



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

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IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Judgement of: 29 May 2013

THE PROSECUTOR

v.

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

PUBLIC

JUDGEMENT

Volume 3 of 6

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Table of Contents

HEADING 10: DRETELJ PRISON	1
I. Organisation of Dretelj Prison	2
A. Description of Dretelj Prison	3
B. Command Structure Inside Dretelj Prison and Distribution of Powers Among the Various Authorities.....	4
1. Management of Dretelj Prison	4
2. Units Present at Dretelj Prison and the Chain of Command	5
a) 3 rd Company of the 3 rd and then 5 th Military Police Battalion	5
b) 1 st <i>Knez Domagoj</i> Brigade.....	6
c) The <i>Domobrani</i>	6
3. Distribution of Powers Inside Dretelj Prison	6
a) Authorities Controlling Detainee Access to Water and Food.....	7
b) Authorities Conducting Interrogations of Detainees	8
c) Authorities Responsible for Guarding Detainees and Ensuring Their Security	8
d) Authorities Responsible for Medical Care	8
e) Authorities Responsible for Managing the Departure of Detainees	9
II. Arrivals of Detainees at Dretelj Prison	11
III. Number and Status of Detainees at Dretelj Prison.....	13
A. Number of Detainees at Dretelj Prison	13
B. Status of Detainees at Dretelj Prison.....	14
IV. Conditions of Confinement and the Death of a Detainee	16
A. Lack of Space and Air.....	17
B. Lack of Hygiene	19
C. Inadequate Access to Food and Water	20
D. Lack of Medical Care.....	22
E. Conditions of Confinement in Isolation Cells	24
F. Events of Mid-July 1993 Leading to the Death of at Least One Detainee.....	25
G. Positive Impact of Tomislav Šakota's Arrival on the Conditions of Confinement at Dretelj Prison	27
V. Treatment of Detainees and the Deaths of Several of Them.....	28
A. Treatment of Detainees	29
B. Deaths of Several Detainees.....	32
C. Treatment of Detainees in Isolation Cells	36
VI. Restrictions on Access to Detainees and Concealment of Certain Detainees from ICRC Representatives.....	37
A. Restrictions on Access to Dretelj Prison.....	37
B. Concealment of Certain Detainees in the Silos of Čapljina in Late August 1993 to Hide Them from ICRC Representatives	39
VII. Departures of Detainees from Dretelj Prison	39
A. Departure of Detainees from Dretelj Prison to Other Detention Sites	39
B. Departure of Detainees from Dretelj Prison to the Croatian Islands	40
HEADING 11: GABELA PRISON.....	42
I. Organisation of Gabela Prison	43
A. Opening and Closing of Gabela Prison	43
B. Description of Gabela Prison	45
C. Command Structure at Gabela Prison and Distribution of Powers among the Various Authorities	46
1. Management of Gabela Prison	46
2. Distribution of Powers within Gabela Prison.....	47
a) Authorities Granting Access to Gabela Prison for People from Outside.....	47
b) Authorities Controlling Detainee Access to Food and Water	47
c) Authorities Responsible for Guarding the Detainees and Ensuring Their Security.....	48
d) Authorities Responsible for Organising and Providing Medical Care	49
e) Authorities Responsible for Managing the Departures of Detainees.....	50
II. Arrival of Detainees at Gabela Prison.....	54

III. Number and Status of Detainees at Gabela Prison	55
IV. Conditions of Confinement at Gabela Prison	57
A. Lack of Space.....	58
B. Lack of Hygiene.....	60
C. Lack of Access to Food and Water	61
D. Lack of Access to Medical Care	62
E. Conditions of Confinement in mid-July 1993	63
V. Treatment of Detainees and Death of Several Detainees.....	64
A. Treatment of Detainees	64
B. Death of Several Detainees	68
VI. Restricted Access to Detainees and Concealment of Detainees from Representatives of an International Humanitarian Organisation.....	71
A. Restricted Access to Detainees at Gabela Prison.....	72
B. Concealment of Some of the Detainees from ICRC Representatives in October 1993.....	73
VII. Transfer and Release of Detainees from Gabela Prison.....	73
A. Transfer of Detainees from Gabela Prison to other Detention Centres.....	74
B. Departures of Detainees to Third Countries.....	75
1. Gabela Prison Detainees Transferred to Ljubuški Prison or the Heliodrom in Order to Leave for Third Countries.....	75
2. Detainees Released from Gabela Prison on Condition of Leaving for Third Countries	75
HEADING 12: MUNICIPALITY OF VAREŠ.....	76
I. Geographic and Demographic Situation in the Municipality	78
II. Political, Administrative and Military Structure of the Municipality	79
A. Political and Administrative Structure	79
B. Military Structure	80
1. 2 nd Operations Group	81
2. <i>Bobovac</i> Brigade.....	81
3. <i>Maturice</i> and <i>Apostoli</i> Special Units.....	83
III. Sequence of the Criminal Events.....	84
A. Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention.....	84
B. ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response	85
C. Slobodan Praljak's Order of 23 October 1993.....	87
D. Arrest of Several HVO Officials on 23 October 1993	89
E. Arrest of Muslim Men in Vareš on 23 October 1993 and their Detention	90
1. Arrests of Muslim Men and Crimes Allegedly Committed during Arrests.....	91
2. Detention of Muslim Men at the Vareš High School, the Vareš Elementary School and Vareš Majdan Prison	93
a) Detention of Muslim Men at the Vareš High School	94
i. Arrival, Number of Detainees and Organisation of the Vareš High School as a Detention Centre.....	94
ii. Detention Conditions at the Vareš High School	95
iii. Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School.....	95
b) Detention of Muslim Men at the Vareš Elementary School.....	98
i. Arrival, Number of Detainees, and Organisation of the Vareš Elementary School as a Detention Centre	98
ii. Detention Conditions at the Vareš Elementary School.....	99
iii. Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School.....	100
c) Detention of Muslim Men at Vareš Majdan Prison.....	101
i. Arrival, Number of Detainees, and Organisation of Vareš Majdan Prison.....	101
ii. Detention Conditions at Vareš Majdan Prison.....	102
iii. Treatment of Detainees at Vareš Majdan Prison	102
3. Release of Detainees	103
F. Thefts and Sexual Abuse of the Muslim Population of Vareš.....	104
G. Village of Stupni Do	105
1. HVO Ultimatum Around June 1993	105

