UNITED NATIONS

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991

Case No. IT-97-24-T

Date: 31 October 2002

Original: ENGLISH

IN THE TRIAL CHAMBER

Before: **Judge Wolfgang Schomburg**
Judge Mohamed Fassi Fihri
Judge Volodymyr Vassylenko

Registrar: **Mr. Hans Holthuis**

Decision of: **31 October 2002**

PROSECUTOR

v.

MILOMIR STAKIĆ

DECISION ON RULE 98 *BIS* MOTION FOR JUDGEMENT OF ACQUITTAL

The Office of the Prosecutor:

Ms. Joanna Korner
Mr. Nicholas Koumjian

Counsel for the Accused:

Mr. Branko Lukić
Mr. John Ostojic

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I. INTRODUCTION

1. This Trial Chamber for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("International Tribunal") is seized of a motion for acquittal ("Motion")[1] filed pursuant to Rule 98 *bis* of the Rules of Procedure and Evidence of the International Tribunal ("Rules") by counsel for the accused Milomir Stakić ("Defence") on 9 October 2002. The Office of the Prosecutor ("Prosecution") filed its confidential response on 16 October 2002 ("Prosecution Response").[2]

2. The case for the Prosecution was closed on 27 September 2002, after eighty days of trial, having started on 16 April 2002.

3. The Trial Chamber observes that, despite all of its efforts during this period of time, the parties did not come to any agreement on matters of law and fact as foreseen *inter alia* in Rule 65 *ter* (H). Being aware of the Accused's fundamental right to remain silent, the Trial Chamber furthermore states that it was not possible to successfully guide the parties to a Plea Agreement under Rule 62 *ter*.

4. On 30 September 2002, at the request of the Trial Chamber, the Prosecution filed a Notice[3] identifying those factual allegations, which, in its submission, did not find adequate support in the evidence ("Prosecution's Notice"). There was no similar submission by the Defence in relation to non-contested issues.

5. On 1 October 2002, in open court, the Trial Chamber exchanged views on legal and factual aspects of the case with the parties. Such a procedure is not foreseen by the Rules, but emanates from the Prosecution's right to be heard in relation to those parts of the indictment which the Trial Chamber, *proprio motu*, may be inclined to dismiss pursuant to Rule 98 *bis* of the Rules.[4] At the same time, such an exchange aims to facilitate and speed up the entire procedure under Rule 98 *bis*.

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[1] *Prosecutor v. Milomir Stakić,* Case No. IT-97-24-T, Defendant Milomir Stakić's Motion for Acquittal pursuant to Rule 98 *bis*, 9 Oct. 2002.
[2] *Prosecutor v. Milomir Stakić,* Case No. IT-97-24-T, Prosecutor's Response to "Defendant Milomir Stakić's Motion for Acquittal pursuant to Rule 98 *bis*", 16 Oct. 2002.
[3] *Prosecutor v. Milomir Stakić,* Case No. IT-97-24-T, Prosecution Notice of Specific Allegations from the Fourth Amended Indictment Which are Conceded as Not Proven, 30 Sept. 2002.
[4] Transcript of the proceedings in *Prosecutor v. Milomir Stakić,* Case No. IT-97-24-T ("T."), p. 8927. See the fundamental remarks by the Appeals Chamber in *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-A, Judgement, 5 July 2001 ("*Jelisić* Appeal Judgement"), paras. 22 - 29.

6. On 16 October 2002 a hearing was convened and the Prosecution's Response, which had been filed in the English language only, was read into the record in order to ensure that the Accused had access to the content of that document in a language he understands.

7. Having considered the submissions of both parties the Trial Chamber hereby issues its decision. Knowing that the composition of this Trial Chamber will change after this decision,[5] it is regarded as necessary to capture more details than usual from the Prosecution case without, however, changing the test to be applied under Rule 98 *bis* for this reason.

8. The President's order for continuation of the proceedings under Rule 15 *bis* was only possible with the consent of the Accused (Rule 15 *bis* (C)), given on 1 October 2002.[6]

[5] For medical reasons, the Honourable Judge Fassi Fihri cannot continue to hear this case and has to be replaced.
[6] Hearing of 1 October 2002, T. 8929 - 8930.

