>

(b) ŽUPLJANIN Encouraged Police Participation in the Detention Facilities by Visiting a Number of these Facilities

770. ŽUPLJANIN visited a number of detention facilities in the ARK at which non-Serb civilians were held. These visits not only familiarised him with the inhumane treatment of the detainees, but further encouraged his subordinates to continue in their same course of conduct.

771. For example, on 15 July, a few days after returning from the 11 July Belgrade meeting, ŽUPLJANIN joined a delegation of ARK (including Brdanin, Dr. Vukić and Radić) and Prijedor (including Milomir Stakić, Drljača and Mićo Kovačević) Serb officials in a tour of the Prijedor detention facilities.<sup>2745</sup> The tour was arranged at the invitation of the Prijedor municipal officials who wanted to resolve what to do with the large number of non-Serb detainees held at these facilities.<sup>2746</sup> Several witnesses testified that the delegation visited Omarska detention facility,<sup>2747</sup> and there is also evidence that they visited Keraterm.<sup>2748</sup> During and immediately following the visit to Omarska, Radić complained to ŽUPLJANIN and the other delegation members about the inhumane conditions at the facility, as well as the psychological abuse the detainees endured (including being forced to sing Serb nationalist songs and give the Serb three-fingered salute).<sup>2749</sup> Rather than joining Radić's condemnation, at a meeting with the municipal officials and media after the tour, Brđanin stated on behalf of the delegation:

What we have seen in Prijedor is an example of a job well done and it is a pity that many in Banja Luka are not aware of it yet, just as they are not aware of what might happen in Banja Luka in the very near future. Due to the circumstances, there is a constantly growing number of superfluous Muslims in Banja Luka who have fled the surrounding municipalities and who are already planning to join the jihad. They are showing loyalty simply because they still constitute a minority.<sup>2750</sup>

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<sup>2744</sup> Milutinović TJ, paras.105,782; Kvočka TJ, paras.396-7,405,459-64, affirmed by Kvočka AJ, paras.195,612-3.

<sup>2745</sup> P1378;P2108.

<sup>2746</sup> Radić, P2107,T.22295;[REDACTED].

<sup>2747</sup> Radić, P2096,T.7438-42; Mišković, T.15247-8; Radulović, T.10879-82; Sivac, T.13182-3, T.13213-6; P1378, p.1; P2108, p.1.

<sup>2748</sup> Former SNB Banja Luka Inspector Rodić testified that in mid-July he heard a number of cars arrive at Keraterm and presumed a delegation had arrived. A camp guard informed him that ŽUPLJANIN was among the delegation. Rodić, T.14499; See also P2108, p.2 (reporting that the delegation toured the "the collection centres").

<sup>2749</sup> Radić, P2096,T.7438-9; Radić, P2107,T.22294-6; [REDACTED]; Radulović, T.10880.

<sup>2750</sup> P2108, p.2; See also P1378; Radulović, T.10881-2; Radić, P2096, T.7442.

772. ŽUPLJANIN's participation in the delegation and presence during the subsequent speech by Brdanin sent a clear signal to Drljača and the Prijedor police that the CSB supported their work at the detention facilities. [REDACTED]<sup>2751</sup>

773. In addition to the Prijedor detention facilities, ŽUPLJANIN visited Manjača camp on at least two occasions. The first visit was in late July. ŽUPLJANIN (wearing a blue camouflage uniform) and Vaso Skondrić entered the various stables where the detainees were held. ŽUPLJANIN drew applause from the detainees by telling them that they would all soon go home.<sup>2752</sup> According to one detainee, ŽUPLJANIN appeared very pleased with the condition of the detainees, despite their marked weight loss.<sup>2753</sup> A couple of weeks later, ŽUPLJANIN visited the camp again, this time wearing civilian clothes and accompanied by 1KK Security Officer Nenad Balaban. During this second visit, ŽUPLJANIN assured Adil Draganović that the detainees would be released and that nothing would happen to them.<sup>2754</sup> In the months that followed, ŽUPLJANIN's promises remained unfulfilled, and nothing improved at the camp after his visits.<sup>2755</sup>

774. In addition, the Trial Chamber heard evidence that ŽUPLJANIN, SNB Banja Luka Inspector Pejić and Captain Slobodan Župljanin visited the Kotor Varoš prison with municipal officials and an ICRC delegation in early October.<sup>2756</sup> The prison was guarded by members of the police, and the delegation had the opportunity to view the manifestly poor state of the detainees and the conditions in which they were held.<sup>2757</sup>

#### (c) ŽUPLJANIN's Active Support of the Detention Facilities

775. ŽUPLJANIN's contribution to the establishment and operation of the ARK detention facilities went beyond his approving silence and encouragement. He actively supported the operation of these facilities by directing significant police resources to running these facilities. Operating the detention facilities required a large number of active and reserve police officers, as ŽUPLJANIN acknowledged in his 20 July memorandum to STANIŠIĆ.<sup>2758</sup> For example, ŽUPLJANIN was informed that in Prijedor, 300 police officers were securing the Omaska, Keraterm and Trnopolje detention facilities.<sup>2759</sup> He was also aware that police officers from SJJs in

<sup>2751</sup> [REDACTED];[REDACTED].

<sup>2752</sup> A.Dzafić,P962.1,pp.19-20;Sabanović,T.909-13;Sabanović,P61,T.6577-8.

<sup>2753</sup> A.Dzafić,P962.1,p.20.

<sup>2754</sup> A.Draganović,T.3902-4;A.Draganović,P411.4,T.5109-10,T.5114;Sabanović,T.913-4.

<sup>2755</sup> A.Dzafić,P962.1,p.20;Sabanović,T.913;A.Draganović,P411.4,T.5115.

<sup>2756</sup> ST-241,T.16979-81,T.17001-2[REDACTED].

<sup>2757</sup> ST-241,T.16973,T.16980,T.16983.

<sup>2758</sup> P583,p.1;Nielsen,P508 para.298.

<sup>2759</sup> P668;P669,p.2;P631,p.1;

Sanski Most and Ključ were assisting the VRS secure Manjača camp on a regular basis.<sup>2760</sup> In October, ŽUPLJANIN reported that for the period of 1 July to 30 September alone, 239 police officers participated for 11,372 days in securing the “reception and collection centres.”<sup>2761</sup>

776. Through his authorisation of all CSB and SJB payrolls, ŽUPLJANIN permitted the SJBs to maintain the large reserve police forces needed to run the detention facilities. Upon the creation of the RSMUP, ŽUPLJANIN made clear that the CSB would keep tight control over staff, and in particular reserve police salaries, even though some of the funds initially had to come from the municipalities.<sup>2762</sup> During the CSB collegium meeting on 6 May, he insisted that although some of SJB chiefs had been able to secure funds for staff salaries, “all sums paid to our employees should go through the account of the Security Services Centre. All income received by the staff should be recorded in their pension files. At such a moment, we must show minimum solidarity with our colleagues from areas affected by war.”<sup>2763</sup> He further instructed the SJBs to apply the same criteria to the distribution of funds to reserve police officers, who were entitled to receive salaries equivalent to rookie police officers.<sup>2764</sup> At the 11 July RSMUP collegium meeting, ŽUPLJANIN reported that the financing of the police in the Banja Luka region “is done by the Government of the SAO of Krajina.”<sup>2765</sup>

777. By way of an example of the authority ŽUPLJANIN asserted over staffing matters that impacted the operation of detention facilities, on 1 August Drljača wrote to the CSB informing it that because the army had thus far refused to assume responsibility for the security of the Keraterm, Omarska and Trnopolje “reception centres,” he was unable to reduce the reserve police force in accordance with previous decisions, including a Prijedor Municipal Assembly Decision.<sup>2766</sup> On 4 August, ŽUPLJANIN personally authorised Drljača “to postpone the obligation of coordinating the number of reserve policemen” until an adequate solution could be found with the army.<sup>2767</sup>

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<sup>2760</sup> P392.

<sup>2761</sup> P621,p.7.

<sup>2762</sup> P355,p.4.

<sup>2763</sup> P367,p.3.

<sup>2764</sup> P367,pp.3-4. Prijedor municipality complied with these instructions, concluding that reserve police force salaries were to be provided by the RS budget, and that such officers would receive salaries equal to active police officers;P1895;*see also* P689,p.17 (noting that financial “reports were regularly prepared and filed on work results, lists of members of the reserve police force updated, data required for payroll accounting were duly entered [and] funds obtained and payment of salaries to the active and reserve police force effected”);P1561 (sending CSB Banja Luka the SJB Prijedor payroll (LID-6 form) and noting the amount of “advance” payments to police officers).

<sup>2765</sup> P160,p.8;*see also* P621,p.33. For each payroll, ŽUPLJANIN had to certify that reserve police officer salaries complied with the ARK Executive Council Decision on limiting salaries. *See e.g.*P2412,p.10.

<sup>2766</sup> P668;*see also* P669,p.2 (Drljača reiterating his request that the CSB not reduce the number of police until the army assumes responsibility for the Prijedor detention facilities).

<sup>2767</sup> P1682.

778. CSB Banja Luka also assisted the SJBs in operating the detention facilities by supplying SNB inspectors who participated in the interrogation and categorisation of non-Serb detainees in Prijedor, Ključ, Sanski Most, Kotor Varoš, Bosanski Novi, Doboј, Mrkonjić Grad, Bihać, Petrovac, Glamoč, Gradiška and Jajce.<sup>2768</sup> While some municipalities had SNB inspectors stationed at the SJBs, these inspectors reported directly to CSB Banja Luka and therefore required authorisation from the CSB to engage in this activity. For example, although the SNB had a detachment of inspectors based in Prijedor, which covered Sanski Most, Bosanski Dubica and Bosanski Novi municipalities as well, this detachment reported directly to Kesić, who in turn, reported to ŽUPLJANIN. Accordingly, Kesić instructed, through his Section 01 Chief Bera, the Prijedor detachment to assist the SJB Prijedor police with the processing of Omarska and Keraterm detainees.<sup>2769</sup> Thereafter, Bera served as a coordinator of the teams of SNB inspectors at these and other detention facilities.<sup>2770</sup>

779. In addition to SNB inspectors stationed in the municipalities, the CSB also sent several SNB and public security inspectors from Banja Luka to assist with the interrogations of non-Serbs at the detention facilities.<sup>2771</sup> [REDACTED]<sup>2772</sup> Radomir Rodić also recalled that approximately 10 SJB Banja Luka inspectors were sent along with inspectors from the CSB to Omarska to assist with detainee interrogations during the summer, returning to Banja Luka at the end of each day.<sup>2773</sup> Although Rodić could not recall the details of the conversations he had with the inspectors from Banja Luka who went to Omarska, he admitted that “it may have happened that over the morning coffee these things [the mistreatment of detainees by police guards] were mentioned. But I think that in that period we had much more serious problems than that and we had higher priorities to discuss than what they did when they went to the camp.”<sup>2774</sup> SNB inspectors from CSB Banja Luka were likewise dispatched to Kotor Varoš and Doboј to assist with interrogations of non-Serb detainees in those municipalities.<sup>2775</sup>

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<sup>2768</sup> P117,p.1;P805,p.3;P670;P672;ST-245,*passim*;Rodić,*passim*;Radulović,T.10858-61;SZ-002,T.25497-8;Radulović,T.10913;[REDACTED];ST-19,T.541;ST-27,T.749[REDACTED];P80;Sajinović,T.25134-5,T.25323-6. See generally P2404,p.2;P583,p.1.

<sup>2769</sup> Rodić,T.14476,T.14478-80,T.14481-3;[REDACTED]. Although the number fluctuated between April-December, the Prijedor detachment had approximately 23-30 active and reserve inspectors; Rodić,T.14479;P805,pp.1-3. All of these inspectors were Serbs;P805,p.9;Rodić,T.14477-8.

<sup>2770</sup> Rodić,T.14482-3;Radulović,T.10859.

<sup>2771</sup> P672,p.6

<sup>2772</sup> [REDACTED].

<sup>2773</sup> Rodić,T.8844-7;See also P1502,p.3;AF884.

<sup>2774</sup> Rodić,T.8847.

<sup>2775</sup> SZ-002,T.25497-8;Sajinović,T.25134-5,T.25323-6.

780. The assistance with the interrogation and processing of detainees that the CSB provided its SJBs was significant. As Drljača wrote in August that SJB Prijedor,

aware of its personnel possibilities and the seriousness of the newly-emerged problem, informed the Banja Luka [CSB] and the Command of the Banja Luka Corps and asked for help in specialised personnel to operatively process those captured. The Banja Luka [CSB] became actively involved in resolving the situation. They sent a large number of experienced professionals to Prijedor whereupon mixed teams consisting of members of national, public and military security were established.<sup>2776</sup>

781. Given the number of CSB and SJB officials who assisted in the interrogation of detainees at the various ARK detention facilities, and given that such interrogations were outside the legal mandate of SNB inspectors,<sup>2777</sup> ŽUPLJANIN must have authorised his subordinates to engage in this work. Indeed, ŽUPLJANIN ordered his SJBs to send operative teams to Manjača camp to process detainees brought to the camp by the police.<sup>2778</sup>

782. As very few non-Serb detainees were charged with crimes in 1992, ŽUPLJANIN must have been aware that the interrogations that he was facilitating served primarily to extract intelligence information from non-Serb detainees, and not to conduct criminal investigations. Rodić and ST-245 testified that although their operational teams at Keraterm and Omarska detention facilities interrogated thousands of non-Serbs, they could not recall a single criminal report being filed as a result of their work.<sup>2779</sup> Their evidence is corroborated by the fact that between April-December, the civilian and military police filed only 13 criminal reports with the military prosecutor's office against 123 non-Serbs for crimes against the state (*e.g.*, armed rebellion and serving in the enemy army) or war crimes allegedly committed in the Indictment municipalities.<sup>2780</sup> Moreover, only a fraction of these non-Serb accused were detainees at one of the ARK detention facilities charged in the Indictment. For example, throughout 1992, SJB Prijedor filed only three criminal reports against

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<sup>2776</sup> P672,p.3.

<sup>2777</sup> Rodić,T.14481,T.14498.

<sup>2778</sup> P603.

<sup>2779</sup> ST-245 testified that his operational teams prepared three criminal reports (including one charging illegal arming) naming 20-30 Omarska detainees among the accused, but he was aware of no proceedings initiated against them; ST-245,T.16769-70. He also recalled that the Prijedor prosecutor came to Omarska on only one occasion, early in the facility's existence, and that only one detainee was brought to the remand centre in Banja Luka; ST-245,[REDACTED],T.16894. Rodić testified that he was unaware of any criminal reports filed against Keraterm detainees, and never saw any remand decisions issued by the military or civilian courts extending the detention of these prisoners beyond the three days the police are permitted to unilaterally impose under law;Rodić,T.14489. *See also* P805,p.6 (in 1992, only one criminal report resulted from the detachment's work in Prijedor, Sanski Most, Bosanski Novi and Dubica).

<sup>2780</sup> *See* Appendix IV; [REDACTED]. For the entire ARK region,18 criminal reports were filed with the military prosecutor's office against 145 non-Serbs during the Indictment period. Nor were these kinds of cases filed with the civilian prosecutors. *See e.g.*, Delić,T.1531-4,T.1569-73,P117.

approximately 65 non-Serbs for armed rebellion, and the criminal reports show that only 24 of these detainees were in custody or deceased – the remainder being at large.<sup>2781</sup> [REDACTED]<sup>2782</sup>

783. The fact that the vast majority of non-Serbs held at ARK detention facilities were innocent of any crimes was manifest to those who observed the results of the police's work. In its morale report for August, the 1KK Command observed generally that “[c]ertain tensions are still present in Kotor Varoš, Ključ, Sanski Most and Prijedor because of a large number of arrested citizens for whom there is no evidence or criminal reports that they participated in armed rebellion” and further noted that the CSB was not working to resolve this problem.<sup>2783</sup> Colonel Stevan Bogojević, Commander of 1KK Intelligence and Security, wrote to the SNB Prijedor chief that a “quite large” number of prisoners were arriving at Manjača who did not deserve to be treated as POWs, and warned him that “we have recently been attacked by the European and world media in connection with the existence of ‘concentration camps’, so this is sufficient reason to carry out a prisoner selection.”<sup>2784</sup> ST-172 repeatedly complained in his reports to the 1KK Command about the lack of evidence that detainees brought to Manjača by civilian police had engaged in hostile activities.<sup>2785</sup> ŽUPLJANIN’s knowledge of this problem would have surpassed that of the military leadership, which did not receive regular reports on police activities.<sup>2786</sup> The question he raised in his 20 July memorandum to STANIŠIĆ – whether criminal charges against detainees should be brought – strongly suggests that he was aware that criminal charges were not being filed against these detainees.<sup>2787</sup>

784. ŽUPLJANIN further supported the work of his subordinates at the detention facilities by advocating their categorisation of non-Serb detainees. In Sanski Most, the police and military categorised non-Serb detainees into the following groups: (1) politicians; (2) nationalist extremists; and (3) people unwelcome in Sanski Most.<sup>2788</sup> SJB Prijedor similarly categorised non-Serb detainees into three groups: (1) persons suspected of “most serious crimes” and who took part in armed rebellion; (2) persons suspected of organising, assisting and financing armed rebellion; and

<sup>2781</sup> 2D108;2D122; ST-245,T.16901-9;[REDACTED]. The accused listed in the criminal report in 2D122 as “deceased” (Ešef and Husein Crnkić and Bećir Medunjanin) were killed at Omarska, while the two indicated as detained, Muhamed Čehajić and Mehmed Avdić, were subsequently killed at Omarska and at Korićanske Stijene.;[REDACTED]. The third criminal report filed against non-Serbs in Prijedor (Kemal Alagić, *et al.*) was not admitted into evidence because it had not been established that it related to Omarska or Keraterm detainees. In fact, ST-245 testified that the lead accused, Kemal Alagić, was never detained at Omarska;ST-245,T.16845-53.

<sup>2782</sup> [REDACTED];[REDACTED].

<sup>2783</sup> P611,pp.3-4.

<sup>2784</sup> 1D17. [REDACTED].

<sup>2785</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED];[REDACTED];P2025;P2032.

<sup>2786</sup> See e.g.,P684,p.5.

<sup>2787</sup> P583,p.1.

<sup>2788</sup> P60.10.

(3) persons who are not interesting from a security point of view but who were captured.<sup>2789</sup> The first category detainees were considered “extremists” and were primarily held in the infamous “white house” at the Omarska detention facility.<sup>2790</sup>

785. In his 20 July memorandum, ŽUPLJANIN informed STANIŠIĆ about this categorisation process, stating that the first and second categories of detainees consisted of persons of “security interest” to the police while the third category consisted of “adult men on which, so far, the Service doesn’t have any information of security interest for us, so they can be treated as hostages,” and also notes that the detention facilities contained elderly, invalid and minor non-Serb detainees.<sup>2791</sup> ŽUPLJANIN then offered STANIŠIĆ policy suggestions on how the SJBs should deal with these categories of prisoners, but noticeably absent is any suggestion that the innocent detainees should be released and allowed to return to their homes.<sup>2792</sup> This memorandum therefore shows that ŽUPLJANIN was fully aware that the police were holding non-Serbs indefinitely at detention facilities for no other reason than to use them as hostages. Moreover, given his awareness that the vast majority of non-Serb detainees were innocent civilians, he must have known that this third category far exceeded the others. ŽUPLJANIN’s categorisation program was subsequently adopted by the RSMUP (although the euphemism “refugees” was substituted for “hostages”),<sup>2793</sup> as well as the RS Presidency (which avoided mention of the third category completely).<sup>2794</sup>

786. ŽUPLJANIN was also directly involved in logistical arrangements for expelling non-Serb detainees from the various ARK municipalities. For example, on 5 August Drljača wrote to ŽUPLJANIN informing him that 1,466 detainees were to be transferred under guard to Manjača camp on 6 August, and requesting that CSB Banja Luka secure a safe passage to Manjača.<sup>2795</sup> Police officers from Banja Luka were present at Manjača camp when these detainees were finally allowed to exit the buses on 7 August.<sup>2796</sup> In response to ŽUPLJANIN’s 19 and 22 August orders that detainees at Manjača camp “whose further detention in the camp cannot be confirmed by material evidence” be transported to “admission points”, Drljača reported to the CSB and RSMUP that that on 21 August he transferred his selection of Manjača detainees to the Trnopolje “reception camp”.<sup>2797</sup> Approximately six weeks later, ŽUPLJANIN issued an order to Drljača for SJB Prijedor

<sup>2789</sup> P672,p.4.

<sup>2790</sup> ST-245,T.16750,T.16752.

<sup>2791</sup> P583,p.1.

<sup>2792</sup> P583.

<sup>2793</sup> P192.

<sup>2794</sup> P427.18,p.2.

<sup>2795</sup> P670.

<sup>2796</sup> ST-226,T.16061,T.16073.

<sup>2797</sup> P603;P608;P677.

to organise, search and secure a convoy of 1,561 “travelers” from the Trnopolje “reception centre” to Karlovac, Croatia, handing over the detainees to SJB Bosanski Novi once they arrived in Svodna.<sup>2798</sup> Thus, ŽUPLJANIN was directly involved in the logistics of moving Prijedor detainees from Omarska to Manjača, from Manjača to Trnopolje, and from Trnopolje to Croatia.

(d) ŽUPLJANIN’s Role in the Cover-Up of ARK Detention Facilities After Their International Exposure

787. Only after international organisations and the media began denouncing the mistreatment of non-Serb detainees at the ARK detention facilities did ŽUPLJANIN take any action to close and evaluate these facilities. However, his belated efforts were not aimed at either uncovering the true nature of the crimes committed against non-Serb detainees or holding to account those responsible. Rather, ŽUPLJANIN, along with the rest of the BSL, merely sought to cover up the detention facilities and deflect responsibility for them.

788. In anticipation of the scheduled arrival of the ITN journalists and ICRC representatives, the police and military took action to sanitise the most notorious detention facilities. On 3 August, General Mladić ordered the army to “immediately undertake measures through the MUP and authorities to arrange POW camps in your zones of responsibility and **prepare** them for visits by foreign journalists and International Red Cross team.” He further stated that the plan was to visit Omarska, Trnopolje and Manjača in the 1KK zone.<sup>2799</sup> General Talić clarified what Mladić meant: “[A]ll measures are to be taken to make conditions in these camps satisfactory. This implies order, cleanliness, functional medical care for the detainees, accurate records of detainees’ arrival and release, records of deaths and findings on the cause of death.”<sup>2800</sup> Given the level from which these orders emanated, it is only reasonable that ŽUPLJANIN would have been informed of them. [REDACTED]<sup>2801</sup> ST-245 also observed hasty measures taken by the police to improve the appearance of Omarska for the impending visit.<sup>2802</sup>

789. Realising that the cosmetic improvements to Omarska and Keraterm detention facilities would not disguise the state of the emaciated and physically abused detainees, Keraterm was closed completely, and Drljača made plans to hastily transfer detainees from Omarska to Trnopolje and

<sup>2798</sup> P1905.

<sup>2799</sup> P1683 (emphasis added).

<sup>2800</sup> 1D12.

<sup>2801</sup> [REDACTED].

<sup>2802</sup> ST-245,T.16790-1.

Manjača.<sup>2803</sup> In the meantime, the international delegation was told by the police and civilian authorities in charge of the detention facilities that their journey had been in vain and that it was too dangerous for them to visit the facilities.<sup>2804</sup> On 5 August, the international media were finally permitted brief and limited access to the Omarska and Trnopolje detention facilities.<sup>2805</sup> After the media left, the removal of detainees from Omarska and Trnopolje took place on 6 August as scheduled, and a total 179 detainees were kept at Omarska for display to future visits by international media and organisations.<sup>2806</sup>

790. The international media firestorm that followed after the delegation witnessed signs of detainee abuse at Omarska and Trnopolje, and the reaction at the RS level, is discussed earlier in this Brief.<sup>2807</sup> The reaction of the ARK BSL, including ŽUPLJANIN, to the international exposure of their detention facilities was nearly identical. As a report of the 1KK Command acknowledged:

[A]ll are now washing their hands regarding camps and reception centers, attempting to pass responsibility for issuing orders for mass execution of civilians in the camps and centers onto someone else. This has become particularly noticeable since the visit of foreign reporters to Prijedor, more precisely to Omarska and Trnopolje. Forged (antedated) documents about all this are even appearing. [...] One thing is certain: we are already starting to feel the cost of the needless spilling [of] Muslim blood.<sup>2808</sup>

791. ŽUPLJANIN shared the BSL concern about the international media and organisations in his AOR. He raised the issue at two meetings in August with ARK military and political leaders. At a meeting with General Talić and Brđanin on 18 August he warned of the danger of the international media discovering the “real truth” about what was occurring in the ARK to the non-Serb population. [REDACTED]<sup>2809</sup> ŽUPLJANIN also contributed to the BSL’s misinformation campaign about the status of the detention facilities, telling a foreign journalist during an interview on 26 September, “We try to find space for people from the war but some individuals have said we are creating concentration camps.” With regard to the Trnopolje detention facility, where thousands of former Omarska and Keraterm detainees were held behind barbed wire, ŽUPLJANIN told the reporter:

They are not detainees. They go there by their own will and leave whenever they want. A day at the Trnopolje shelter costs 7,000,000 dinars. We are feeding women, children and old people, even

<sup>2803</sup> P807;P670;P671;[REDACTED].

<sup>2804</sup> P427.20,p.3.

<sup>2805</sup> P807. The international delegation was only permitted access to the canteen at Omarska;P427.20,p.3.

<sup>2806</sup> [REDACTED]. See Section II.C.2.(k).

<sup>2807</sup> See Section III.B.6.(b).

<sup>2808</sup> P1791,p.2.

<sup>2809</sup> [REDACTED];[REDACTED];[REDACTED].

when our soldiers are getting only two meals per day. We provide fuel for the transports even when there was very little available.<sup>2810</sup>

792. ŽUPLJANIN also shared the reluctance of the other members of the ARK leadership to allow international organisations unfettered access to the detention facilities. On 20 August, ŽUPLJANIN attended a meeting at which Banja Luka Mayor Radić informed ECMM representatives, “Until your Head of Mission can give us reports on our [POWs], reports of people in the green Berets’ and Ustaše camps we will not allow you total freedom here.”<sup>2811</sup> ŽUPLJANIN then stated:

I think that we are not prepared to make concessions to anyone because our impression is that the world does not want to hear the truth [...]. We are blamed that [POWs] are starved, our babies die without oxygen and that is not recognised [...]. [W]e are not afraid of threats and will not give in.<sup>2812</sup>

793. Even after the signing of the London Declaration, with the BSI commitment to close unconditionally all POW camps, ŽUPLJANIN and other ranking members of the ARK leadership sought to stall international efforts to facilitate this agreement. At a 2 September meeting with ICRC, ŽUPLJANIN, Radić, Dragan Kalinić, Nikola Erceg and Colonel Vukelić “persisted in [their] demands that the ICRC inform the public about the camps where Serbs are detained.”<sup>2813</sup> When the ICRC representative insisted on the unconditional implementation of the London Declaration, Kalinić stated that while they would start implementing their commitments, “this might stop if there was no simultaneous closure of the camps where Serbs are imprisoned.”<sup>2814</sup>

794. Moreover, on 14 August, at approximately the same time as the RS Government commissions were carrying out sham investigations of detention facilities, ŽUPLJANIN formed his own commission purportedly pursuant to an order of STANIŠIĆ.<sup>2815</sup> Given what ŽUPLJANIN already knew about the detention facilities in Prijedor and Sanski Most, this commission was an anomaly. [REDACTED]<sup>2816</sup> and therefore, their objectivity was in question. In addition, the commission’s mandate was limited to only three municipalities (Prijedor, Sanski Most and Bosanski Novi), thereby ignoring the detention facilities in other ARK municipalities. Furthermore, ŽUPLJANIN gave the commission three days in which to complete a review not only of all existing

<sup>2810</sup> Traynor, P1356.2, p.12; Traynor, T.10364-5.

<sup>2811</sup> [REDACTED]; McLeod, T.17717. At the same meeting Župljanin summed up the effect of the actions of the police in the ARK to McLeod thus: “it is easy to walk relatively safely in Bosanska Krajina thanks to us”; [REDACTED].

<sup>2812</sup> Radić, P1727.1, T.7289.

<sup>2813</sup> 1D675, p.1.

<sup>2814</sup> 1D675, p.1.

<sup>2815</sup> P601.

<sup>2816</sup> [REDACTED]; ST-245, T.16732, [REDACTED].

detention facilities in these municipalities but also the circumstances surrounding the moving out of the population.<sup>2817</sup>

795. Unsurprisingly, the commission's report, although demonstrating the central role of the CSB and SJBs in arresting, interrogating, detaining and expelling non-Serbs in the three municipalities provides little information concerning the inhumane conditions at the detention facilities and the abuse suffered by non-Serb detainees at the hands of their captors.<sup>2818</sup> In fact, the commission report is nothing more than a summary of the individual reports submitted to the CSB by SJB chiefs Drljača, ST-161 and Kutlija.<sup>2819</sup> Yet, there is no indication among the evidence that ŽUPLJANIN found the information in this report inadequate. The matter was simply concluded.

Towards the end of August, ŽUPLJANIN belatedly conveyed STANIŠIĆ's 10 August order to transfer "collection centres" to the military,<sup>2820</sup> and his 17 August order on wild prisons.<sup>2821</sup> As discussed earlier, both orders were patently inadequate to address the problems of the detention facilities.<sup>2822</sup> As also mentioned earlier, between 19-22 August ŽUPLJANIN issued (on "orders of the highest authorities of the Serbian Republic") instructions for his SJBs to select and separate from the police detainees held at Manjača camp those whose further detention in the camp was not confirmed by material evidence.<sup>2823</sup> As the vast majority of these detainees came from police-operated detention facilities in the region,<sup>2824</sup> these orders establish that ŽUPLJANIN knew that his subordinates had indiscriminately arrested and detained non-Serb civilians, but that he waited until the end of August before requiring them to evaluate whether there was any basis to detain them.

796. Moreover, although initially ŽUPLJANIN suggested that the detainees who the police bring back to their municipalities may return to their homes, he subsequently clarified that they should be taken to "admission points,"<sup>2825</sup> which was interpreted by both the municipal governments and SJBs as "reception" or "collection" centers such as the Trnopolje detention facility.<sup>2826</sup> His orders failed to establish procedures to either verify that non-Serb civilians were in fact released from

<sup>2817</sup> It can be inferred by the commission's mandate that he appreciated the connection between the detention facilities and the removal of the non-Serb population from these municipalities.

<sup>2818</sup> P602.

<sup>2819</sup> P391;P672;P755.

<sup>2820</sup> P605 (conveyed to SJB chiefs on 19 August).

<sup>2821</sup> P606 (conveyed to SJB chiefs on 20 August).

<sup>2822</sup> See para 664.

<sup>2823</sup> P603;P608.

<sup>2824</sup> See para 137.

<sup>2825</sup> P607.

<sup>2826</sup> P750;P677.

Manjača,<sup>2827</sup> or ensure that these detainees were protected once the police transferred them to collection centres in the municipalities,<sup>2828</sup> even though he was aware of the danger faced by these detainees.<sup>2829</sup>

797. Importantly, there is no evidence that ŽUPLJANIN took any action to ensure his or STANIŠIĆ's orders were carried out by his subordinates. Nor did he take any action to investigate those responsible for establishing and operating the detention facilities, and committing crimes against the non-Serb detainees held therein.<sup>2830</sup> Tellingly, the two CSB Banja Luka activity reports that ŽUPLJANIN submitted after the international exposure of the ARK detention facilities make no reference of these facilities, other than a passing mention of the number of police officers and hours spent securing them.<sup>2831</sup> It was as if they had never existed.

## 7. ŽUPLJANIN Failed to Take Adequate Measures to Protect the Non-Serb Population and Ensure that Crimes Committed Against Them Were Investigated and Prosecuted

798. The law, arguments and most of the evidence regarding how STANIŠIĆ contributed to the JCE through his failure to take adequate measures to protect the non-Serb population and ensure that crimes committed against them were investigated and prosecuted, as discussed in Section III.B.7, apply equally to ŽUPLJANIN and therefore are incorporated herein.<sup>2832</sup> This Section will focus on the evidence that is unique to ŽUPLJANIN.

799. With regard to ŽUPLJANIN's ability to act to protect the non-Serb population, he had a well-organised police force of approximately 8,500 active and reserve police officers under his command.<sup>2833</sup> In addition, ŽUPLJANIN had a well-equipped police detachment of approximately 150 men under him until the end of August, and thereafter a police brigade consisting of several

<sup>2827</sup> The civilian and military police filed criminal reports only against a small number of non-Serbs held at Manjača camp. Instead, the detainees were either expelled from the RS directly from Manjača, or were first taken to Trnopolje, Batković or Kula detention facilities before expulsion; Brown, P1803, para.2.130; A.Draganović, P411.10, T.5862-3; A.Draganović, P411.5, T.5455-6; ST-172, T.5316, T.5362; McLeod, P1727.1, T.7334-6; P677; P1792; P1819; P2025; AF817; AF1065.

<sup>2828</sup> See e.g., P677; P750.

<sup>2829</sup> P607. Although ŽUPLJANIN reminded his SJB Chiefs of their obligation to take appropriate measures to protect non-Serbs detainees who were returned to their municipalities, given that the SJB chiefs were responsible for their arrests in the first place, this reminder was far from adequate to protect those detainees under his care. See e.g., P1356.10, p.2 (of the 15 detainees allowed to return to their homes (all of whom were elderly or minors), 13 were killed).

<sup>2830</sup> P611, pp.3-4 (reporting that as of 3 September the CSB was not resolving the problem of large-scale arrests of the non-Serb population).

<sup>2831</sup> P621; P624.

<sup>2832</sup> ŽUPLJANIN's failure to prevent or punish his subordinates is addressed in Section III.C.7, and is therefore likewise incorporated into this Section as evidence of his contribution to the JCE through culpable omission.