2. Attack on Stupni Do and Crimes Alleged	106
a) Attack on the Village of Stupni Do	106
b) Perpetrators of the Attack on Stupni Do	109
c) Sexual Abuse of Women in the Village of Stupni Do	110
d) Death of Villagers	111
i. Death of Villagers in and around Kemal Likić's House	111
ii. Death of Villagers in front of Zejnil Mahmutović's House	113
iii. Death of Villagers in and around the Village of Stupni Do	115
e) Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do	118
3. Restrictions Imposed on Access by UNPROFOR to Stupni Do	119
H. Concealment of Crimes and their Perpetrators by the HVO	121
1. Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution	122
2. Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić	125
I. Departure of Croats Living in Vareš	127
CHAPTER 5: REVIEW OF THE GENERAL REQUIREMENTS FOR THE APPLICATION OF ARTICLES 2, 3 AND 5 OF THE STATUTE	129
HEADING 1: EXISTENCE OF AN ARMED CONFLICT, A REQUIREMENT COMMON TO ARTICLES 2, 3 AND 5 OF THE STATUTE	130
HEADING 2: OTHER GENERAL REQUIREMENTS FOR THE APPLICATION OF ARTICLE 2 OF THE STATUTE	131
I. Existence of an International Armed Conflict or of an Occupation	131
A. Existence of an Armed Conflict That Was International in Character	132
1. Evidence Regarding the Direct Intervention by HV Troops alongside the HVO in the Conflict with the ABiH	134
2. Evidence Regarding the Indirect Intervention and Overall Control by Croatia	138
a) Officers from the HV Were Sent by Zagreb to Join the Ranks of the HVO	139
b) The HV and the HVO Jointly Directed Military Operations	140
c) The HVO Dispatched Reports Concerning Its Activities to the Croatian Authorities	141
d) There Was Logistical Support From Croatia	141
i. Financial Support, Dispatching of Arms and Materiel	141
ii. Assistance in the Form of Training and Expertise	142
e) The Political Aspects of the Overall Control Croatia Wielded Over the HVO of the HZ(R) H-B	142
3. Overall Finding Concerning the International Nature of the Conflict	144
B. Existence of a State of Occupation	144
1. Analysis of the Evidence	147
2. General Finding as to the Existence of a State of Occupation	151
II. Protected Status of the Property and Persons Victims of the Crimes Alleged	151
A. Status of the Muslim Members of the HVO Detained by the HVO	151
B. Status of the Muslim Men Between Ages 16 and 60 Detained by the HVO	156
C. Protected Status of Property and Persons in the Detention Centres and the Municipalities Relevant to the Indictment	159
III. Nexus Between the Alleged Crimes and the Armed Conflict/Occupation	159
HEADING 3: OTHER GENERAL REQUIREMENTS FOR THE APPLICATION OF ARTICLE 3 OF THE STATUTE: THE NEXUS BETWEEN THE ALLEGED CRIMES AND THE ARMED CONFLICT	159
I. Existence of a State of Occupation for the Crimes Alleged Under Article 3 of the Statute	160
II. Existence of a Nexus Between the Alleged Crimes and the Armed Conflict/Occupation	160
HEADING 4: OTHER GENERAL REQUIREMENTS FOR THE APPLICATION OF ARTICLE 5 OF THE STATUTE: WIDESPREAD OR SYSTEMATIC ATTACK DIRECTED AGAINST A CIVILIAN POPULATION ..	161
I. Existence of an Attack	162
II. Widespread or Systematic Nature of this Attack	163
III. Civilian Character of the Population	168
IV. Nexus Between the Acts Charged and the Attack	168

V. State of Mind of the Direct Perpetrators	169
VI. Nexus Between the Attack and the Armed Conflict.....	169
VII. Conclusion	169
CHAPTER 6: LEGAL FINDINGS OF THE CHAMBER.....	170
HEADING 1: MURDER (COUNT 2)	170
I. Municipality of Prozor	170
II. Municipality of Gornji Vakuf	172
III. Municipality of Jablanica (Sovići and Doljani)	173
IV. Municipality of Mostar	173
V. The Heliodrom.....	175
VI. Vojno Detention Centre.....	177
VII. Municipality of Stolac	178
VIII. Municipality of Čapljina.....	178
IX. Dretelj Prison.....	180
X. Gabela Prison.....	181
XI. Municipality of Vareš.....	181
HEADING 2: WILFUL KILLING (COUNT 3)	183
I. Municipality of Prozor	183
II. Municipality of Gornji Vakuf	185
III. Municipality of Jablanica (Sovići and Doljani)	186
IV. Municipality of Mostar	187
V. The Heliodrom.....	189
VI. Vojno Detention Centre.....	190
VII. Municipality of Stolac	191
VIII. Municipality of Čapljina.....	192
IX. Dretelj Prison.....	194
X. Gabela Prison.....	195
XI. Municipality of Vareš.....	196
HEADING 3: RAPE (COUNT 4)	197
I. Municipality of Prozor	197
II. Municipality of Mostar	199
III. Vojno Detention Centre	201
IV. Municipality of Vareš.....	201