II. APPLICABLE STANDARD UNDER RULE 98 *BIS*

9. Rule 98 *bis* of the Rules provides in relevant part:

> (B) The Trial Chamber shall order the entry of judgement of acquittal on motion of an accused or *proprio motu* if it finds that the evidence is insufficient to sustain a conviction on that or those charges.

10. Both the Prosecution and the Defence submit that the appropriate test under Rule 98 *bis* is that enumerated by the Appeals Chamber in the *Jelisić* case.[7] The Defence observes, however, that the question whether the Trial Chamber is entitled to draw inferences from the Prosecution's evidence was not resolved at that time, and argues that "the failure of the Prosecution's evidence cannot be remedied by the drawing of inferences at this stage."[8] The Prosecution argues that the Trial Chamber is entitled to draw proper inferences from the evidence at this stage, as "that is part of the duty of the Trial Chamber in its hybrid role as a trier of fact as well as of law."[9] The Prosecution further submits that the Trial Chamber must arrive at its findings on the basis of the evidence called "and may not take into account any perceived likelihood that other evidence may emerge during the defence case or rebuttal stage."[10]

11. According to the Appeals Chamber the test for purposes of a motion under Rule 98 *bis* – that is, whether "the evidence is insufficient to sustain a conviction" – "must of necessity import the concept of guilt beyond reasonable doubt for it is only if the evidence is not capable of satisfying the reasonable doubt test that it can be described as 'insufficient to sustain a conviction' within the meaning of Rule 98 *bis* (B)."[11]

12. This Chamber must determine at the close of the Prosecution case, and according to the test developed by the Appeals Chamber, "whether there is evidence (if accepted) upon which a reasonable tribunal of fact *could* convict – that is to say, evidence (if accepted) upon which a reasonable tribunal of fact *could* be satisfied beyond reasonable doubt of the guilt of the accused on the particular charge in question."[12] If the evidence does not reach that standard, the evidence is, to use the words of Rule 98 *bis* (B), "insufficient to sustain a conviction". Only then is this Trial Chamber authorised and obliged to enter a judgement of acquittal.

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[7] Motion at p.16 and Prosecution Response at para. 4.
[8] Motion at p.17.
[9] Prosecution Response, para. 7.
[10] Prosecution Response, para. 7.
[11] *Jelisić* Appeal Judgement, para. 35.
[12] *Jelisić* Appeal Judgement, para. 36 (citing, *Prosecutor v. Dragoljub Kunarac et al.*, Case Nos. IT-96-23-T, IT-96-23/1-T, Decision on Motion for Acquittal, 3 July 2000 ("*Kunarac* Decision") para. 3 - original emphasis).

13. A brief concluding remark on the interpretation of Rule 98 *bis* is required. This Trial Chamber has identified a tension between, on the one hand, the Trial Chamber's obligation under Rule 98 *bis* to dismiss charges which do not find adequate support in the evidence at the end of the Prosecution's case, and, on the other, the Chamber's power, if not obligation,[13] to summon additional witnesses under Rule 98 after the completion of the Prosecution and Defence cases (Rule 85(A)). The difficulty arises because Rule 98 might have the effect that the position of the accused may worsen after the close of the Prosecution's case. This can be the case where the Trial Chamber calls evidence, in the order foreseen in Rule 85(A)(v), which might result in strengthening the Prosecution case. However, as argued by the Prosecution, the Trial Chamber can only proceed with concrete charges on the basis of the evidence introduced to date. In conclusion, the case can only worsen for the accused in that the degree of responsibility within a concrete maintained charge or in relation to a factual allegation as well as with regard to mitigating or aggravating factors may change on the basis of additional evidence under Rules 85 and 98.

[13] *Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović and Vladimir Šantić*, Case No. IT-95-16-A, Judgement, 23 Oct. 2001, ("*Kupreskić* Appeal Judgement"), paras. 168 through 190.