<sup>2833</sup> P160, p.7; See also [REDACTED]; [REDACTED]; Rodić, T.8765-6; Nielsen, P508, para.238.

hundred police officers.<sup>2834</sup> Consistent with STANIŠIĆ's decisions on allocation of resources, ŽUPLJANIN apportioned a significant amount of his manpower to participating alongside the other Serb forces to take control of the ARK municipalities and eliminate any non-Serb resistance, in line with the SDS goal of creating a Serbian people's state.<sup>2835</sup> As with STANIŠIĆ, this decision did not diminish his duty to protect the non-Serb population and investigate the crimes committed against them. Moreover, when he chose to do so, ŽUPLJANIN could take action against powerful criminal groups. At the end of June, at the request of the Serb municipal authorities in Teslić, he authorised an operation to arrest the police and VRS members of the Miće Group, an operation that took 24 hours to plan and complete.<sup>2836</sup>

800. Because of his direct contact with the non-Serb population and the events in the municipalities under his jurisdiction, ŽUPLJANIN was even more aware than STANIŠIĆ that the non-Serb population was in dire need of police protection. ŽUPLJANIN or his immediate subordinates were present at meetings at which members of the non-Serb leadership (and occasionally even members of the Serb leadership) complained about the widespread crimes being committed against the non-Serb population and the failure of the police to protect them.<sup>2837</sup> He could not have avoided seeing the busloads of non-Serbs leaving from the centre of town on a bi-weekly basis.<sup>2838</sup> Despite the resources available to him, at the beginning of the Indictment period, ŽUPLJANIN informed members of the non-Serb leadership in Banja Luka that it was absurd for them to seek a guarantee of their safety and security from the police.<sup>2839</sup> Former SDA Banja Luka leader Krzić testified, “We found [ŽUPLJANIN’s statement] shattering, and we could see for ourselves that our security was in great jeopardy even then.”<sup>2840</sup> [REDACTED]<sup>2841</sup> With regard to expulsions, ŽUPLJANIN flatly denied this occurred, telling a foreign reporter:

All Muslims and Croats that go to Croatia from here are automatically separated from their families and put in the front line of the Croatian army. I told Vance this yesterday. That is how I explained the migration of people sometimes called ‘ethnic cleansing’. Europe lets them (referring to refugees) stay in hotels or camps, finds them jobs, gives them 400-800 DEM. That is an incentive for them to leave the war areas. I do not accept the term ‘ethnic’ cleansing. I would rather understand it as war and economic emigration.<sup>2842</sup>

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<sup>2834</sup> See Nielsen,P508,paras.222-35;P795;P1092;P1418.

<sup>2835</sup> P560,p.2;2D36,p.3

<sup>2836</sup> ŽUPLJANIN, however, failed to take adequate measures to ultimately punish the perpetrators.

<sup>2837</sup> See e.g,ST-223,T.18027-31;[REDACTED];[REDACTED];[REDACTED];[REDACTED];Krzić,T.5138-42;Đekanović,T.1108-10;P470.

<sup>2838</sup> Traynor,P1356.2,pp.9,12;ST-223,T.18022-3;[REDACTED];[REDACTED];Dzonlić,P2288,T.2401;P1712;AF821-2.

<sup>2839</sup> P470.

<sup>2840</sup> Krzić,T.5138.

<sup>2841</sup> [REDACTED].

<sup>2842</sup> Traynor,P1356.2,p.10.

801. ŽUPLJANIN also received reports from his subordinates concerning such crimes, as well as the participation of the police in the creation and operation of makeshift detention facilities throughout the ARK. Moreover, he visited the municipalities and several of the detention facilities, and therefore, had the opportunity to witness the mistreatment of the non-Serb population firsthand.<sup>2843</sup> ŽUPLJANIN repeatedly reported that his police force often followed “the line of least resistance” by adopting a “passive stance” toward crimes.<sup>2844</sup> He was also aware that when non-Serb property was destroyed, the police failed to secure the crime scene, gather evidence or take other steps necessary to identify the perpetrators.<sup>2845</sup>

802. The evidence shows that ŽUPLJANIN took little action to protect the non-Serb population in the ARK or ensure the investigation of violent crimes committed against them. To the contrary, he directed substantial police resources towards the arrest, detention, interrogation and holding “hostage” of thousands of non-Serbs.<sup>2846</sup> Moreover, although in his year-end report ŽUPLJANIN decried the difficulty in carrying out police tasks because a large number of non-Serbs had left their jobs, this was the result of his decision to press for the execution of the demands of the RSMUP and the Banja Luka SOS (including the signing of solemn declarations to the RS and the wearing of Serbian insignias).<sup>2847</sup> Rather than appointing non-Serbs to police leadership positions in order to allay the fears of the non-Serb police officers and population, he ordered his subordinates to implement the ARK CS decision requiring the removal of all non-Serbs from these posts.<sup>2848</sup>  
[REDACTED]<sup>2849</sup>

803. With regard to investigations of crimes committed against the non-Serb population, although he claimed throughout the Indictment period that the SJB chiefs were acting outside their lawful authority and allowing themselves to be influence by local politics,<sup>2850</sup> ŽUPLJANIN devolved responsibility for investigating serious crimes (murder, robbery, etc.) to the SJBs.<sup>2851</sup>  
[REDACTED]<sup>2852</sup> [REDACTED]<sup>2853</sup> Other than criticising the ineptitude of his SJB chiefs,

<sup>2843</sup> See paras. 139-140.

<sup>2844</sup> P595,p.4;P624,p.15.

<sup>2845</sup> 2D127,p.4.

<sup>2846</sup> P160,p.7;P583;P621,p.7;P1560,p.1;P668;ST-245,T.16729,T.16741[REDACTED];Rodić,T.14483,T.14485.

<sup>2847</sup> P355,p.3;P354;P377. ŽUPLJANIN only delayed implementation of these demands in Prijedor and Kotor Varoš until the Serbs had successfully taken control of those municipalities;2D18;P1368;Radulović,T.10750-2.

<sup>2848</sup> P577.

<sup>2849</sup> [REDACTED];P355,p.4;Nielsen,P508,para.209.

<sup>2850</sup> P595,pp.4-5;P624,pp.15-6.

<sup>2851</sup> P1015. SJB Banja Luka Chief responded to ŽUPLJANIN that his SJB lacked the resources and experience to conduct these investigations, a problem that was likely to have existed in other municipalities as well;P1090. Moreover, Tučuš testified that ŽUPLJANIN lacked authority to unilaterally shift the jurisdiction for serious crimes to the SJBs;Tučuš,T.7700-7702.

<sup>2852</sup> [REDACTED].

ŽUPLJANIN took no measures to ensure that crimes against non-Serbs were properly investigated in these municipalities.<sup>2854</sup>

804. In Banja Luka municipality, the number of criminal reports (18 reports pertaining to 14 cases)<sup>2855</sup> initiated during the Indictment period by the police against Serb perpetrators of serious crimes against non-Serbs was only slightly higher than other ARK municipalities, despite having a well organised, experienced and ubiquitous police force, and a generally docile non-Serb population.<sup>2856</sup> On 17 April, CSB Banja Luka reported that in the first two weeks of the SOS takeover of the municipality, 13 terrorist attacks were committed against mostly non-Serb buildings, but no criminal reports had been filed for these crimes.<sup>2857</sup> Yet, ŽUPLJANIN did not approve an operative plan to solve these terrorist attacks, as well as 51 robberies, until 25 May.<sup>2858</sup> The operative plan contained few concrete measures and focused on a handful of criminal groups that were purportedly operating under the guise of the SOS. [REDACTED]<sup>2859</sup>

805. The Defence relied on three criminal reports to show that the 25 May operative plan was implemented. To the contrary, these cases show how uncarnest the police were about protecting the non-Serb population of Banja Luka from crime. The first was filed by ŽUPLJANIN on 22 May against Goran Davidović and two other Serbs for robbing a Croat Priest.<sup>2860</sup> However, they were released soon after their arrest because two months later the police reported that they were again committing crimes, but this time against Serbs.<sup>2861</sup> The second criminal report was filed by ŽUPLJANIN on 23 June against Brane Palačković and his criminal group for a number of crimes against Serbs and non-Serbs.<sup>2862</sup> [REDACTED]<sup>2863</sup> The final criminal report was filed by

<sup>2853</sup> [REDACTED];[REDACTED];Gačinović,P1609.1,paras.115-21;Gačinović,P1609.4,paras.21-7,47,53-70;Appendix IV. Slight discrepancies in the data from the police crime registers and prosecution offices KT logbooks are explained by the fact that the police filed some criminal reports with the military prosecutor's offices and the prosecutor's offices received some criminal reports from the military police. Moreover, Gačinović included aggravated thefts in her data, while Vasić did not consider them in his statistics (aggravated theft under Article 148 of the BiH criminal code did not constitute a crime of violence).

<sup>2854</sup> In addition to the aforementioned criminal reports against Serb perpetrators, the police filed a handful of criminal reports against unknown perpetrators for crimes against non-Serbs, some of which may have involved Serb perpetrators. However, it was incumbent upon the police to identify the perpetrators, and the evidence shows that these cases remained unsolved throughout the conflict;Gačinović,T.15027-30;Kovačević,T.14304-7,T.14311-2.

<sup>2855</sup> See Appendix IV. For the January-December period, only three criminal cases were filed by the Banja Luka civilian or military police against Serb perpetrators for the murder of non-Serbs (eight victims in total, five of which were from the Šugić case). The other reported 15 non-Serb murders were attributed to unknown perpetrators;ID233,pp.3,6-9.

<sup>2856</sup> [REDACTED];[REDACTED];Rodić,T.8765-6;Nielsen,P508,para.238;P1356.10;Kržić,P459.2,T.1526-9;Kržić,P459.3,T.1576;[REDACTED];Radulović,T.11218-9.

<sup>2857</sup> P860.

<sup>2858</sup> 1D198.

<sup>2859</sup> [REDACTED].

<sup>2860</sup> 2D59,pp.1-3.

<sup>2861</sup> 2D59,pp.52-4.

<sup>2862</sup> 1D201;Rodić,T.8906-9;Vasić,T.13864-5;Tutuš,T.7808-9.

ŽUPLJANIN on 25 August against Vedran Mandić and two other former SOS members over three months after they were killed by the police while attempting to free the wife of one of the perpetrators from SM Mejdan. However, they were only charged with stealing a car from a Serb. A month later, ŽUPLJANIN supplemented this posthumous criminal report by charging the deceased perpetrators with a number of crimes against Serbs and non-Serbs.<sup>2864</sup> [REDACTED]<sup>2865</sup> As neither Palačković nor Davidović was prosecuted for their crimes against non-Serbs, they also exemplify the general failure of the Banja Luka prosecutor's office and courts to protect the non-Serb population.<sup>2866</sup>

806. [REDACTED]<sup>2867</sup> As the evidence shows, those conditions never materialised for the non-Serb population in the ARK, and ŽUPLJANIN's wait-and-see policy not only violated the maxim *justicia cunctator est justicia denego* but also defied common sense. Stalling the criminal justice system until the political situation resolved itself neither protected the non-Serb population nor allayed their fears, as in the meantime the Serb criminals were allowed to commit crimes against them with impunity. Moreover, the evidence of these crimes dissipated as time passed. Instead, this policy served only to allow the BSL to achieve the common plan before deciding whether to remove this criminal element from among the Serb population.

807. Despite the information available to ŽUPLJANIN regarding widespread crimes, danger and discrimination faced by the non-Serb population in the ARK, there were only a few instances in which he took any concrete action with regard to these problems. Two instances pertain to crimes committed by the Mićć Group in Teslić and the SJB Prijedor Intervention Platoon at Korićanske Stijene. ŽUPLJANIN's failure to investigate and punish his subordinates for these crimes is addressed in Section III.C.7.

808. The third instance was with regard to non-Serbs held at police-operated detention facilities. ŽUPLJANIN was aware of the creation and operation of these facilities from at least May, and he was also aware that non-Serb civilians were subjected to inhumane conditions and treatment before, during and after their detention at these facilities.<sup>2868</sup> As the police participated in the arrest,

<sup>2863</sup> [REDACTED]; Tutuš, T.7575; SZ-003, T.24434-5.

<sup>2864</sup> 2D57. The presumed purpose for filing a posthumous criminal report would be to close the case file on the enumerated crimes.

<sup>2865</sup> [REDACTED].

<sup>2866</sup> Kovačević, T.14314-7; Gačinović, P1609.4, Revised Annex 15, pp.62-3. Likewise, the investigation against Dragoslav Kuzmić for the murder of Mustafa Smailagić was dropped; 1D206; Kovačević, T.14314-5.

<sup>2867</sup> [REDACTED].

<sup>2868</sup> See e.g., P1376; P1377; P1560; P1391; P659; P411.21; P383; P960.24, p.8; P117; P160, p.7.

detention and transfer of these non-Serb detainees, ŽUPLJANIN was required to ensure their safety not only at police-operated facilities, but also any facilities to which these detainees were brought by the police.<sup>2869</sup> Yet, prior to the international exposure of the conditions at Omarska, Trnopolje and Manjača detention facilities in early August, the only pre-August order ŽUPLJANIN issued concerning detention facilities was a 30 July instruction regarding detainees brought to the police by “unauthorised groups”.<sup>2870</sup> After the international outcry concerning the Prijedor detention facilities, ŽUPLJANIN eventually forwarded STANIŠIĆ’s two orders regarding the transfer of collection centres to the army and wild prisons to his SJBs. However, for the same reasons that these orders were inadequate for STANIŠIĆ to fulfil his duty to protect the non-Serb population, they are also inadequate for ŽUPLJANIN to fulfil his.<sup>2871</sup>

#### **IV. THE ACCUSED’S CRIMINAL RESPONSIBILITY UNDER OTHER FORMS OF ARTICLE 7(1) LIABILITY**

##### **A. The Accused aided and abetted the crimes charged in the Indictment**

809. The Prosecution has proven that STANIŠIĆ and ŽUPLJANIN committed the crimes alleged in the Indictment through their participation in the JCE; that STANIŠIĆ instigated them and that ŽUPLJANIN instigated, ordered and planned them. In the alternative, STANIŠIĆ and ŽUPLJANIN aided and abetted the crimes alleged in the Indictment. Their acts and omissions<sup>2872</sup> before, and during the commission of the indicted crimes<sup>2873</sup> as detailed in Sections III and V provided practical assistance, encouragement or moral support for their commission, and had a substantial effect on

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<sup>2869</sup> Blaškić AJ, paras.663-8; Mrkšić AJ, paras.71,74.

<sup>2870</sup> 2D25,p.3.

<sup>2871</sup> During Trial, the Defence also sought to present evidence of a fourth occasion when ŽUPLJANIN took action with regard to crimes against non-Serbs. Šajinović testified that in the summer he, Obren Petrović and Predrag Radulović encountered Predrag and Nenad Kujundžić, and one other armed individual, near Stanari with a group of over 300 Muslims and Roma, and when they informed ŽUPLJANIN about this by radio, he told them to make every effort to keep everyone safe and sent ten police officers from SJB Prnjavor to assist them. Radulović then convinced the Kujundžić brothers to leave the non-Serbs alone; Šajinović,T.25140-2[REDACTED],[REDACTED]. The incident, if it in fact occurred, shows that ŽUPLJANIN could easily take action against armed groups (in this case two members of CSB Doboj) not only in the ARK but in neighboring regions. However, as ŽUPLJANIN neither instructed the 13 police officers to arrest the Kujundžić brothers, nor were they arrested despite their well-known criminal activities, they were allowed to continue to commit crimes against the non-Serb population of Doboj with impunity; [REDACTED]; Bjelošević,T.21139-43;P2399.

<sup>2872</sup> Nahimana AJ, para.482; Ntagerura AJ, para.370; Blaškić AJ, para.47.

<sup>2873</sup> Nahimana AJ, para.482; Blagojević AJ, para.127; Simić AJ, para.85; Blaškić AJ, para.48.

their commission.<sup>2874</sup> They were aware of the probability both that the principal perpetrators would commit the crimes and that their acts would assist these principal perpetrators.<sup>2875</sup>

### 1. STANIŠIĆ aided and abetted the crimes in the Indictment

#### (a) Though his acts and omissions, STANIŠIĆ provided practical assistance, encouragement or moral support that had a substantial effect on the crimes in the Indictment

810. As the Prosecution has shown in Section IV, STANIŠIĆ made significant contributions to the JCE. The evidence that supports these findings also shows that STANIŠIĆ's acts and omissions had a substantial effect on the crimes in the Indictment. For example, STANIŠIĆ played a key role in the elaboration of the criminal plan and in the formation of the Serb forces that committed the crimes. He made sure the common plan would be implemented through the execution of the crimes alleged in the Indictment, and he helped establish the camps and detention facilities in which Serb forces beat, killed and sexually assaulted non-Serb detainees.

811. As Minister of the Interior, STANIŠIĆ was well-informed of the crimes being committed by his subordinate perpetrators over the course of the nine-month Indictment period, from the murders and forcible displacements accompanying the municipality takeovers to the beatings, rapes and murders committed in the more than 50 detention centres. Though STANIŠIĆ knew of these crimes, he continued to provide policemen under his command and control to participate in criminal acts and to make sure the detention facilities remained in operation.

812. Further, STANIŠIĆ had a duty under international humanitarian law to make sure the civilians and detained soldiers in the custody of his subordinates were not mistreated, and the ability to see that the detainees were treated properly. STANIŠIĆ's omission in failing to put an end to the abuse of these detainees in MUP detention centres substantially contributed to the ongoing crimes.<sup>2876</sup>

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<sup>2874</sup> *Seromba* AJ,para.44; *Nahimana* AJ,para.482; *Blagojević* AJ,para.127; *Ntagerura* AJ,para.370; *Ntakirutimana* AJ, para.530; *Blaškić* AJ,para.45; *Vasiljević* AJ,para.102.

<sup>2875</sup> *Simić* AJ,para.86. See *Prosecutor v. Nikola Šainović et al.*, Case No.IT-05-87-A, Prosecution Response to General SZ-023's Amended Appeal Brief, 15 January 2010, para.294. See also *Mrkšić* AJ, paras.49,63;*Blaškić* AJ, paras.45, 50; *Ndindabahizi* AJ, para.122;*Furundžija* TJ, para.246;*Blaškić* TJ, para.287(both referred to in *Blaškić* AJ, footnote.94);*Brdanin* TJ,para.272;*Strugar* TJ,para.350. In the jurisprudence "probable" is synonymous with "likely". See *Marić* TJ,para.79,footnote.150.

<sup>2876</sup> See *Mrkšić* AJ,paras.150-154. See also Section VI for further elaboration on STANIŠIĆ's failure to prevent the crimes in the Indictment.

(b) STANIŠIĆ was aware of the probability that the principal perpetrators would commit the crimes in the Indictment, and that his acts and omissions would assist the principal perpetrators in committing the crimes in the Indictment

813. As the Prosecution has proven in Section IV, STANIŠIĆ from an early stage was well aware that the implementation of the criminal plan would involve the commission of the crimes.<sup>2877</sup> Further, he was well-informed of the crimes that were being committed during the execution of the criminal plan and knew that these crimes would continue.

814. The Prosecution has proven that STANIŠIĆ intended the crimes alleged in the Indictment. Nevertheless, he can be convicted of aiding and abetting these crimes even if the Chamber finds he lacked this intent.<sup>2878</sup>

## 2. ŽUPLJANIN aided and abetted the crimes in the Indictment

(a) Though his acts and omissions, ŽUPLJANIN provided practical assistance, encouragement or moral support that had a substantial effect on the crimes in the Indictment

815. As the Prosecution has shown in Section IV, ŽUPLJANIN made significant contributions to the JCE. These acts also provided practical assistance that had a substantial effect on the crimes alleged in the Indictment. For example, he ordered, commanded and directed RSMUP members acting in cooperation with CSs, the VRS and other Bosnian Serb forces implementing the criminal plan. He also facilitated, established and/or operated camps and detention facilities where Serb forces notoriously beat, killed and sexually assaulted hundreds of non-Serb detainees.

816. As the Prosecution has shown in Section IV, ŽUPLJANIN remained well-informed of the crimes being committed in the ARK municipalities by his subordinates and others acting to implement the JCE. For example, he was informed of the execution of 150 Muslim detainees at Korićani Cliffs in Skender Vakuf by SJB Prejidor police intervention platoon on the very day of the execution. ŽUPLJANIN knew of the extensive involvement of his subordinates in the process of arresting, detaining, mistreating and expelling non-Serbs. His actions in continuing to direct his subordinates in these activities substantially contributed to the ongoing crimes in the ARK municipalities.

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<sup>2877</sup> See above Section IV.

<sup>2878</sup> See Simić AJ, para.86.

817. Further, as a high-ranking police commander, ŽUPLJANIN had an obligation under IHL to protect the detainees in his custody. ŽUPLJANIN's omission in failing to prevent the abuse of detainees held in detention centres and camps in the ARK municipalities also substantially contributed to the ongoing crimes in these camps.<sup>2879</sup>

(b) ŽUPLJANIN was aware of the probability that the principal perpetrators would probably commit the crimes in the Indictment, and that his acts and omissions would assist the principal perpetrators in committing the crimes in the Indictment

818. As explained in Section IV, ŽUPLJANIN was directly involved (as a member of the ARK CS) in establishing policies for the expulsion of the non-Serb population from the ARK. He was continually well-informed of the ongoing crimes committed by his subordinates and others in the ARK municipalities in furtherance of the JCE and knew that the crimes that began with the takeovers would continue in the detention centres.

819. The Prosecution has proven that STANIŠIĆ intended the crimes alleged in the Indictment. Nevertheless, he can be convicted of aiding and abetting these crimes even if the Chamber finds he lacked this intent.<sup>2880</sup>

## **V. STANIŠIĆ AND ŽUPLJANIN ARE CULPABLE UNDER SUPERIOR RESPONSIBILITY**

820. In addition to their criminal responsibility under Article 7(1) of the Tribunal's Statute, the Accused are liable under Article 7(3) for their failure to prevent or punish the crimes of their police subordinates, and this failure constituted an abuse of their authority that should be considered as an aggravating factor for sentencing purposes.<sup>2881</sup> The evidence presented at trial shows that the Accused had effective control over their subordinates and knowledge of their crimes against the non-Serb population. Many of these crimes – such as the ones committed at the numerous detention facilities where non-Serb civilians were held – extended over weeks and even months. The Accused had ample opportunity to take reasonable and necessary measures to prevent them. Despite the existence of procedures and resources to investigate and punish their subordinates for crimes against non-Serbs, STANIŠIĆ and ŽUPLJANIN simply left these tools to rust in the shed.

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<sup>2879</sup> See Mrkšić AJ, paras.150-154. See also Section VI for further elaboration on ŽUPLJANIN's failure to prevent the crimes in the Indictment.

<sup>2880</sup> See Simić AJ, para.86.

<sup>2881</sup> Galic' AJ,para.412.

821. To establish liability under Article 7(3) of the Statute, the Prosecution must show: (1) the existence of a superior-subordinate relationship between the accused and the criminal perpetrator(s); (2) that the accused knew or had reason to know that a crime was about to be or had been committed; and (3) that the accused failed to take the necessary and reasonable measures to prevent the criminal act or to punish the perpetrator(s) thereof. A superior-subordinate relationship is established by the superior's effective control over the subordinates.<sup>2882</sup> Provided effective control is shown, a superior's responsibility is not excluded by the concurrent responsibility of other superiors, including those from different units or entities.<sup>2883</sup> Whether a superior's authority amounts to an indicator of effective control depends on the circumstances of the case, and can include, for example: assertions or recognition of the personal status of the accused; the situation of the accused and subordinates within a hierarchical structure; subordinates' compliance with orders issued by the accused; and the maintenance of discipline or imposition of disciplinary measures or other sanctions against subordinates who do not comply with orders issued by the accused.<sup>2884</sup>

822. The *mens rea* for superior responsibility can be proved circumstantially and is satisfied either by the accused's actual knowledge of crimes which would be or had been committed by their subordinates, or the accused's possession of information "sufficiently alarming to justify further inquiry."<sup>2885</sup> The information need not be conclusive, and it need not be proved that the accused actually acquainted themselves with information in their possession alerting them to past or imminent crimes, provided it was available to them.<sup>2886</sup> Knowledge of prior commission of crimes by identified subordinates may be sufficient notice of future crimes,<sup>2887</sup> and so may knowledge of circumstances that may increase the risk of law-breaking by such subordinates with violent or unstable characters or who had been drinking.<sup>2888</sup> Moreover, in making its assessment, a Trial Chamber may take into account the failure to punish prior crimes.<sup>2889</sup> Also relevant to determining the accused's mental state is their position within a hierarchy, their participation in a well-organised structure with established reporting systems, as well as the extent of repeat offending and the

<sup>2882</sup> Oric' AJ,para.20; Blaškić AJ,para.67; Delalić AJ,para.252; Delalić TJ,para.378.

<sup>2883</sup> Oric' TJ,paras.311,313. See also Popović TJ,para.2025; Halilović TJ,para.63; Strugar TJ,paras.361-6,379-414; Strugar AJ,paras.246-63.

<sup>2884</sup> Strugar AJ,paras.195,254,256; Delalić AJ,paras.206,306; Hadžihasanović AJ,para.199; Halilović AJ,paras.182,207; Strugar TJ,para.393; Galić TJ,paras.660-1; Krnojelac TJ,paras.97-8,102,107; Perišić TJ,para.1672.

<sup>2885</sup> Strugar AJ,paras.298,302,304 ("the Appeals Chamber recalls that under the correct legal standard, sufficiently alarming information putting a superior on notice of the risk that crimes might subsequently be carried out by his subordinates and justifying further inquiry is sufficient to hold a superior liable"); Kordić AJ,para.834; Mrkšić TJ,paras.563-4; Hadžihasanović TJ,para.97; Oric' TJ,para.319.

<sup>2886</sup> Krnojelac AJ,para.155; Blaškić AJ,para.62; Delalić AJ,paras.238-9,241.

<sup>2887</sup> Hadžihasanović AJ,paras.30-1; Krnojelac AJ,para.169.

<sup>2888</sup> Delalić AJ,para.238; Krnojelac AJ,para.154.

<sup>2889</sup> Strugar AJ,para.301.

numbers and type of people involved.<sup>2890</sup> Particularly relevant here, given the hierarchical structure of the RSMUP, “the knowledge for a commander operating within a highly disciplined and formalised chain of command with established reporting and monitoring systems is not as high as for those persons exercising more informal types of authority.”<sup>2891</sup>

823. In requiring superiors to take necessary and reasonable measures to prevent or punish subordinate crimes, Article 7(3) of the Tribunal’s Statute does not provide the Accused with two alternatives, but rather imposes on them two distinct legal obligations.<sup>2892</sup> If a superior has reason to know that a crime is being or about to be committed, he has a duty to prevent the crime from happening and is not entitled to wait and punish afterwards. Likewise, even if a superior takes preventative actions, this does not absolve him from the duty to punish subordinates after the commission of the crime.

#### **A. The Accused had effective control over their subordinates**

824. Both STANIŠIĆ and ŽUPLJANIN viewed the RSMUP as a rigidly hierarchical and highly structured organisation in which their orders had to be followed by their subordinates, much like in the military. During an interview in October, STANIŠIĆ asserted:

Fortunately, the Ministry of the Interior indeed functions as a centralised organ and we do not sense any autonomist or secessionist tendencies among the members of our service. Every briefing that I hold is attended by my assistants, assistant secretaries and chiefs of security services centres from all the areas. It has not happened yet that we had a briefing which was not attended by all the staff members, regardless of the location where the briefing took place. Also, it has not happened yet that anyone in the whole territory of Republika Srpska ever refused to carry out any of my orders, issued, of course, in accordance with the law.<sup>2893</sup>

At the 6 May CSB Banja Luka collegium meeting, ŽUPLJANIN expressed his views on his authority over subordinates, instructing them:

All my orders conveyed orally, as well as those I may forward by dispatch, must be carried out: they are your law. The chain of command, commanding and execution are clearly distinguished in this service. If any one of your staff should refuse to act upon an order, just inform him that he is fired; we have to get rid of the old ideology and concepts not suited to the present moment.<sup>2894</sup>

825. STANIŠIĆ and ŽUPLJANIN’s views regarding the hierarchical structure of the RSMUP were shared by their subordinates. Not one witness suggested that they ever disobeyed, or even considered disobeying, an order emanating from STANIŠIĆ or ŽUPLJANIN. To the contrary, Šćekić testified, “We had a strict hierarchy in the MUP, almost like in the army and we observed it

<sup>2890</sup> Blaškić AJ, paras.56-7; Mrkšić TJ, para.563; Orić TJ, para.319; Hadžihasanović TJ, para.94; Limaj TJ, para.524; Halilović TJ, para.66; Strugar TJ, para.368; Blagojević TJ, para.792.

<sup>2891</sup> Galić TJ, para.174.

<sup>2892</sup> Strugar TJ, para.373; Blaškić AJ, para.83.

<sup>2893</sup> P737, p.2.

<sup>2894</sup> P367, para.4.

strictly like soldiers.”<sup>2895</sup> Bjelošević agreed that the RSMUP was a hierarchical organ, headed by STANIŠIĆ, in which a system of vertical reporting was strictly enforced.<sup>2896</sup> Pejić testified that the RSMUP “then – and now, too – was a centralised organisation, a hierarchical organisation.”<sup>2897</sup> ST-121 explained to the Trial Chamber:

The hierarchy in the MUP begins from the minister [...]. That is where all the ideas flow down towards the administration [...]. The minister would see the problem at collegium meetings with the chief of the centres when he had an overview of the problems, then I assume that he would send a dispatch to the police administrations or the crime investigations administrations or the chiefs of those administrations, and they in turn would pick the people who would go out into the field, review the situation, and make a complete report, and then report back to him.<sup>2898</sup>

Gajić testified, “When we’re talking about the Ministry of Interior, there is a hierarchy there, and orders have to be respected and carried out.” When asked why he took no initiative to investigate ARK detention facilities under the control of the police, Gajić explained, “It was absolutely impossible to do anything on one’s own initiative,” and further explained, “[T]here was the minister there and his close associates, to decide after I had provided my report to them [...] if any adequate measures would need to be taken.”<sup>2899</sup> Other witnesses both within and outside the RSMUP likewise viewed the organisation as highly hierarchical.<sup>2900</sup>

826. Although the Župljanin Defence seemingly suggested that ŽUPLJANIN’s failures as a CSB Chief were attributable to his management skills,<sup>2901</sup> incompetence does not absolve an accused of his duty to prevent or punish crimes of subordinates. Notwithstanding, the evidence shows that both Accused were experienced, strong leaders. STANIŠIĆ was drawn from the ranks of the police. As one witness observed, STANIŠIĆ “demanded discipline, he demanded order” from his subordinates.<sup>2902</sup> ŽUPLJANIN also had significant police experience, having held the position of CSB Banja Luka Chief since immediately after the multiparty elections.<sup>2903</sup> Njeguš described ŽUPLJANIN as a successful CSB chief who communicated well. He even mistook ŽUPLJANIN for an RSMUP deputy minister.<sup>2904</sup>

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<sup>2895</sup> Ščekić, T.6520.

<sup>2896</sup> Bjelošević, T.20933-4.

<sup>2897</sup> Pejić, T.12131.

<sup>2898</sup> ST-121, T.3694-5.

<sup>2899</sup> Gajić, T.12807, T.12870, T.12934.

<sup>2900</sup> See, e.g., Trbojević, T.4166, T.4183-4; Andan, T.21257, T.21467; Tuševljak, T.22209; ST-155, T.12561; ST-127, T.11893; Radić, P2096, T.7439; [REDACTED].

<sup>2901</sup> Kovačević, T.23614-5.

<sup>2902</sup> Njeguš, T.11307, T.11445.

<sup>2903</sup> Žepinić, T.5690; [REDACTED].

<sup>2904</sup> Njeguš, T.11309-13; T.11327-8, T.11467.

827. The Accused also had the trappings of authority. They conducted reviews of their subordinate units, they led or directed their subordinates while on the front lines or during operations and, in the aftermath, were present to both take and give credit on behalf of their subordinates.<sup>2905</sup> Moreover, STANIŠIĆ and ŽUPIJANIN derived legitimacy as leaders from the top echelons of the RS and ARK BSI, who had frequent close associations with both.<sup>2906</sup>

828. The Accused's perceptions of their authority and their willingness to lead were complemented by the laws and regulations that placed them in command of a sizeable police force, with the ability to regulate the flow of police information, power to discipline and criminally investigate their subordinates, and access to resources to accomplish these tasks.

#### 1. The accused exercised administrative authority over a highly-organised and hierarchical police force

829. The organisational structure of the RSMUP was clearly defined under the RS LIA that came into force on 31 March as well as the pre-existing MUP rulebook, and is detailed in Nielsen's report.<sup>2907</sup> Suffice to say, directly beneath STANIŠIĆ were at least eight undersecretaries and assistants (or deputy ministers) responsible for a number of administrative units at the republican level, covering both public and national security.<sup>2908</sup> Hierarchically subordinate to the RSMUP were five regional CSBs, each headed by a chief such as ŽUPIJANIN. The CSB chiefs were directly subordinated to the RSMUP assistant minister for public security, and were also under the jurisdiction of STANIŠIĆ.<sup>2909</sup> The CSB chiefs likewise had a cadre of deputy and assistant chiefs.<sup>2910</sup> Below the CSBs were 73 SJBs.<sup>2911</sup>

830. The RS LIA allowed the Ministry, and therefore STANIŠIĆ, to regulate all aspects of police work. Its powers included monitoring, directing and coordinating the activities of CSBs and SJBs, activating the reserve police force, supplying police forces with weapons, creating special police units, appointing authorised officials, disciplining employees and transferring police to different

<sup>2905</sup> See, e.g., Krulj, T.2206-7; T.2210-4; P1393; P1656; [REDACTED]; M. Davidović, P1557.1, para. 144; P846; P45, pp. 1-2; Žepinić, T.5832-3.