HEADING 4: INHUMAN TREATMENT (SEXUAL ASSAULT) (COUNT 5).....	202
I. Municipality of Prozor	202
II. Municipality of Mostar	205
III. Vojno Detention Centre	206
IV. Municipality of Vareš.....	206
HEADING 5: DEPORTATION (COUNT 6).....	207
I. Municipality of Prozor	207
II. Municipality of Mostar	207
III. The Heliodrom.....	209
IV. Ljubuški Municipality and Detention Centres.....	211
V. Municipality of Čapljina.....	212
VI. Dretelj Prison.....	214
VII. Gabela Prison	215
HEADING 6: UNLAWFUL DEPORTATION OF A CIVILIAN (COUNT 7).....	216
I. Municipality of Prozor	216
II. Municipality of Mostar	216
III. The Heliodrom.....	218
IV. Ljubuški Municipality and Detention Centres.....	220
V. Municipality of Čapljina.....	222
VI. Dretelj Prison.....	224
VII. Gabela Prison	225
HEADING 7: INHUMANE ACTS (FORCIBLE TRANSFER) (COUNT 8).....	225
I. Municipality of Prozor	225
II. Municipality of Gornji Vakuf	227
III. Municipality of Jablanica (Sovići and Doljani)	230
IV. Municipality of Mostar.....	232
V. The Heliodrom.....	234
VI. Ljubuški Municipality and Detention Centres.....	236
VII. Municipality of Stolac.....	239
VIII. Municipality of Čapljina.....	241
IX. Gabela Prison	243
HEADING 8: UNLAWFUL TRANSFER OF A CIVILIAN (COUNT 9)	244
I. Municipality of Prozor	244

II. Municipality of Gornji Vakuf	246
III. Municipality of Jablanica (Sovići and Doljani)	249
IV. Municipality of Mostar	250
V. The Heliodrom	253
VI. Ljubuški Municipality and Detention Centres	255
VII. Municipality of Stolac	257
VIII. Municipality of Čapljina	260
IX. Gabela Prison	262
HEADING 9: IMPRISONMENT (COUNT 10)	262
I. Municipality of Prozor	262
II. Municipality of Gornji Vakuf	265
III. Municipality of Jablanica (Sovići and Doljani)	266
IV. Municipality of Mostar	267
V. The Heliodrom	269
VI. Vojno Detention Centre	269
VII. Ljubuški Municipality and Detention Centres	270
VIII. Municipality of Stolac	271
IX. Municipality of Čapljina	274
X. Dretelj Prison	276
XI. Gabela Prison	276
XII. Municipality of Vareš	277
HEADING 10: UNLAWFUL CONFINEMENT OF CIVILIANS (COUNT 11)	278
I. Municipality of Prozor	278
II. Municipality of Gornji Vakuf	282
III. Municipality of Jablanica (Sovići and Doljani)	283
IV. Municipality of Mostar	284
V. The Heliodrom	286
VI. Vojno Detention Centre	287
VII. Ljubuški Municipality and Detention Centres	287
VIII. Municipality of Stolac	289
IX. Municipality of Čapljina	291
X. Dretelj Prison	294

XI. Gabela Prison	295
XII. Municipality of Vareš	296
HEADING 11: INHUMANE ACTS (CONDITIONS OF CONFINEMENT) (COUNT 12)	297
I. Municipality of Prozor	297
II. Municipality of Gornji Vakuf	299
III. Municipality of Jablanica (Sovići and Doljani)	300
IV. The Heliodrom	301
V. Vojno Detention Centre	302
VI. Ljubuški Municipality and Detention Centres	303
VII. Municipality of Stolac	304
VIII. Municipality of Čapljina	305
IX. Dretelj Prison	306
X. Gabela Prison	307
XI. Municipality of Vareš	307
HEADING 12: INHUMAN TREATMENT (CONDITIONS OF CONFINEMENT) (COUNT 13)	309
I. Municipality of Prozor	309
II. Municipality of Gornji Vakuf	311
III. Municipality of Jablanica (Sovići and Doljani)	312
IV. The Heliodrom	313
V. Vojno Detention Centre	314
VI. Ljubuški Municipality and Detention Centres	315
VII. Municipality of Stolac	316
VIII. Municipality of Čapljina	318
IX. Dretelj Prison	319
X. Gabela Prison	320
XI. Municipality of Vareš	320
HEADING 13: CRUEL TREATMENT (CONDITIONS OF CONFINEMENT) (COUNT 14)	322
I. Municipality of Prozor	322
II. Municipality of Gornji Vakuf	324
III. Municipality of Jablanica (Sovići and Doljani)	325
IV. The Heliodrom	326
V. Vojno Detention Centre	328
VI. Municipality and Detention Centres of Ljubuški	329

VII. Municipality of Stolac.....	330
VIII. Municipality of Čapljina.....	331
IX. Dretelj Prison.....	332
X. Gabela Prison.....	333
XI. Municipality of Vareš.....	334
HEADING 14: INHUMANE ACTS (COUNT 15).....	336
I. Municipality of Prozor	336
II. Municipality of Gornji Vakuf	343
III. Municipality of Jablanica (Sovići and Doljani)	345
IV. Municipality of Mostar.....	348
V. The Heliodrom.....	353
VI. Vojno Detention Centre.....	356
VII. Municipality and Detention Centres of Ljubuški	358
VIII. Municipality of Stolac	359
IX. Municipality of Čapljina	360
X. Dretelj Prison.....	362
XI. Gabela Prison	363
XII. Municipality of Vareš	363
HEADING 15: INHUMAN TREATMENT (COUNT 16)	368
I. Municipality of Prozor	368
II. Municipality of Gornji Vakuf	375
III. Municipality of Jablanica (Sovići and Doljani)	378
IV. Municipality of Mostar.....	381
V. The Heliodrom.....	387
VI. Vojno Detention Centre.....	390
VII. Municipality and Detention Centres of Ljubuški	391
VIII. Municipality of Stolac	392
IX. Municipality of Čapljina	393
X. Dretelj Prison.....	395
XI. Gabela Prison	396
XII. Municipality of Vareš	397
HEADING 16: CRUEL TREATMENT (COUNT 17)	402
I. Municipality of Prozor	402