III. RELEVANT ISSUES

A. The charges of genocide and complicity in genocide (Counts 1 and 2)

14. The Accused, Dr. Milomir Stakić, is charged in Count 1 of the Fourth Amended Indictment ("Indictment") with genocide, or, alternatively, in Count 2 with complicity in genocide, punishable under Articles 4(3)(a) or (e), 7(1) and 7(3) of the Statute of the International Tribunal ("the Statute"). Article 4 of the Statute provides:

> 1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.
>
> 2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) killing members of the group;
>
> (b) causing serious bodily or mental harm to members to the group;
>
> (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) imposing measures intended to prevent births within the group;
>
> (e) forcibly transferring children of the group to another group.
>
> 3. The following acts shall be punishable:
>
> (a) genocide;
>
> (b) conspiracy to commit genocide;
>
> (c) direct and public incitement to commit genocide;
>
> (d) attempt to commit genocide;
>
> (e) complicity in genocide.

15. Article 7(1) states:

> A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

16. According to Article 7(3):

> The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

1. Introduction

17. The Trial Chamber is aware that genocide is a unique crime where special emphasis is

placed on the intent. The crime is in fact characterised by a "surplus" of intent. In most cases it is necessary to establish the intent by drawing inferences from the facts. It is generally accepted, in particular in the jurisprudence of this Tribunal and the Rwanda Tribunal,[14] that genocidal intent can be inferred from a certain number of presumptions of fact,[15] and "may be demonstrated by a pattern of purposeful action."[16] For this reason, the Trial Chamber will first consider whether a reasonable trier of fact could come to the conclusion that genocide as such was committed in the Municipality of Prijedor in 1992, bearing in mind already now that the evidence before it tends to demonstrate that any alleged genocidal intent was not limited to this municipality but extended to the realisation of an ethnically pure Serbian state. This approach will facilitate the determination as to whether a reasonable Trial Chamber could conclude that Dr. Stakić played the role of a perpetrator or an accomplice in the sense of Article 4(3), sub-paragraph (a) or (e), based on the special state of mind necessary for these alternatively charged crimes.

18. The Trial Chamber is guided by the following observation made in the *Krstić* Trial Judgement:

> As a preliminary, the Chamber emphasises the need to distinguish between the individual intent of the accused and the intent involved in the conception and commission of the crime. The gravity and the scale of the crime of genocide ordinarily presume that several protagonists were involved in its perpetration. Although the motive of each participant may differ, the objective of the criminal enterprise remains the same. In such cases of joint participation, the intent to destroy, in whole or in part, a group as such must be discernible in the criminal act itself, apart from the intent of particular perpetrators. It is then necessary to establish whether the accused being prosecuted for genocide shared the intention that a genocide be carried out.[17]

19. The Trial Chamber will turn first to a consideration of the legal elements of genocide as such and the evidential picture presented by the Prosecution, before considering complicity in genocide as opposed to genocide committed by a perpetrator under Article 4(3)(a). This will form the basis for the assessment whether or not Dr. Stakić has to be acquitted in respect of one or both of the genocide counts.

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[14] International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 ("Rwanda Tribunal").

[15] *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgement, 2 Sept. 1998 ("*Akayesu* Judgement"), paras. 523-4; *Prosecutor v. Alfred Musema*, Case No. ICTR-96-13-T, Judgement, 27 Jan. 2000 ("*Musema* Judgement"), paras. 166-7; *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case Nos. IT-95-5-R61 and IT-95-18-R61, Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence, 11 July 1996 ("*Karadžić and Mladić* Review"), paras. 94-95; *Jelisić* Appeal Judgement, paras. 47-49; *Prosecutor v. Duško Sikirica, Damir Došen, Dragan Kolundžija*, Case No. IT-95-8-T, Judgement on Defence Motions to Acquit, 3 Sept. 2001 ("*Sikirica.* Judgement"), paras. 57-62: "the requisite intent for the crime of genocide will have to be inferred from the evidence". Ibid. at 61.

[16] *Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Judgement and Sentence, 21 May 1999 ("*Kayishema* and *Ruzindana* Judgement"), para. 93.

[17] *Prosecutor v. Radislav Krstić*, Case IT-98-33, Judgement, 2 Aug. 2001, ("*Krstić* Judgement") para. 549.