<sup>2906</sup> Trbojević, P427.1, T.11453-8; [REDACTED]; [REDACTED].

<sup>2907</sup> See Nielsen, P508, paras. 95-188, 341-54. See also AF132; AF134; AF136. STANIŠIĆ also derived powers from the RS Law on Ministries which gave him authority to organise, arm and train active and reserve police. L34, Art. 6; L67, Art. 8.

<sup>2908</sup> Bajagić, T.20098.

<sup>2909</sup> Kovač, T.27092.

<sup>2910</sup> See Radulović, T.10728-9.

<sup>2911</sup> See Nielsen, P509, pp. 118-23; Mačar, T.23230.

areas.<sup>2912</sup> The RSMUP not only had the power to oversee daily activities of police units, it was also obliged to control the performance of those units through audits and inspections.<sup>2913</sup> ŽUPLJANIN exercised the same powers within his region, subject to the ultimate authority of STANIŠIĆ.<sup>2914</sup> Both Accused used their powers under the LIA to regulate routine police matters.<sup>2915</sup> Kovač testified that STANIŠIĆ’s orders were expected to be obeyed, and although he could and did sometimes issue orders directly to the SJBs or other lower-ranking subordinates, STANIŠIĆ normally did so through his RSMUP administrative units and CSB chiefs.<sup>2916</sup>

831. From the date he took the helm of the RSMUP, STANIŠIĆ began exercising his powers under the RS LIA and RS Law on State Administration to make staff appointments not only at the RSMUP level, but also at the level of CSBs and SJBs.<sup>2917</sup> On 25 April, STANIŠIĆ delegated to CSB chiefs the authority to appoint subordinates within their AORs and ratified all earlier appointments by them.<sup>2918</sup> Under his order, the CSB chiefs were still obliged to obtain prior approval of the RSMUP before appointing persons to leadership positions at CSBs and SJBs, and ŽUPLJANIN and other CSB chiefs generally obtained such approval before making appointments.<sup>2919</sup> Notwithstanding this delegation of power, STANIŠIĆ still exercised this authority directly when he chose to do so, even for relatively low-ranking positions.<sup>2920</sup> With the power of appointment came also the power to discipline and remove. As Kovač testified, STANIŠIĆ “was the one person who had to make the decisions on both accepting people into the service and dismissing them from the service.”<sup>2921</sup> As shown below, STANIŠIĆ exercised this authority, albeit selectively, when he deemed it necessary.

832. As occurs in any large organisation, not all subordinates agreed with every personnel decision. However, STANIŠIĆ asserted his authority if he felt it was being undermined. For example, when in September STANIŠIĆ perceived that he was not sufficiently informed of regional or municipal level appointments, or that proper procedure was not followed, he issued corrective

<sup>2912</sup> P530,Art.33,37,95,41,43,113-8.

<sup>2913</sup> Vasić,T.13771-2.

<sup>2914</sup> P850,pp.144-63,238-9.

<sup>2915</sup> See,e.g.,P456;P566;P792;P802;P1323;1D72;P368;P596;P1090.

<sup>2916</sup> Kovač,T.27145,T.27147.

<sup>2917</sup> See,e.g.,P170;P455-P458;P597;P599;P741;P1000;P1267;P1407;P1408-P1416;P1448;P2016;P2017;P2020;P2022;P2037;1D715;Škipina,T.8351-2,T.8366-8;Njeguš,T.11338,T.11417;[REDACTED].

<sup>2918</sup> 1D73;1D464.

<sup>2919</sup> See,e.g.,[REDACTED];P2463;1D512;P1269,pp.6-7.

<sup>2920</sup> See,e.g.,[REDACTED];P2037;[REDACTED].

<sup>2921</sup> Kovač,T.27076. See also Kovač,T.27091-2 (assistant ministers could not remove an employee without STANIŠIĆ’s approval).

instructions to his subordinates.<sup>2922</sup> He also wrote to the municipal assemblies to explain the procedures they should follow for reaching agreement with CSB chiefs on personnel recommendations for SJBs.<sup>2923</sup>

833. With the outbreak of the conflict and the formal creation of the VRS (on 12 May), STANIŠIĆ needed to take immediate measures to safeguard control over his police. On 15 May STANIŠIĆ ordered ŽUPLJANIN and the other CSB chiefs to organise their subordinates into war units.<sup>2924</sup> In the same order, he created a command staff to control these units, consisting of himself, a number of his undersecretaries and assistant ministers, the commander and deputy commander of the RSMUP Special Police Detachment and the CSB chiefs. Moreover, he instructed his CSB chiefs that should these units participate in combat operations with the army, they must be under the direct command of an RSMUP official, thereby assuring that the police remained within the RSMUP chain-of-command even during temporary periods of re-subordination. On the same date of this order, STANIŠIĆ issued appointments to the members of the command staff.<sup>2925</sup>

834. Three days before issuing his 15 May order, STANIŠIĆ had attended the parade in Banja Luka celebrating Security Day at which ŽUPLJANIN presented his newly-formed CSB Banja Luka Special Detachment. No doubt that unit was fresh in STANIŠIĆ's mind when he issued this order. Subsequently, other CSBs and SJBs followed suit, creating special police units of their own.<sup>2926</sup> The RSMUP quarterly report for April-June noted that the CSBs "also formed special police units, in order to use a large number of MUP employees for duties within the purview of the police (maintenance of public order and peace, crime prevention and detection, protection of life and property, securing buildings and individuals, and other duties and tasks)."<sup>2927</sup>

835. On 6 July 1992 STANIŠIĆ issued basic principles further clarifying the role of these war units.<sup>2928</sup> In particular, he specified that some perform regular police duties while others perform "specialist operative duties on the ground (neutralising sabotage and terrorist groups, organised criminal activities of armed individuals and so on, in cooperation with the Serbian army)" as set out

<sup>2922</sup> 1D665.

<sup>2923</sup> 1D522.

<sup>2924</sup> 1D46. Although STANIŠIĆ did not specify under which article of the LIA he established these units, the only one it could have been was Article 37 pertaining to police units for "executing special assignments" and stating that the "head of the unit is accountable to the Minister"; P530,Art.37.

<sup>2925</sup> P170;P455-P458;P1407.

<sup>2926</sup> See,e.g.,P1562;[REDACTED];ST-179,T.7464;P644,p.3.

<sup>2927</sup> P573,pp.6,10.

<sup>2928</sup> P853.

in his 15 May order. Notably, he kept these two functions distinct from “cooperation and coordinated action” with the VRS.

836. On 27 July STANIŠIĆ once again displayed his authority over these war units by ordering their disbandment.<sup>2929</sup> STANIŠIĆ sent teams of RSMUP inspectors to each of the CSBs to ensure his order was implemented. They reported back that his subordinates had complied, although ŽUPLJANIN did so reluctantly.<sup>2930</sup> Pursuant to this order, CSBs also contributed former members of these war units to the RSMUP Special Police Detachment. By September that Detachment had a police brigade based at each of the five CSBs.<sup>2931</sup>

837. The foregoing example also illustrates STANIŠIĆ’s ability to assert authority over even the most difficult personalities among his subordinates. When STANIŠIĆ sent his police inspectors Tošić and Vuković to CSB Trebinje to ensure implementation of his 27 July order, Krsto Savić demanded from STANIŠIĆ an explanation as to why he authorised Vuković to establish a police station attached to SJB Gacko when one was already operating under the command of SJB Gacko Chief Popović (who STANIŠIĆ had appointed on 1 April).<sup>2932</sup> The inspectors completed their assignment and reported that the CSB and SJBs had disbanded their special units and recommended personnel changes at SJB Gacko.<sup>2933</sup> At the 20 August RSMUP collegium meeting, Savić protested again about Vuković, claiming he and Andan engaged in prior unethical behaviour, to which STANIŠIĆ instructed that all such complaints must be submitted in writing to the Ministry for consideration and appropriate measures.<sup>2934</sup> This appears to have ended the matter.

## 2. The Accused exercised a high degree of control over police information

838. STANIŠIĆ and ŽUPLJANIN understood that knowledge was power, and from the creation of the RSMUP took proactive measures to ensure control over information. Some of STANIŠIĆ’s earliest orders as Minister related to reporting and communications. On 16 April 1992 he directed all five CSBs to send in daily reports, followed by a reminder four days later,<sup>2935</sup> and the CSBs regularly submitted such reports.<sup>2936</sup> On 20 April, STANIŠIĆ ordered, for “reasons of urgency of

<sup>2929</sup> 1D176;P199,p.18.

<sup>2930</sup> P1061;[REDACTED];P631,p.2;P1341,p.2;1D649;P730.

<sup>2931</sup> Nielsen,P508,para.220.

<sup>2932</sup> 1D323;P2016;Njeguš,T.11450-2,T.11485-6,T.11488.

<sup>2933</sup> 1D649.

<sup>2934</sup> P163,p.11.

<sup>2935</sup> P543;1D72

<sup>2936</sup> 1D72;O.Petrović,T.9877;Planojević,T.16542-3;A.Džafić,T.6219-20. Many examples of RSMUP daily bulletins derived from information submitted by the CSBs and SJBs are in evidence. See,e.g.,P156;P1253;P1264;P1953.

the exchange of information”, that facsimile machines be installed in all SJBs.<sup>2937</sup> Logistically, all SJB chiefs forwarded, through their duty operations officers, their daily reports to CSB Banja Luka duty operations, which in turn compiled all information into a single report that was distributed to the SJBs, CSB and RSMUP leadership.<sup>2938</sup> In particular, information concerning any police crimes made its way, through CSB chiefs to the Minister himself, and failure to report such crimes was a disciplinary offence that could warrant dismissal.<sup>2939</sup>

839. On 16 May, STANIŠIĆ clarified what should be contained in the daily reports, including information about: (1) combat activities; (2) sabotage-terrorist activities; (3) implementation of tasks stipulated by the LIA; and (4) the collection of information on war crimes against the Serbs.<sup>2940</sup> This follow-up to STANIŠIĆ’s 15 May order was aimed in part at monitoring combat operations and regular activities of RSMUP employees.<sup>2941</sup>

840. In July, STANIŠIĆ ordered his CSBs to submit “all intelligence of interest to security, combat activities and political situations that should be reported to the leadership,” and reminded them that failure to obey “shall be deemed a severe violation of work duty in times of war, for which I shall immediately and energetically take all measures in the aim of establishing responsibility.”<sup>2942</sup> In October, the RSMUP issued more general “Instructions on urgent, current, periodical and statistical reporting in internal affairs agencies” with detailed directions about which types of matters had to be reported, by whom, by when, and by what means.<sup>2943</sup>

841. In addition to daily reports, STANIŠIĆ ordered subordinates to provide information on particular issues. For example, STANIŠIĆ ordered the collation of information on police relations with the VRS and problems with paramilitaries, to which his subordinates responded.<sup>2944</sup> In one response, SJB Milići reported the massacre of approximately 25 Muslims at Nova Kasaba on 21 May.<sup>2945</sup> When STANIŠIĆ ordered on 24 August that all CSBs and SJBs provide information regarding detention facilities in their areas, his subordinates, including SJB Prijedor Chief Drljača responded.<sup>2946</sup>

<sup>2937</sup> P545;P546.

<sup>2938</sup> Vasić,P1558.1,para.12;Krulj,T.1985-7;P155;Bjelošević,T.19781-3;1D497;Škipina,T.8319-32;P1093;1D720.

<sup>2939</sup> Rodić,T.8800-1;P1558.1.

<sup>2940</sup> P173. See P374 and P1025(entry 454 indicating that CSB Banja Luka forwarded STANIŠIĆ’s 16 May order to SJB Prijedor).

<sup>2941</sup> P173.

<sup>2942</sup> 1D91.

<sup>2943</sup> 1D51.

<sup>2944</sup> 1D76;P1073;1D800;P866;P994;Bjelošević,T.19711-3.

<sup>2945</sup> P866.

<sup>2946</sup> 1D57;2D95;

842. Furthermore, all administrative units, CSBs and SJBs were required to submit periodic progress reports.<sup>2947</sup> In December, STANIŠIĆ issued instructions to the CSBs for the creation of these reports, describing the type of information sought and provided, and *pro forma* questions for various organs and sections of the RSMUP. It demanded, and expected, that highly detailed information be provided on the workings of the police.<sup>2948</sup>

843. ŽUPLJANIN also demanded from his subordinates a steady flow of very detailed information on crimes in the Banja Luka CSB area of responsibility. On 26 May he sent a dispatch to his subordinate SJBs noting the insufficiency of the information in the daily reports to Banja Luka CSB. He provided directions to rectify these shortcomings and specified that information concerning police involvement in combat be sent by special dispatch to him.<sup>2949</sup>

844. In addition to written communications, STANIŠIĆ and ŽUPLJANIN communicated with their subordinates orally, either over the telephone or through face-to-face meetings. From July onwards there were monthly RSMUP collegiums attended by the senior management of the Ministry along with the CSB chiefs, at which the police leadership openly discussed significant issues.<sup>2950</sup> ŽUPLJANIN spoke at the 11 July collegium about the roundup of Muslims and their detention in “undefined camps” operated by the police.<sup>2951</sup> At the 20 August collegium, CSB Chiefs Savić and Cvjetić reported that they had fully implemented STANIŠIĆ’s order to either absorb paramilitary groups into the army, or expel them from their regions.<sup>2952</sup> The minutes from these meetings demonstrate that regular communications occurred throughout the entire RSMUP.<sup>2953</sup>

845. At the regional level, ŽUPLJANIN had similar meetings with his CSB and SJB leadership, beginning with a CSB collegium meeting on 6 April at which he ordered that police officers sign the RSMUP solemn declaration and wear the new Serb police insignia.<sup>2954</sup> In his year-end report, ŽUPLJANIN noted that the CSB’s collegium “held regular meetings, exchanging information and experiences concerning specific areas of work, making proposals and specifying tasks, which increased the level of information and improved coordination and performance.”<sup>2955</sup> ŽUPLJANIN

<sup>2947</sup> See, e.g., P595;P657;P624;P689;P805;P2375.

<sup>2948</sup> ID53.

<sup>2949</sup> P374.

<sup>2950</sup> P160;P163;P1269;ID510;P1270;P855.

<sup>2951</sup> P160, p.7.

<sup>2952</sup> P163, pp.4-5,8.

<sup>2953</sup> See, e.g., P163, p.11 (CSB Trebinje chief remarks reflecting awareness of activities of Andan who was active in CSB Bijeljina at the time.)

<sup>2954</sup> P355;[REDACTED].

<sup>2955</sup> P624, p.12.

also met with his heads of department on a daily basis.<sup>2956</sup> Often his SJB chiefs visited Banja Luka to discuss matters with him, and some (such as SJB Kotor Varoš Chief Tepić) travelled to Banja Luka two to three times a week.<sup>2957</sup> [REDACTED]<sup>2958</sup>

846. Finally, both Accused had teams of police inspectors to inspect the SJBs, resolve problems, and report back to them. These inspections were conducted routinely following a standard format,<sup>2959</sup> but some were conducted *ad hoc* to address particular issues such as to ensure implementation of STANIŠIĆ's 27 July order disbanding special police units. Another example was inspections pertaining to the TAS vehicle theft problem in Vogošća.<sup>2960</sup>

847. A representative example of communications at the municipal level was SJB Vlasenica. At the beginning of the conflict, this SJB communicated with CSB Sarajevo via courier. By June telephone connections were established, followed by teleprinter connections in August. In addition, the SJB chief and his deputy chiefs attended meetings at least once a month with the leadership of CSB Sarajevo and the other SJBs in the region.<sup>2961</sup> At least one of these meetings was held at the Hotel Košuta where STANIŠIĆ had his office. At these meetings, the SJB chiefs informed the CSB chief of "events having taken place in his area and of steps that had to be taken from his level," and Chief Cvijetić would draw conclusions and forward them to RSMUP and STANIŠIĆ.<sup>2962</sup> SJB Vlasenica was inspected twice by CSB Sarajevo inspectors in August.<sup>2963</sup> Through these multiple channels, the SJB Vlasenica chief reported matters such as the criminal activities of the SJB Vlasenica special police unit, mistreatment of detainees at the SJB building, Sušica camp and the prison that the police guarded, the massacre of non-Serb civilians in Drum village and the destruction of the town mosque by the VRS.<sup>2964</sup>

848. Drljača was among the SJB chiefs most diligent in responding to STANIŠIĆ and ŽUPLJANIN's demands for information and implementation of their orders. As its communications logbooks show,<sup>2965</sup> the documents from SJB Prijedor admitted into evidence are only a fraction of the communications between Drljača and ŽUPLJANIN. For example, he informed CSB Banja Luka when he established the Omarska detention facility and whenever police escorted convoys of non-

<sup>2956</sup> SZ-023,T.24637-8.

<sup>2957</sup> Rađić,T.12417.

<sup>2958</sup> [REDACTED].

<sup>2959</sup> Orašanin,T.21870-5;P988.

<sup>2960</sup> See paras. 254, 692-6.

<sup>2961</sup> See,e.g.,1D328.

<sup>2962</sup> ST-179,T.7472-6.

<sup>2963</sup> P730;P997.

<sup>2964</sup> ST-179,T.7458-9,T.7491,T.7500-1,T.7505-9.

<sup>2965</sup> P2080;P2088-90.

Serb detainees to other detention facilities or for expulsion from the RS.<sup>2966</sup> He consulted ŽUPLJANIN on personnel issues, such as when he needed to retain reserve police to guard Omarska, Keraterm and Trnopolje detention facilities and when the VRS sought to re-subordinate his police.<sup>2967</sup> Drljača gave timely responses to ŽUPLJANIN's orders,<sup>2968</sup> and regularly attended collegium meetings.<sup>2969</sup> Indeed, he forwarded conclusions from the 6 May collegium meeting to his subordinates nine days before ŽUPLJANIN circulated them.<sup>2970</sup> When STANIŠIĆ sent inspectors to CSB Banja Luka, Drljača informed them not only about the detention facilities secured by his police, but also about his problems with the CSB Banja Luka Special Police Detachment.<sup>2971</sup> [REDACTED]<sup>2972</sup> Drljača informed STANIŠIĆ directly about the transfer of all non-Serb detainees at Omarska to Trnopolje or Manjača camp on 6 August.<sup>2973</sup>

849. While STANIŠIĆ demanded complete information from his subordinates, he forbade anyone within the RSMUP to provide this information to the RS government or public without first consulting him.<sup>2974</sup> Although it was his statutory obligation to keep the government and public informed about the work of RSMUP,<sup>2975</sup> he did not share this information with everyone, much to the chagrin of his *de jure* superiors, Prime Minister Đerić and Deputy Prime Minister Trbojević.<sup>2976</sup>

3. The Accused had the authority to undertake criminal and disciplinary procedures against their subordinates

850. STANIŠIĆ and ŽUPLJANIN had the authority and duty to criminally investigate their subordinates. As addressed in Section III.B.7.(a), under the applicable criminal laws in force in the RS, the police were responsible for filing criminal reports with the prosecutor's offices against anyone who committed a crime, including policemen.<sup>2977</sup> Moreover, under the applicable laws, a police officer's breach of duty to investigate and report crimes, or of the duty to protect persons whose lives were in imminent danger, were serious criminal offences.<sup>2978</sup>

<sup>2966</sup> P1560,p.4;P666;P1899;P670.

<sup>2967</sup> P668;P1682;P683;P669,p.2.

<sup>2968</sup> See, e.g., P652(one day response);P671(one day response);P677(same day response).

<sup>2969</sup> P367;P1392 (1:26:12);Radulović,T.10963-6.

<sup>2970</sup> P1896;P367.

<sup>2971</sup> P631,pp.1-3.

<sup>2972</sup> [REDACTED].

<sup>2973</sup> P670. Other SJB chiefs, such as SJB Višegrad Chief Perišić, also communicated directly with STANIŠIĆ;1D334.

<sup>2974</sup> Škipina,T.8351-3.

<sup>2975</sup> P530,Art.13,22.

<sup>2976</sup> Đerić,P179.3,T.27144-8;Trbojević,P427.2,T.11497-9;Trbojević,T.4144-6,T.4244-6;P272,p.5.

<sup>2977</sup> Delić,T.1526.

<sup>2978</sup> See paras. 671-3.

851. On rare occasions, the RSMUP investigated and charged police officers with crimes. During the Indictment period, criminal reports were filed against 29 employees of the RSMUP.<sup>2979</sup> Of these, 14 were about property crimes.<sup>2980</sup>

852. The Accused also had the power and responsibility to discipline subordinates who committed crimes or failed to perform their duties to protect the civilian population and investigate crimes. Radomir Rodić, chief of the RSMUP Internal Affairs testified that disciplinary proceedings worked in parallel with the criminal justice system: under the law disciplinary proceedings had to be initiated against a police officer regardless of whether criminal proceedings had been initiated for the same conduct.<sup>2981</sup> Even if a police officer voluntarily resigned from the police force after committing a serious offense, he was still subject to disciplinary proceedings,<sup>2982</sup> as such proceedings served to preserve the reputation of the police force and to deter other police officers from misconduct.<sup>2983</sup> Thus, although disciplinary measures alone (the most severe of which was termination of employment) would have been insufficient to punish the police crimes against non-Serbs charged in the Indictment, disciplinary procedures could have served several purposes:

- To send a clear message to other policemen that the RSMUP did not tolerate crimes against non-Serbs, thereby deterring such conduct;
- To display to the non-Serb population a willingness by RSMUP to protect all citizens regardless of ethnicity, thereby reducing their insecurity and encouraging them to remain in RS territory; and
- As disciplinary proceedings were significantly faster than criminal proceedings, they could have served as a means of immediately removing a policeman from a position where he could commit more crimes against non-Serbs.

853. Prior to 19 September, the RSMUP disciplinary procedures were the same as before the conflict.<sup>2984</sup> These disciplinary procedures applied to members of the active, reserve and special police, although the only disciplinary measure available against reserve police was termination.<sup>2985</sup> Under the RS LIA, STANIŠIĆ (or an official authorised by him) could appoint disciplinary

<sup>2979</sup> P625,p.27.

<sup>2980</sup> P624,p.6;P740,p.6;P169,p.3;P348,p.25.

<sup>2981</sup> Rodić,T.8796-7;L17,p.105.

<sup>2982</sup> Rodić,T.8902-3.

<sup>2983</sup> Rodić,T.8797-800.

<sup>2984</sup> Rodić,T.8771.

<sup>2985</sup> Rodić,T.8801-5;T.8849.

prosecutors who must “take necessary action to collect evidence with a view to put forward a request for instituting disciplinary proceedings [...] before the disciplinary board.”<sup>2986</sup> When disciplinary or criminal proceedings commenced against an RSMUP employee, and there were sufficient grounds to conclude it would be harmful to the interests of the RSMUP for the member to continue to perform his duties, STANIŠIĆ (or an official authorised by him) was required to temporarily suspend the employee pending final determination of the disciplinary and criminal proceedings.<sup>2987</sup> Thus, where a police employee committed a serious crime, suspension was mandatory, and if it was determined that the employee had engaged in the underlying conduct his termination was likewise mandatory.<sup>2988</sup> A Disciplinary Board of Appeals at the level of the RSMUP resolved any appeals.<sup>2989</sup>

854. STANIŠIĆ delegated authority to his RSMUP administrative heads and CSB chiefs to resolve disciplinary matters in their areas of responsibility.<sup>2990</sup> However, he preserved his authority to initiate disciplinary proceedings against any of his subordinates – down to the lowest ranking police employee.<sup>2991</sup> Only STANIŠIĆ could dismiss CSB chiefs, and while ŽUPLJANIN had the authority to discipline SJB chiefs, STANIŠIĆ retained the ultimate authority to hire and fire police employees.<sup>2992</sup> While any police superior could forward information up the chain-of-command regarding a subordinate’s disciplinary violation, only the minister, administrative heads and CSB chiefs had the power to initiate disciplinary procedures against that subordinate or suspend him pending the outcome of those proceedings.<sup>2993</sup> Moreover, with the exception of reprimands, all disciplinary investigations took place at the CSB or RSMUP, depending on the level of the subordinate.<sup>2994</sup> In this way, STANIŠIĆ and ŽUPLJANIN exercised ultimate control over whether their subordinates were subjected to disciplinary proceedings.

855. On 19 September, STANIŠIĆ issued wartime disciplinary procedures which streamlined the process. Now CSB chiefs, RSMUP administrative heads and special police detachment commanders summarily decided all disciplinary matters of their subordinates, and STANIŠIĆ decided all disciplinary matters on appeal.<sup>2995</sup>

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<sup>2986</sup> P530,p.23.

<sup>2987</sup> P530,p.25;Rodić,T.8783;P1038.

<sup>2988</sup> Rodić,T.8785,T.8794.

<sup>2989</sup> P530,pp.24-5;Rodić,T.8795-6.

<sup>2990</sup> Rodić,T.8777-9;Kovač,T.27076.

<sup>2991</sup> Rodić,T.8778;Andan,T.21778-9;P2348;P2349.

<sup>2992</sup> Rodić,T.8778;Kovač,T.27072,T.27075-6,T.27091.

<sup>2993</sup> Rodić,T.8776-87,T.8791;P1038;P1039;1D236.

<sup>2994</sup> Rodić,T.8775-6,T.8792-4.

<sup>2995</sup> 1D54;Rodić,T.8805-6.

856. The evidence establishes that RSMUP disciplinary procedures were functioning. On 7 July, ŽUPLJANIN appointed six disciplinary prosecutors and 20 disciplinary commissioners to process disciplinary cases against all public and state security officials in his area.<sup>2996</sup> All of these prosecutors and commissioners were Serb police officials.<sup>2997</sup> These prosecutors and commissioners performed their duties until STANIŠIĆ's 19 September wartime disciplinary procedures were initiated, at which time pending cases were handed over to ŽUPLJANIN as the sole disciplinary authority within the CSB Banja Luka region.<sup>2998</sup> Between 4 April and 31 December, CSB Banja Luka removed 37 police employees, 10 for criminal offences (six for property-related crimes) and the remaining for other infractions "that made them unsuitable for their jobs."<sup>2999</sup> These disciplinary cases were recorded in the CSB Banja Luka disciplinary logbook regardless of whether they were prosecuted pursuant to regular or wartime procedures.<sup>3000</sup> The other four CSB chiefs exercised similar disciplinary authority in their areas.<sup>3001</sup> In some municipalities SJB chiefs exercised initial authority to impose disciplinary measures against their subordinates; however, their decisions had to be submitted to the CSB chief for final approval.<sup>3002</sup>

857. RSMUP Internal Affairs Chief Rodić testified that during the Indictment period, 27 disciplinary proceedings were instituted against 32 police officers under the jurisdiction of CSB Banja Luka. Of that number, 17 were launched against approximately 22 Serb police officers, the remaining being against non-Serb officers.<sup>3003</sup> These 17 cases illustrate the wide variety of offenses for which Serb police officers were disciplined in 1992, including: the murder of a Serb civilian (Prijedor), the killing of a Serb reserve police officer (Banja Luka), arms smuggling (Ključ), reporting to work drunk and shooting a traffic sign (Skender Vakuf), the unlawful confiscation of coffee from a Serb (Banja Luka), smuggling non-Serbs to Croatia (Prijedor), failure to participate in combat assignments (Bihać) and failure to report for duty (Prnjavor), all of which resulted in

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<sup>2996</sup> P1286;P1287;Rodić,T.8767-9,T.8787-8.

<sup>2997</sup> Rodić,T.8769,T.8780,T.8788.

<sup>2998</sup> Rodić,T.8805-8,T.8823-4.

<sup>2999</sup> P624,pp.5-6.

<sup>3000</sup> Rodić,T.8808-13,T.8825-6;P1289 (listing disciplinary cases under regular and wartime procedures). The CSB Banja Luka year-end report indicated that 37 police officers were removed from the service after 4 April;P624,p.5. This five-person discrepancy between the logbook and the year-end report is likely due to the logbook entries which name a police officer "and others", as the Defence suggested;Rodić,T.8859;see,e.g.,P1289,p.8.

<sup>3001</sup> See,e.g.,Bjelošević,T.19658-9,T.19808-9,T.19924-5,T.19932-3;P2343;ID505;P169,p.3 (reporting that the CSB Trebinje conducted ten disciplinary actions between April-December);P740,p.6 (CSB Romanija-Birač had 12 disciplinary actions between April-December);P627,pp.4-5 (CSB Sarajevo initiated disciplinary measures against SJB Vogošća police officers involved in vehicle thefts);P2060;P348,p.25 (SJB Zvornik instituted one disciplinary action between April and December 1992).

<sup>3002</sup> See,e.g.,1D190;1D191;1D593;P2060.

<sup>3003</sup> Rodić,T.8812-3.

employment dismissals – as well as a number of minor infractions that warranted less severe punishments.<sup>3004</sup>

858. According to Bajagić it was at the 9 September RSMUP Collegium meeting “that the first concrete steps were taken against certain police employees who tarnished the reputation of the MUP with their actions or unprofessional conduct”, referring specifically to the decisions to suspend Dragan Andan (for “illegal use of poker machines”) and Danilo Vuković (for “unbecoming behaviour and reckless endangerment”).<sup>3005</sup>

859. The swift action STANIŠIĆ took against Andan exemplifies his power to directly investigate and discipline his subordinates. On 20 August, STANIŠIĆ established a commission chaired by Goran Mačar to conduct an audit of SJB Bijeljina.<sup>3006</sup> The commission submitted a full report on 31 August. Although Mačar believed Andan used the poker machine only for official purposes, the commission found he had failed to follow proper police procedures. Nonetheless, within ten days of the report, STANIŠIĆ suspended Andan from his position as SJB chief. Although the commission determined that RSMUP Under-Secretary Kljajić was responsible for many more violations than Andan (and Mačar believed Kljajić had committed criminal offenses warranting detention), no disciplinary or criminal proceedings were ever brought against him. Kljajić remained in the RSMUP leadership until at least November,<sup>3007</sup> illustrating STANIŠIĆ’s selectiveness in using his disciplinary powers.

860. The Trial Chamber has heard evidence on a number of other instances when disciplinary measures were imposed against Serb police officers:

- In October, SJB Vogošća Chief Maksimović and Commander Kelović were suspended for issuing false vehicle documentation and licences, as well as issuing non-Serbs personal identity cards.<sup>3008</sup>
- In November, Bjelošević terminated the employment of CSB Doboј Crime Inspector Šolaja for assisting non-Serbs escape to Belgrade using false identification cards, a decision which STANIŠIĆ upheld in December.<sup>3009</sup>

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<sup>3004</sup> Rodić, T.8813-35;P1289.

<sup>3005</sup> Bajagić, 1D662, para.409;P1269,p.6;P2348;P2349;Andan,T.21828-9,T.21485,T.21777-90;Kovač,T.27085-6.

<sup>3006</sup> Mačar, T.23434;1D348.

<sup>3007</sup> Mačar, T.23045-7,T.23049-50,T.23433-9;1D348;P1270.

<sup>3008</sup> 1D184;1D186;1D187;[REDACTED];P1518.

<sup>3009</sup> P2343;1D796. *See also* ST-121,T.3727 (recalling other instance when Serb police were disciplined for helping non-Serbs).

- Based on a proposal by Bjelošević in October, STANIŠIĆ ordered disciplinary actions against SJB Doboj chief Obren Petrović in January 1993 for failing to establish law and order, assisting Muslims leave town and retaining Muslim workers, resulting in the deterioration of morale among Serb police and soldiers.<sup>3010</sup>
- In mid-August, SJB Višegrad police officer Sredoje Lukić was suspended for releasing a female Serb prisoner and failing to report to work.<sup>3011</sup>

#### 4. The Accused Had Resources Available to Impose Their Authority on Their Subordinates

861. The Accused had significant resources and manpower at their disposal to implement their orders.<sup>3012</sup> For example:

- In early April after the Serb takeover of the police school at Vraca, STANIŠIĆ ordered his SDB Assistant Minister to interrogate non-Serbs captured during the operation and then exchange them with the BiH authorities for Serb prisoners.<sup>3013</sup>
- In early May STANIŠIĆ ordered police from SJB Pale to conduct another operation in Vraca against non-Serbs, ostensibly to prevent Muslim units from taking over a police school.<sup>3014</sup>
- In late June, ŽUPLJANIN authorised Radulović to organise a joint police-VRS operation to remove the Mić Group from Teslić, and 24 hours later the operation was successfully completed.<sup>3015</sup>
- In early August, STANIŠIĆ coordinated an action between Karišik's special police unit, the VRS military police and a unit from the SFRY SUP to arrest members of the Yellow Wasps.
- In September, STANIŠIĆ ordered CSB Romanija-Birač to assemble a team of 30 experienced police officers from different municipalities to assist SJB Vogošća combat TAS vehicle thefts in which the police were implicated. This matter was still unresolved in late December.<sup>3016</sup>
- In September, STANIŠIĆ ordered the RSMUP Special Police Platoon under the command of Duško Malović to Bijeljina at the request of the Bijeljina government ostensibly in order to

<sup>3010</sup> O.Petrović,T.9893-9;1D258;P2339,p.2.

<sup>3011</sup> Draško,T.12293-4.

<sup>3012</sup> See para 938.

<sup>3013</sup> Žepinić,T.5832-3;Dokanović,T.3567,T.3569-70;Škipina,T.8300-5;Nielsen,P508,para.219.

<sup>3014</sup> ST-127,T.11860;P1455,p.3;P1124,p.15

<sup>3015</sup> Radulović,T.10935-6.

<sup>3016</sup> P627,pp.3-5;1D578;1D173,p.3;1D182;1D106,p.1;1D579;Tuševljak,T.22257-9.

protect the lives and property of especially the non-Serb population. Instead, the Detachment participated in the murder of three Muslim families.<sup>3017</sup>

862. These examples show that, even in instances where STANIŠIĆ and ŽUPLJANIN may have faced resistance from their subordinates if they attempted to prevent or punish their crimes against the non-Serb population, the Accused had the means to fulfill their obligations as superiors. Their failure to take any concrete measures to do so, therefore, stemmed solely from a lack of will.