II. Municipality of Gornji Vakuf	409
III. Municipality of Jablanica (Sovići and Doljani)	412
IV. Municipality of Mostar	415
V. The Heliodrom	421
VI. Vojno Detention Centre	424
VII. Municipality and Detention Centres of Ljubuški	426
VIII. Municipality of Stolac	427
IX. Municipality of Čapljina	428
X. Dretelj Prison	430
XI. Gabela Prison	431
XII. Municipality of Vareš	432
HEADING 17: UNLAWFUL LABOUR (COUNT 18)	436
I. Municipality of Prozor	436
II. Municipality of Jablanica (Sovići and Doljani)	438
III. The Heliodrom	439
IV. Vojno Detention Centre	440
V. Municipality and Detention Centres of Ljubuški	441
HEADING 18: EXTENSIVE DESTRUCTION OF PROPERTY, NOT JUSTIFIED BY MILITARY NECESSITY AND CARRIED OUT UNLAWFULLY AND WANTONLY (COUNT 19)	442
I. Municipality of Prozor	442
II. Municipality of Gornji Vakuf	445
III. Municipality of Jablanica (Sovići and Doljani)	446
IV. Municipality of Mostar	448
V. Municipality of Stolac	448
VI. Municipality of Čapljina	450
VII. Municipality of Vareš	451
HEADING 19: WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, OR DEVASTATION NOT JUSTIFIED BY MILITARY NECESSITY (COUNT 20)	452
I. Municipality of Prozor	452
II. Municipality of Gornji Vakuf	456
III. Municipality of Jablanica (Sovići and Doljani)	457
IV. Municipality of Mostar	458
V. Municipality of Stolac	461
VI. Municipality of Čapljina	463

VII. Municipality of Vareš	464
HEADING 20: DESTRUCTION OR WILFUL DAMAGE TO INSTITUTIONS DEDICATED TO RELIGION OR EDUCATION (COUNT 21).....	465
I. Municipality of Prozor	465
II. Municipality of Gornji Vakuf	465
III. Municipality of Jablanica (Sovići and Doljani)	466
IV. Municipality of Mostar	466
V. Municipality and Detention Centres of Ljubuški.....	468
VI. Municipality of Stolac	468
VII. Municipality of Čapljina	469
HEADING 21: APPROPRIATION OF PROPERTY, NOT JUSTIFIED BY MILITARY NECESSITY AND CARRIED OUT UNLAWFULLY AND WANTONLY (COUNT 22).....	470
I. Municipality of Prozor	470
II. Municipality of Gornji Vakuf	471
III. Municipality of Jablanica (Sovići and Doljani)	472
IV. Municipality of Mostar	473
V. Municipality of Stolac	475
VI. Municipality of Čapljina	476
VII. Municipality of Vareš	478
HEADING 22: PLUNDER OF PUBLIC OR PRIVATE PROPERTY (COUNT 23)	479
I. Municipality of Prozor	479
II. Municipality of Gornji Vakuf	480
III. Municipality of Jablanica (Sovići and Doljani)	481
IV. Municipality of Mostar	482
V. Municipality of Stolac	484
VI. Municipality of Čapljina	485
VII. Municipality of Vareš	487
HEADING 23: UNLAWFUL ATTACK ON CIVILIANS (MUNICIPALITY OF MOSTAR) (COUNT 24).....	488
HEADING 24: UNLAWFUL INFLICTION OF TERROR ON CIVILIANS (MUNICIPALITY OF MOSTAR) (COUNT 25).....	490
HEADING 25: CRUEL TREATMENT (MOSTAR SIEGE) (COUNT 26).....	492
HEADING 26: PERSECUTIONS ON POLITICAL, RACIAL AND RELIGIOUS GROUNDS (COUNT 1).....	492
I. Municipality of Prozor	492
II. Municipality of Gornji Vakuf	494
III. Municipality of Jablanica (Sovići and Doljani)	494
IV. Municipality of Mostar	496

V. The Heliodrom.....	500
VI. Vojno Detention Centre.....	500
VII. Municipality and Detention Centres of Ljubuški	501
VIII. Municipality of Stolac	502
IX. Municipality of Čapljina	503
X. Dretelj Prison.....	504
XI. Gabela Prison	505
XII. Municipality of Vareš	506

Heading 10: Dretelj Prison

1. This part of the Judgement relates to the crimes associated with the detention of Muslim men in Dretelj Prison. In paragraphs 187 to 193 of the Indictment, it is alleged that the HVO detained Muslims irrespective of their status in the hangars and tunnels of the Dretelj Barracks from April 1993 to April 1994 in harsh and unhealthy conditions. It is further alleged that members of the HVO subjected the prisoners to physical and mental abuse. As a result of these actions and conditions of confinement, numerous detainees suffered serious bodily harm or consequences to their health. Some died as a result. The Prosecution submits, moreover, that the HVO denied international observers and humanitarian organisations access to the camp until early September 1993 and that, to be released, the detainees had to be married to a Croat woman or be in possession of a visa and a letter of guarantee to leave BiH for another country.

2. The Prosecution alleges that these events constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), deportation (Count 6), unlawful deportation of a civilian (Count 7), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), and cruel treatment (Count 17).

3. At the outset, the Chamber points out that, concerning the inhumane acts (forcible transfer) (Count 8) and the unlawful transfer of a civilian (Count 9), the description of the facts in paragraphs 187 to 193 of the Indictment makes no reference to any act of “transfer”. Moreover, the Chamber observes that in paragraph 229, in which the Prosecution lists the applicable counts, the Prosecution did not include Counts 8 and 9 for the facts pertaining to the events at Dretelj Prison. For this reason, despite the enumeration of counts, Counts 8 and 9 included, for Dretelj Prison in paragraph 194 the Chamber does not deem itself seized of these allegations, and decides therefore not to address them.

4. By contrast, the Chamber notes that the counts of deportation (Count 6) and unlawful deportation of a civilian (Count 7) are properly alleged for the incidents relating to Dretelj Prison.

5. In its Final Trial Brief, the Prosecution contends that acts of looting took place at Dretelj Prison.¹ It is the conclusion of the Chamber that, not only does every one of the paragraphs of the Indictment regarding Dretelj Prison (paragraphs 187 to 193) omit any mention of looting, but in

¹ Prosecution Final Trial Brief, para. 619.

addition, paragraph 229 of the Indictment, which lists all of the counts, and specifically Counts 22 and 23 for looting, also fails to mention the events relating to Dretelj Prison. As a result of this, the Chamber holds that the crime of looting has not been alleged for Dretelj Prison.