2. The Elements of Genocide

(a) Introduction

20. Articles 4(2) and 4(3) of the Statute repeat verbatim Articles II and III of the 1948 Genocide Convention.[18] It is widely accepted that genocide as described in this convention forms part of customary international law and constitutes *jus cogens*.[19]

21. The Trial Chamber, noting the principle of non-retroactivity of the law,[20] relies on the following sources when interpreting the crime of genocide:

> - the Genocide Convention interpreted in accordance with the general rules of interpretation of treaties set out in Articles 31 and 32 of the Vienna Convention on the Law of Treaties;
> - the object and purpose of the Convention as reflected in the *travaux préparatoires*;
> - subsequent practice including the jurisprudence of the ICTY, ICTR and national courts;
> - the publications of international authorities.

22. The Trial Chamber adopts in this context the apt description of genocide as "the crime of crimes", used initially by the Rwanda Tribunal in the *Kambanda* case[21] and more recently by Judge Wald in her Partial Dissenting Opinion in the *Jelisić* Appeals Judgement,[22] where she stated:

> Some learned commentators on genocide stress that the currency of this 'crime of all crimes' should not be diminished by use in other than large scale state-sponsored campaigns to destroy minority groups, even if the detailed definition of genocide in our Statute would allow broader coverage.

The Defence also highlighted the danger of "enlarging and diluting"[23] the definition of this crime. The Trial Chamber will, whilst interpreting Article 4 restrictively and with caution, always be guided by the exclusivity of the crime of genocide.

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[18] Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 UNTS 277 ("Genocide Convention"). In force as of January 1951, the Convention was ratified by the Socialist Federal Republic of Yugoslavia on 29 August 1950. The Convention was implemented in the SFRY in the Criminal Code of 1977 (Articles 141 and 145). *See* the Criminal Code of the Socialist Federal Republic of Yugoslavia adopted by the SFRY Assembly at the Session of the Federal Council held on September 28, 1976; declared by a decree of the President of the Republic on September 28, 1976; published in the Official Gazette SFRY No. 44 of 8 October 1976; a correction was made in the Official Gazette SFRJ No. 36 of 15 July 1977; took effect on 1 July 1977 ("SFRY Criminal Code").

[19] *See Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, (1951) ICJ Reports 23; and *Prosecutor v. Goran Jelisić*, Case No. IT-95-10, Judgement, 14 Dec. 1999 ("*Jelisić* Judgement") para. 60, with further references.

[20] In this respect the 1998 Rome Statute of the International Criminal Court is of limited assistance as an aid to the interpretation of the provisions on genocide under the ICTY Statute.

[21] *Prosecutor v. Kambanda,* Case No. ICTR-97-23-S, Judgement and Sentence, 4 Sept. 1998 ("*Kambanda* Judgement") para. 16. *See also Prosecutor v. Omar Serushago*, Case No. ICTR-98-39-S, Judgement, 5 Feb. 1999 ("*Serushago* Judgement"), para. 15.

[22] *Jelisić* Appeal Judgement, p. 66, para.1.

[23] See Motion, p. 26, quoting William Schabas, *Genocide in International Law: The Crimes of Crimes* (Cambridge University Press, Cambridge, 2000), p. 9.

(b) The objective element: *Actus Reus*

23. The Indictment limits the charges of genocide to the basic, underlying criminal acts listed in paragraphs (a) to (c) of Article 4(2) of the Statute.

24. Whereas sub-paragraph (a) "killing" needs no further explanation,[24] "causing serious bodily or mental harm" under sub-paragraph (b) is understood to mean, *inter alia*, acts of torture, inhuman or degrading treatment, sexual violence, rape, interrogations combined with beatings, threats of death, and harm that injures health or causes disfigurement or injury. The harm need not be permanent and irremediable.[25]

25. "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" under sub-paragraph (c) is understood to refer to methods of destruction apart from direct killings such as subjecting the group to a subsistence diet, systematic expulsion from homes and denial of the right to medical services.[26] It includes circumstances that would lead to a slow death such as lack of proper housing, clothing and hygiene or excessive work or physical exertion.[27] It could also be described as the denial to members of a certain group of the elementary means of existence enjoyed by other sections of the population.[28]

(c) The Subjective Element: *Mens Rea*

26. Genocide is a species of crimes against humanity in the broader sense, that is characterised and distinguished by the aforementioned surplus intent. The acts proscribed in Article 4 of the Statute, paragraphs (a) to (c) are elevated to genocide when it is proved that the perpetrator not only wanted to commit those acts but also intended to destroy the targeted group in whole or in part as a separate and distinct entity. The level of this specific intent is the *dolus specialis*.[29] The Trial Chamber observes that there seems to be no dispute between the parties on this issue.