##### 5. The CSs did not diminish the Accused's effective control

863. The Defence's argument that the municipal CSs interfered with the Accused's effective control over their subordinates is not supported by the evidence.

864. The laws and instructions from the BSL envisioned a high degree of cooperation between political, police and military organs at the municipal level. Under the LIA, the police had the obligation to implement municipal regulations.<sup>3018</sup> The Variant A/B Instructions specified that the SJB chief or commander was to be a member of the municipal CS, and that the CS would recruit police officers to run the newly-established police stations after the takeovers.<sup>3019</sup> On 26 April, the Government issued instructions reiterating that the CSs must include the SJB chiefs as members and clarifying that the command of the police was "under the exclusive authority of the professional staff, and therefore any interference regarding the [...] use of the police forces must be prevented."<sup>3020</sup> Pursuant to these instructions, SJB and CSB chiefs became active CS participants.

865. In addition, the Accused sent a clear message to their subordinates that they should implement the decisions of both regional and municipal CSs. At the 6 May collegium, ŽUPLJANIN ordered his subordinates to observe all measures by the ARK CS.<sup>3021</sup> [REDACTED]<sup>3022</sup> Thus, SJB Bosanski Novi reported that in "de-registering" the non-Serb population it was acting both pursuant to the ARK and local CS orders.<sup>3023</sup> At the 20 August RS collegium meeting, STANIŠIĆ ratified ŽUPLJANIN's order, instructing his CSB chiefs to establish day-to-day cooperation with both the regional and municipal authorities and for SJB chiefs to cooperate with municipal authorities.<sup>3024</sup>

<sup>3017</sup> P1543,p.65 , see para 938.

<sup>3018</sup> P530,Art.27.

<sup>3019</sup> P69,pp.3-4,8;Hanson,P434,paras.59,81.

<sup>3020</sup> P70;Hanson,P434,paras.31-2.

<sup>3021</sup> P367,p.4.

<sup>3022</sup> [REDACTED];[REDACTED].

<sup>3023</sup> P755,p.4.

<sup>3024</sup> P163,p.13.

866. Moreover, the municipal CSs generally understood and respected the police hierarchy:

- Predrag Radić testified that although CSs might have tried to influence the police, the RSMUP had the ultimate say and police were not bound to municipal authorities.<sup>3025</sup>
- The Ključ CS noted in a report that “[a]ll important and significant issues in the military and police domain were not resolved outside the CS of the Municipal Assembly.”<sup>3026</sup>
- The Kotor Varoš CS found that it had no right to interfere in police work.<sup>3027</sup>
- [REDACTED]<sup>3028</sup>
- Doboј CS concluded that the SJB Doboј chief is “the only person authorised to organise and control security tasks in the municipality.”<sup>3029</sup>
- The ARK assembly merely proposed ŽUPLJANIN as CSB chief, forwarding this proposal to the RSMUP for approval.<sup>3030</sup>

867. Although, in accordance with the Variant A/B Instructions, some CSs became directly involved in staffing matters at the newly-established Serb SJBs, the RSMUP generally treated these appointments as proposals to consider when making final determinations on personnel matters.<sup>3031</sup> For example, ST-161 testified that his appointment as SJB Sanski Most chief by the CS would not have stood if STANIŠIĆ or ŽUPLJANIN opposed it.<sup>3032</sup> Although Bjelošević claimed that he opposed the Doboј CS’s appointment of Savić, he provided no credible explanation why he signed Savić’s appointment based upon STANIŠIĆ’s delegation of power.<sup>3033</sup> The Accused’s ultimate authority over appointments of SJB chiefs is also evidenced through their subsequent ratification or rejection of these decisions. For example, STANIŠIĆ and ŽUPLJANIN ratified the Prijedor CS’s appointment of Drljača, but STANIŠIĆ reversed the decision by the Teslić municipal assembly to replace the SJB Teslić leadership after the Miće Group debacle.<sup>3034</sup>

868. Furthermore, on the occasions when the Accused’s subordinates believed that the implementation of municipal CS decisions went beyond the mandate of internal affairs, they

<sup>3025</sup> Radić,P2107,T.22273-5 ;Radić,P2096,T.7436-9;[REDACTED].

<sup>3026</sup> P451,p.3;Hanson,T.4433-4.

<sup>3027</sup> Hanson,P82,p.3;Đekanović,T.1102;Hanson,T.4425-6.

<sup>3028</sup> [REDACTED].

<sup>3029</sup> 1D259,para.4.

<sup>3030</sup> P1417. The RS government likewise respected the RSMUP chain-of-command;Hanson,T.4422-3;P262,p.2; Đerić,P179.4,T.27228-9.

<sup>3031</sup> Njeguš,T.11332.

<sup>3032</sup> ST-161,T.3437. ST-161 was appointed by ŽUPLJANIN on 13 June;[REDACTED].

<sup>3033</sup> 1D464;Bjelošević,T.19618-9.

<sup>3034</sup> P2463;P1353.14.

generally informed them of these decisions and often sought their advice on how to proceed. For example, Drljača sought CSB Banja Luka's authorisation to postpone implementing a Prijedor war presidency decision reducing the reserve police force, which ŽUPLJANIN personally approved with the instruction that Drljača find a solution to securing the detention facilities "in accordance with the decisions of the War Presidency of Prijedor SO."<sup>3035</sup> ST-161 wrote to ŽUPLJANIN on 17 June for help in convincing the municipal authorities to take over from the police responsibility for non-Serb detainees.<sup>3036</sup> In August, ST-161 wrote again to ŽUPLJANIN for instructions on a decision by the Sanski Most authorities requiring non-Serbs to submit to a special committee a declaration of loyalty in order to remain in the municipality.<sup>3037</sup> SJB Ključ Chief Kondić requested in July that CSB Banja Luka advise on how to address decisions and instructions from "official organs" regarding the employment of non-Serbs.<sup>3038</sup> ST-179 testified that whenever the Vlasenica CS attempted to influence his work he would report to the CSB Sarajevo chief, who in turn reported the issue to STANIŠIĆ.<sup>3039</sup> CSB Trebinje Chief Savić initially refused to implement the order of Trebinje War Presidency to dissolve his special police unit, but rather only did so after he received STANIŠIĆ's 27 July order.<sup>3040</sup> Even ŽUPLJANIN sought the advice of STANIŠIĆ, such as his 20 July memorandum requesting instructions on what to do with non-Serb hostages held in police-operated detention facilities.<sup>3041</sup>

869. Finally, the argument that the CSs interfered with the Accused's effective control over subordinates presupposes that CS decisions ran contrary to those of the Accused. There is, however, scant evidence of this as a result of the common purpose towards which the police, VRS and the politicians, regardless of level or location, worked.<sup>3042</sup> Indeed, the decisions of the municipal CSs in the ARK were generally consistent with the ARK CS decisions that ŽUPLJANIN had instructed his subordinates to obey categorically.<sup>3043</sup> For example, neither Accused issued orders concerning police-operated detention facilities until August, so earlier decisions by CSs establishing such facilities did not contradict their orders. Once the Accused did issue orders on detention facilities in August, there is no evidence that the CSs interfered with police implementation of those orders. The only instance where certain CS's decisions may have run contrary to those of the Accused was on

<sup>3035</sup> P668;P1682.

<sup>3036</sup> P411.21;P390,p.2.

<sup>3037</sup> P690.

<sup>3038</sup> P960.24,pp.11-2.

<sup>3039</sup> ST-179,T.7423.

<sup>3040</sup> 1D642;P799;1D649,p.1.

<sup>3041</sup> P583.

<sup>3042</sup> Trbojević,T.4238-9;Hanson,P434,para.89.

<sup>3043</sup> P367,p.4.

appointing police personnel without prior approval of the RSMUP. However, this can be explained by the transitional phase from the creation of Serb parallel institutions to the integration of those institutions into the new Serb state,<sup>3044</sup> and by the fact that STANIŠIĆ himself waited until 20 November to request municipal authorities to reach agreement on recommended police candidates with the regional CSB chief.<sup>3045</sup>

870. In his semi-annual report, ŽUPLJANIN complained that “in some cases” SJB chiefs “dealt with issues which were outside their purview and completely political in nature” under the influence of “political organs and figures.”<sup>3046</sup> He repeated this complaint in his third-quarter and year-end reports.<sup>3047</sup> These complaints neither specify which SJB chiefs were influenced in their work by local politics nor identify the issues that were allegedly outside the purview of the police. ŽUPLJANIN’s instructions to his subordinates were equally vague. He merely ordered them to limit their activities to those falling within the competence of the LIA and “other positive legislation”, and not to implement decisions of CSs that “have not been adopted according to established procedure and delivered in written form.” His clarification that “this refers, among other things, to various political decisions which do not have a legal form and may not be directly implemented by the Service,” provides no clarity at all. After months of participating in the arrest, detention, mistreatment, discrimination and expulsion of non-Serbs in cooperation with municipal, regional and republic organs – without any RSMUP orders to the contrary – ŽUPLJANIN could not have expected his subordinates to understand, let alone, implement these instructions.<sup>3048</sup>

#### 6. The VRS did not diminish the Accused’s effective control

871. The second argument the Defence has made to suggest the Accused lacked effective control over their subordinates pertains to the issue of police re-subordination to the army.<sup>3049</sup> This contention fails foremost on evidentiary grounds. With the exception of the police who guarded the perimeter of Manjača, there is no evidence that the police were re-subordinated during any of the crime incidents or at any of the crime sites charged in the Indictment. To the contrary,

<sup>3044</sup> IIanson,P434,para.81.

<sup>3045</sup> 1D522.

<sup>3046</sup> P595,p.4.

<sup>3047</sup> P621,p.43;P624,p.15.

<sup>3048</sup> 2D25,p.3.

<sup>3049</sup> A third argument pertained to town commands. While documents from Donji Vakuf (1D403), Ključ (P1783;P448) and Kotor Varoš (2D132) mention the existence of a defence or town command in those municipalities, they were not the same as those established under military command as described by ST-197, for the reason that the municipal authorities functioned in these three municipalities; ST-197,T.14395;Brown,T.19162-3,T.18977-8. Moreover, there is no evidence that these commands interfered with the chain-of-command between the SJBs and CSB Banja Luka.

[REDACTED] Basara asserted that they never sought to re-subordinate the police to their command for operations in the municipalities within their AORs during the Indictment period.<sup>3050</sup> Although the police in Prijedor cooperated closely with the army in the attacks on non-Serb villages, as ST-023 testified, they did so under their own police chain-of-command.<sup>3051</sup> This is confirmed by Drliča's 4 August report in which he recommends to CSB Banja Luka “[a] more organised participation of the police in executing possible combat activities [...] so that police units and formations would in future be subject to the command of the military unit in charge of the combat activities.”<sup>3052</sup> [REDACTED]<sup>3053</sup>

872. The lack of evidence of re-subordination is explained by the fact that this was a procedure of limited duration, geography and purpose. Despite the efforts by the Defence to expand the concept to encompass all joint activities between the RSMUP and VRS personnel,<sup>3054</sup> whenever there was an army presence in an area,<sup>3055</sup> re-subordination in fact occurred only when a police unit was formally placed under the command of an army unit for a limited period of time to carry out a specific combat action.<sup>3056</sup> It therefore did not apply automatically when the police and army participated together in an operation.

873. Article 104 of the Law On All People's Defence states that “the police may be used for carrying out combat activities for the armed forces in accordance with the law” and that “[d]uring its engagement for combat activities in the armed forces the police shall be under the command of the authorised officer in charge of the combat activity.”<sup>3057</sup> [REDACTED]<sup>3058</sup> This is consistent with the RS Law on Defence, which gives the RSMUP minister exclusive authority to “organise, prepare and plan the deployment of the police force in time of war, imminent threat of war or in a state of emergency” and the President the authority to issue orders deploying these forces.<sup>3059</sup>

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<sup>3050</sup> Basara, T.1318;[REDACTED].

<sup>3051</sup> [REDACTED];ST-023,P1568.1,T.21072-4.

<sup>3052</sup> P669,p.2.

<sup>3053</sup> ST-172,T.5267;[REDACTED].

<sup>3054</sup> V.Kovačević,T.23652-3,T.23721,T.24125-6.

<sup>3055</sup> The Defence reliance on Talić's 1 July order for this suggestion is misplaced; 1D406;Brown,T.19075-9. Neither the content of the order nor the Defence expert supports such a broad interpretation; V.Kovačević,T.24237.

<sup>3056</sup> ST-197,T.14368.

<sup>3057</sup> L1. See L336 (defining “combat activities”).

<sup>3058</sup> ST-197,[REDACTED],T.16329;V.Kovačević,T.24102);P744.

<sup>3059</sup> L50,Art.7,10. See L33,Art. 6;1D46;1D99;1D100.

874. [REDACTED]<sup>3060</sup> [REDACTED]<sup>3061</sup> For the police, this meant that it was only “[a]t the front line, when the civilian police participated in combat, [that] they were re-subordinated to military commands.”<sup>3062</sup> Nor did re-subordination encompass all police activities, but rather was limited to those pertaining to combat tasks or traffic control in areas of combat activities.<sup>3063</sup> Thus, for example, guarding detention facilities, conducting mopping up operations and engaging in ordinary police work behind the front lines were activities that would not allow for re-subordination.<sup>3064</sup>

875. STANIŠIĆ adopted this restrictive approach to re-subordination. His 15 May order delegated to ŽUPLJANIN and his other CSB chiefs the authority to use police war units “in coordinated action” with the VRS.<sup>3065</sup> Despite the suggestion by the Defence, the term “re-subordination” (“pretpočinjanje”) is not synonymous with “coordinated action” (“sadejstvo”).<sup>3066</sup> Rather, STANIŠIĆ’s order specified precisely when re-subordination occurred: when the war units were “participating in combat operations.” STANIŠIĆ’s 6 July order further clarified that the war units existed not only to engage in “cooperation and coordinated action[s]” with the VRS, but also to conduct a host of regular and specialists activities.<sup>3067</sup> CSBs likewise referred to re-subordination as an “occasional” event.<sup>3068</sup> Indeed, many documents in evidence describe a “co-operative” or “coordinative” relationship between the VRS and RSMUP rather than one of command.<sup>3069</sup> Moreover, even when the police performed combat tasks, they were often not re-subordinated to the army. In his year-end report, ŽUPLJANIN noted that the police “participated independently in combat operations” as well as when made available to the VRS.<sup>3070</sup>

876. ŽUPLJANIN was particularly protective of the authority granted to him under STANIŠIĆ’s 15 May order, and reminded his subordinates and the 1KK in July and September to obtain his

<sup>3060</sup> Witnesses active in the VRS during 1992 took the view that, had a state of war been declared, they would have had greater authority. ST-197,T.14366,[REDACTED];Basara T.1234-6;[REDACTED]. Although Lisica recognised the distinction, he disregarded it and acted as if there were a state of war in his AOR. Lisica,T.26863-4,T.26900-1. *See also* P611;P1755,p.40.

<sup>3061</sup> [REDACTED]. *See also* Basara,T.1317-8.

<sup>3062</sup> [REDACTED]. *See also* Njeguš,T.11344-5;Vasić,T.13706-7.

<sup>3063</sup> L27,p.20.

<sup>3064</sup> [REDACTED];P625,p.5 (distinguishing between police participation in the armed conflict “at the front line” and the performance of “regular” police duties, the latter of which included disarming groups, seizing weapons, mopping up enemy groups, and securing “free territory” and transports).

<sup>3065</sup> 1D46.

<sup>3066</sup> Both the VRS and RSMUP used the terms distinctively. Compare P1795 (Talić order referring to “coordinated action”) with 1D765 Talić order using the term “re-subordinate”). *See also* P411-3;P613;P1094;P1928, for ŽUPLJANIN’s use of the term “re-subordination”.

<sup>3067</sup> P853,p.2.

<sup>3068</sup> P163,p.18.

<sup>3069</sup> *See e.g.* 1D800;1D805;P674;P730,p.2;P747,p.3;P748,p.3;P994;P995;P998;P1037;P1476;P1557-11;P1815;P1894. With regard to CSB Banja Luka Special Police Detachment, *see para.728.*

<sup>3070</sup> P624,p.5. *See also* P669,p.2.

consent before engaging police in combat operations.<sup>3071</sup> However, ŽUPLJANIN was also eager to have his police participate in these operations. [REDACTED]<sup>3072</sup> In other regions, the interaction between CSB chiefs and VRS Corps commanders depended on their personalities and relationship. For example, until the latter part of 1992, Bjelošević did not demand strict compliance with the formal re-subordination process.<sup>3073</sup>

877. Even while they were sorting out their jurisdictional relationship,<sup>3074</sup> the VRS and RSMUP leadership shared the same goals and STANIŠIĆ described the RSMUP's relationship with the VRS as one of mutual support.<sup>3075</sup> Usually the VRS accepted that there had to be a "request" or agreement to use RSMUP personnel.<sup>3076</sup> As the RSMUP Annual Report notes, "pursuant to a request by the organs of authority, the Security Services Centres and police stations placed 6176 police officers, mainly from the reserve force, at the disposal of the Army of Republika Srpska."<sup>3077</sup> When the VRS ignored this procedural requirement, the RSMUP had no qualms about giving orders to refuse or restrict such requests.<sup>3078</sup>

878. Even were it the case that police perpetrators of crimes charged in the Indictment committed them while re-subordinated to the army, this fact would not have diminished STANIŠIĆ and ŽUPLJANIN's effective control over these subordinates. As noted above, the Accused's approval was necessary for the re-subordination of their police to the VRS. The Accused also could withdraw such approval, as Bjelošević did in October.<sup>3079</sup> In addition, pursuant to STANIŠIĆ's 15 May order, a re-subordinated police unit was under the direct command of "certain Ministry officials."<sup>3080</sup> This served not only as a means to keep the Accused informed and engaged, but also to maintain discipline within the police ranks. As a number of witnesses testified, the RSMUP maintained both criminal and disciplinary jurisdiction over police while they were re-subordinated to the army.<sup>3081</sup>

<sup>3071</sup> P376;P1094.

<sup>3072</sup> [REDACTED];[REDACTED]. See P624,p.5.

<sup>3073</sup> 1D263;1D264;1D265. Lisica,T.26875-6,T.26927. However, Lisica conceded that had Bjelošević refused to re-subordinate his police, the matter would have had to have been resolved by the RSMUP and RS Ministry of Defence at the level of the Supreme Command (of which STANIŠIĆ was a member). Lisica T.26935-6.

<sup>3074</sup> See e.g. 1D76;1D577;P160;2D138;P216;P220;P240;P611;P744;P1389;P1881;P1096.

<sup>3075</sup> See e.g. P745;P737,pp.3,7;P1755,pp.373-5.

<sup>3076</sup> See e.g. 1D641;[REDACTED];P158;P163,pp.14,18;P411.13;P613;P684(p.3);P747(p.4);P1668;P1789;P1802;P1888;P2458.

<sup>3077</sup> P625,p.8 (emphasis added).

<sup>3078</sup> See e.g. 1D802;P376;P655;P683;P1094.

<sup>3079</sup> 1D263. See also P1881.

<sup>3080</sup> 1D46,p.2.

<sup>3081</sup> [REDACTED];Jovićinac,T.26739-44,T.26757-8,T.26778,T.26786. See also Jovićinac,T.26765 (civilian courts had jurisdiction over soldier and civilian who co-perpetrated a crime);[REDACTED];Rodić,T.8801-5.[REDACTED];P411.13;[REDACTED]. It is also clear that ŽUPLJANIN retained authority over the brigade. P1096;P1656;[REDACTED];[REDACTED].

879. It was logical that the RSMUP chain-of-command maintained disciplinary authority over policemen during re-subordination because their suspension or removal from RSMUP was the ultimate punishment.<sup>3082</sup> With regard to police crimes committed during re-subordination, the RSMUP and the civilian courts maintained jurisdiction over those crimes because the military court's jurisdiction was limited to military personnel (as defined by Article 3 of the RS Law on the Army) and certain enumerated crimes committed by civilians (largely crimes against the state or the military).<sup>3083</sup> The military's only obligation regarding police crimes committed during re-subordination was to report them to RSMUP so that the police could institute criminal proceedings.<sup>3084</sup> The Defence claim that police were "military conscripts" during re-subordination, thereby losing their civilian or police status, is unsupported by the laws and regulations.<sup>3085</sup>

880. Equally unavailing is the Defence assertion that the 16 October dispatch by Talić to CSB Banja Luka and the IKK (calling for measures to be taken against members of the civilian and military police who abandoned the frontlines) shows that it was the VRS who took disciplinary and criminal action against re-subordinated members of the RSMUP. This dispatch is instead an example of Talić insisting that the RSMUP take action to address the matter with respect to their own employees.<sup>3086</sup> Around the same period, ŽUPLJANIN ordered that criminal and disciplinary proceedings be initiated against active and reserve members of SJB Bosanska Gradiška who refused to obey orders while re-subordinated to the VRS.<sup>3087</sup>

**B. The Accused knew or had reason to know that their subordinates were committing crimes charged in the Indictment**

881. STANIŠIĆ and ŽUPLJANIN knew about many of the Indictment crimes committed by their subordinates, including those committed by the Miće Group in Teslić and by SJB Prijedor's Intervention Platoon at Manjača camp and Korićanske Stijene.<sup>3088</sup> In addition, the Accused had reason to know that their subordinates were participating, or were about to participate, in a large number of other Indictment crimes. The general information that put them on notice of possible unlawful acts by their subordinates came from several sources. These included the system of

<sup>3082</sup> Rodić, T.8802; Njeguš, T.11458.

<sup>3083</sup> P1284.7; L51; Jovičinac, T.26753-63.

<sup>3084</sup> 1D431; Jovičinac, T.26774.

<sup>3085</sup> Brown, T.18994-6, T.18998; Jovičinac, T.26757 (until a reservist began performing military duties, he was a civilian for the purposes of military court jurisdiction), T.26770, T.26851-3.

<sup>3086</sup> 1D411; Jovičinac, T.26781, T.26785-6.

<sup>3087</sup> P1888. The CSB Banja Luka disciplinary logbook shows that these police officers were in fact terminated from the police on 13 November for this offense. P1289, pp. 8-9. See also P1928, p.2 (reserve police officers discharged from SJB Danji Vakuf for looting during combat operations); P2464; P2465.

<sup>3088</sup> These three crimes are addressed at the end of this Section.

internal reporting (both written and oral) that the Accused established at the beginning of the conflict,<sup>3089</sup> information the Accused received from other members of the BSL, reports by domestic and international media and organisations, and as a result of the compactness of the RS, general public knowledge.<sup>3090</sup> Given these avenues of information, and given the number, type, scope, notoriety and widespread occurrence of crimes committed by numerous members of the active and reserve police, it was inevitable that they learned about them.<sup>3091</sup> As Panić explained, considering that trivial matters that were reported up the RSMUP chain-of-command, important events such as killings were definitely reported.<sup>3092</sup> Due to word limitations, instances of police crimes of which the Accused knew or had reason to know described below are merely illustrative.

1. The reporting system within the RSMUP provided the Accused with timely information concerning the criminal activities of subordinates

882. Despite difficulties and obstacles the RSMUP and CSBs established an effective, multi-channelled communications system that found ways to get the important information to the people who needed it.<sup>3093</sup> As one of his first measures as minister, STANIŠIĆ addressed the task of developing the RSMUP communications system by asking an experienced professional Serb policeman, Dragan Kezunović, to accept the position of Communications Chief in April 1992.<sup>3094</sup> In the beginning RSMUP headquarters had multiple means to communicate with its subordinate organs, including telephones, facsimile machines, short-wave and ultra-short-wave radios, and teleprinters,<sup>3095</sup> and this equipment was enhanced in early May.<sup>3096</sup> When no other means was available, messages were delivered by human couriers.<sup>3097</sup> Former CSB Sarajevo Communications Chief Pejić authenticated the RSMUP logbook of outgoing dispatches that he maintained between April-May showing a significant number of communications emanating from headquarters to the CSBs during this period.<sup>3098</sup> Between April-December, the RSMUP headquarters sent out 2,969 “open” dispatches (about eleven per day) and 1,300 coded dispatches. During the same period, it received 2,802 open dispatches and 1,601 coded dispatches.<sup>3099</sup>

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<sup>3089</sup> Nielsen,P508,paras.236-8.

<sup>3090</sup> Dordović TJ,para.1996.

<sup>3091</sup> Blaškić TJ,para.307.

<sup>3092</sup> Panić,T.2906.

<sup>3093</sup> See D.Kezunović,Pejić, Raković, Raljić, ST-219, Janković, *passim*; P625,pp.22-7.

<sup>3094</sup> D.Kezunović,T.11536-7.

<sup>3095</sup> D.Kezunović,T.11550-2.

<sup>3096</sup> D.Kezunović,T.11547-9,T.11557-8;P1425.

<sup>3097</sup> D.Kezunović,T.11706-7.

<sup>3098</sup> Pejić,T.12155-61;P1428.

<sup>3099</sup> P625,p.27. In addition 9,585 short-wave radio connections were established during this period.

883. As most of the territory of the ARK was firmly within the control of the Serbs from the early stages of the conflict, ŽUPLJANIN was likely the best-informed of the five CSB chiefs. The RSMUP's Performance Report for the period April-June 1992 confirmed this.<sup>3100</sup> Although there were some problems with shortages of power, fuel and spare parts, ŽUPLJANIN was able to regularly communicate with his SJBs through telephone and electronic dispatch communication.<sup>3101</sup> Complete telephonic and telegraphic communication was established with all subordinate SJBs except for five (Donji Vakuf, Kupres, Jajce, Teslić and Krupa).<sup>3102</sup> SNB Banja Luka was able to send intelligence information to the RSMUP through encryption devices throughout the Indictment period.<sup>3103</sup> Former SJB Prijedor Communications Chief Janković authenticated a number of logbooks and individual documents reflecting the high volume of written interchange between Prijedor SJB and CSB Banja Luka during 1992.<sup>3104</sup> The communications totals for CSB Banja Luka are even more impressive than the RSMUP. For the April-December period it sent out 13,080 open dispatches and 1,259 coded dispatches, received 14,808 open dispatches and 1,173 closed dispatches, and forwarded 2,297 dispatches.<sup>3105</sup>

884. The RSMUP's communication system was not the only RS-wide communications network available to send and receive important communications. Both the VRS and the RS Defence Ministry had country-wide communications systems. All three assisted the others with communications on occasion. For instance, on 18 June Defence Minister Subotić sent a document to all RS ministries announcing that the republic communication centre at Pale was able to send telegrams to the ARK and other SAOs.<sup>3106</sup>

885. An example of one source of information available to the Accused was the Miloš group reports produced by SNB Banja Luka Inspector Radulović during the Indictment period, several of which are in evidence. The Miloš group submitted these reports to SNB Sector Chief Bera and Kesić, and Kesić presented this information at the daily expert staff meetings with ŽUPLJANIN.<sup>3107</sup> Kesić and ŽUPLJANIN were also aware that the Miloš group sent the same intelligence information to the Serbian MUP.<sup>3108</sup> Although Radulović testified that he did not verify whether his reports were received by the RSMUP in Pale, and claimed that STANIŠIĆ told him in 2000 that he

<sup>3100</sup> P573.

<sup>3101</sup> Raljić, T.12432-4;P624,p.12.

<sup>3102</sup> P624,p.12. *See also* P395;P2394 (SJB Prijedor reporting it sent 3,270 dispatches and received 5,441).

<sup>3103</sup> Radulović, T.10732-3.

<sup>3104</sup> Janković, T.24881-901;T.25004-13;P2394.

<sup>3105</sup> P624,p.12.

<sup>3106</sup> ST-219,T.17621-4,T.17654-5,T.17691-2;P1725.

<sup>3107</sup> Radulović, T.10731.

<sup>3108</sup> Radulović, T.10735-8;P2395.

had not received all of the group's intelligence, Radulović maintained that his reports contributed to informing both ŽUPLJANIN and STANIŠIĆ, and he not only received responses (often negative) from the RSMUP regarding the information contained in his reports but also found his intelligence contained in the Accused's reports and speeches.<sup>3109</sup> Moreover, ŽUPLJANIN was often sent a personal copy of these reports, ŽUPLJANIN and Kesić used the Miloš group's communication network to send and receive messages to the Serbian MUP, and the Serbian MUP even used the group to communicate with STANIŠIĆ.<sup>3110</sup>

886. An external information source for the Accused was the media. There is evidence that both Accused followed media reports. For example, in May STANIŠIĆ received information concerning the takeover operations in Brčko from the media.<sup>3111</sup> [REDACTED]<sup>3112</sup> Radulović regularly provided ŽUPLJANIN with international media articles on events in Prijedor, Kotor Varoš and elsewhere in the ARK, and ŽUPLJANIN's concerns about the international exposure of crimes were undoubtedly fuelled by a number of Miloš group reports.<sup>3113</sup>

## 2. Knowledge of Subordinates' Participation in the Unlawful Detention of the Non-Serb Population and the Mistreatment of Non-Serb Detainees

887. As discussed in Section III, both STANIŠIĆ and ŽUPLJANIN were aware early in the conflict that their subordinates were conducting mass arrests and detention of non-Serbs. Throughout the Indictment period, information from a variety of sources provided them with knowledge, or reason to know, that these ongoing activities of their subordinates were criminal, including, but not limited to, the following:

888. From May onwards, a few kilometres away from RSMUP headquarters, Muslim civilians were detained by police at SJB Pale and the adjacent cinema house without any legal basis.<sup>3114</sup> Considering the proximity to RSMUP headquarters, STANIŠIĆ must have known of this detention facility.

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<sup>3109</sup> Radulović, T.10729-34, T.10997, T.11121, T.11130, T.11199-201, T.11206-10. See P2399; P2400; Šainović, T.25293-8.

<sup>3110</sup> Radulović, T.10950-1; Šainović, T.25241-4, T.25251-4, T.25259-60, T.25267-8, T.25281-3, T.25285-93, T.25319.

<sup>3111</sup> See, e.g., P835; P1353.12; P1353.14; P1384; [REDACTED]; P2398; 1D303.

<sup>3112</sup> 1D324.

<sup>3113</sup> [REDACTED]; [REDACTED].

<sup>3114</sup> Radulović, T.10902; [REDACTED]; P1391; P1392.

<sup>3114</sup> ST-127, T.11851-3.

889. On or around 16 May, STANIŠIĆ was informed directly by State Security Chief Škipina about the 400 non-Serb civilians expelled from Bratunac and brought to Pale.<sup>3115</sup>

890. On 24 May, Derić wrote on behalf of the RS government to the U.S. Secretary of State that the Serbs were “holding no hostages, operating no concentration camps” and “killing no unarmed civilians,” to rebut allegations of such crimes appearing in the international media.<sup>3116</sup>

891. On 31 May, CSB Banja Luka was copied on SJB Prijedor Chief Drliča’s order establishing the Omarska detention facility to imprison both persons “captured in combat” or “detained on the grounds of the Security Services’ operational information”.<sup>3117</sup> In May, Radulović twice reported the problem of mass arrests of non-Serb men, women and children in Prijedor, and that these detainees were not given adequate food or shelter.<sup>3118</sup> By early July, ŽUPLJANIN was informed that at least 4,200 non-Serb had been detained at the police-secured Omarska and Keraterm detention facilities, and the police were arresting “people of interest to security” on a daily basis.<sup>3119</sup>

892. [REDACTED]<sup>3120</sup> [REDACTED]<sup>3121</sup> In June, Mandić sent Avlijaš to Vogošća following reports over the radio of bad conditions in detention facilities and “mass liquidations”.<sup>3122</sup> Around this period, Branko Vlačo, the SJB police officer who was in charge of the police guards at Sonja’s Restaurant and Bunker detention facilities,<sup>3123</sup> gave an interview on Serb television denying allegations of the arrest and mistreatment of Muslim women detainees at these facilities.<sup>3124</sup>

893. In June, several non-Serb civilians arrested during the takeover of Kotor Varoš were brought to the CSB Banja Luka building where they were interrogated and beaten. On 11 June, a non-Serb former police officer was made to lean against the wall of the CSB’s lobby by making a three-fingered salute, and police officers passing by would beat him. [REDACTED]<sup>3125</sup> Police interrogations and beatings at CSB Banja Luka continued throughout the indictment period.<sup>3126</sup>

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<sup>3115</sup> Škipina,T.8308-13;R.IHasanović,P2180,T.2409-10.

<sup>3116</sup> P179.16.

<sup>3117</sup> P1560.

<sup>3118</sup> P1376;P1377.

<sup>3119</sup> P657,pp.5-6.

<sup>3120</sup> [REDACTED].

<sup>3121</sup> [REDACTED];P1497;P1124,p.13.

<sup>3122</sup> Avlijaš,T.15586,T.15589-90.

<sup>3123</sup> [REDACTED];Avlijaš,T.15587,T.15634-5,T.15643-4;P1506,p.3.

<sup>3124</sup> P2370.

<sup>3125</sup> [REDACTED].

<sup>3126</sup> See para 133.