6. In order to adjudicate the facts alleged, the Chamber has analysed a collection of evidence. The Chamber examined, in particular, the *viva voce* testimony of Witnesses *Alija Lizde, BB, Belinda Giles, BI, C, CD, CI, CQ, CR, DD, E, EJ, Edward Vulliamy, Fata Kaplan, Fahrudin Rizvanbegović, Ivan Bandić, Josip Praljak, Klaus Johann Nissen, Marijan Biškić, Nermin Malović, Slobodan Božić, Slobodan Praljak, Zdravko Sančević, Zoran Buntić, and Zvonko Vidović* as well as the statements by Witnesses *Azra Krajšek, BQ, CH, CK, CM, CP, DV* and *DZ*, admitted pursuant to Rule 92 *ter* of the Rules, and supplemented by their testimony in court. The Chamber also took into account the written statements and interview transcripts of Witnesses *Ahmet Alić, Aiša Kaplan, Ale Sakoć, Alija Šuta, AP, Denis Šarić, EB, EC, EE, EF, Enver Vilorogac, Fadil Elezović, Fatima Šoše, Halid Jazvin, Hikmeta Rizvanović, Huso Marić, II, Kemal Lizde, Mustafa Salman, Nedžad Bobeta, PP, OO, Sabira Hasić, Sadeta Ćiber, Šefik Ratkušić, and Zijad Vujinović*, admitted under Rule 92 *bis* of the Rules. Lastly, the Chamber examined a large number of exhibits admitted to the record through these witnesses or upon written motion.

7. In order to establish the events which took place in Dretelj Prison, the Chamber will first (I) describe the organisation of Dretelj Prison. Subsequently, the Chamber will analyze the evidence pertaining to (II) the arrivals and departures of the detainees, (III) their numbers and status, (IV) their conditions of confinement, and (V) the ill-treatment to which they were subjected. The Chamber will then examine the allegations concerning (VI) the restrictions on access of international organisations to Dretelj Prison and the concealment of certain detainees from the ICRC. Lastly, the Chamber will describe (VII) how the detainees left Dretelj Prison.

I. Organisation of Dretelj Prison

8. Once it has (A) described Dretelj Prison, the Chamber will ascertain which persons and units were present within the Prison, which will enable the Chamber (B) to highlight its command structure and to examine the distribution of powers.

A. Description of Dretelj Prison

9. The Chamber heard several witnesses, in particular, former detainees, describe the Dretelj Prison enclosure, which formed part of the Dretelj Camp,² located in the suburbs of the town of Čapljina.³ Dretelj Camp formerly served as barracks used by the JNA for refuelling military vehicles and for this reason there were several petrol tanks located in tunnels burrowed into the hillside.⁴

10. On the right-hand side of the entrance to Dretelj Camp, there stood an administrative building which housed the command of the 3rd Company of the 3rd Military Police Battalion from March 1993 onwards.⁵ To the left of the entrance, stood a building that had been transformed into a dispensary⁶ in July 1993.⁷

11. Unable to determine the precise number of hangars,⁸ the Chamber notes that Dretelj Camp consisted of several hangars – some were in canvas, others in brick – and two tunnels facing one another, bored into a hillside toward the base of the camp.⁹

12. The Chamber heard several witnesses who were detained at Dretelj Prison, principally from the start of July 1993,¹⁰ who indicated that at least four hangars¹¹ and both tunnels¹² were used to detain the prisoners.¹³

² The Indictment makes a distinction between “Dretelj Prison” and “Dretelj Barracks”. For instance, in paragraph 87 of the Indictment, it is stated that “[t]he Dretelj District Military Prison was part of, or located alongside, the Dretelj Barracks”. It is the Chamber’s understanding, in view of the evidence admitted to the record, that “Dretelj Camp” included both “Dretelj Barracks” and “Dretelj Prison”.

³ P 10208, para. 10.

⁴ P 10229, p. 3, para. 7; P 10143, p. 6; P 10129 under seal, para. 25; P 10137, para. 16; P 10122, para. 7; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1499; P 10208, para. 10; P 10135 under seal, para. 32; Witness C, T(F), pp. 22329 and 22330, closed session; Witness E, T(F), p. 22084, closed session; P 10127 under seal, p. 6; Witness C, T(F), pp. 22371-22373, closed session; IC 00660; Witness C, T(F), pp. 22434 and 22435, closed session; IC 00663.

⁵ Witness C, T(F), pp. 22312, 22330, 22369, 22432 and 22433, closed session; IC 00660; Witness C, T(F), pp. 22371-22372, closed session; IC 00662; 2D 00518; P 10143, p. 6; P 01802; P 02132; P 02310, p. 2.

⁶ The witnesses employ the terms “dispensary” and “infirmary” without distinction. The Chamber has decided to employ the term “dispensary” inasmuch as it is the one most frequently employed.

⁷ Witness CP, T(F), pp. 11357-11358 and 11361-11363, closed session; P 09755 under seal, pp. 4-6; IC 00115; Witness DD, T(F), pp. 14439 and 14440, closed session; IC 00006; P 10135 under seal, para. 36; P 10143, pp. 6, 9 and 11; P 10125, p. 5.

⁸ Witness E, T(F), p. 22084, closed session; Witness C, T(F), pp. 22329 and 22330, closed session; Alija Lizde, T(F), p. 17783; P 10140 under seal, p. 5; P 10143, p. 6; P 10122, para. 7; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1499; P 10037, para. 7; P 10135 under seal, para. 32; P 10125, p. 4; P 10138, para. 20; P 10131 under seal, para. 24.

⁹ Witness E, T(F), p. 22084, closed session; Edward Vulliamy, T(F), pp. 1567-1569; Alija Lizde, T(F), p. 17783; Witness C, T(F), pp. 22329 and 22330, closed session; Fahrudin Rizvanbegović, T(F), pp. 2208, 2209 and 2212; P 10135 under seal, para. 32; P 10143, p. 6; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1499; P 10140 under seal, p. 5; P 10037, para. 7; P 10131 under seal, para. 24; P 10147, p. 5; P 09716 under seal, pp. 6 and 8; Witness BQ, T(F), pp. 7901-7903; P 10137, para. 11; P 10145, p. 4; P 10125, p. 5; IC 00012; Edward Vulliamy, T(F), pp. 1576 and 1577; P 08761; P 09719; IC 00660; IC 00661; IC 00662.