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[24] As far as the underlying acts are concerned, the word "killing" is understood to refer to intentional but not necessarily premeditated murder. *See Clément Kayishema and Obed Ruzindana*, Case ICTR-95-1-A, Judgement, 1 June 2001 ("*Kayishema and Ruzindana* Appeal Judgement") para. 151; *Akayesu* Judgement, paras. 500-01.
[25] *Akayesu* Judgement, paras. 502-4; *Kayishema and Ruzindana* Judgement, paras. 108-110.
[26] *Akayesu* Judgement, paras. 505-6.
[27] *Kayishema and Ruzindana* Judgement, paras. 115-116.
[28] See *Schabas*, p. 165, quoting the explanatory report to the Secretariat draft of the Convention.
[29] *Jelisić* Appeal Judgement, paras. 45-46: "This intent has been referred to as, for example, special intent, specific intent, *dolus specialis*, particular intent and genocidal intent. The Appeals Chamber will use the term 'specific intent' to describe the intent to destroy in whole or in part, a national, ethnical, racial or religious group, as such. The specific intent requires that the perpetrator, by one of the prohibited acts enumerated in Article 4 of the Statute, seeks to achieve the destruction, in whole or in part, of a national, ethnical, racial or religious group, as such." *Akayesu* Judgement, para. 498: "Genocide is distinct from other crimes inasmuch as it embodies a special intent or *dolus specialis*. Special intent of a crime is the specific intention, required as a constitutive element of the crime, which demands that the perpetrator clearly seeks to produce the act charged. Thus, the special intent in the crime of genocide lies in "the intent to destroy,

(d) The physical destruction of the group

27. In order to determine whether there was an intent to destroy, in whole or in part, the targeted group, it is necessary to interpret the phrase "destruction of a group in part".

28. The Trial Chamber at this stage will follow the jurisprudence of the Yugoslavia Tribunal and Rwanda Tribunal, which permits the characterisation of genocide even when the discriminatory intent extends to a limited geographical area only.[30]

29. In the *Sikirica* Judgement it was held that the phrase "in part" requires evidence of an intent to destroy a reasonably substantial number relative to the total population of the group.[31] This Trial Chamber finds any mathematical calculation of the number of victims relative to the total population of the group in this context rather unhelpful.[32] The Trial Chamber emphasises that in view of the requirement of a surplus of intent, it is not necessary to prove a de facto destruction of the group in part.[33]

(e) The intention to destroy the group "as such"

30. The group must be targeted because of characteristics peculiar to it,[34] and the intention must be to destroy the group as a separate and distinct entity.[35] As the Trial Chamber in *Sikirica* correctly pointed out:

> Whereas it is the individuals that constitute the victims of most crimes, the ultimate victim of genocide is the group, although its destruction necessarily requires the commission of crimes against its members, that is, the individuals belonging to that group.[36]

3. Did Genocide Occur in the Municipality of Prijedor in 1992?

31. For the purposes of the test under Rule 98 *bis*, it suffices that the Prosecution has provided ample evidence that could lead a reasonable trier of fact to the conclusion that there were targeted killings of Bosnian Muslims and Bosnian Croats as ethnical/national groups. These killings were carried out by Bosnian Serb authorities on a massive scale throughout, but not limited to, the

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in whole or in part, a national, ethnical, racial or religious group, as such." The issue was not discussed on appeal in the *Akayesu* or *Ruzindana* cases.

[30] *See Akayesu* Judgement, paras. 675, 704, 733; *Jelisić* Judgement, para. 83; *Sikirica* Judgement, para. 68.

[31] *Sikirica* Judgement, para. 65.

[32] *See e.g.* N. Jørgensen, "The Genocide Acquittal in the Sikirica Case Before the International Criminal Tribunal for the Former Yugoslavia and the Coming of Age of the Guilty Plea", 15 *Leiden Journal of International Law*, pp. 389, 394 (2002).

[33] The Trial Chamber concludes from this that it is not necessary to establish, with the assistance of a demographer, the size of the victimised population in numerical terms.

[34] *See* N. Robinson, *The Genocide Convention: A Commentary*, (New York, 1960), p. 60.