894. On 13 June, Drljača complained to ŽUPLJANIN that members of CSB Banja Luka Special Police Detachment were “arbitrarily arresting, interrogating and abusing prisoners”.<sup>3127</sup>

895. On 17 June, the SJB Sanski Most chief sent a dispatch to ŽUPLJANIN discussing the large number of “mostly” Muslim detainees at the SJB, and problems police faced in providing accommodation, food and healthcare to the detainees.<sup>3128</sup>

896. In the second half of June, Radulović informed ŽUPLJANIN about the inhumane conditions, abuse and killings he witnessed non-Serb detainees endure at the Omarska, Keraterm and Trnopolje detention facilities. ŽUPLJANIN told Radulović, “Radulc, it’s a war”.<sup>3129</sup> Around the same period, General Talić told a non-Serb delegation that he would request ŽUPLJANIN to release civilian detainees at civilian detention facilities where conditions were more “difficult.”<sup>3130</sup>

897. In June, SJB Zvornik reported to CSB Bijeljina that the Yellow Wasps were torturing and killing non-Serbs at the Čelopek Dom Kulture in Zvornik while reserve police officers stood by.<sup>3131</sup>

898. In a July report to CSB Banja Luka, the SJB Ključ chief reported that while the police were arresting, processing and sending non-Serbs to Manjača, “things happened that are not in the nature and are against the moral code of the Serbian people.” He justified such conduct on the grounds that “passions were running high.”<sup>3132</sup>

899. During the summer, Radulović reported to ŽUPLJANIN about rapes and other abuses of non-Serb prisoners at the sawmill in Kotor Varoš by members of the CSB Banja Luka Special Detachment. ŽUPLJANIN responded, “Well it’s wartime. Such things happen.” ŽUPLJANIN also received information concerning the mistreatment of non-Serb detainees in Kotor Varoš from SJB Kotor Varoš Chief Tepić and SDB Banja Luka Inspector Pejić. In October ŽUPLJANIN witnessed the poor state of non-Serb detainees when he visited the police-run prison in Kotor Varoš.<sup>3133</sup>

900. On 2 July, SJB Sanski Most reported to CSB Banja Luka that after combat operations began on 27 May, 366 persons were arrested. It also noted that 850 persons had been sent to Manjača camp. Some 500 were imprisoned in the Hasan Kikić sports hall.<sup>3134</sup> On 17 June, CSB Banja Luka

<sup>3127</sup> P659.

<sup>3128</sup> P411.21.

<sup>3129</sup> Radulović,T.10874-8;Šainović,T.25152-3.

<sup>3130</sup> P459.19.

<sup>3131</sup> Panić,T.2906.

<sup>3132</sup> P960.24,p.8.

<sup>3133</sup> See para 467.

<sup>3134</sup> P117.

Inspector Bojinović drafted an official note on the discovery of the bullet-ridden bodies of five Muslims killed during transport from Sanski Most detention facilities to Manjača.<sup>3135</sup> [REDACTED]<sup>3136</sup> ST-161 in his 18 August report to CSB Banja Luka informed ŽUPLJANIN that the Hasan Kikić sports hall, Betornirka enterprise and Krings factory were used to detain 1650 non-Serbs.<sup>3137</sup>

901. At the 11 July RSMUP collegium, ŽUPLJANIN reported that non-Serbs were being gathered into “undefined camps” left to the police to operate. He also reported that conditions at these facilities were bad. Bjelošević reported that in Doboј the army was bringing “people” for detention without accompanying documents for their arrest.<sup>3138</sup>

902. On 14 July, ŽUPLJANIN participated in an ARK BSL delegation that visited the Omarska and Keraterm detention facilities. At Omarska, the non-Serb detainees looked dishevelled and unwashed, and they were forced to give the Serb salute and sing Serb nationalist songs.<sup>3139</sup> [REDACTED]<sup>3140</sup> [REDACTED]<sup>3141</sup> In July-August, ŽUPLJANIN also visited Manjača camp on two occasions and spoke with detainees.<sup>3142</sup>

903. On 20 July, ŽUPLJANIN reported to STANIŠIĆ that several thousand Muslim men (including men above the age of 60, chronically sick people, minors and invalids) were detained in “various buildings like schools, centres, factory facilities, open air (playgrounds)”. ŽUPLJANIN’s subordinates had categorised detainees in three groups, the third being non-Serbs of no security interest who were held as “hostages”.<sup>3143</sup>

904. On 25 July, the IKK reported that 50 detainees were killed at Keraterm detention facility in Prijedor the previous night during a thwarted attempted “mass escape.”<sup>3144</sup> A Banja Luka SNB inspector working at Keraterm testified that the next day there were a number of police officers at Keraterm near where the bodies were and that everyone in Prijedor knew about the incident.<sup>3145</sup> The

<sup>3135</sup> P383.

<sup>3136</sup> [REDACTED].

<sup>3137</sup> P391,pp.2-3. *See also* P389.

<sup>3138</sup> P160,pp.7-9.

<sup>3139</sup> Mišković,T.15247-52;Sivac,T.13196-7;Radic,P2096,T.7136-42.

<sup>3140</sup> [REDACTED].

<sup>3141</sup> [REDACTED].

<sup>3142</sup> *See* paras. 139-140.

<sup>3143</sup> P583.

<sup>3144</sup> Brown,P1803,paras.2.124-2.125.

<sup>3145</sup> Rodić,T.14499-508;Janković,T.25029-30.

international media was also aware of the massacre, and during a November interview General Talić stated that the army had confirmed that no soldiers participated in this crime.<sup>3146</sup>

905. On 27 July, Bjelošević informed the RSMUP that “a certain number of persons” were detained at the Doboj Central Prison, and that there were three additional detention facilities, one under the authority of SJB Doboj, where “persons who have been moved out of zones of combat operations” were held.<sup>3147</sup>

906. On 8 August, Kovač informed Karadžić and Đerić by letter that RSMUP members participated in capturing non-Serbs in the war zones, and thereafter determined the length of their detention and their “entire destiny.” Kovač testified that STANIŠIĆ was aware of this.<sup>3148</sup> On 17 August, STANIŠIĆ sent an order to his CSBs reflecting that he was aware that “wild prisons” were used to detain non-Serb civilians. ŽUPLJANIN forwarded the order to his SJBs.<sup>3149</sup>

907. In mid-August, UN officials made public statements to the media regarding the RS detention facilities. The UNHCR Special Envoy described these facilities, along with the expulsion and killing of non-Serbs, as “ethnic cleansing.” UNHCR and ICRC brought these crimes directly to the attention of the Government and the VRS.<sup>3150</sup>

908. At the 20 August RSMUP collegium, STANIŠIĆ was informed that 140 Muslims were detained in Bileća and that the CSB was unable to guard and accommodate them.<sup>3151</sup> Two days later, a Joint RSMUP-RSMOJ report to the RS government stated that these prisoners were detained at the SJB and that some were over 60 years old.<sup>3152</sup> On 22 October, the RSMOJ issued another report informing the Government that “64 people of Muslim nationality” were currently detained in a prison under SJB Žvornik’s control.<sup>3153</sup>

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<sup>3146</sup> P622;Brown,P1803,para.2.89.

<sup>3147</sup> P590.

<sup>3148</sup> P192;Kovač,T.27050-1.

<sup>3149</sup> 1D56.

<sup>3150</sup> P179.13;[REDACTED];[REDACTED];[REDACTED];[REDACTED];[REDACTED];[REDACTED].

<sup>3151</sup> P163,p.5.

<sup>3152</sup> P165;Avljaš,T.15618-20.

<sup>3153</sup> P393,p.3.

909. In November, RSMUP inspectors reported to the RSMUP that since the beginning of the conflict, SJB Bosanski Šamac was holding non-Serb detainees at the police station.<sup>3154</sup> Later that month, SJB Bosanski Šamac Chief Todorović reported directly to the RSMUP that he had sent 104 prisoners to Batković camp.<sup>3155</sup> In December, RSMUP inspectors clarified in their report to the RSMUP that these and 66 other non-Serb detainees were held at a building next to the SJB under police guard.<sup>3156</sup> At least four months earlier, Bjelošević had informed STANIŠIĆ of Todorović's shortcomings as SJB Bosanski Šamac chief.<sup>3157</sup>

### 3. Knowledge of Subordinates' Participation in Unlawful Attacks on Non-Serb Villages

910. The Accused were also aware early in the conflict that their subordinates were participating along with other Serb forces in the forcible takeover of non-Serb towns and villages. Throughout the Indictment period, information received from various sources provided the Accused with the knowledge, or reason to know, that their subordinates' activities with regard to these attacks were criminal, including, but not limited to, the following:

911. A 21 April CSB Bijeljina report addressed to STANIŠIĆ informed him that Zvornik was under the control of the Serbian police and the TO, and that the town was being "mopped up."<sup>3158</sup> STANIŠIĆ included this information in his daily bulletin.<sup>3159</sup> By at least 18 April, the RSMUP had the contact number of the Zvornik CS headquarters and knew who to contact there.<sup>3160</sup>

912. On 7 May, ŽUPLJANIN informed STANIŠIĆ's assistant minister, Čedo Kljajić, that SJB Ključ Chief Kondić and his police force had finished taking over power in the municipality, and that they left "them" (non-Serbs) with "[n]othing under the sun."<sup>3161</sup>

913. At the end of May, Radulović told ŽUPLJANIN about the atrocities committed by the police during attacks on Prijedor villages such as Hambarine, Kozarac and Brišcevo and the subsequent imprisonment of people at Trnopolje, Omarska and Keraterm detention facilities.<sup>3162</sup>

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<sup>3154</sup> P406,p.7.

<sup>3155</sup> P1882.

<sup>3156</sup> P408,p.4. See [REDACTED].

<sup>3157</sup> Bjelošević,T.21105-6.

<sup>3158</sup> P141;Nielsen,P508,para.231.

<sup>3159</sup> P155,pp.3-4.

<sup>3160</sup> P1201.

<sup>3161</sup> P1124,p.1.

<sup>3162</sup> Radulović,T.10850-5.

The police participation in these attacks, “periodical inspections of the terrain,” arrests and securing detention facilities was confirmed in Drljača’s June and August reports to CSB Banja Luka.<sup>3163</sup>

914. On 10 July, SJB Ključ Chief Kondić received a report from Sanica police station indicating that this station, assisted by members of the SJB intervention platoon, took part in “mopping up” the area of the village of Biljani and put prisoners in the Biljani school,<sup>3164</sup> during which around 144 Muslims were executed.<sup>3165</sup> The next day “it was the talk of the town.”<sup>3166</sup> ST-218 believed that ŽUPLJANIN was informed of it “by way of a regular report.”<sup>3167</sup>

#### 4. Knowledge of Subordinates’ Participation in Expulsions of Non-Serbs

915. In addition, the Accused knew, or had reason to know, that their subordinates were participating along with other Serb forces in the mass expulsion of the non-Serb population, including, but not limited to, the following:

916. On 15 August SJB Bosanski Novi Chief Kutlija reported to CSB Banja Luka that on 9-10 June the police escorted a trainload of 4,000 non-Serbs from Blagaj Japra to Doboj, where 650-700 men were separated from the group, sent back to Bosanski Novi and detained at the Mlakve stadium. In addition, police had permanently “deregistered” approximately 5,670 non-Serbs who signed written statements that their “resettlement was voluntary.”<sup>3168</sup>

917. On 6 July, SJB Pale sent a report to CSB Sarajevo informing them that between 30 June and 3 July, the police organised and escorted busloads of approximately 1,000 non-Serbs from Pale.<sup>3169</sup>

918. In a July report to the RSMUP, SJB Chief Perišić reported that over 2,000 Muslims were moved out of Višegrad “in an organised manner” and proposed that “this process should be continued in a coordinated way on some higher level.”<sup>3170</sup>

919. [REDACTED]<sup>3171</sup>

<sup>3163</sup> P657;P669.

<sup>3164</sup> P1654.

<sup>3165</sup> AF564-AF566.

<sup>3166</sup> Vračar,2D180,T.23889.

<sup>3167</sup> ST-218,T.15980.

<sup>3168</sup> P755,pp.2-4.

<sup>3169</sup> P1458.

<sup>3170</sup> P633,p.6.

920. On 18 August, ST-161 reported to CSB Banja Luka that 12,000 – mainly Muslims – had recently applied to the SJB Sanski Most to permanently move out of the RS.<sup>3172</sup>

##### 5. Knowledge of Subordinates' Other Serious Crimes against the Non-Serb Population

921. Furthermore, the Accused knew, or had reason to know, about the criminal propensities of subordinates, including a number of crimes they were committing against the non-Serb population. This information included, *inter alia*, the following:

922. [REDACTED]<sup>3173</sup>

923. Radulović reported directly to ŽUPLJANIN that police from CSB Banja Luka driving a red kombi were arresting and beating non-Serbs. ŽUPLJANIN replied to Radulović, “These are Serbian heroes,” and the red kombi continued to terrorise non-Serbs throughout the Indictment period.<sup>3174</sup>

924. On 11 May, STANIŠIĆ sent a memorandum to his CSB chiefs, which ŽUPLJANIN forwarded to his SJB chiefs, noting that following “war-time conflicts” there were instances of unprincipled behaviour among the police reserve forces in “certain” SJBs.<sup>3175</sup>

925. Also in May, ST-179 reported to CSB Sarajevo and RSMUP headquarters that the SJB’s special police platoon was “causing problems around town, disturbing public order and violating the law.”<sup>3176</sup>

926. ŽUPLJANIN was aware of the criminal propensities of the members of the CSB Banja Luka Special Police Detachment when he absorbed members of the Banja Luka SOS into that unit.<sup>3177</sup> On 17 May, a Miloš group report informed STANIŠIĆ and ŽUPLJANIN about crimes committed by the Detachment and Božović’s Red Berets against the non-Serb population, including “searching of non-Serb homes” and “incorrect behaviour” during arrests with “visible injuries” on detainees.<sup>3178</sup> By the end of that month, everyone in Doboj was aware of conditions of detention and mistreatment of prisoners, and this information was forwarded to the RSMUP.<sup>3179</sup> Radulović informed

<sup>3171</sup> [REDACTED];[REDACTED].

<sup>3172</sup> P391,p.2.

<sup>3173</sup> [REDACTED];[REDACTED].

<sup>3174</sup> Radulović,T.10812-20.

<sup>3175</sup> P1013.

<sup>3176</sup> ST-179,T.7459-60.

<sup>3177</sup> See paras.129, 723.

<sup>3178</sup> P1337;Radulović,T.11106.

<sup>3179</sup> O.Petrović,T.9862-5.

ŽUPLJANIN directly about the criminal behaviour of the Detachment. Although they were eventually withdrawn from Doboј, they took their loot with them.<sup>3180</sup>

927. On 21 May ŽUPLJANIN was informed by the SJB Bosanski Novi chief that members of the CSB Banja Luka Special Police Detachment were entering non-Serb homes by force, abusing the occupants and stealing their property. The SJB chief reminded ŽUPLJANIN of this in an August report.<sup>3181</sup>

928. Beginning 4 June and thereafter, ŽUPLJANIN received numerous reports from SJB Banja Luka about the violent nature of members of the CSB Banja Luka Special Police Detachment.<sup>3182</sup>

929. On 17 June, Inspector Andan reported to the RSMUP that a large number of crimes had been committed by members of SJB Brčko, and that Goran Jelisić was bragging about committing the rapes and murders of Muslims. There were also allegations against CSB Bijeljina Chief Ješurić for profiteering.<sup>3183</sup>

930. On 26 June, Radulović reported through the RSMUP chain-of-command that CSB Banja Luka employees engaged at CSB Doboј had complained about the disorganisation at that Centre and the misconduct of its employees.<sup>3184</sup>

931. At the end of June, the Kotor Varoš CS president met with ŽUPLJANIN and informed him about the killing of non-Serbs at the local hospital and other criminal behaviour by members of CSB Banja Luka's Special Police Detachment.<sup>3185</sup>

932. In July, SJB Chief Perišić reported directly to the RSMUP on the “lack of discipline and professionalism, abuses of office, misappropriation of material and other shortcomings” of the police in Višegrad. In addition, Perišić reported that there were persons in the police linked to local criminals and inclined to commit crimes.<sup>3186</sup> The killing of 70 non-Serbs on Pionirska street in Višegrad by two members of the police is likely to have been reported as well, as the SJB was duty-bound to report murders of civilians. According to one inspector's recollection, such a dispatch may have been sent from the SJB in July.<sup>3187</sup>

<sup>3180</sup> Radulović, T.10795-806.

<sup>3181</sup> P567;P755,p.5.

<sup>3182</sup> P1081;P1085;P1088.

<sup>3183</sup> P338,pp.3-6.

<sup>3184</sup> P1382.

<sup>3185</sup> Dekanović, T.1107-10;P81.

<sup>3186</sup> P633.

<sup>3187</sup> Orašanin, T.22130-5.

933. At the 11 July RSMUP collegium, Planojević reported that looting was most frequently committed during the “mopping up of territory” by the police, army and paramilitaries.<sup>3188</sup>

934. On 17 August, CSB Sarajevo informed the RSMUP of instances of “oppressive” and unlawful acts by members of the reserve police force working together with paramilitary formations.<sup>3189</sup>

935. At the 20 August RSMUP collegium, STANIŠIĆ was informed that members of units on Mount Ozren, along with members of the Doboј police, were wilfully looting, killing and conducting arrests.<sup>3190</sup>

936. Between August and October, STANIŠIĆ became aware of the criminal propensities of the police at SJB Vogošća through his investigation of the vehicle thefts from the TAS factory.<sup>3191</sup>

937. On 16 September, Radulović reported through the RSMUP chain-of-command that the police in Prijedor were frequently engaging in looting.<sup>3192</sup>

938. In September 1992, members of the RSMUP Special Police Platoon, led by Duško Malović, murdered three non-Serb families in Bijeljina, and this crime was reported by the local media.<sup>3193</sup> Malović’s men were already notorious for their use of violence.<sup>3194</sup> When asked during a press interview in October about the abuse of power by RSMUP special units in Bijeljina, STANIŠIĆ defended his men.<sup>3195</sup> In a 2002 statement, STANIŠIĆ claimed that at the time he had placed Malović’s unit at Mićo Davidović’s disposal and under the full control of Kovač and Kljajić,<sup>3196</sup> something which both Davidović and Kovač deny.<sup>3197</sup> After Davidović’s interview with the Prosecution in 2004, STANIŠIĆ contacted him and asked him to not mention STANIŠIĆ’s name in connection with this killing.<sup>3198</sup>

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<sup>3188</sup> P160,p.17.

<sup>3189</sup> P630,p.5.

<sup>3190</sup> P163,pp.6-7.

<sup>3191</sup> See paras. 692-6.

<sup>3192</sup> P1389.

<sup>3193</sup> See para.116;P1543,pp.102,107;M.Davidović,T.13553.

<sup>3194</sup> M.Davidović,T.13604-6;P1557.1,paras.149-157;M.Davidović,P1557.4,T.14314-7;[REDACTED].

<sup>3195</sup> P737,p.3.

<sup>3196</sup> P1543,p.62

<sup>3197</sup> M.Davidović,T.13550-1;P2460,pp.4-5.

<sup>3198</sup> M.Davidović,T.13552-3.

939. In September, CSB Trebinje informed the RSMUP that “unchecked employees” were inclined to “committing felonies and misdemeanours” and were “war profiteers and other undesirable characters.”<sup>3199</sup>

940. In early October, STANIŠIĆ was informed by ŽUPLJANIN that his subordinates were again “making use of war conditions” and had “engaged in various criminal activities, illegally misappropriated items and things from citizens” and “mistreated and physically assaulted citizens” at checkpoints.<sup>3200</sup>

941. During his October press interview, STANIŠIĆ admitted knowing that his police had engaged in profiteering and other criminal acts.<sup>3201</sup> At the November BSA session, STANIŠIĆ again acknowledged that there were “thieves and criminals” among his subordinates.<sup>3202</sup>

### **C. The Accused failed to take necessary and reasonable measures to prevent or punish police crimes**

942. The Serb police committed widespread crimes against the non-Serb population in the 20 charged municipalities and failed to carry out their legal duty to protect and investigate such crimes. Although STANIŠIĆ and ŽUPLJANIN wielded significant power over their subordinates, and they had resources at their disposal to investigate and punish them, they rarely took measures against their subordinates’ misconduct towards non-Serbs, beyond general instructions to obey the law and investigate crime. In the limited instances where the Accused reacted to police crimes against non-Serbs, their actions were superficial or inadequate, and usually motivated by other factors (such as concern about bad publicity or for the safety of the Serb population). The Accused’s inaction sent a clear message to their subordinates that they accepted, if not encouraged, such conduct, increasing the risk of additional crimes being committed.<sup>3203</sup>

#### **1. The Accused’s general orders to subordinates to obey the law and punish police perpetrators were insufficient to discharge their duty to prevent or punish**

943. It is not disputed that, on occasion, the Accused issued general orders instructing their subordinates to obey the law and investigate police crimes. As a matter of law, such orders are

<sup>3199</sup> P634,p.5.

<sup>3200</sup> P621,pp.45-47.

<sup>3201</sup> P737,pp.2,4.

<sup>3202</sup> P400,p.17;Nielsen,P508,para.213.

<sup>3203</sup> *Strugar* AJ,para.301;*Hadžihasanović* AJ,para.30.

insufficient to discharge a superior's duty to prevent or punish their subordinate's crimes.<sup>3204</sup> Moreover, viewed within their context, it becomes clear that these general orders were both too generic (failing explicitly to address crimes against the non-Serb population) and too narrow (focusing on crimes that bore little relation to those charged in the Indictment).

944. With few exceptions, the orders issued by the Accused between April-December were aimed at two forms of police misconduct: (1) property theft and (2) to a much lesser extent, the treatment of prisoners. STANIŠIĆ issued his first order relating to property theft on 17 April, instructing his CSB and SJB chiefs to apply strict measures against police officers who illegally take possession of property belonging to "citizens, companies and institutions."<sup>3205</sup> This order was followed by similar orders by ŽUPLJANIN on 23 June and STANIŠIĆ on 6 September.<sup>3206</sup> None explicitly or expressly addressed property crimes committed against non-Serbs. Although in times of peace such specificity may be unnecessary, during a period of ethnic strife, logic deems it indispensable to ensure that such orders are not applied discriminatorily. Moreover, the context of these orders shows that they were primarily directed at the protection of Serb and RS government property, and in particular, the thefts of Golf cars from Vogošća's TAS factory.<sup>3207</sup>

945. Although the Accused were aware early on that their subordinates were actively involved in the establishment and operation of detention facilities where non-Serbs were imprisoned,<sup>3208</sup> neither issued orders concerning the treatment of non-Serb detainees before mid-August. The only pre-August reference to detainees is found at the end of Planojević's 5 June memorandum, where he remarked that the police should treat POWs in accordance with humanitarian law, which, as already noted, was too hortatory, limited and vague to fulfil any supervisory duty.<sup>3209</sup> Only after international pressure was brought to bear on the BSL with the exposure of the Prijedor and Manjača detention facilities, did STANIŠIĆ issue his 10<sup>th</sup> and 17<sup>th</sup> August orders, which ŽUPLJANIN eventually forwarded to his subordinates. However, as explained earlier in this Brief, these orders again failed to address specifically crimes against non-Serb detainees, referring only to "people" in detention and "refugees." Although for the first time STANIŠIĆ called for "disciplinary and, if needed, other measures against anyone who does not obey" these orders, nothing in these

<sup>3204</sup> *R.Delić* TJ,para.544; *I.Ialilović*,TJ,para.89; *Strugar* TJ,para.374.

<sup>3205</sup> P1252.

<sup>3206</sup> P1016;1D64.

<sup>3207</sup> Nielsen, P508,paras.256-7,259,395;P277,p.2;P245,p.6;P428,p.9;P400,p.49;1D106,p.2. See generally paras.692-6.

<sup>3208</sup> See Sections III.B.6.(a)

<sup>3209</sup> P568; 1D85. See para 689.

instructions required that police officers responsible for the creation of “wild prisons” or past abuses of non-Serb detainees must be disciplined or criminally charged.<sup>3210</sup>

946. On a few occasions ŽUPLJANIN reacted to particular police crimes by issuing general instructions for his subordinates to discipline police officers involved in such behaviour.<sup>3211</sup> However, none of these orders expressly addressed crimes committed against non-Serbs, and their context suggests that ŽUPLJANIN had other issues in mind. In his 30 April telegram, ŽUPLJANIN identifies certain “illegal behaviour” by his subordinates, including the failure of certain SJBs to send police officers to assist SJB Bosanska Krupa, the involvement of an SJB Ključ police officer in arms smuggling and the murder of a Serb by two SJB Banja Luka police officers – none of which involved police crimes against non-Serbs.<sup>3212</sup> Likewise, the only police crime ŽUPLJANIN specifically mentions in his 30 July order is the illegal confiscation and appropriation of “objects and property from citizens.”<sup>3213</sup>

947. All that these orders establish is that the Accused knew (1) that their subordinates had criminal propensities and (2) that general orders – no matter how many times re-issued – were ineffective in preventing or punishing police crimes. It was therefore foreseeable to the Accused that these orders would be ineffectual in preventing or punishing crimes committed by the police against the non-Serb population.

**2. STANIŠIĆ’s general orders to send subordinates who have committed crimes to the VRS did not Constitute punishment**

948. Even less effective towards preventing and punishing police crimes were the orders STANIŠIĆ began issuing in late July 1992 instructing subordinates to remove reserve and active policemen who had committed crimes from their ranks and make them available to the VRS.<sup>3214</sup> As with his other orders, these failed to specifically address police crimes against the non-Serbs.

949. These orders are also troubling in other respects. First, in them STANIŠIĆ never instructs his subordinates to investigate and ensure the prosecution of police crimes. Rather, his sole demand is that wayward police be sent to the VRS, regardless of whether criminal investigations or proceedings have been initiated. Second, he does not distinguish between minor offences and

<sup>3210</sup> 1D55;1D56;P605;P606.

<sup>3211</sup> P367,p.2;P1002,p.2;2D25,p.4.

<sup>3212</sup> P1002;Rodić,T.8813-4,T.8817.

<sup>3213</sup> 2D25.

<sup>3214</sup> 1D58;1D59;P592;1D176;1D584;1D60,p.4;P855.

serious crimes. The orders therefore suggest that even police perpetrators for whom detention was mandatory (as should have been the case for crimes charged in the Indictment schedules) should instead be sent to the army. Third, not once does STANIŠIĆ instruct his subordinates to inform the VRS of the police perpetrators' crimes. Thus, a policeman who murdered non-Serb civilians detained at Omarska could be sent to the army to guard non-Serb civilian detainees at Manjača without the army knowing about his criminal propensities.

950. Moreover, STANIŠIĆ conflated his orders to send police criminals to the VRS with his contemporaneous orders to downsize the police force, and in particular, the reserve and special police units. For instance, in his 27 July order STANIŠIĆ classified both types of police officers as "surplus" to be immediately put at the disposal of the army.<sup>3215</sup> The transfer of reserve and special police officers to the army was therefore not punishment *per se*, but rather the result of an agreement between STANIŠIĆ and General Mladić to augment the army with police officers no longer needed by the RSMUP.<sup>3216</sup> The reaction to the portion of the order to remove criminal police officers was lukewarm. At CSB Banja Luka ŽUPLJANIN and his subordinate leaders reported that they had suspended "a few" employees pursuant to this order, and demanded further explanation whether by "removed" STANIŠIĆ meant "termination".<sup>3217</sup> The most criminally responsible members of the CSB Banja Luka Special Police Detachment, as well as other units such as the SJB Prijedor Intervention Platoon and Vlasenica Special Police Platoon, remained with the police throughout 1992.<sup>3218</sup> In contrast, the CSBs readily complied with the "rationalisation" of their reserve and special forces, transferring large numbers of them to the VRS by the end of the year.<sup>3219</sup> Only in mid-December did STANIŠIĆ order that criminal background checks be conducted for all RSMUP employees and forbid the payment of employees for whom such checks had not been made.<sup>3220</sup>

951. STANIŠIĆ's orders therefore simply shifted the problem of police criminals from one organ of the JCE to another when it was expedient to do so. As STANIŠIĆ repeatedly acknowledged, the RSMUP initially took "everyone" into the police,<sup>3221</sup> and implemented a personnel policy primarily based on, *inter alia*, "Serbian patriotism."<sup>3222</sup> Towards the end of July, after these problematic

<sup>3215</sup> 1D176.

<sup>3216</sup> See, e.g., P1755, pp.374.

<sup>3217</sup> P631, p.2.

<sup>3218</sup> See paras. 742, 750 and 236.

<sup>3219</sup> See P625, p.27 (only 210 RSMUP employees were dismissed while 6,167 were sent to the VRS); P1094, p.1; P158, p.3; 1D509; 1D49.

<sup>3220</sup> 1D48.

<sup>3221</sup> P1755, p.373.

<sup>3222</sup> P625, p.27.

policemen were no longer needed, STANIŠIĆ felt the RSMUP was “now in a position to choose policemen,” and advocated sending the surplus to the army.<sup>3223</sup> When forced to defend his performance as Minister before the BSA in November, STANIŠIĆ expressed this succinctly:

[I]n the beginning we did that, because there were reserves in the police, we wanted the country defended, so they [sic] took on thieves and criminals, because I tell you, not a single doctor picked up a rifle to defend his country, not a single intellectual. Our priority, our intentions were good and maybe that is where we went wrong, maybe that is where I went wrong, agreed, but in that case I should be told clearly: “that is where you went wrong, sir, you can’t do that, this is no longer a job for you”. But we have been able to free ourselves of that, now I know that the Army faces the same problem and now there are all kinds of explanations, that the Army is criminal, that it’s this or it’s that, and I don’t agree with any of it. I believe that ours is an honorable Army which does its job, but there are individuals in the Army who really [...] can be qualified in certain ways [...].<sup>3224</sup>

By merely reallocating criminally-inclined policemen to the army where they could continue to engage in criminal conduct, STANIŠIĆ’s orders neither prevented these police criminals from committing future crimes, nor punished them for past crimes, against non-Serbs.

### 3. The Accused failed to inquire into the specific problem of police crimes against non-Serbs

952. Under the RSMUP laws and regulations, the RSMUP leadership had to be informed of all criminal conduct by police officers, and failure to report such information (or providing misinformation) was, at the very least, a disciplinary offence.<sup>3225</sup> While general statistical reporting of criminal and disciplinary cases against police officers was requested and received by STANIŠIĆ and ŽUPIJANIN,<sup>3226</sup> given that the Accused knew or had reason to know that their subordinates were engaged in crimes against non-Serbs, they were under a legal duty to make further inquiries to determine: (1) the full extent of these offences; (2) if these offences had not been reported immediately to them, why not; and (3) what must be done to resolve these problems.<sup>3227</sup> The Accused were then required to take proactive, concrete steps to ensure those police crimes were punished.<sup>3228</sup> This never happened.

953. The Accused never adequately enquired into the role of their subordinates in crimes committed against non-Serbs at the numerous detention facilities throughout the RS. STANIŠIĆ issued three orders to his subordinate CSBs and SJBs for information concerning detention facilities in the municipalities, none of which demanded specific information concerning police participation

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<sup>3223</sup> P1755,p.374. See also P1818,p.2 (army commanders were authorised to accept MUP officers with dubious pasts into their ranks).

<sup>3224</sup> P400,p.17.

<sup>3225</sup> Rodić,T.8800-1;Bjelošević,T.21318;P1270 (STANIŠIĆ ordered that SJB chiefs who failed to report to the CSB and RSMUP faced disciplinary measures);[REDACTED].

<sup>3226</sup> P625,p.27;P624,p.5;P169,p.3;1D584;1D190;1D191.

<sup>3227</sup> Boškoski TJ,paras.418,519;Brđanin TJ,para.281;Aleksovski TJ,para.78.

<sup>3228</sup> Boškoski TJ,para.519.

in the mistreatment of detainees.<sup>3229</sup> Although the RSMUP participated in an RS government commission to inspect detention facilities, and ŽUPLJANIN established a CSB Banja Luka commission to report on detention facilities in three of his municipalities, the resulting reports provided virtually no information on the conditions that previously existed at the detention facilities, the fate of the non-Serb detainees or the identity of those responsible for crimes at these facilities.<sup>3230</sup> Rather than rejecting these reports and sending out teams of inspectors to uncover the truth about their subordinates' role in these facilities, the Accused took no further action.

954. While STANIŠIĆ sent RSMUP Police Administration and Crime Police inspectors throughout the RS to inspect his CSBs and SJBs, he never assigned them the task to investigate the police role in the detention facilities.<sup>3231</sup> For example, around the time of the international outcry over the Prijedor detention facilities, STANIŠIĆ sent two inspectors to CSB Banja Luka for the sole purpose of disbanding the regional special police units. When the inspectors wrote in their 5 August report that SJB Prijedor had an excessive number of police securing makeshift detention facilities, STANIŠIĆ did not ask them to further investigate these or other facilities.<sup>3232</sup> When asked at trial why he did not gather more information about these facilities on his own, the former inspector exemplified the rigid RSMUP hierarchy:

Well, that wasn't my duty, my task. And I thought I didn't need to, that it was sufficient for me to write a report. And then if there was some intervention to be made, or conclusions to be made, or order, then, on the basis of that report of mine, that's what would happen.<sup>3233</sup>

Similarly, in November Assistant RSMUP Minister Kovač sent three inspectors to Bosanski Šamac for the limited purpose of investigating the circumstances surrounding the arrest of SJB Bosanski Šamac Chief Todorović and the municipal president. In the report they submitted to STANIŠIĆ, the inspectors noted that non-Serbs were imprisoned at the police station under police guard since the conflict began.<sup>3234</sup> [REDACTED]<sup>3235</sup>

955. Instead of trying to get to the bottom of police crimes, STANIŠIĆ and ŽUPLJANIN actively sought to minimise the criminal and disciplinary infractions of their subordinates. At the 20 August RSMUP collegium, STANIŠIĆ told senior staff, "We must fully support each and every one of our

<sup>3229</sup> 1D76;1D563;1D57.

<sup>3230</sup> See Section III.C.6.(d);P165;P194;P393.

<sup>3231</sup> See generally testimony of Andan, ST-121

, Orašanin and Gajić, none of whom testified they were instructed to investigate detention facilities when conducting inspections.

<sup>3232</sup> Gajić,T.12820,T.12838-9,T.12845-6,T.12900,T.12932-5.

<sup>3233</sup> Gajić,T.12839.

<sup>3234</sup> [REDACTED];P406,pp.7-8.