¹⁰ P 10125, pp. 4 and 5; P 10145, pp. 3 and 4; P 09947, p. 5.

13. The meal area was near the hangars¹⁴ and food was served in a semi-open building.¹⁵
14. Dretelj Prison was also equipped with several “isolation cells”¹⁶ but the Chamber was unable to determine precisely how many.¹⁷

B. Command Structure Inside Dretelj Prison and Distribution of Powers Among the Various Authorities

15. The Chamber observes that the detainees formerly at Dretelj Prison who came to testify before the Chamber were often quite confused concerning matters of command structure, as well as concerning the role and the position of the various individuals and units from the HVO within Dretelj Prison. Consequently, in order to determine the command structure within Dretelj Prison as accurately as possible, the Chamber will turn primarily to documents issued by the HVO authorities at the time of the events. To this end, once the Chamber has established (1) who was responsible for the management of Dretelj Prison, the Chamber will examine (2) which units were present at the Prison and the chain of command there, and then (3) the distribution of powers among these various units.

1. Management of Dretelj Prison

16. As concerns the management of Dretelj Prison, the Chamber has in its possession information indicating that on 22 July 1993, Tomislav “Tomo” Šakota, a former member of the Military Police, was appointed as “coordinator for inmates and prisoners of war on the territory of the [HR H-B]” by Mate Boban and that he likewise held the post of warden of Dretelj Prison until 25 December 1993.¹⁸ The Chamber, however, has no information concerning any warden of Dretelj Prison earlier than 22 July 1993.

¹¹ P 10037, para. 7; P 10143, p. 6; P 10129 under seal, para. 26; P 10138, para. 20.

¹² Witness E, T(F), p. 22084, closed session; Edward Vulliamy, T(F), p. 1570; Fahrudin Rizvanbegović, T(F), p. 2208; P 10125, p. 5; Witness BQ, T(F), pp. 7902-7903, 7906, closed session; P 09719; P09721; P 09753 under seal, p. 6; Witness CM, T(F), pp. 11101 and 11102, private session; P 03106 under seal, p. 10; see also P 05222, p. 3.

¹³ Witness E, T(F), p. 22084, closed session; Alija Lizde, T(F), p. 17783; P 10125, p. 5; P 10145, p. 4; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4942, open session; P 09254; P 10129 under seal, para. 26.

¹⁴ P 10143, p. 6; P 08761.

¹⁵ P 10143, pp. 6 and 8.

¹⁶ The Chamber will employ the term “isolation cells” even though there were many people in them. The term “isolation cells” is used both in the reports by the assistant chief for security of the Military Police, Branimir Tucak, as well as by former detainees.

¹⁷ See “Conditions of Confinement in the Isolation Cells” in the Chamber’s factual findings with regard to Dretelj Prison.

¹⁸ P 03958; 2D 00517; P 05222; P 07341, p. 1; Witness C, T(F), p. 22438, closed session; Witness DD, T(F), pp. 14459 and 14460, closed session; *Fahrudin Rizvanbegović*, T(F), pp. 2205, 2206, 2207, 2262 and 2378; *Slobodan Božić*, T(F), pp. 36284-36286 and 36288, open session; P 09755 under seal, p. 5; Witness CP, T(F), p. 11372, closed session; P 10140 under seal, p. 6; P 10143, pp. 9-11; P 10125, p. 7; P 10137, para. 41; P 10135 under seal, para. 77. The Chamber

2. Units Present at Dretelj Prison and the Chain of Command

17. The Chamber observes that individuals belonging to various units of the HVO were present in the camp and at Dretelj Prison, and that these were primarily (a) military police from the 3rd Company of the 3rd Military Police Battalion, (b) members of the 1st *Knez Domagoj* Brigade of the HVO, and (c) members of the *Domobrani*.

a) 3rd Company of the 3rd and then 5th Military Police Battalion

18. The 3rd Company of the 3rd Military Police Battalion was based at Dretelj Prison.¹⁹ After the reorganisation of the Military Police in early July 1993, the 3rd Company was assigned to the 5th Military Police Battalion, but continued to be based at Dretelj Prison.²⁰ The 3rd Company of what was the 3rd (later the 5th) Military Police Battalion was commanded by Ivan Ančić, starting in April 1993,²¹ then by Krešimir Bogdanović, starting in late June 1993.²² Between 5 August 1993 and 8 October 1993, Ivan Ančić held the post of commander of the 5th Military Police Battalion, and simultaneously, the post of Dretelj Barracks commander.²³

19. The daily reports sent by the commander of the 3rd Military Police Company to the commander of the 3rd (later the 5th) Military Police Battalion, to the commander of the 1st *Knez Domagoj* Brigade, and to the Military Police Administration pertained specifically to the situation at Dretelj Prison.²⁴ The commander of the 5th Military Police Battalion sent daily reports to the Military Police Administration concerning the activities of the Battalion – to which the 3rd Company belonged – specifically in relation to Dretelj Prison.²⁵

notes at this time that the post of “warden of Dretelj Prison” is distinct from the post of “Dretelj Barracks commander”, which was held by Ivan Ančić.

¹⁹ P 02310, p. 2; P 02132, p. 2.

²⁰ Witness E, T(F), p. 22084, closed session; Witness C, T(F), p. 22319, closed session; P 03326; P 03446. Witness C, T(F), pp. 22363 and 22442, closed session. Krešimir Bogdanović thus became the commander of the 3rd Company of the 5th Military Police Battalion of the HVO; P 03555; P 03593; P 03605 under seal; P 03892 under seal.

²¹ P 02310, p. 2; P 02132, p. 2.