[35] *Jelisić* Judgement, para. 79-82.

municipality of Prijedor in the time period covered by the Indictment, that is from 30 April 1992 through 30 September 1992. Such killings were routine within the Omarska camp and occurred frequently at the Keraterm and Trnopolje camps where thousands of non-Serbs were detained by the Bosnian Serb authorities.[37] Similarly, there is evidence that many non-Serbs were killed during the widespread attacks by the Bosnian Serb army on predominantly non-Serb villages and towns throughout the Prijedor municipality and that several massacres of non-Serbs were committed during this period in Prijedor.[38]

32. The Prosecution has presented evidence that the thousands of non-Serbs (predominantly Bosnian Muslims) who were detained by the Bosnian Serb authorities in the Omarska, Keraterm and Trnopolje camps were subjected to inhumane and degrading treatment, including routine beatings.[39] Moreover, there is evidence to suggest that rapes[40] and sexual assaults[41] were committed at some of these facilities.

33. In addition, there is abundant evidence to indicate that Bosnian Muslims and Bosnian Croats who had lived their whole lives in the municipality of Prijedor were systematically expelled from their homes,[42] and then either killed,[43] interned[44] or deported.[45] Those who were detained in the camps were given little more than a subsistence diet.[46] The picture is completed by the compelling evidence relating to discrimination against non-Serbs in employment, e.g. by arbitrary dismissals,

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[36] *Sikirica* Judgement, para. 89.
[37] *See e.g.* Witness E, Transcript of proceedings in the "Keraterm" case, Case No. IT-95-8-T ("KT"), KT. 2524-25 and KT2527; Witness K, Statement of 8 August 2000, paras. 24-28 (killings in Keraterm); paras. 36-37 (Room 3); Witness B, T. 2240; Witness E, KT. 2502-03 and KT. 2510-18 (Room 3 massacre); Witness A, T. 1909 – 21; Witness R, T. 4308; Muharem Murselović, T. 2766 – 67; Dr. Beglerbegović, T. 4120 (killings in Omarska camp) Witness P, T. 3357 – 62; Witness H, KT. 2275 – 76 (Incident at Omarska July 1992); Mustafa Mujkanović, Transcript of proceedings in the *Tadić* case, Case No. IT-94-1-T ("TT"), TT. 3185-6 (killings in Trnopolje camp); Witness I, Statement of 17 July 2001 (killings in Rižvanovići); Witness J, 1994 Statement (killings in Tomašica); Elvedin Nasić, Statement of 15 Jan. 1995 (killings in Kipe).
[38] *See e.g.* Witness Q, T. 3947 – 49; Kasim Jaskić, Statement of 30 August 1994, pp. 4-5 (killings in Jaskići); Witness C, T. 2344, Witness I, Statement of 17 July 2001, p. 4; Elvedin Nasić, Statement of 15 Jan. 1995, p. 2 (killings at Ljubija stadium).
[39] *See e.g.* Muharem Murselović, T. 2732 – 35; Witness A, T. 1896; Witness C, T. 2333; Witness H, KT. 2274; Witness R, T. 4295 (beatings in Omarska); Witness B, T. 2231-32; Witness C, T. 2314–5 (beatings in Keraterm); Witness F, TT. 1655-56; Witness Q, T. 3958 – 59 (beatings in Trnopolje)
[40] *See e.g.* Witness H, KT. 2268-70 and KT. 2275-76 (rapes in Omarska); Witness F, TT. 1665 – 67; Witness I, Statement 12 and 17 July 2001, p.4; Witness Q, T. 3965 – 69 (rapes in Trnopolje)
[41] *See e.g.* Witness B, T. 2243 (sexual assault in Keraterm)
[42] *See e.g.* Witness P, T. 3334 and 3330; Witness K, TT. 2912.
[43] *See supra* n. 36 and 37.
[44] *See e.g.* Witness F, TT. 1645 and Witness B, T. 2224 – 25.
[45] Witness B, T. 2244; Witness C, T. 2343.
[46] *See e.g.* Muharem Murselović, T. 2721 (Omarska camp); Witness B, T. 2229-30, Witness K, Statement of 8 August 2000, paras. 45-47 (Keraterm camp)