<sup>3235</sup> [REDACTED].

members, even when they overstep the bounds of lawful authority to a limited degree.”<sup>3236</sup> In October, STANIŠIĆ remarked during a press interview that instances when the RSMUP had to expel members from their ranks were “rare,” and only because those members “committed individual acts succumbing to base instincts.”<sup>3237</sup> In August 1993, ŽUPIJANIN lambasted SJB Banja Luka Chief Tutuš for speaking to the media about the unpunished crimes of members of the CSB Banja Luka Special Police Detachment in 1992: “Blaming the CSB for potential transgressions of former members of the Police Detachment for Special Purposes is inappropriate or tendentious, to say the least.”<sup>3238</sup>

#### 4. The Accused failed to discipline their subordinates for crimes committed against non-Serbs

956. None of the purposes behind disciplinary proceedings outlined in paragraphs 852-6 above were ever achieved because neither Accused used his disciplinary powers to prevent or punish police officers for committing crimes against non-Serbs. Moreover, the evidence shows that their subordinates likewise failed to use the disciplinary mechanisms as a means to deter or punish crimes against non-Serbs.

957. From his review of the CSB Banja Luka disciplinary logbook, and his personal knowledge of disciplinary cases, Rodić confirmed that none of the 17 disciplinary cases brought against Serb police officers by CSB Banja Luka between April-December involved crimes against non-Serb victims.<sup>3239</sup> An identical picture emerges elsewhere in the RS. Indeed, although the police officers discussed in paragraph 860 of this Brief were disciplined for a variety of offenses, none were disciplined for the crimes they or their subordinates committed against non-Serbs.<sup>3240</sup> SJB Vlasenica was a telling example. [REDACTED]<sup>3241</sup>

958. Noticeably excluded from any disciplinary action by the Accused were SJB Chiefs Koroman, Todorović and Drljača. Far from being disciplined, they received promotions, awards and appointments on commissions:

- ST-127 testified that their complaints about Koroman’s performance as SJB Pale chief were well-known to the RSMUP leadership, and that they had a conversation about them with

<sup>3236</sup> P163,pp.14-5.

<sup>3237</sup> P737,p.2.

<sup>3238</sup> P2041;P1040,pp.3-4.

<sup>3239</sup> Rodić,T.8835.

<sup>3240</sup> [REDACTED];Bjelošević,T.19924-5,T.21165-6;P2343; Draško,T.12293-4.

<sup>3241</sup> [REDACTED];[REDACTED];[REDACTED];ST-179,T.7466,T.7517-9;1D190;1D191.

STANIŠIĆ in late 1992.<sup>3242</sup> Having closely followed the Yellow Wasps investigation, STANIŠIĆ would have also been aware that Koroman was responsible for arming that paramilitary group.<sup>3243</sup> Yet Kovač was unaware of any disciplinary actions taken against Koroman in 1992.<sup>3244</sup> Instead, Koroman was promoted to the RSMUP Administration for Police Tasks and Duties in January 1993, chief of CSB Romanija-Birač Department of Police Duties by STANIŠIĆ in January 1994, chief inspector of the RSMUP Police Special Operations by STANIŠIĆ in May 1994, and early to the rank of colonel by Kovač in October 1995.<sup>3245</sup> In November 1993 Koroman was awarded the Karadordević Star 2<sup>nd</sup> Class.<sup>3246</sup>

- [REDACTED]<sup>3247</sup> and shortly thereafter CSB Doboј Chief Bjelošević recommended to STANIŠIĆ that Todorović be replaced for “frequent gross violations of the performance of his duties.”<sup>3248</sup> Bjelošević claimed he couldn’t launch such disciplinary proceedings himself.<sup>3249</sup> He also asserted that Todorović was “immune” from disciplinary action because he was appointed by the local CS, although Bjelošević provided no legal basis for this.<sup>3250</sup> Nothing prevented STANIŠIĆ and Bjelošević from issuing a decision that Todorović was no longer SJB chief and appointing someone else to that position. Instead, [REDACTED]<sup>3251</sup> and Todorović continued to attend CSB Doboј meetings and report events (such as the transfer of police detainees to Batković) throughout the rest of 1992.<sup>3252</sup> In June 1993, the RSMUP Minister appointed Todorović SJB Šamac chief, retroactively from 28 March 1992,<sup>3253</sup> and he remained in that position until he voluntarily terminated his employment in 1996.<sup>3254</sup> In November 1993, Todorović was awarded the Medal for the Services to the Nation.<sup>3255</sup>
- Although the Accused had information warranting the instigation of disciplinary proceedings against Simo Drljača, this never happened. Drljača regularly attended the CSB Banja Luka collegiums, as well as other meetings with ŽUPLJANIN, the CSB Banja Luka leadership and

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<sup>3242</sup> ST-127,T.11905-9;P1457;[REDACTED];[REDACTED].

<sup>3243</sup> P833,pp.2-3;P834,p.1.

<sup>3244</sup> Kovač,T.27086-8.

<sup>3245</sup> P2461;Kovač,T.27177-81.

<sup>3246</sup> P732,p.3.

<sup>3247</sup> [REDACTED];P406,p.1.

<sup>3248</sup> 1D518;1D515;1D517.

<sup>3249</sup> Bjelošević,T.21108.

<sup>3250</sup> Bjelošević,T.19918-9,T.21105-10,T.21115-6. If such a technicality stood in the way of disciplinary proceedings, STANIŠIĆ could have retroactively appointed Todorović SJB chief and then immediately suspended him .

<sup>3251</sup> [REDACTED];P407.

<sup>3252</sup> P1882;P2338;Bjelošević,T.21105-10.

<sup>3253</sup> P2438.

<sup>3254</sup> P2443.

<sup>3255</sup> P732,p.12.

BSL.<sup>3256</sup> Some witnesses sought to excuse the Accused's failure to discipline Drljača by claiming he was "untouchable," protected by members of the BSL or too dangerous to remove.<sup>3257</sup> This does not explain why, on 30 July, ŽUPLJANIN appointed Drljača SJB Prijedor chief retroactively from 29 April "with prior approval" from STANIŠIĆ.<sup>3258</sup> By that date, ŽUPLJANIN was fully aware of the fate of the non-Serb population in Prijedor, and had visited Omarska and Keraterm detention facilities. Nor were any witnesses able to explain why Drljača was given, and readily accepted, a promotion to RSMUP Assistant Minister in April 1993 and at the same time was appointed, ironically, as RSMUP representative on the prisoner exchange commission.<sup>3259</sup> In November 1993, Drljača was a member of the RSMUP commemoration committee, and he was awarded the Karadorđević Star 1<sup>st</sup> Class.<sup>3260</sup> During STANIŠIĆ's second term as Minister of RSMUP in 1994, he again took no steps to discipline Drljača. Instead he appointed Drljača first as assistant chief of CSB Banja Luka in January and then chief of CJB Prijedor in April 1994. In October 1995, Kovač promoted Drljača early to colonel.<sup>3261</sup>

959. There is no evidence that members of the special police units or reserve police were disciplined for their crimes or serious derelictions against non-Serbs. Although many were eventually transferred to the VRS, as discussed above, this was not as a form of punishment. Moreover, even had reserve and special police perpetrators been punished for their crimes against non-Serbs, this would not have fully satisfied the Accused's obligation to prevent and punish the police crimes charged. Those perpetrators reported to active duty police commanders, none of whom were disciplined for failing to prevent or punish misconduct of their subordinates.<sup>3262</sup>

960. For example, Željko Mejakić, the commander of SM Omarska, was in charge of the active and reserve police officers guarding non-Serb detainees at Omarska.<sup>3263</sup> [REDACTED]<sup>3264</sup> [REDACTED] Nor was SZ-007 investigated for his role as warden of the Sanski Most detention facilities, even though ŽUPLJANIN was aware that the police were responsible for the security of the detainees, that at least one detainee had died while in custody and that 20 others "perished

<sup>3256</sup> Avlijaš, T.15662-5;[REDACTED];P367,p.1;Radulović, T.10966.

<sup>3257</sup> Kovač, T.27072-4;Avlijaš, T.15666;Radulović, T.11088-9.

<sup>3258</sup> P2463;Kovač, T.27184-6.

<sup>3259</sup> P759,p.1;Avlijaš, T.15652-3,T.15666-7.

<sup>3260</sup> P732,p.1;Kovač, T.27137-9.

<sup>3261</sup> P2462;Kovač, T.27187-8.

<sup>3262</sup> ŽUPLJANIN recognised this duty. See P605,p.1 ("If the above orders are not followed, legal measures shall be taken against chiefs who are themselves obliged to take measures against individual members of an organisational unit under their command who disobey the above orders").

<sup>3263</sup> ST-245, T.16730-2;P661.

<sup>3264</sup> [REDACTED];[REDACTED].

during transportation" to Manjača camp.<sup>3265</sup> [REDACTED]<sup>3266</sup> [REDACTED]<sup>3267</sup> Vlačo continued to be directly involved in the fate of non-Serb prisoners.<sup>3268</sup>

##### 5. The Accused failed to criminally investigate police crimes against non-Serbs

961. STANIŠIĆ and ŽUPLJANIN should have subjected police perpetrators of crimes against non-Serbs to the same criminal procedures as any other perpetrator. But this was not the case. In the few instances in which investigations were initiated for police crimes against non-Serbs, the police investigations were inadequately conducted or abruptly ended, and the police perpetrators were never held accountable for their crimes.

962. [REDACTED]<sup>3269</sup> [REDACTED]<sup>3270</sup> One was filed by SJB Teslić against police members of the Mić Group and another was filed by SJB Banja Luka against three members of the CSB Banja Luka Special Police Detachment. Both are discussed further below. The third was filed by SJB Banja Luka on 25 December against Radomir Sejmanović, a former member of the special police who committed the crime in October 1992 after he had joined the VRS, for robbing a Muslim.<sup>3271</sup> The final criminal report, also filed by SJB Banja Luka, charged a Serb police officer from SJB Prnjavor (a municipality outside the scope of the Indictment) with robbing a non-Serb.

963. Vasić's findings are confirmed by other evidence in this case. For example:

- Eight of the ten police employees reported in CSB Romanija-Birač's annual report as having been charged with crimes were from SJB Vlasenica.<sup>3272</sup> ST-179 confirmed that the 1992 SJB crime register contained no crimes committed against non-Serb victims, by police or otherwise.<sup>3273</sup>
- [REDACTED]<sup>3274</sup>
- Former Višegrad Prosecutor Draško testified that although he repeatedly brought police crimes to the attention of the SJB chief, no action was ever taken nor were any crimes against non-Serb victims filed with his office in 1992, or the years that followed.<sup>3275</sup>

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<sup>3265</sup> P391,pp.2-3.

<sup>3266</sup> P2421.

<sup>3267</sup> [REDACTED];P1519.

<sup>3268</sup> P1230.

<sup>3269</sup> [REDACTED].

<sup>3270</sup> [REDACTED].

<sup>3271</sup> P628,pp.15,19;2D63,p.10.

<sup>3272</sup> 1D191.

<sup>3273</sup> ST-179,T.7502-3,T.7517-8.

<sup>3274</sup> [REDACTED];1D189.

- Former Sanski Most Prosecutor Delić testified that none of the criminal reports for crimes against non-Serbs recorded in the prosecutor's office logbooks involved Serb police perpetrators, and he had no recollection of any such criminal reports being filed in 1992.<sup>3276</sup>
- Former Bijeljina Judge Simeunović was not aware of any criminal reports filed in 1992 for crimes by policemen against non-Serbs.<sup>3277</sup>
- [REDACTED]<sup>3278</sup>
- [REDACTED]<sup>3279</sup> [REDACTED]<sup>3280</sup>
- Former Teslić Prosecutor Perić testified that crimes committed by perpetrators under the control of the police were not reported to the prosecutor's office.<sup>3281</sup> Besides the criminal report against the Miće Group, Perić identified only one other report charging a Serb (reserve) policeman with a crime against a non-Serb. The policeman was charged with appropriating a motor vehicle (a nonviolent crime outside the scope of Vasić's analysis) from the home of a non-Serb family.<sup>3282</sup>
- Trebinje District Prosecutor Gačinović provided evidence that no criminal reports for serious crimes committed by known Serb perpetrators against non-Serbs were filed with the prosecutor's offices by SJBs Bićeća, Gacko, Pale, Ilijaš and Bosanski Šamac.<sup>3283</sup> Former Sarajevo District Prosecutor Gojković likewise testified that no such criminal reports were filed with the prosecutor's offices in Pale, Vlasenica, Ilijaš, Vogošća (except the aforementioned case involving a RSMOJ perpetrator) and Višegrad.<sup>3284</sup>
- With regard to the remaining municipalities, although the Trial Chamber admitted evidence regarding an occasional criminal report filed for a crime committed by a known perpetrator against a non-Serb victim, none were police perpetrators.<sup>3285</sup>

<sup>3275</sup> Draško, T.12305-8, T.12299-300, T.12314-5, T.12294-9.

<sup>3276</sup> Delić, T.1560.

<sup>3277</sup> Simeunović, T.13335.

<sup>3278</sup> [REDACTED];[REDACTED].

<sup>3279</sup> [REDACTED];[REDACTED].

<sup>3280</sup> [REDACTED];[REDACTED].

<sup>3281</sup> Perić, T.10537, T.10674.

<sup>3282</sup> Perić, T.10617;2D75;P119,p.60.

<sup>3283</sup> See Gačinović, P1609.1;Gačinović, P1609.4;Appendix IV.

<sup>3284</sup> Gojković, T.11750, T.11756-7, T.11760, T.11766-71.

<sup>3285</sup> The Defence showed Vasić, Gačinović, Tutuš and Bjelošević certain criminal reports for serious crimes committed in Doboj, Kotor Varoš, Prijedor, Banja Luka and Zvornik. None charged police perpetrators.

964. The Accused took some action against only three groups of police perpetrators of crimes charged in the Indictment: the Miće Group in Teslić; the CSB Banja Luka Special Police Detachment; and the Prijedor Intervention Platoon. Each of these instances show that the Accused could take action against their subordinates when they chose, but they also show that they failed to satisfy their duties to take all reasonable and necessary measures to prevent or punish police crimes.

(a) The Miće Group

965. As discussed in Section II.D.2.(q), the Miće Group arrived in Teslić in June at the invitation of the Serb CS in Teslić and proceeded to commit a series of crimes against non-Serb civilians (including unlawful detention, beatings, theft and killings). The core members of the Miće Group consisted of approximately eight VRS soldiers, led by Captain Ljubiša Petričević, and eight police officers, led by CSB Doboј Deputy Chief Milan Savić,<sup>3286</sup> but other members of CSB Doboј, SJB Teslić and the VRS participated in their activities.<sup>3287</sup> When SNB Banja Luka Inspector Radulović learned of the Miće Group crimes in mid-June, he immediately informed SNB Banja Luka Chief Kesić (ŽUPLJANIN's immediate subordinate) who told Radulović, "What do we care? [...] Let's not interfere."<sup>3288</sup> [REDACTED]<sup>3289</sup>

966. ST-191 and other prominent Serb officials in Teslić, worried that the Miće Group might begin targeting them after finishing with the non-Serb population,<sup>3290</sup> personally approached ŽUPLJANIN for assistance on 29 June. ŽUPLJANIN authorised Radulović to organise a joint police-army operation to liberate Teslić from the group.<sup>3291</sup> Radulović organised the entire operation in less than 24 hours and, on 30 June, the Miće Group was successfully arrested.<sup>3292</sup> On the same day as the operation, ŽUPLJANIN, Bjelošević and SNB Doboј Chief Živković came to Teslić and met with Radulović. Radulović was told at that meeting "it would not be a good idea to have the criminal report including the name of Milan Savić as somebody involved in the incidents."<sup>3293</sup> As a result, Savić was released and Radulović did not include him in the criminal report filed with the Teslić prosecutor's office.<sup>3294</sup> Savić returned to his duties as deputy chief of

<sup>3286</sup> 1D464.

<sup>3287</sup> See paras.427-8.

<sup>3288</sup> Radulović,T.10921-3.

<sup>3289</sup> P839,pp.13-4;P840,p.13;[REDACTED]. At the time, CSB Banja Luka exercised jurisdiction over Teslić. AF1214;P1353.4;P367,p.1.

<sup>3290</sup> Perić,T.10506;Radulović,T.10942-3;[REDACTED];[REDACTED];P1353.27;P839,p.9;P1351,p.16.

<sup>3291</sup> Radulović,T.10925-7. Perić,T.10593,T.10599;[REDACTED];[REDACTED].

<sup>3292</sup> Radulović,T.10935-7;P702;P837;P838;P1343;P836;P1353.11.

<sup>3293</sup> Radulović,T.10943-4.

<sup>3294</sup> Radulović,T.10943;Perić,T.10509-11;Perić,P1361.2,p.35;[REDACTED].

CSB Doboj until at least late November when he voluntarily left the police.<sup>3295</sup> No warrant was ever issued for his arrest, and he has yet to be held accountable for the Miće Group crimes.<sup>3296</sup> Petričević likewise was not arrested or charged, and in fact, only 16 of the 30 men initially arrested during the operation were included in the criminal investigation.<sup>3297</sup> As reported in a IKK submission to Karadžić on 1 July, “The fact remains that not everyone responsible for the situation including individuals in the municipal structures was locked up.”<sup>3298</sup> On 4 July, ST-191 sent a letter on the Miće Group’s crimes to the RSMUP, CSB Banja Luka, and Karadžić, among others.<sup>3299</sup>

967. After a one-week investigation, Radulović filed a criminal report with the Teslić public prosecutor charging some of the perpetrators with murder, among other crimes.<sup>3300</sup> Initially these perpetrators were detained in Teslić but were soon thereafter moved to Tunjice prison in Banja Luka.<sup>3301</sup> On 17 July, the Doboj District Court ordered their transfer to the Doboj District Prison and within days, despite a mandatory remand order of the Teslić court, they were released as a result of pressure from the Doboj Operative Group command, SNB Chief Živković and the perpetrators’ defence attorneys.<sup>3302</sup> Savić also signed a letter on behalf of Bjelošević for the release of the police members of the Miće Group.<sup>3303</sup> Upon their release, celebrations occurred outside the CSB building and elsewhere in Doboj.<sup>3304</sup>

968. ŽUPLJANIN was kept informed about the criminal investigation and the events in Teslić after the operation.<sup>3305</sup> Despite authorising the initial operation, he never responded to Radulović’s requests for assistance to complete the criminal investigation, including requests to find a forensics team for the exhumation and post-mortem examination of the Miće Group victims.<sup>3306</sup> When Radulović confronted ŽUPLJANIN with the need to progress the investigation and preserve the evidence, ŽUPLJANIN told him it was not the right time, and that there was no need for

<sup>3295</sup> [REDACTED];[REDACTED];Bjelošević,T.19622-3;P1342 (order signed by Milan Savić for CSB Doboj chief);[REDACTED]. Bjelošević never instituted criminal or disciplinary proceedings against Savić. Instead, he claimed that he was “slowly” accumulating evidence against Savić, but when he was finally ready to initiate disciplinary proceedings, Savić was appointed manager of a private company. Bjelošević,T.19922-3.

<sup>3296</sup> Perić,T.10675-6;[REDACTED].

<sup>3297</sup> P702;P837;P838.

<sup>3298</sup> P702,p.7.

<sup>3299</sup> P1353.27.

<sup>3300</sup> AF1216;P838;P1312;P1361.6.

<sup>3301</sup> P702;P1343;[REDACTED];Perić,P1361.2,pp.40-2.

<sup>3302</sup> Perić,T.10518-9;[REDACTED];Vidić,T.9339-

40;Radulović,T.10938;P1312;P1314,p.6;P1342;P1353.9;P1353.11,pp.3-4;P1364;AF1216.

<sup>3303</sup> P1342;Bjelošević,T.19622-3. Bjelošević agreed that as deputy CSB chief, Savić had the authority sign letters on his behalf.

<sup>3304</sup> P1353.11,p.8;P1353.9,p.1.

<sup>3305</sup> P702,p.7 ;P1353.27.

<sup>3306</sup> P703;P1383;Radulović,T.10940-1,T.11222-3. Although exhumations were normally arranged by the judiciary, the RSMOJ refused to provide assistance, informing the investigating judge, “let it be, now is not the time.” Perić,P1361.2,p.37.

exhumations or forensics expertise.<sup>3307</sup> ŽUPLJANIN was also aware that the perpetrators had been unlawfully released, but shared the attitude of Bjelošević that the problem was beyond their jurisdiction once the criminal report had been filed.<sup>3308</sup> Thus, ŽUPLJANIN washed his hands of the matter and took no further action.

969. There still remained the issue of what to do with the SJB Teslić leadership, some of whom acquiesced in the Miće Group's crimes while others clearly facilitated them. In August, the Teslić municipal assembly sent a request to the RSMUP to form a commission consisting of the RSMUP, CSB Banja Luka and CSB Doboј to determine the potential responsibility of the SJB and other officials and make necessary personnel changes.<sup>3309</sup> The municipal assembly also requested ŽUPLJANIN to submit a report on the role of the SJB Teslić in the Miće Group crimes and come to a session to address this matter. However, ŽUPLJANIN never came.<sup>3310</sup> A commission of RSMUP and CSB Doboј officials did conduct an investigation into the Miće Group matter in the second half of 1992, but the focus was on Radulović's decision to release the non-Serb detainees held by the Miće Group, which they perceived had harmed the combat spirit of the Serb forces.<sup>3311</sup>

970. In August, two RSMUP inspectors – at the behest of STANIŠIĆ's cabinet – created a “very voluminous” file on events in Teslić so that STANIŠIĆ would be “totally informed” about what happened in that municipality.<sup>3312</sup> On 8 September, Bjelošević sent STANIŠIĆ a proposal to appoint the three leading SJB Teslić officials who cooperated with the Miće Group to the same positions they had held in June, asserting that “the competence and responsibility they demonstrated so far are a guarantee that they will successfully carry out the duties and tasks of the positions for which they are being proposed.”<sup>3313</sup> Notwithstanding the information available to him, STANIŠIĆ decided to reinstate the SJB Teslić leadership that had existed in June.<sup>3314</sup> As noted in an SNB Banja Luka report sent to ŽUPLJANIN and Kesić, STANIŠIĆ's decision created tension in Teslić between those who supported the old management of the SJB and those who wanted them replaced because of their involvement with the Miće Group. Moreover, the SNB inspectors wrote that “the

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<sup>3307</sup> Radulović,T.10940-1,T.11096-7.

<sup>3308</sup> Bjelošević,T.20770-5,T.20778. Bjelošević admitted that his only interest was ensuring that his name was cleared regarding the release of the Miće Group. Bjelošević,T.20775-7.

<sup>3309</sup> P1351,pp.17-18.

<sup>3310</sup> P1353.20,p.6;[REDACTED].

<sup>3311</sup> Radulović,T.11188-91.

<sup>3312</sup> ST-121,T.3711.

<sup>3313</sup> P2342.

<sup>3314</sup> P1353.14;[REDACTED]2;P1353.11.

reason the Doboј CSB is so insistent is in order to conceal numerous serious crimes committed by members of the active and reserve force of the Doboј CSB.”<sup>3315</sup>

971. Soon after their release, members of the Miće Group were back in Teslić terrorising the remaining non-Serb population, as described in a September SNB Banja Luka report received by ŽUPLJANIN and Kesić.<sup>3316</sup> They also received an SNB Banja Luka report in November requesting that they forward to the RSMUP information that Bjelošević and members of the former Miće Group had billeted themselves in the same Teslić hotel where they were based in June, creating fear and resentment among Teslić citizens who recalled the crimes committed by that group.<sup>3317</sup> Nothing was done by the Accused or Bjelošević to ensure these former members of the Miće Group were prevented from committing further crimes against the non-Serb population.

972. To date the criminal case against the Miće Group has never been fully investigated or prosecuted, and the perpetrators are still at large.<sup>3318</sup> Nor is there any evidence that the SJB Teslić leadership were ever held accountable for failing to protect the non-Serb population from the Miće.

#### (b) The CSB Banja Luka Special Police Detachment

973. The second instance where STANIŠIĆ took some, although grossly inadequate, measures against police subordinates committing crimes against non-Serbs pertains to the CSB Banja Luka Special Police Detachment. ŽUPLJANIN’s exclusion from the previous sentence was intentional. The evidence shows that ŽUPLJANIN was aware of his Detachment’s ongoing crimes against non-Serbs in, *inter alia*, Banja Luka, Doboј, Prijedor, Bosanski Novi and Kotor Varoš<sup>3319</sup> – crimes so blatant that Drljača felt compelled to complain to ŽUPLJANIN about them.<sup>3320</sup> Yet, ŽUPLJANIN took no action to punish any of the Detachment members for these crimes.

974. To the contrary, he took affirmative measures to prevent their punishment. The only occasion on which members of the Detachment were arrested and detained for committing a crime against a non-Serb was by SJB Banja Luka, even though it was the responsibility of the CSB to address to take such measures.<sup>3321</sup> Two Detachment members were detained after stealing the passenger car of a Muslim on about 20 July, and ŽUPLJANIN was personally informed.<sup>3322</sup> Upon

<sup>3315</sup> P1353.14.

<sup>3316</sup> P1353.12;[REDACTED];Šainović,T.25292-3.

<sup>3317</sup> P704.

<sup>3318</sup> Perić,T.10530;[REDACTED].

<sup>3319</sup> See Sections V.B.2.-5.

<sup>3320</sup> P659.

<sup>3321</sup> Tutuš,T.7687-90: P584;P585;P1081;P1084;P1085;P1088;P1089.

<sup>3322</sup> P585;P584.

learning of the arrest, ŽUPLJANIN issued an order to release them from prison.<sup>3323</sup> Having received assurances from ŽUPLJANIN that the Detachment members would be released, Ljuban Ećim and other members of the Detachment facilitated the process by forcefully removing their colleagues from the prison the next day.<sup>3324</sup> Their release provoked the President of the Banja Luka Lower Court to warn, “I do not think that at this time the creation of a cult of personality, of impunity, should be permitted in any way whatsoever. I expect the public prosecutor to ask Banja Luka CSB to ensure that this is completely cleared up and the guilty punished.”<sup>3325</sup> Both Detachment members remained in the police unit until it was disbanded,<sup>3326</sup> and one subsequently joined the RSMUP special police detachment.<sup>3327</sup> Neither were prosecuted for the original crime, nor were the Detachment members who broke them out of prison.<sup>3328</sup> [REDACTED]<sup>3329</sup>

975. STANIŠIĆ was aware that the Detachment members had been arrested, as well as ŽUPLJANIN’s instructions to release them, and sent word to SJB Tutuš that he agreed with the decision to arrest them.<sup>3330</sup> A few days later, at the 24-26 July BSA session, Karadžić called for the placement of all special police “which are being misused by some, under single command of [the] Republic MUP.”<sup>3331</sup> On 27 July, in accordance with an order from Karadžić and a request by the BSA, STANIŠIĆ ordered all his CSB chiefs to disband their special police units and put the members at the disposal of the VRS.<sup>3332</sup> It is likely that the negative publicity from the forced release of the two CSB Banja Luka Detachment members, along with other misconduct by this and other special police units, prompted Karadžić and the BSA to compel STANIŠIĆ to issue the order. When STANIŠIĆ was proposed by Karadžić to serve a second term as RSMUP Minister, a member of the BSA recalled:

I cannot but remember that Mr. Mićo STANIŠIĆ was the minister of the interior at the time when two men were released from prison in Banja Luka with armoured vehicles and armed men, from detention I mean. At the time, I said it was a mistake, they had been imprisoned with reason [...] or improperly released [...] But, whether the first or the second was a mistake, whether they were detained without grounds, or released without grounds, both the minister of justice and the minister of the MUP should have resigned on that occasion and I said so on several occasions [...]

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<sup>3323</sup> P1091;P586,p.2;Tutuš,T.7710-2;Nielsen,P508,para.226. Four members of the Detachment were suspected of committing the crime. P585. However, only two were detained.

<sup>3324</sup> P586.

<sup>3325</sup> P588,p.3.

<sup>3326</sup> P1092,p.3 (entries 45,54).

<sup>3327</sup> 2D63,p.3.

<sup>3328</sup> Gačinović,P1609.4,p.64. Even though ŽUPLJANIN had jurisdiction over the Detachment, he did not file the criminal report against the two Detachment members, but rather SJB Banja Luka did a month after their escape, charging a third Detachment member as well. 2D72. See P1088,p.2;Tutuš,T.7690. This further shows that ŽUPLJANIN refused to take punitive actions against his subordinates.

<sup>3329</sup> [REDACTED];see generally Rodić,T.8842;Nielsen,P508,para.227.

<sup>3330</sup> Tutuš,T.7711-2. Two contemporaneous official notes on this incident were sent to the RSMUP. P584;P585.

<sup>3331</sup> P199,p.18.

<sup>3332</sup> 1D176;Gajić,T.12817.

If Mr. KARADŽIĆ claims that Mr. STANIŠIĆ can do that work and persevere in it, I accept that, but this blemish remains, this minus for Mr. STANIŠIĆ who failed to take any action in respect of this matter at the time.<sup>3333</sup>

976. STANIŠIĆ deployed two RSMUP inspectors to Banja Luka to facilitate the disbandment of the Detachment. Prior to their departure, the inspectors attended a meeting with members of STANIŠIĆ's cabinet (including Kljajić, Njeguš and Zuban), and possibly STANIŠIĆ as well, at which they were told that members of the Detachment were committing crimes and to implement the 27 July order.<sup>3334</sup> From 2-4 August, the inspectors visited CSB Banja Luka and SJB Prijedor, meeting with several senior CSB and SJB officials.<sup>3335</sup> During these meetings, ŽUPLJANIN informed the inspectors that Detachment members had been involved in looting and robberies but failed to mention their other crimes.<sup>3336</sup> Midway through the meetings, ŽUPLJANIN spoke directly to STANIŠIĆ about the matter.<sup>3337</sup> The inspectors' report described an increased number of police crimes since the creation of the Detachment and noted that Drljača no longer allowed this unit into his municipality. They further noted in their report the resistance of ŽUPLJANIN "and his associates" to the disbandment of the Detachment and his demand that a special unit remain in the ARK.<sup>3338</sup> This report was delivered to STANIŠIĆ's office and included a supplemental report by CSB Banja Luka promoting the achievements of the Detachment.<sup>3339</sup>

977. Upon returning to Banja Luka, the RSMUP inspectors met with STANIŠIĆ on 6 August. STANIŠIĆ gave the inspectors no specific instructions, other than to continue their work towards disbanding the special police units.<sup>3340</sup> Thereafter, the inspectors returned to Banja Luka from 7-8 August to introduce the decision from the RSMUP meeting that CSB Banja Luka must proceed with the disbandment. After a long meeting at which "a large number of participants," particularly members of the Detachment command, insisted on the preservation of the Detachment, ŽUPLJANIN finally agreed to hand the unit over to the VRS. The inspectors provided the report of these meetings directly to STANIŠIĆ, but he did not ask them any questions about it, and they were never asked to conduct a further inspection in Banja Luka.<sup>3341</sup>

978. Notwithstanding what they knew about the crimes of the CSB Banja Luka Special Police Detachment, neither STANIŠIĆ nor ŽUPLJANIN took further initiatives to investigate or initiate

<sup>3333</sup> P1999,pp.51-2.

<sup>3334</sup> Gajić,T.12810-8.

<sup>3335</sup> Gajić,T.12819.

<sup>3336</sup> Gajić,T.12826-7.

<sup>3337</sup> P1010;Gajić,T.12834-5.

<sup>3338</sup> P631.

<sup>3339</sup> Gajić,T.12832-3;P865.

<sup>3340</sup> Gajić,T.12844-7;P1502,p.1.

<sup>3341</sup> Gajić,T.12839,T.12849,T.12936;P1502.

criminal proceedings against the members of the Detachment for their crimes against non-Serbs. Indeed, several prominent members of this unit, including rape suspect Danko Kajkut, remained in the police or applied for active police posts.<sup>3342</sup> [REDACTED]<sup>3343</sup>

(c) The Prijedor Intervention Platoon

979. The final instance where the Accused took certain actions with regard to crimes committed by their subordinates is also the most egregious example of their failure to take adequate measures to investigate or punish such crimes. At issue was the SJB Prijedor Intervention Platoon's killing and abuse of Omarska detainees during their transfer to Manjača camp on 6-7 August and their massacre of Trnopolje detainees at Korićanske Stijene on 21 August.

980. Formed in May and having operated alongside the CSB Special Police Detachment in cleansing operations in Hambarine, Prijedor Stari Grad and elsewhere, ŽUPLJANIN was already aware of this unit and its activities before August.<sup>3344</sup> On 5 August, Drljača asked ŽUPLJANIN for assistance from the CSB in securing the "safe passage" of 1,466 non-Serb detainees from the Omarska detention facility to Manjača camp on 6 August. This assistance was provided.<sup>3345</sup>

981. On 7 August, CSB Banja Luka inspectors interviewed a Banja Luka police officer who reported that, while manning a checkpoint near the Vrbas River, he briefly stopped two SJB Prijedor policemen escorting a truck with a tarpaulin that appeared to cover something that looked like legs. That same day, the inspectors interviewed the two SJB Prijedor policemen (Grabež and Šobot), who stated that the victims were Omarska detainees who died during the night of 6-7 August outside Manjača camp and that the camp commander had told them that "it would be best" to dispose of the bodies in the Vrbas.<sup>3346</sup> On 8 August, CSB Banja Luka informed the Banja Luka court that eight unidentified bodies were found along the bank of the Vrbas, and through the onsite investigation and medical examinations conducted that day, determined that the bodies showed clear signs of murder.<sup>3347</sup> Police were immediately able to establish the identities of three of non-Serb victims through identification cards found on their corpses.<sup>3348</sup>

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<sup>3342</sup> 2D63,p.6(entry 121).

<sup>3343</sup> P629;P1096. They also received the awards in 1993. P732,pp.3,5.

<sup>3344</sup> P659;P669,p.2;Radulović,T.10847-8;P865,p.2;[REDACTED].