²² Witness C, T(E), p. 22312 and T(F), pp. 22318 and 22319, closed session; P 03057; P 03075; P 03121; P 03129; P 03134; P 03170; P 03230; P 03326; P 03328.

²³ Witness C, T(F), pp. 22318-22320 and 22546, closed session; P 03960; P 05322 under seal; P 05647, P 05497, P 06322. Tarko Jurić held the post of commander of the 5th Military Police Battalion of the HVO in July 1993. P 03580, p. 2; P 03624, p. 2.

²⁴ These reports referred, *inter alia*, to the number of persons held at the Prison, the particulars of the arrest and transport of these detainees to Dretelj Prison, and also the personnel tasked with monitoring them. Witness C, T(E), p. 22322, closed session; P 03121, pp. 2 and 3; P 03134, p. 1; P 03230; P 03307; P 03326.

²⁵ P 03580, p. 2; P 03624, p. 2; P 05322 under seal; P 03960; P 05647, p. 2; P 05497, p. 3.

20. Ivica Kraljević, a member of the Department for Criminal Investigations of the Military Police within the South-East OZ, was also at Dretelj Prison and was responsible for interrogating the detainees.²⁶

b) 1st *Knez Domagoj* Brigade

21. The Chamber does not have information on whether there were any soldiers from the 1st *Knez Domagoj* Brigade inside the Dretelj Prison enclosure other than the members of the SIS of the said brigade.²⁷ Nevertheless, inasmuch as Dretelj Prison was located inside the area of responsibility of the 1st *Knez Domagoj* Brigade of the HVO,²⁸ its commander, Nećeljko Obradović, sent numerous orders regarding the security,²⁹ health³⁰ and release of the detainees³¹ to the units that were part of his brigade, to the SIS attached to his brigade, to the *Domobrani* and to the warden of Dretelj Prison.

c) The *Domobrani*

22. On 2 July 1993, Nećeljko Obradović ordered that a unit of the *Domobrani* be created to guard Dretelj Prison, consisting of 40 members.³² The witnesses and reports of the HVO have confirmed that this *Domobrani* unit was present at Dretelj Prison.³³

3. Distribution of Powers Inside Dretelj Prison

23. In its Pre-Trial Brief, the Prosecution indicates that “members of the HVO Military Police and the „Home Guard“³⁴ provided security for Dretelj Barracks and Prison”.³⁵ The Stojić Defence contends that Colonel Obradović wielded absolute authority over every facet of detention in the

²⁶ Witness C, T(F), p. 22408, closed session; P 02607; P 02961; P02412; P 02889; 4D 00462; 4D 00910; 4D 01096; P 10125, p. 6; Witness CR, T(F), pp. 11874 and 11875, closed session; Fahrudin Rizvanbegović, T(F), p. 2378; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1499, 1500 and 1523.

²⁷ Alija Lizde, T(F), p. 17788; P 10135 under seal, paras 30, 43, 78 and 79; P 10233, para. 17; P 10234, p. 2; P 05647, p. 3.

²⁸ P 03119; 5D 01064; 5D 01065; 5D 01066; Zvonko Vidović, T(F), pp. 51736 and 51738. *See also* “The 3rd Company of the 3rd and then 5th Military Police Battalion” in the Chamber’s factual findings with regard to Dretelj Prison.

²⁹ P 03119; 5D 01064; P 03462.

³⁰ P 03197.

³¹ 5D 02184; P 04941; P 03442.

³² Witness C, T(F), pp. 22374, 22376 and 22487, closed session; P 03119.

³³ Witness DD, T(F), pp. 14427, 14527 and 14528, closed session; Fahrudin Rizvanbegović, T(F), pp. 2378 and 2379; Witness C, T(F), pp. 22429-22430, 22469 and 22470, closed session; P 10135 under seal, para. 79; P 03170, p. 1; P 03134, pp. 1 and 2; P 03230; P 04000 under seal; P 04855 under seal; *see also* P 03305, p. 2; Witness E, T(F), p. 22084, closed session; P 10143, p. 7.

³⁴ The Prosecution Pre-Trial Brief uses the term “Home Guards” but the Chamber has already determined that it will use the BCS term “*Domobrani*” in the Judgement, *see* “Units Present at Dretelj Prison and the Chain of Command” in the Chamber’s factual findings with regard to Dretelj Prison.

³⁵ Prosecution Pre-Trial Brief, para. 187.2.

facilities located in the South-East OZ³⁶ and that security at Dretelj Barracks was provided by members of the Military Police, the “Home Guard” and the MUP.³⁷ The Petković Defence for its part acknowledges that the commander of the 1st Brigade of the HVO – Nećeljko Obradović – “was involved indeed in running the detention facilities in Dretelj and Gabela” but nevertheless contends that “[no] report ...” about the conditions of detention in these prisons “[was] submitted ... to the Main Staff”.³⁸ The Ćorić Defence likewise points to the central role played by Nećeljko Obradović, commander of the 1st Brigade of the HVO, in managing Dretelj Prison and contends that he was the prison warden’s superior, that he was in charge not only of security but also of overall administration, including food and water supply, as well as medical care.³⁹ It also points out that the *Domobrani* Unit, created by Nećeljko Obradović, was responsible for security at Dretelj Prison.⁴⁰

24. To establish the authority and scope of action of each unit present at Dretelj Prison, the Chamber will, in turn, determine (a) who controlled access to water and food, (b) who interrogated the detainees, (c) who guarded and provided security for the detainees, (d) who was responsible for the provision of medical care and follow-up treatment, and, lastly, (e) who was in charge of detainee departures from the Prison.

a) Authorities Controlling Detainee Access to Water and Food

25. According to a report dispatched to Valentin Ćorić by Ivan Ančić, commander of the 5th Military Police Battalion, the 1st *Knez Domagoj* Brigade of the HVO was in charge of the logistical aspects, including the supply of food and water, with the aid of a cistern.⁴¹ This report indicates that the HVO Military Police had no say over the type or amount of food served to the detainees at Dretelj Prison.⁴² *Alija Lizde*, a detainee at Dretelj Prison, stated that the Military Police provided food to the detainees.⁴³ These statements do not necessarily contradict the report by Ivan Ančić because the 1st *Knez Domagoj* Brigade could have been in charge of food supply and the Military Police in charge of distributing it to the detainees.