<sup>3345</sup> ST-226,T.16061,T.16073.

<sup>3346</sup> 2D71,pp.13-15.

<sup>3347</sup> 2D71,pp.1-11.

<sup>3348</sup> 2D71,p.23.

982. On 26 August, nearly three weeks after the police discovered the bodies, ŽUPLJANIN submitted an unknown perpetrator report to the Banja Luka prosecutor, stating that “[e]mployees of this CSB will conduct all necessary investigative measures to identify the unidentified perpetrators and the unidentified bodies, and a report will be made subsequently on all information of use.”<sup>3349</sup> However, the 26 August criminal report was not delivered to the prosecutor until between 7-10 September.<sup>3350</sup> The criminal report failed to inform the prosecutor that the victims were Omarska detainees, that the identities of three victims were known or that the SJB Prijedor police were, at the very least, accessories after the fact. Nor did it include official notes of interviews or other evidence of the crime.<sup>3351</sup> Without a criminal report against known perpetrators, the prosecutor’s office could not proceed with the case, so the deputy prosecutor assigned to the case sent the report back to CSB Banja Luka on 10 September with instructions to:

Conduct a complete criminal investigation into this case in order to find perpetrators, witnesses and other individuals, and determine other circumstances related to the commission of the crime. After the perpetrators are found, they must be arrested. After completing operative processing, send me the criminal report with all the necessary attachments so that I can make a decision.<sup>3352</sup>

Only after receiving this letter did CSB Banja Luka send the prosecutor’s office the interviews they conducted with the checkpoint guard and two SJB Prijedor police officers, as well as photographs of the bodies.<sup>3353</sup> This was the last information the deputy prosecutor received from CSB Banja Luka regarding this case, and because the police never informed him who the perpetrators were, he could take no further action.<sup>3354</sup>

983. On 28 October, almost 12 weeks after their discovery of the bodies of the detainees, CSB Banja Luka drafted a work plan in response to the prosecutor’s 10 September letter.<sup>3355</sup> The plan, approved by ŽUPLJANIN, merely specified four actions to be taken: (1) re-interview the two SJB Prijedor police officers; (2) re-interview the police officers at the checkpoint; (3) interview the driver of the truck carrying the bodies; and (4) work on identifying the bodies through the CSB forensics department. Noticeably absent from the plan were any actions to interview members of SJB Prijedor responsible for escorting the convoy and their superiors, Omarska detainees who witnessed the incident, or the Manjača camp command and guards.<sup>3356</sup> While the CSB forensics department confirmed the identities of two of the victims who had personal identification cards on

<sup>3349</sup> 2D71,p.2.

<sup>3350</sup> M.Kovačević,T.14144-5;P1574,p.26.

<sup>3351</sup> M.Kovačević,T.14156.

<sup>3352</sup> 2D71,p.22;M.Kovačević,T.14156-8.

<sup>3353</sup> 2D71,p.12;M.Kovačević,T.14158-61.

<sup>3354</sup> M.Kovačević,T.14162-8.

<sup>3355</sup> 2D71,pp.18-9. See Rodić,T.8914-5 (a work plan should be the first thing done in an investigation).

<sup>3356</sup> M.Kovačević,T.14168-9;Rodić,T.8912-4;Murselović,T.15732-3;ST-226,T.16063;[REDACTED].

them, this is where the police case file ends. No further actions were taken in this investigation, and the members of the Intervention Platoon and other SJB police perpetrators (including Grabež and Šobot)<sup>3357</sup> were never charged. The unknown perpetrator case file was transferred to the Banja Luka district prosecutor's office in 2000.<sup>3358</sup>

984. On 21 August, two weeks after the Intervention Platoon members killed the Omarska detainees, they massacred another approximately 200 non-Serb detainees at Korićanske Stijene while transporting them from Trnopolje to Travnik.<sup>3359</sup> [REDACTED]<sup>3360</sup> [REDACTED]<sup>3361</sup> The 1KK Command reported the massacre by the police to VRS Main Staff twice on 22 August.<sup>3362</sup> From the events that followed, three facts emerged. First, both Accused knew that the perpetrators were their subordinates from SJB Prijedor. Second, the primary concern of the police, military and political leadership was to sanitise the crime scene and avoid international exposure of the crime. Third, beyond meetings between RS, ARK and municipal officials (including Drljača and members of the Intervention Platoon), the police made no effort to investigate the case.

985. ŽUPLJANIN was aware of not only the massacre but his subordinates' role in it by 22 August at the latest.<sup>3363</sup> On that date, he attended a meeting at SJB Prijedor with RS Defence Minister Subotić, Drljača, Miroslav Paraš, commander of the Intervention Platoon, and other high-ranking police officials. [REDACTED]<sup>3364</sup>

986. On 23 August, ŽUPLJANIN was informed by SJB Skender Vakuf Chief Krejić that the massacre involved 150-200 victims and that SJB Prijedor policemen passing through police checkpoints near the crime site on 21 August not only confessed to murdering the detainees, but showed them loot they had taken from the victims.<sup>3365</sup> The next day at CSB Banja Luka, ŽUPLJANIN met with, among others, Drljača, CSB Deputy Chief Bulić, Krejić, two Serb municipal officials from Skender Vakuf, Prijedor Municipal President Stakić and Prijedor Executive Board President Kovačević. At the meeting, the participants openly acknowledged that

<sup>3357</sup> Rodić,T.8912.

<sup>3358</sup> M.Kovačević,T.14144-5;P1574,p.26.

<sup>3359</sup> See para 298.

<sup>3360</sup> P675;[REDACTED];AF1112-4.

<sup>3361</sup> [REDACTED]. ŽUPLJANIN attached the 21 August telegram from ST-197 to the unknown perpetrator criminal report he eventually filed with the prosecutor. Kovačević,T.14173-4;P1567,p.16. Although the criminal report references the number "13/1" for ST-197's telegram rather than "43/1", the date, author and information are the same. See also P1567,p.30 (using language from 21 August telegram).

<sup>3362</sup> P609,p.2;P676,p.2;[REDACTED].

<sup>3363</sup> SNB Banja Luka, including SNB chief Kesić, was aware of the massacre on 22 August, and that the Intervention Platoon members were the perpetrators. Radulović,T.10883-7,T.10895;P1379.

<sup>3364</sup> [REDACTED];[REDACTED].

<sup>3365</sup> Krejić,T.14034-8,T.14042-5.

the Prijedor police had committed the massacre, and Drljača even bragged about it. Bulić sided with the Prijedor delegation that the massacre was “normal”. Although ŽUPLJANIN condemned the massacre, he did not order any investigative measures. Instead, he stated that the bodies should be extracted from the cliff and buried, and then read a dispatch from Karadžić instructing the Prijedor and Skender Vakuf municipal authorities to “deal with this issue.” The participants at the meeting all agreed that Drljača would be responsible for extracting and burying the bodies.<sup>3366</sup>

987. Between 23-25 August, several members of the Intervention Platoon returned to Korićanske Stijene twice under the supervision of Drljača in an attempt to extract the bodies. [REDACTED]  
<sup>3367</sup> During this same period, a CSB Banja Luka crime inspector interviewed six survivors of the massacre and two police eyewitnesses, several of whom (including the police officers) identified the Prijedor police as robbing and then executing the non-Serb detainees in the convoy.<sup>3368</sup>

988. On 29 August, RSMOJ Deputy Minister Avlijaš attended a meeting in Banja Luka with ŽUPLJANIN, Drljača, Mayor Radić, Dr. Vukić and the Banja Luka prosecutor regarding ARK detention facilities, during which the topic of the massacre arose.<sup>3369</sup> Avlijaš testified that by this meeting, it was “no secret” that the Prijedor police had committed the crime, and indeed the “entire Krajina and all of the Republika Srpska knew” this. He even recalled that the names of some of the perpetrators were circulated.<sup>3370</sup> The next day, another meeting at CSB Banja Luka was held between the same participants of the 24 August meeting (except ŽUPLJANIN), as well as the RS Defence Minister Subotić, ST-197 and members of the Banja Luka prosecutor’s office and judiciary. The focus of the meeting was again on removing the bodies from the crime site. Subotić was displeased that this operation had not been completed, instructing Drljača to use men from the Ljubija mine to assist.<sup>3371</sup> After the meeting, the participants visited the crime scene and once again discussed how to remove and bury the corpses.<sup>3372</sup> On 31 August, a team of CSB Banja Luka crime technicians began assisting with this effort alongside a “clearing-up team” from SJB Prijedor. However, only 3-4 bodies were removed before the crane broke, and these corpses were buried without a postmortem examination because no investigative judge was at the crime scene.<sup>3373</sup> The

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<sup>3366</sup> Krejić,T.14045-50. *See also* Radulović,T.10886-7.[REDACTED].

<sup>3367</sup> [REDACTED];[REDACTED].

<sup>3368</sup> P1567,pp.5-13.

<sup>3369</sup> Avlijaš,T.15621-2.

<sup>3370</sup> Avlijaš,T.15659-60. *See* Radulović,T.10884.

<sup>3371</sup> Buhanac,2D139,para.12;Krejić,T.14051-4.

<sup>3372</sup> Krejić,T.14054-6.

<sup>3373</sup> Buhanac,2D139,para.13;P1567,p.46. In fact, no record of an onsite investigation was ever made. Kovačević,T.14324;Krejić,T.14053;P1563,p.6.

next day, technicians were ordered back to Banja Luka and told never to return to the crime site. A videotape of the crime scene by the technicians was subsequently destroyed.<sup>3374</sup>

989. STANIŠIĆ admitted learning about the massacre of 150 Muslims 2-3 days after it happened from CSB Banja Luka Crime Prevention Chief Živko Bojić, and knew it was a “serious case” that required the police to undertake “all measures” envisioned by law.<sup>3375</sup> On 31 August, STANIŠIĆ ordered ŽUPLJANIN to conduct an investigation of the massacre, provide the Ministry with the results of the investigation and “start legal proceedings against the perpetrators.”<sup>3376</sup> Again by his own admission, after he issued this two-sentence order, his personal engagement in this matter ceased completely.<sup>3377</sup> Nor did he ask his Assistant Minister for Police Affairs (Kovač) or Head of the RSMUP Administration for Crime Prevention (Mačar) to ensure that the police conducted a proper investigation of the massacre.<sup>3378</sup> While STANIŠIĆ found it suspicious that Subotić went to Banja Luka to look into the crime, he apparently never asked himself why he did not go to Banja Luka, or at the very least send one of his assistant ministers.<sup>3379</sup> STANIŠIĆ tried to explain away his inaction by claiming that once Bojić informed him that an investigative judge had conducted an onsite investigation, he concluded that the police could no longer conduct an investigation on their own.<sup>3380</sup> Not only does this assertion incorrectly describe the criminal procedures that existed in RS in 1992, which clearly placed the onus on the police to conduct a criminal investigation until they filed a criminal report against known perpetrators sufficiently supported by evidence,<sup>3381</sup> it is also inconsistent with his claim (albeit equally false) that he removed ŽUPLJANIN in 1994 upon discovering that CSB Banja Luka stopped all activity in investigating the case.<sup>3382</sup>

990. What followed STANIŠIĆ’s 31 August order, was an exchange of correspondence between ŽUPLJANIN and Drliča that would have been comical had it not pertained to a tragic event.

<sup>3374</sup> Buhavac,2D139,pp.3-4,paras.12-14;P1567,pp.44,51;M.Kovačević,T.14181-2,T.14184. While portions of Buhavac’s 2003 statement is corroborated by other evidence in this case, certain of his assertions are self-serving and aimed at exonerating ŽUPLJANIN, who at the time of the interview was a known ICTY fugitive. In particular, in his earlier 1999 statement to CSB Banja Luka investigators he never mentioned that he met with ŽUPLJANIN or that ŽUPLJANIN told him that the investigation should be conducted properly. None of the statements by the other crime technicians who went to Korićanske Stijene corroborate these assertions. P1567,pp.40-51.

<sup>3375</sup> STANIŠIĆ,P2303,pp.5,28-32. SNB Banja Luka Inspector Radulović testified that he provided all information he had about the crime to Bojić, including the identity of the perpetrators, who then conveyed this information to STANIŠIĆ. Radulović,T.10884-6.

<sup>3376</sup> P847;P1380.

<sup>3377</sup> STANIŠIĆ,P2303,pp.35,44.

<sup>3378</sup> Both testified that they were first effectively informed about the massacre through other sources in 1993. Mačar,T.22993-4,T.23485-7;Kovač,T.27105-6 (although not recalling the year, he remembered it was after a team went to the region, mostly likely referring to the visit of Mačar’s team in March 1993).

<sup>3379</sup> STANIŠIĆ,P2303,pp.43-4.

<sup>3380</sup> STANIŠIĆ,P2303,pp.34-36.

<sup>3381</sup> See paras 676-8

<sup>3382</sup> STANIŠIĆ,P2303,pp.3-4,37. ŽUPLJANIN left his position as CSB chief prior to STANIŠIĆ’s reappointment as Minister. Kovač,T.27070,T.27103.

ŽUPLJANIN waited until 11 September to forward STANIŠIĆ's order to Drljača with the instruction for him to deliver written statements and biographical data of the police officers who escorted the 21 August convoy by 15 September.<sup>3383</sup> Three days later, Drljača replied that he could not interview the police escorts because they had been deployed to the battlefield in Han Pijesak since 9 September,<sup>3384</sup> a fact of which ŽUPLJANIN was likely already aware since Drljača kept the CSB informed about such re-subordination requests, as previously ordered by ŽUPLJANIN.<sup>3385</sup> On 22 September, Drljača submitted a list and personal details of the police officers who escorted the 21 August convoy and, two weeks later, ŽUPLJANIN wrote a second time to Drljača, noting that his list omitted names of some police officers who ŽUPLJANIN knew had been present during the massacre.<sup>3386</sup> On 13 October, Drljača responded that he had already sent the information ŽUPLJANIN requested for all police officers who escorted the convoy on 21 August, and informed him that police officers Šobot and Grabež (the same officers who disposed of the Omarska bodies) provided traffic security for the convoy.<sup>3387</sup> This correspondence, although limited, shows that ŽUPLJANIN was aware of who the police suspects were and that neither he nor Drljača were serious about investigating this crime.<sup>3388</sup>

991. On 8 September, ŽUPLJANIN sent an unknown perpetrator criminal report to the Banja Luka prosecutor's office, stating that the CSB "will make necessary enquiries in order to establish the identity of the bodies and of unknown perpetrators, and find out how the event took place."<sup>3389</sup> Despite knowing that SJB Prijedor police officers were responsible for this crime, ŽUPLJANIN made no mention of this fact in his report, nor did he ever supplement it with this information.<sup>3390</sup> Perceiving that the survivors of the massacre were in danger and wishing to preserve their statements, the deputy prosecutor assigned to the case suggested to the investigative judge that they conduct interviews of the survivors. This exceptional procedure did not mean that the prosecutor's office and court took over the investigation of the case from the police. They could not initiate a judicial criminal investigation until the police filed a criminal report and supporting evidence against known perpetrators.<sup>3391</sup>

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<sup>3383</sup> P1380. Krejić believed this order was forwarded "too late". Krejić,T.14066-9.

<sup>3384</sup> P682;P1566.

<sup>3385</sup> See,e.g.,P683;P376.

<sup>3386</sup> P617.

<sup>3387</sup> P618.

<sup>3388</sup> See Radulović,T.10884 (Živko Bojić showed him a list of the police perpetrators around the date of the incident).

<sup>3389</sup> P1567,pp.2-4;M.Kovačević,T.14293-8 (there was no dispute CSB Banja Luka had jurisdiction over this crime).

<sup>3390</sup> M.Kovačević,T.14171-5.

<sup>3391</sup> M.Kovačević,T.14175-8;P1567,pp.17-29;P120,p.45.

992. Hence, on 30 September, the deputy prosecutor sent the unknown perpetrator criminal report back to CSB Banja Luka with instructions to continue collecting information, identify the suspects and arrest them, and file a criminal report and any evidence with the prosecutor's office.<sup>3392</sup> The prosecutor's office never received any further information concerning this case from CSB Banja Luka, and the unknown perpetrator case was transferred to the Banja Luka district prosecutor in August 1999.<sup>3393</sup> In response to a request by the Banja Luka district prosecutor for information about the status of the case in 1999, CSB Banja Luka responded that it had received the deputy prosecutor's 30 September 1992 request, "but action was not taken in accordance with it, nor was any report on collecting the necessary information submitted to the Banja Luka Public Prosecutor's Office."<sup>3394</sup>

993. To keep the international media at bay, ŽUPLJANIN repeatedly assured them that the police were actively investigating the case and seeking to identify the perpetrators. During these interviews, he never admitted that his subordinates committed the crime and grossly under-represented the number of victims.<sup>3395</sup> He told one journalist, "We have no living witnesses who can confirm or deny the incident."<sup>3396</sup> In fact, ŽUPLJANIN was personally made aware of one survivor by Krejić, and he must have been aware that people involved in the incident were held at the Banja Luka hospital, where police guards and others subjected them to regular and brutal beatings.<sup>3397</sup> General Talić and the 1KK command took a similar approach with the international media. Rather than seeking to expose the crime, they focused on absolving the army from any responsibility for it. One report called the massacre a "dark stain" but noted "it is very fortunate that the international community did not find out about it in more detail."<sup>3398</sup>

994. ŽUPLJANIN's disregard for this crime and the safety of the non-Serb population is exemplified by his 29 September order.<sup>3399</sup> Issued less than five weeks after the Korićanske massacre, this order instructed Drljača to arrange for SJB Prijedor to search, guard and escort outside the RS another large group of non-Serb detainees from Trnopolje detention facility.

<sup>3392</sup> P1567,p.30;Kovačević,T.14299.

<sup>3393</sup> M.Kovačević,T.14170-1,T.14178-80,T.14274-6;P1574,p.27. Kovačević testified that he encountered a "wall of silence" when he sought to obtain from the police additional information and the identities of the perpetrators in the Manjača killings and Korićanske Stijene massacre cases. M.Kovačević,T.14185. Although he tried to limit this description to certain SJBs, such as Prijedor, his dealings in these cases were with CSB Banja Luka, not SJB Prijedor.

<sup>3394</sup> P1567,pp.33,59. *See also* [REDACTED];Radulović,T.10901-2;[REDACTED].

<sup>3395</sup> Traynor,T.10374;Traynor,P1356.2,p.12;P1359. Although ŽUPLJANIN confirmed there were "stories" that police escorts committed the crime, he also stated that there were stories that the HVO or Green Berets were responsible.

<sup>3396</sup> P1359. [REDACTED].

<sup>3397</sup> Krejić,T.14051,T.14070-1;[REDACTED];[REDACTED].

<sup>3398</sup> P611,p.4P622,p.1;P1359;Brown,T.18762-3.

<sup>3399</sup> P1905.

995. Within a month after being sent to Han Pijesak, members of the Intervention Platoon had begun returning to Prijedor, and many continued to work for SJB Prijedor (some even until today).<sup>3400</sup> In 1993, Intervention Platoon Commander Miroslav Paraš (who gave the orders to commit the massacre) and Draško Krndija (one of the physical perpetrators) received awards for their police service from Karadžić.<sup>3401</sup> During the 1992-1995 conflict, neither the members of the Intervention Platoon nor any of their superiors were criminally charged with the Korićanske Stijene massacre.<sup>3402</sup> Even when STANIŠIĆ returned as RSMUP Minister in 1994 and learnt that the case was cold, he did not ask Kovač, at the time Head of Public Security, or the Assistant Head of Public Security (Bjelošević) to ensure the investigation of this crime.<sup>3403</sup>

996. Had ŽUPLJANIN taken immediate action against the members of the Intervention Platoon when he first became aware of their participation in crimes against the non-Serb population of Hambarine and Prijedor Stari Grad between May-June,<sup>3404</sup> he could have averted the deaths of at least 10 Omarska detainees in front of Omarska, and had he diligently acted upon the murders of those detainees, he could have saved the lives of approximately 200 non-Serb civilians. This escalation of preventable events shows why commanders are held responsible for the crimes of their subordinates. Both ŽUPLJANIN and STANIŠIĆ's indifference towards the investigation of the Korićanske Stijene massacre sent a powerful message to their subordinates that they could continue to commit such crimes with impunity.

## VI. SENTENCING

### A. Overview

997. Mićo STANIŠIĆ and Stojan ŽUPLJANIN are responsible for the deaths of thousands of non-Serbs; the expulsion of thousands of non-Serbs from their homes; the torture and inhumane treatment of people they had an obligation to protect; the wanton destruction of homes, churches and mosques and the plunder of the property of their victims. STANIŠIĆ and ŽUPLJANIN were integral members of a JCE aimed at removing from the RS, through a criminal persecutory

<sup>3400</sup> [REDACTED];[REDACTED];Radulović,T.10897;P1568,p.2 (listing Damir Ivanković and other members of the Intervention Platoon at SJB Prijedor in November);P2454 (memorandum to CSB Banja Luka listing Paraš and other former members of Intervention Platoon as part of a police special unit sent to Orašje in February 1993). ST-023 decided to join the military police; however, this had no impact on the civilian police's jurisdiction over his crimes; Jovičinac,T.26768-9.

<sup>3401</sup> [REDACTED];P1569.10.

<sup>3402</sup> Nielsen,P508,para.328;[REDACTED].

<sup>3403</sup> Kovač,T.27105-6 (STANIŠIĆ never told him that investigating this crime was a priority);Bjelošević,T.21195.

<sup>3404</sup> See paras 282-6

campaign, all trace of the Bosnian Muslims, Bosnian Croats and other non-Serbs who had the misfortune of living there between April 1992 and January 1993.<sup>3405</sup>

998. As RS Minister of the Interior, STANIŠIĆ was among the architects of this criminal plan,<sup>3406</sup> which targeted non-Serbs in 20 municipalities in Bosnia, including the eight ARK Municipalities. He also instigated<sup>3407</sup> or otherwise aided and abetted the crimes of the JCE.<sup>3408</sup> ŽUPLIJANIN, in addition to his participation in the JCE, also ordered, planned, instigated or otherwise aided and abetted the crimes in the ARK Municipalities.<sup>3409</sup> He gave orders to members and agents of the RS in executing this common plan in the ARK Municipalities and helped set up special units these Municipalities to carry out some of the most brutal crimes in the Indictment.<sup>3410</sup>

999. In executing the common plan, RSMUP members under the command of the two Accused and others acting on their behest also tortured, raped and beat vulnerable non-Serbs, including women, children and the elderly, after detaining them in inhumane conditions in a series of at least 52 detention facilities. The crimes of both men spanned a large geographical area and were committed over a period of nine months.<sup>3411</sup> Each man played a crucial role in the crimes for which he is responsible, including by failing to prevent and punish the crimes of his perpetrator subordinates.<sup>3412</sup> The only reasonable sentence to be imposed on each man for crimes so grave is life in prison.

#### **B. Applicable law**

1000. In sentencing, a trial chamber must consider the gravity of the offence, the individual circumstances of the Accused, including aggravating and mitigating circumstances, and the general practice regarding prison sentences in the former Yugoslavia.<sup>3413</sup> The primary purposes of sentencing are retribution and deterrence.<sup>3414</sup>

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<sup>3405</sup> See above Section III.

<sup>3406</sup> See above Section III.B.

<sup>3407</sup> See above Section IV.B.

<sup>3408</sup> See above Section IV.A.

<sup>3409</sup> See above Section IV.

<sup>3410</sup> See above Section III.C.

<sup>3411</sup> See above Section III.C.

<sup>3412</sup> See above Sections IV-VI.

<sup>3413</sup> Statute, Art.24; Rule 101.

<sup>3414</sup> Aleksovski AJ, para.185.

### **C. Gravity of the Offences**

1001. The “primary consideration” in determining a sentence is the gravity of the crime.<sup>3415</sup> To determine the gravity of an offence, Chambers have considered, among others, 1) the inherent gravity of the crimes and the criminal conduct of the wrongdoer, 2) the number of victims and effect of the crimes, including the effect of long-term physical, psychological and emotional suffering of the victims and 3) whether the crime is of an “inherently discriminatory nature,” such as persecution.<sup>3416</sup>

1002. Mićo STANIŠIĆ and Stojan ŽUPLJANIN, both high-level commanders,<sup>3417</sup> are responsible for the persecutory murders, forcible displacements, rapes, tortures, unlawful detentions, plunder and wanton destruction in the eight ARK Municipalities. The number of victims of these crimes numbers in the tens of thousands, including thousands of murders.<sup>3418</sup>

1003. Stojan ŽUPLJANIN was instrumental in seeing that the violent persecutory campaign was carried out in the ARK Municipalities. In addition to committing the crimes as a member of the JCE, ŽUPLJANIN also planned, instigated, ordered or otherwise aided and abetted them in the ARK Municipalities. In the eight ARK Municipalities, ŽUPLJANIN enjoyed operational control over the subordinated municipal and regional members and agents of the RS MUP. He was responsible for the overall lethal effectiveness and conduct of the police.

1004. Crimes in some ARK Municipalities were particularly brutal and widespread. In Prijedor, for example, at least 800 Bosnian Muslims were killed during and after the two-day attack on Kozarac beginning on 24 May 1992.<sup>3419</sup> At least 300 were killed in the 23 July 1992 attack on Čarakovo. Thousands of Bosnian Muslims were detained for months in camps at Keraterm, Omarska and Trnopolje, where they were subjected to murders, rapes, and torture and were detained in prisons characterised by lack of food, water and basic hygiene.

1005. In Kotor Varoš, another ARK Municipality, a woman was forced to perform oral sex on another man in front of Serb policemen.<sup>3420</sup> Women were raped multiple times at the Sawmill.<sup>3421</sup>

<sup>3415</sup> Galic AJ, para.442.

<sup>3416</sup> Perišić TJ, para.1799. See also Vasiljević TJ, para.278 (“[C]rimes based upon ethnic grounds are particularly reprehensible [...]”).

<sup>3417</sup> See Tadić SAJ, para.56 (superiors, commanders and architects of “the strategy of ethnic cleansing” deserve higher sentences than those lower in the command structure).

<sup>3418</sup> See above Section III. See also Blaškić TJ, para.784 (high number of victims is relevant in sentencing).

<sup>3419</sup> See above Section II.C.2.(k).

<sup>3420</sup> Exh.P00041, pp.4-5.

<sup>3421</sup> See, e.g., ST-056, T.631-634 (1 October 2009).

1006. Mićo STANIŠIĆ was among the architects of the crimes committed in the ARK Municipalities, and in 12 other municipalities. He is responsible for the crimes committed in all 20. STANIŠIĆ participated in the development of Bosnian Serb policy at the leadership level in order to secure the takeovers of the 20 municipalities and the forcible removal of the non-Serb population from them. He provided the link between Bosnian Serb leaders and the political, military and police figures at the regional and municipal levels. He was ŽUPLJANIN's superior.

#### **D. Aggravating factors**

1007. The following factors should aggravate the sentences of the accused: vulnerability of the victims, the fact that both accused abused their authority, the ongoing and persistent nature of their crimes and that the crimes were persecutory in nature.

##### **1. The victims were particularly vulnerable**

1008. As part of the common plan, non-Serbs were first disarmed before being attacked. Non-Serbs were then placed into detention centres where they were particularly vulnerable to the beatings, rapes and torture that often followed. Among the victims were women subjected to sexual assault, "the most vulnerable persons in any conflict."<sup>3422</sup> This factor should aggravate the sentences of Mićo STANIŠIĆ and Stojan ŽUPLJANIN.<sup>3423</sup>

##### **2. Both accused abused their authority**

1009. Both accused abused the positions of high authority and trust normally associated with police officers. Rather than seeing to the safety and protection of the people in their jurisdictions or zones of operational control, they used the police officers under their command as instruments of persecution and violence. Their participation in these crimes was a cruel inversion of the duty they had to the citizens in the municipalities, and should be considered an aggravating factor.<sup>3424</sup>

##### **3. The crimes spanned a period of nine months**

1010. The crimes of the Accused spanned from 1 April 1992 to 31 December 1992, nine blood-soaked months in which the Accused were, at the very least, well-informed of the atrocities being committed in furtherance of the JCE. The violence unleashed during the takeovers in the spring and summer of 1992 continued through the winter as thousands of non-Serb victims remained in

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<sup>3422</sup> *Kunarac* TJ para. 858.

<sup>3423</sup> See *Blaškić* AJ, para. 686 (vulnerability of the victims is an aggravating factor).

<sup>3424</sup> See *Galić* AJ, para.412.

detention centres throughout the targeted municipalities. The Chamber should consider the continued and persistent criminal acts of the Accused to be either a factor adding to the gravity of their crimes or an aggravating factor.<sup>3425</sup>

#### 4. The crimes were persecutory

1011. All of the crimes committed by the accused were persecutory in nature. Though the Chamber cannot consider this as a factor that aggravates their convictions for persecutions, it can consider the persecutory nature of other crimes as an aggravating factor.<sup>3426</sup> The victims of the crimes of Mićo STANIŠIĆ and Stojan ŽUPIJANIN were chosen for their nationalities and ethnicities as non-Serbs. This should be considered an aggravating factor.

#### 5. The background, education and intelligence of the Accused

1012. The Trial Chamber should take into account the background, education and intelligence of the Accused in assessing his personality and responsibility for the crimes<sup>3427</sup>. Mićo STANIŠIĆ is an intelligent, well-educated individual with experience in politics prior to the indictment period. Stojan ŽUPIJANIN was university educated and had a long career in the police prior to the indictment period. The intelligence and experience of these men, which demonstrates they knew what they were doing and that their participation in these events could encourage others to also participate, should be taken into account in determining their sentences.<sup>3428</sup>

### **E. Mitigating factors**

1013. The ICTY and ICTR have both held that mitigating circumstances relate to the assessment of a penalty but do not derogate the gravity of the crime: “[I]t is more a matter of grace than a defence.”<sup>3429</sup> According to the Tribunal jurisprudence, the only mitigating factor the Tribunal is obliged to take into account is “substantial co-operation with the Prosecutor by the convicted person before or after the conviction” as stated in Rule 101(B)(ii).

1014. In this case, no mitigating circumstances exist to substantially reduce the sentence of either Accused. Neither of the Accused has shown remorse for his crimes.<sup>3430</sup> Neither has substantially cooperated with the Prosecution. Though STANIŠIĆ agreed to be interviewed by the Prosecution,

<sup>3425</sup> See, e.g., *Kunarac*, AJ para.356 (long duration of the crime can aggravate the sentence).

<sup>3426</sup> *Kunarac* AJ, para. 357.

<sup>3427</sup> *Kambanda* SJ, para.29.

<sup>3428</sup> *Kambanda* SJ,para.29.

<sup>3429</sup> *Kambanda* SJ,para.56 (quoting *Erdemović* SJ, para.46).

<sup>3430</sup> *Babić* SJ,para.84.

this interview was largely self-serving and at times evasive. Though STANIŠIĆ surrendered to the Tribunal in 2005 shortly after his indictment was made public, this surrender should not be given significant weight as a mitigating factor as it was merely the fulfilment of a legal obligation.<sup>3431</sup>

1015. ŽUPLJANIN did not willingly surrender to the Tribunal. In fact, he evaded justice for seven years following the issuance of his public indictment in 2001.<sup>3432</sup> The Chamber should take into account ŽUPLJANIN's years of evading justice when assessing the weight to be attributed to any mitigating factors it does find.<sup>3433</sup>

#### **F. Sentencing practice in courts of the former Yugoslavia**

1016. Under SFRY law, war crimes against the civilian population were punishable by the death penalty or a sentence of up to twenty years' imprisonment. The Tribunal is not required to conform to SFRY.<sup>3434</sup>

#### **G. Recommended sentence**

1017. The crimes of the Accused involved tens of thousands of victims over multiple municipalities, victims who were targeted because they were non-Serbs. Their crimes were broad in scope, involving the murders, tortures, rapes, and imprisonment of non-Serbs over a period of nine months. The Accused accomplished these ends by abusing their authority as police officers. The only reasonable sentence considering the gravity of these crimes and the central role the accused played in them is life imprisonment.

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<sup>3431</sup> *Plavšić* SJ, para.84; *Jokić* SJ,para.73.

<sup>3432</sup> Župljanin Initial Appearance,T.3(23 June 2008).

<sup>3433</sup> See *Rajić* SJ,para.137.

<sup>3434</sup> Criminal Code of the FRY,Art.142(1).

## Prosecution's Glossary

In this Final Trial Brief the terms “Serb”, “Croat” and “Muslim” refer to, respectively, “Bosnian Serb”, “Bosnian Croat” and “Bosnian Muslim”, unless otherwise indicated. All dates refer to 1992, unless otherwise indicated.

### **Acronyms and Abbreviations**

<b>Abbreviation used in Prosecution</b>	<b>Full citation</b>
1KK	First Krajina Corps ( <i>Krajiški korpus</i> )
2KK	Second Krajina Corps ( <i>Krajiški korpus</i> )
6KK	Sixth Krajina Corps ( <i>Krajiški korpus</i> )
6mtbr	Sixth Motorised Brigade
17TG	Seventeenth Tactical Group
AF	Adjudicated Fact
AGF	Agreed Fact
AOR	Area of Responsibility
APC	Armoured Personnel Carrier
ARK	Autonomous Region of Krajina ( <i>Autonomna regija Krajina</i> )
Art.	Article
BiH	Bosnia and Herzegovina ( <i>Bosna i Hercegovina</i> )
BiHMUP	MUP of entire BiH pre-April 1992 (including SUP) and non-Serb MUP post-April 1992
BSA	Bosnian Serbian Assembly
BSL	Bosnian Serb Leadership
CEC	Central Exchange Commission
CID	Crime Prevention and Investigation Department
CS	Crisis Staff
CSB	Security Services Centre ( <i>Centar službi bezbjednosti</i> )

<b>Abbreviation used in Prosecution</b>	<b>Full citation</b>
fn.	footnote
FRY	Federal Republic of Yugoslavia
HDZ	Croatian Democratic Union ( <i>Hrvatska demokratska zajednica</i> )
HVO	Croatian Defence Council ( <i>Hrvatsko vijeće obrane</i> )
ICRC	International Committee of the Red Cross
JCE	Joint Criminal Enterprise
JNA	Yugoslav People's Army ( <i>Jugoslovenska narodna armija</i> )
KPD	Penal Correctional Facility ( <i>Kazneno-popravni dom</i> )
KTS	Karakaj Technical School
LIA	Law of Internal Affairs
MUP	Ministry of Interior ( <i>Ministarstvo unutrašnjih poslova</i> )
NDC	National Defence Council
NSC	National Security Council
p.	page
pp.	pages
para.	paragraph
paras.	paragraphs
POW	Prisoners of War
RS	Serbian Republic of Bosnia and Herzegovina or <i>Republika Srpska</i> (after official name change in August 1992)
RSK	Republic of Serbian Krajina ( <i>Republika Srpska Krajina</i> )
RSMOJ	<i>Republika Srpska</i> Ministry of Justice
RSMUP	<i>Republika Srpska</i> Ministry of Interior
SAO	Serbian Autonomous Region ( <i>Srpska Autonomna Oblast</i> )
SDA	Party of Democratic Action ( <i>Stranka demokratske akcije</i> )

<b>Abbreviation used in Prosecution</b>	<b>Full citation</b>
SDS	Serbian Democratic Party ( <i>Srpska demokratska stranka</i> )
SDK	Public Auditing Service ( <i>Služba društvenog knjigovodstva</i> )
SF	Stipulated Fact
SFRY	Socialist Federative Republic of Yugoslavia ( <i>Socijalistička Federativna Republika Jugoslavija</i> )
SJB	Public Security Station, Public Security Service ( <i>Stanica javne bezbjednosti, služba javne bezbjednosti</i> )
SM	Police Station ( <i>Stanica milicije</i> )
SNB	National Security Service ( <i>Služba nacionalne bezbjednosti</i> )
SO	Municipal Assembly ( <i>Skupština opštine</i> )
SOS	Serb Defence Forces ( <i>Srpske odbrambene snage</i> )
SRBiH	Socialist Republic of Bosnia and Herzegovina ( <i>Socijalistička Republika Bosna i Hercegovina</i> )
Statute	Statute of the International Criminal Tribunal for the Former Yugoslavia established by the Security Council Resolution 827 (1993)
SUP	Secretariat of the Interior ( <i>Sekretarijat unutrašnjih poslova</i> )
T.	Trial Transcript
TAS	<i>Tvornica automobila Sarajevo</i>
TO	Territorial Defence ( <i>Teritorijalna odbrana</i> )
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNPROFOR	United Nations Protection Force
Variant A/B	Variant A and B
VRS	Army of Republika Srpska ( <i>Vojска Републике Српске</i> )
ZOBK	Community of Municipalities of Bosnian Krajina ( <i>Zajednica opština Bosanske Krajine</i> )

**ICTY authorities**

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Brđanin AJ	<i>Prosecutor v. Radoslav Brđanin</i> , Case No. IT-99-36-A, App.Ch., Judgement, 3 April 2007
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<i>Krajišnik</i> TJ	<i>Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-T, T.Ch., Judgement, 27 September 2006
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<i>Stakić AJ</i>	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-A, App.Ch., Judgement, 22 March 2006
<i>Strugar AJ</i>	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-A, App.Ch., Judgement, 17 July 2008
<i>Strugar TJ</i>	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-T, T.Ch., Judgement, 31 January 2005
<i>Tadić AJ</i>	<i>Prosecutor v. Duško Tadić</i> , Case No. IT-94-1-A, App.Ch., Judgement, 15 July 1999
<i>Vasiljević AJ</i>	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-A, App.Ch., Judgement, 25 February 2004
<i>Vasiljević TJ</i>	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-T, T.Ch., Judgement, 29 November 2002

### **ICTR authorities**

<b>Abbreviation used in Prosecution</b>	<b>Full citation</b>
<i>Kambanda SJ</i>	<i>Prosecutor v. Jean Kambanda</i> , Case No. ICTR-97-23-S, T.Ch., Judgement and Sentence, 4 September 1998
<i>Karemara TJ</i>	<i>Prosecutor v. Édouard Karemara &amp; Matthieu Ngirumpatse</i> , Case No. ICTR-98-44-T, T.Ch., Judgement and Sentence, 2 February 2012

<b>Abbreviation used in Prosecution</b>	<b>Full citation</b>
<i>Nahimana AJ</i>	<i>Ferdinand Nahimana, Jean-Bosco Barayagwiza &amp; Hassan Ngeze v. Prosecutor</i> , Case No. ICTR-99-52-A, App.Ch., Judgement, 28 November 2007
<i>Ndindabahizi AJ</i>	<i>Emmanuel Ndindabahizi v. Prosecutor</i> , Case No. ICTR-01-71-A, App.Ch., Judgement, 16 January 2007
<i>Ntagerura AJ</i>	<i>Prosecutor v. André Ntagerura, Emmanuel Bagambiki &amp; Samuel Imanishimwe</i> , Case No. ICTR-99-46-A, App.Ch., Judgement, 7 July 2006
<i>Ntakirutimana AJ</i>	<i>Prosecutor v. Elizaphan Ntakirutimana &amp; Gérard Ntakirutimana</i> , Case Nos. ICTR-96-10-A and ICTR-96-17-A, App.Ch., Judgement, 13 December 2004
<i>Nyiramasuhuko TJ</i>	<i>Prosecutor v. Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Jospeh Kanyabashi &amp; Élie Ndayambaje</i> , Case No. ICTR-98-42-T, T.Ch., Judgement and Sentence, 24 June 2011
<i>Rutaganira TJ</i>	<i>Prosecutor v. Vincent Rutaganira</i> , Case No. ICTR-95-1C-T, T.Ch., Judgement and Sentence, 14 March 2005
<i>Seromba AJ</i>	<i>Prosecutor v. Athanase Seromba</i> , Case No. ICTR-2001-66-A, App.Ch., Judgement, 12 March 2008

## DRAMATIS PERSONNAE

Under Seal

<u>Name</u>	<u>Position</u>	<u>[REDACTED]</u>
ADŽIĆ Ratko	Ilijaš SDS President; SDS BiH Main Board Member; RSMUP Minister as of January 1993	[REDACTED]
ANDAN Dragan	Chief CSB Bijeljina; RSMUP Inspector in Administration for Police Tasks and Affairs	[REDACTED]
ARSIĆ Col. Vladimir	Commander 43rd Brigade (Prijedor)	[REDACTED]
AVLIJAŠ Slobodan	Assistant to the Minister of Justice	[REDACTED]
BABIĆ Milan	President of RSK	[REDACTED]
BAJAGIĆ Mladen	Professor, Defence expert	[REDACTED]
BANJAC Jovo	President Ključ CS and War Presidency	[REDACTED]
BANJAC Suada	CSB Banja Luka Typist and Secretary	[REDACTED]
BASARA Branko	VRS 1KK 6th Brigade Commander	[REDACTED]
BERA Vojin	SNB Banja Luka Section Chief	[REDACTED]
BJELOŠEVIĆ Andrija	Chief CSB Doboj	[REDACTED]
BOROVČANIN Drago	CSB Sarajevo Chief of Police Affairs	[REDACTED]
BOŽOVIĆ Radojica	aka Rajo; Serbia MUP Red Beret commander	[REDACTED]
BRĐANIN Radoslav	President ARK CS; BSA member	[REDACTED]
BROWN Ewan	ICTY OTP Military Analyst	[REDACTED]
BUBIĆ Obrad	Sergeant in Kotor Varoš Light Infantry Brigade VRS	[REDACTED]
BUDIŠA Petko	Deputy Chief SJB Ilijadža; Chief SJB Ilijadža; Chief CSB Bijeljina	[REDACTED]
BUHOVAC Brane	CSB Banja Luka Chief Forensic Unit	[REDACTED]
BULIĆ Đuro	Deputy Chief CSB Banja Luka	[REDACTED]
ĆERANIĆ Predrag	Chief Ilijadža SNB Department; Chief Sector SNB Sarajevo	[REDACTED]
ĆIRKIĆ Ahmet	Founding member of SDA in Kotor Varoš; Member of the Regional Board; Vice-President of SDA Town Board	[REDACTED]

	in Kotor Varoš	
ČIZMOVIĆ Jovan	Coordinator for SAOs and ARK Member of Ministerial Council	[REDACTED]
ĆOSIĆ Žarko	Chief SJB Brčko (August 1992)	[REDACTED]
ČUČAK Milorad	SDS leader Podlug village Sanski Most municipality	[REDACTED]
ĆULIBRK Dobrovoje	Member of Miće Group in Teslić SNB Doboј	[REDACTED]
CVIJETIĆ Zoran	Chief CSB Sarajevo	[REDACTED]
DAVIDOVIĆ Milorad	Senior Police Officer in Federal SUP	[REDACTED]
DAVIDOVIĆ Svetozar	Banja Luka Military Court Judge	[REDACTED]
ĐEKANOVIĆ Nedeljko	President of Kotor Varoš Municipal Board; [REDACTED] President of Kotor Varoš CS; President of Kotor Varoš War Presidency	
DELIĆ Milenko	Sanski Most Basic Public Prosecutor	[REDACTED]
DELIMUSTAFIĆ Alija	BiHSUP Secretary	[REDACTED]
ĐERIĆ Branko	RS Prime Minister	[REDACTED]
DEVEDLAKA Dragan	Chief CSB Bijeljina (May 1992) SNB, RSMUP (April 1992)	[REDACTED]
ĐUKIĆ Boško	SJB Doboј Police Detachment Commander	[REDACTED]
ĐUKIĆ Rajko	President SDS Republican main Board	[REDACTED]
ĐOKANOVIĆ Dragan	War Commissioner for Vlasenica, Zvornik, [REDACTED] Šekovići, Skelani and Bratunac; Adviser to RS Presidency for humanitarian affairs and information	
DONIA Robert	Historian	[REDACTED]
ĐORĐEVIĆ Dragan	aka Crni; Red Beret commander in Bosanski Šamac	[REDACTED]
DRAGANOVIĆ Adil	President Sanski Most Basic Court	[REDACTED]
DRAGANOVIĆ Suad	Dismissed SJB Ključ Reserve Police Officer	[REDACTED]
DRAŠKO Lazar	Višegrad basic Public Prosecutor	[REDACTED]
DRAŠKOVIĆ Slavko	Chief Sector SNB Trebinje	[REDACTED]
DRLJAČA Simo	Chief SJB Prijedor	[REDACTED]
DUBOČANIN Slobodan	Military Security Officer; Member ARK CS	[REDACTED]
DUKA Miroslav	SJB Bileća Police Commander; SJB Bileća [REDACTED] Special Police Unit Commander	
ĐURIĆ Mane	Chief SJB Vlasenica	[REDACTED]

DŽAFIĆ Atif	SJB Ključ Commander before the war	[REDACTED]
EĆIM Ljuban	CSB Banja Luka Deputy Chief Special Police Detachment	[REDACTED]
EGRLIĆ Asim	President Executive Board Ključ Municipal Assembly	[REDACTED]
ERCEG Nikola	Member ARK CS	[REDACTED]
GAĆINOVIĆ Slobodanka	Trebinje Higher Public Prosecutor	[REDACTED]
GAJIĆ Sreto	RSMUP Section Chief	[REDACTED]
GOGIĆ Milorad	Paramilitary commander in Zvornik	[REDACTED]
GOJKOVIĆ Staka	Sarajevo Basic Court Judge	[REDACTED]
GRELJO Bajro	Deputy President Gacko Municipality	[REDACTED]
GRUJIĆ Branko	Zvornik SDS President; Zvornik CS President	[REDACTED]
GUNJEVIĆ Ostoja	Zvornik Head of Construction	[REDACTED]
HANSON Dorothea	Research Officer at ICTY OTP	[REDACTED]
HADŽIĆ Čazim	Commander 6mtbr, Doboj garrison	[REDACTED]
HARAČIĆ Mugdim	CSB Banja Luka Police Inspector	[REDACTED]
HODŽIĆ Vehid	Chief SJB Vogošća before the war	[REDACTED]
IGNJIĆ Cvjetko	Crime Technician in Brčko	[REDACTED]
JAHIĆ Bajazid	Former Chief Public Security in CSB Banja Luka	[REDACTED]
JANKOVIĆ Miloš	SJB Prijedor Chief Communications	[REDACTED]
JEGDIĆ Kostadin	Gacko SDS President	[REDACTED]
JELISIĆ Goran	SJB Brčko Police Officer	[REDACTED]
JEŠIĆ Mirko	Prijedor SNB Detachment	[REDACTED]
JEŠURIĆ Predrag	Chief CSB Bijeljina; RSMUP Chief Foreign Affairs in Administration for Legal, Personnel and Administrative Tasks	[REDACTED]
JOKIĆ Radomir	Chief SJB Teslić (Oct. 1992)	[REDACTED]
JOVIĆINAC Srboljub	Military Prosecutor in Banja Luka	[REDACTED]
KAJKUT Nenad	CSB Banja Luka Special Police Detachment Member	[REDACTED]
KAJTEZ Daniluško	6th Krajina Brigade	[REDACTED]
KALINIĆ Dragan	Minister of Health	[REDACTED]
KARADŽIĆ Radovan	President RS Presidency	[REDACTED]
KARAGIĆ Slobodan	aka Karaga; CSB Doboj Special Police	[REDACTED]

	Member	
KARAN Siniša	SJB Ilijaš Crime Inspector; RSMUP Inspector in Administration for Crime Detection and Prevention	[REDACTED]
KARIŠIK Milenko	Commander RSMUP Special Police	[REDACTED]
KELOVIĆ Vlado	Commander SJB Vogošća	[REDACTED]
KESIĆ Nedeljko	Chief CSB Banja Luka Sector SNB Member ARK CS	[REDACTED]
KEZUNOVIĆ Dragan	RSMUP Assistant Minister for Communications	[REDACTED]
KEZUNOVIĆ Radomir	President Ilijadža Executive Board; President Sarajevo CS	[REDACTED]
KIJAC Dragan	Chief Sector SNB Sarajevo; RSMUP	[REDACTED]
KIRUDJA Charles	UN Civil Affairs Officer	[REDACTED]
KISIN Rajko	Chief SJB Donji Vakuf	[REDACTED]
KLJAJIĆ Čedo	RSMUP Under-Secretary for JB	[REDACTED]
KOLJEVIĆ Nikola	RS Presidency member	[REDACTED]
KOMLJENOVIC Slavica	Secretary to Stojan ŽUPLJANIN	[REDACTED]
KONDIĆ Veljko	Kluč SDS President; Vice President Kluč CS and War Presidency	[REDACTED]
KONDIĆ Vinko	Chief SJB Kluč	[REDACTED]
KOPRIVICA Rajko	Vogošća SDS President	[REDACTED]
KOROMAN Malko	Chief SJB Pale	[REDACTED]
KOVAČ Tomislav	Chief SJB Ilijadža; RSMUP Assistant Minister for Police Affairs and Tasks	
[REDACTED]ness	Prosecutor at Banja Luka Prosecution Office	[REDACTED]
KOVAČEVIĆ Marinko	Teslić Basic Court President	[REDACTED]
KOVAČEVIĆ Nenad	Chief 5th Corps Air Force; VRS Administrative Officer for Moral Guidance and Legal Affairs;	[REDACTED]
KOVAČEVIĆ Vidosav	President BSA	[REDACTED]
KRAJIŠNIK Momčilo	Chief SJB Skender Vakuf/Kneževi	[REDACTED]
KREJIĆ Nenad	Chief SJB Ljubinje	[REDACTED]
KRULJ Aleksandar	aka Predo; Paramilitary commander in Doboj of Predo's Wolves	[REDACTED]

KUPREŠANIN Vojo	President ARK Assembly; Member ARK CS; BSA member	[REDACTED]
KURUZOVIĆ Slobodan	Commander Trnopolje Camp, Prijedor	[REDACTED]
KUSMUK Vlastimir	RSMUP Assistant Minister for Police Affairs and Tasks	[REDACTED]
KUŠIĆ Rajko	SJB Pale Special Police Commander	[REDACTED]
KUZMANOVIĆ Dušan	Chief SJB Teslić	[REDACTED]
LAZAREVIĆ Živko	SJB Vogošća SNB inspector; Chief SJB Vogošća (Nov.1992)	[REDACTED]
LAZAREVIĆ Mitar	Gacko SDS President; Gacko Municipal Assembly President	[REDACTED]
LERO Miloš	Bileća SDS President; Member of BSA	[REDACTED]
LISICA Slavko [REDACTED]ness	VRS Commander OG Doboј;  Commander TG 3	
LIŠINOVIĆ Mirza	CSB Doboј employee, Public Security Service (until 2 May 1992)	[REDACTED]
LOKANČEVIĆ Milorad	Chief SJB Zvornik	[REDACTED]
LUKAČ Dragan	Police Chief Bosanski Šamac (until 16 April 1992)	[REDACTED]
LUKAJIĆ Dane	VRS 1KK Military Security Officer	[REDACTED]
LUKIĆ Milan	Reserve Police Officer in Višegrad	[REDACTED]
LUKIĆ Mirko	CSB Banja Luka Chief Special Police Detachment	[REDACTED]
LUKIĆ Sredoje	SJB Višegrad Police Officer	[REDACTED]
MAČAR Goran	RSMUP Assistant Minister for Crime Detection and Prevention (Aug.1992) RSMUP CID inspector (until Aug. 1992)	[REDACTED]
MAJKIĆ Dragan	Chief SJB Sanski Most (until 30 April)	[REDACTED]
MAKSIMOVIĆ Borislav	Chief SJB Vogošća	[REDACTED]
MALOVIĆ Duško	Commander SJB Sokolac Special Police	[REDACTED]
MANDIĆ Mladen	RSMUP Head of Internal Affairs	[REDACTED]
MANDIĆ Momčilo	Deputy Minister RSMUP; Minister of Justice	[REDACTED]
MARIĆ Milorad	Chief SJB Ilijaš	[REDACTED]
MARIĆ Nedjeljko	Police Commander SJB Kotor Varoš (until takeover)	[REDACTED]

MARKOČEVIĆ Predrag	Teslić SJB Chief	[REDACTED]
MARKOVIĆ Slobodan	Police Officer member of the Central Commission for Exchange of PoW	[REDACTED]
MARKOVIĆ Stevan	CSB Banja Luka Chief Department for Police Affairs	[REDACTED]
MAŠIĆ Fikret	Security Service Official (intercepts)	[REDACTED]
McLEOD Charles	ECMM Monitor	[REDACTED]
MEJAKIĆ Željko	Commander Omrska Camp, Prijedor	[REDACTED]
MENDILUCE Jose Maria	UNHCR Special Envoy and Special Envoy of UN Secretary General as UN Humanitarian Coordinator	[REDACTED]
MIČIĆ Stjepan	SJB Pale Chief Crime Section	[REDACTED]
MIJATOVIĆ Jovo	Zvornik Municipal President; Member Zvornik War Commission; Member BSA	[REDACTED]
MIJIĆ Milenko	Zvornik Municipal Court Judge	[REDACTED]
MILANOVIĆ Nikola	RSMUP Inspector in Administration for Crime Detection and Prevention	[REDACTED]
MILJKOVIĆ Slobodan	aka Lugar; Red Beret Member in Bosanski Šamac	[REDACTED]
MILOVANOVIC Manojlo	VRS General	[REDACTED]
MINIĆ Ostoja	RSMUP Inspector in Administration for Minister for Police Tasks and Affairs	[REDACTED]
MIŠKOVIĆ Simo	Prijedor SDS President	[REDACTED]
MRĐA Darko	SJB Prijedor Reserve Policeman Intervention Platoon member	[REDACTED]
NEŠKOVIĆ Goran	President, Doboј High Court	[REDACTED]
NIELSEN Christian	ICTY OTP MUP Expert	[REDACTED]
NIKOLIĆ Dragan	SJB Vlasenica Reserve Police; Sušica Camp Commander	[REDACTED]
NINKOVIĆ Milan	Doboј SDS President	[REDACTED]
NJEGUŠ Radomir	RSMUP Chief Cabinet; Assistant Minister For Legal, Personnel and Alien Affairs	[REDACTED]
NEŠKOVIĆ Goran	Doboј High Court President	[REDACTED]
ODJANIĆ Stipo	CSB Banja Luka Communications Centre	[REDACTED]
OKUN Herbert	Ambassador, Deputy to Cyrus Vance Special Envoy to UN Secretary-General and later Co-Chairman ICFY	[REDACTED]

ORAŠANIN Milomir	RSMUP Inspector in Administration for Crime Detection and Prevention	[REDACTED]
OSTOJIĆ Velibor	Minister of Information	[REDACTED]
PANIĆ Petko	Assistant Commander SJB Zvornik	[REDACTED]
PANTELJĆ Miloš	Chief SJB Zvornik	[REDACTED]
PANTIĆ Aleksandar	Chief SJB Bijeljina	[REDACTED]
PARAVAC Borislav	Doboj SDS member; Doboj CS President	[REDACTED]
PAŠALIĆ Stevo	Professor of Demography at East Sarajevo University	[REDACTED]
PAVLOVIĆ Marko	aka POPOVIĆ Branko; TO Staff Commander	[REDACTED]
PEJIĆ Momčilo	Deputy President RS Government	[REDACTED]
PEJIĆ Radovan	Vraca Communications Centre; CSB Sarajevo Chief Communications Department	[REDACTED]
PERIĆ Branko	Teslić Basic Public Prosecutor	[REDACTED]
PERIŠIĆ Nikola	President Teslić Municipal Assembly; President Autonomous Region of Northern Bosnia Assembly	[REDACTED]
PERIŠIĆ Risto	Chief SJB Višegrad	[REDACTED]
PERVAN Ramiz	Deputy Commander for Educational and Operational Tasks at TO Bileća	[REDACTED]
PETRIČEVIĆ Ljubiša	Doboj Secretary for National Defence; Member of Miće Group in Teslić	[REDACTED]
PETROVIĆ Obren	Chief SJB Doboj	[REDACTED]
PETROVIĆ Vlado	Teslić reserve police officer	[REDACTED]
PETRUŠIĆ Miro	Kotor Varoš, Secretariat for National Defence (until June 1992)	[REDACTED]
PEULIĆ Boško	VRS Commander 122 Brigade	[REDACTED]
PIVARSKI Stojan	Paramilitary commander in Zvornik	[REDACTED]
PLANOJEVIĆ Dobrislav	RS MUP Assistant Minister for CID	[REDACTED]
PLAVŠIĆ Biljana	RS Presidency member	[REDACTED]
POPIĆ Vitomir	SJB Gacko Commander	[REDACTED]
POPOVIĆ Vojin	Chief SJB Gacko	[REDACTED]
RADIĆ Predag	President Banja Luka Municipal Assembly Member of ARK CS	[REDACTED]
RADOVANOVIĆ Srećko	aka Debeli; Red Beret commander in	[REDACTED]

	Bosanski Šamac	
RADULOVIĆ Predrag	Head Miloš Group SNB Banja Luka	[REDACTED]
RAKOVIĆ Drago	CSB Banja Luka Chief Communication Department	[REDACTED]
RALJIĆ Dragan	SJB Kotor Varoš Chief Communications Section	[REDACTED]
RAŠULA Nedeljko	President Sanski Most Municipal Assembly President Sanski Most CS	[REDACTED]
RAŽNATOVIĆ Željko	aka Arkan; Paramilitary Commander of Serb Voluntary Guard	[REDACTED]
RIEDELMAYER Andras	Documentation Centre of Aga Khan Program for Islamic Architecture at the Fine Arts Library, Harvard University, United States	[REDACTED]
RODIĆ Radomir	Banja Luka SDB Police Officer	[REDACTED]
RODIĆ Radomir	Banja Luka Prosecutor	[REDACTED]
ROSIĆ Jovo	Banja Luka High Court President	[REDACTED]
ŠAJINOVIĆ Goran	Special Operative Miloš Group SNB Banja Luka	[REDACTED]
ŠAMARA Dejan	CSB Banja Luka Police Inspector	[REDACTED]
SAMARDŽIJA Zdravko	CSB Banja Luka LO in Special Police Detachment	[REDACTED]
SARIĆ Goran	Chief SJB Centar Sarajevo; RSMUP Inspector in Administration for Police Affairs and Tasks	[REDACTED]
SAVIĆ Krsto	Chief CSB Trebinje	[REDACTED]
SAVIĆ Ljubiša	a.k.a. MAUZER; Head of a paramilitary Unit in Bijeljina; President of the Crisis Staff	[REDACTED]
SAVIĆ Milan	Assistant Chief CSB Doboј; Member of Miće Group in Teslić	[REDACTED]
SAVKOVIĆ Boško	Chief SJB Donji Vakuf	[REDACTED]
ŠČEKIĆ Milan	Chief 5th Administration SNB	[REDACTED]
SEJMENOVICIĆ Mevludin	SDA Representative for Prijedor to Republic Chamber of Municipalities in BiH Assembly	[REDACTED]
SELAK Osman	LtCol in 5K/1KK	[REDACTED]

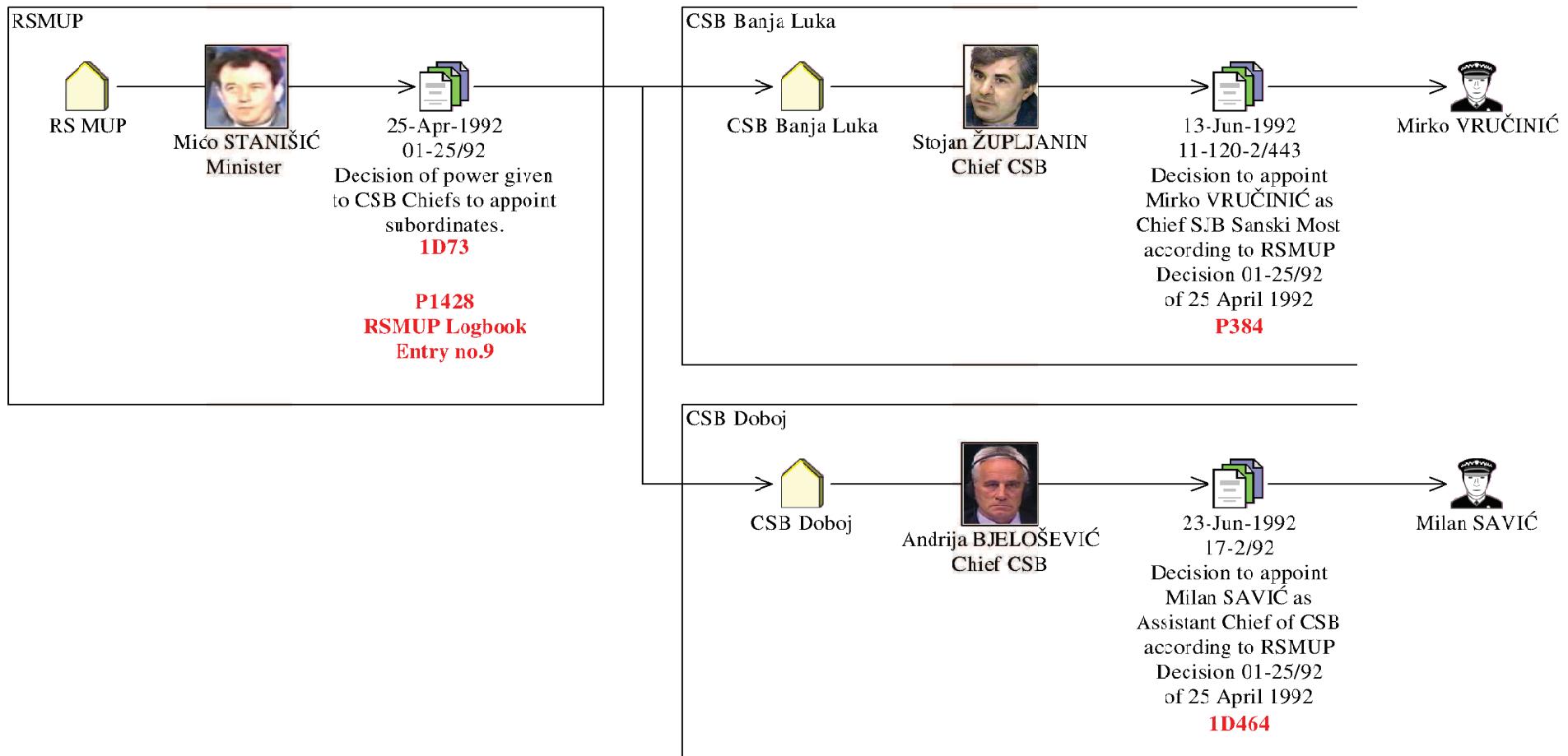
SIMEUNOVIĆ Biljana	Bijeljina Basic Court Judge	[REDACTED]
SIMIĆ Blagoje	Bosanski Šamac Municipal President	[REDACTED]
SIMIĆ Milan	Bosanski Šamac Municipal Executive Board Chairman	[REDACTED]
SIMIĆ Nenad	Zvornik TO member, Yellow Wasps	[REDACTED]
ŠKIPINA Slobodan	RSMUP Under-Secretary for SNB	[REDACTED]
SKONDRIĆ Vaso	CSB Banja Luka Police Inspector	[REDACTED]
SLAVULJICA Mirko	Doboj Central Prison Acting Prison Warden	[REDACTED]
SMAJLOVIĆ Nijaz	Assistant Commander of Traffic Police in Bosanska Gradiška	[REDACTED]
SMAJLOVIĆ Ramis	Member of Zvornik Municipal Assembly before the war	[REDACTED]
SPASOJEVIĆ Dragan	Chief SJB Zvornik	[REDACTED]
SPASOJEVIĆ Petar	VRS Commander Banja Luka District TO; VRS Commander 1KK Light Brigades; VRS Commander 1KK TG	[REDACTED]
SRDIĆ Srđo	Deputy for Prijedor in BSA; Main Board member	[REDACTED]
STAKIĆ Milomir	President Prijedor CS	[REDACTED]
STANIŠIĆ Mićo	Minister RSMUP	[REDACTED]
STANKOVIĆ Milovan	VRS Commander Doboj Town Defence JNA 5th Corps Security Officer (pre-April)	[REDACTED]
STARČEVIĆ Radomir	Pale SDS President	[REDACTED]
STEVANDIĆ Nenad	Member ARK CS	[REDACTED]
STEVILOVIĆ Milan	1KK Chief Intelligence Section	[REDACTED]
STJEPANOVIĆ Miladin	Special Operative Miloš Group SNB Banja Luka	[REDACTED]
STOJIČIĆ Dragan	Commander SJB Ključ	[REDACTED]
SUBOTIĆ Bogdan	Minister of Defence	[REDACTED]
TABEAU Ewa	Demographer ICTY OTP	[REDACTED]
TALIĆ Momir	Commander 1KK, ARK CS member	[REDACTED]
TEPAČEVIĆ Milenko	Chief SJB Novo Sarajevo	[REDACTED]
TEPIĆ Savo	Chief SJB Kotor Varoš	[REDACTED]
TIHIĆ Sulejman	President SDA Bosanski Šamac	[REDACTED]
TINTOR Jovan	Vogošća CS President	[REDACTED]

TODOROVIĆ Stevan	Chief SJB Bosanski Šamac	[REDACTED]
TRAYNOR Ian	Journalist	[REDACTED]
TRBOJEVIĆ Milan	Deputy President of RS Government	[REDACTED]
TUŠEV LJAK Simo	CSB Sarajevo Chief Crime Department	[REDACTED]
TUTUŠ Vladimir	Chief SJB Banja Luka	[REDACTED]
VASIĆ Gojko	RSMUP Head Crime Police Administration	[REDACTED]
VASILIĆ Marinko	Chief SJB Zvornik	[REDACTED]
VESELIĆ Dragan	Chief SJB Brčko	[REDACTED]
VIDIĆ Miroslav	Doboj Prison Warden	[REDACTED]
VLAČO Brano	Warden of Planjo's House in Vogošća	[REDACTED]
VLAŠKI Nedо	RSMUP Assistant Under-Secretary for SNB	[REDACTED]
VRAČAR Nikola SZ-012	SJB Ključ Police Officer, (intervention platoon)	[REDACTED], [REDACTED]
VRKEŠ Vlado	Sanski Most SDS President; Chairman Municipal Assembly Executive Board	[REDACTED]
VRUĆINIĆ Mirko	Chief SJB Sanski Most	[REDACTED]
VUČUREVIĆ Božidar	SAO Herzegovina President	[REDACTED]
VUJANIĆ Drago	Prison Warden in Sanski Most for Betonirka, Krings and Hasan Kikić School	[REDACTED]
VUJOVIĆ Goran	Chief SJB Bileća	[REDACTED]
VUČKOVIĆ Duško	aka Repić; Paramilitary member in Zvornik Zvornik (Yellow Wasps)	[REDACTED]
VUČKOVIĆ Vojin	aka Žućo; Paramilitary commander in Zvornik (Yellow Wasps)	[REDACTED]
VUKIĆ Radislav	Chairman SDS ARK Regional Board	[REDACTED]
VUKOVIĆ Drago	CSB Bijeljina Chief Sector SNB	[REDACTED]
VUKOVIĆ Ranko	Chief Pale Republican Communications Centre	[REDACTED]
VUKOVIĆ Sredo	SJB Zvornik Police Officer	[REDACTED]
ZELJAVA Maj. Radmilo	Deputy Commander 43rd Brigade (Prijedor)	[REDACTED]
ŽEPINIĆ Vitomir	SRBiH RSUP Deputy Secretary	[REDACTED]
ŽIVKOVIĆ Dušan	CSB Doboj Chief Sector SNB	[REDACTED]

ŽUPLJANIN Stojan

Chief CSB Banja Luka; Member ARK CS [REDACTED]

## RS MUP Communications Flow



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