³⁶ Stojić Defence Final Trial Brief, paras 491 and 515.

³⁷ Stojić Defence Final Trial Brief, para. 516.

³⁸ Petković Defence Final Trial Brief, para. 364.

³⁹ Ćorić Defence Final Trial Brief, paras 549, 560-564, 566, 568 and 570.

⁴⁰ Ćorić Defence Final Trial Brief, para. 571.

⁴¹ P 05647, p. 2. See also Witness C, T(F), pp. 22377 and 22508, closed session; Witness DD, T(F), p. 14533, closed session.

⁴² P 05467, p. 2.

⁴³ *Alija Lizde*, T(F), p. 17784.

b) Authorities Conducting Interrogations of Detainees

26. Several testimonies, corroborated by SIS and Military Police reports, have confirmed that there were SIS personnel within Dretelj Prison.⁴⁴ The evidence also indicates that Ivica Kraljević, a member of the Department for Criminal Investigations of the Military Police in the South-East OZ,⁴⁵ was the person in charge of interrogating detainees.⁴⁶ According to a report by Branimir Tucak, assistant chief for security of the Military Police, the MUP security service in Čapljina also carried out interrogations at Dretelj Prison.⁴⁷

c) Authorities Responsible for Guarding Detainees and Ensuring Their Security

27. The arrival and accommodation of the detainees at Dretelj Prison were overseen by members of the 3rd Company of the 3rd, later the 5th, Military Police Battalion of the HVO⁴⁸ as well as by the *Domobrani*.⁴⁹ However, there was no one responsible for security inside of the hangars.⁵⁰

28. When “the security situation worsened”,⁵¹ the Čapljina MUP and personnel from other units of the Military Police in Klis, Konjic and Ljubuški also participated in maintaining security at Dretelj Prison.⁵²

d) Authorities Responsible for Medical Care

29. The Ćorić and Stojić Defences contend that the commander of the *Knez Domagoj* Brigade was responsible for medical attention provided to the detainees of Dretelj Prison and that it therefore fell to him to adopt the necessary measures with respect to medical care.⁵³

⁴⁴ Alija Lizde, T(F), p. 17788; P 10135 under seal, paras 30, 43, 78 and 79; P 10233, para. 17; P 10234, p. 2; P 05647, p. 3; Witness DD, T(F), p. 14533, closed session. See also P 05133.

⁴⁵ Witness C, T(F), p. 22408, closed session: based on his statements, the Military Police’s section for crime prevention was conducting “investigations” with the detainees; P 02607; P 02961; P 02412; P 02889; 4D 00462; 4D 00910; 4D 01096.

⁴⁶ P 05312 under seal; P 10125, p. 6; P 10135 under seal, para. 78; Ivan Bandić, T(F), pp. 38084, 38085, 38091 and 38248-38251.

⁴⁷ P 03377, p. 2; this is confirmed by P 05647, p. 2; Witness DD, T(F), p. 14533, closed session; Witness C, T(F), p. 22408, closed session.

⁴⁸ Alija Lizde, T(F), pp. 17784 and 17970; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1499, 1500 and 1523; Witness E, T(F), p. 22084, closed session; Witness C, T(F), pp. 22319, 22359, 22369, 22430, 22469, 22470 and 22508, closed session; P 10037, para. 7; P 10135 under seal, para. 79; P 10125, p. 6; P 10145, pp. 3 and 4; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T (F) p. 5122; P 03326; P 03446; P 03170, p. 1; P 03134, pp. 1 and 2; P 05647, p. 2.

⁴⁹ Witness DD, T(F), pp. 14427, 14527 and 14528, closed session; Fahrudin Rizvanbegović, T(F), pp. 2201, 2205, 2206, 2207, 2262, 2361 and 2378; Witness C, T(F), pp. 22369, 22430, 22469 and 22470, closed session; P 10135 under seal, para. 79; P 03170, p. 1; P 03134, pp. 1 and 2; P 03230; P 04000 under seal; P 04855 under seal; see also P 03305, p. 2.

⁵⁰ Witness C, T(F), p. 22376, closed session.

⁵¹ The Chamber does not have any details concerning this situation.

⁵² Witness C, T(F), p. 22488, closed session; P 10143, pp. 10 and 11; P 04266; P 04000 under seal, p. 1; P 03580, p. 2.

30. The evidence indicates that one of the prison buildings was converted into a dispensary in July 1993.⁵⁴ The evidence analysed by the Chamber makes it possible to establish that it fell to the *Knez Domagoj* Brigade to ensure access to health care for the detainees at Dretelj Prison. The Chamber points out that several orders mandating that health care be made available at Dretelj Prison⁵⁵ were in fact directed to the 1st *Knez Domagoj* Brigade by Ivan Bagarić, assistant chief of the HVO Department of Defence responsible for the health section, or by doctor Ivo Curić, commander of the health section of the Department of Defence.⁵⁶ Moreover, the Chamber observes that the commander of the 1st *Knez Domagoj* Brigade also dispatched orders to the medical services of the 1st and 3rd Brigades regarding the creation of a medical commission to draw up a list of sick and disabled detainees and to recommend their release but, which, as the Chamber will later explain in the part devoted to the conditions of confinement, nevertheless did not bring about the release of the detainees who were sick.⁵⁷

e) Authorities Responsible for Managing the Departure of Detainees

31. The Prosecution contends that Valentin Čorić oversaw the release of detainees, citing in this respect a notice he sent to NeĀđjko Obradović on 6 July 1993, in which he reminded the latter that all military prisons fell within the exclusive jurisdiction of the Military Police and that the commander of the 1st *Knez Domagoj* Brigade had no authority to order the release of detainees there, unless they had been captured by the Brigade itself.⁵⁸ The Petković Defence contends that Milivoj Petković had no authority to order the release of detainees.⁵⁹ The Čorić Defence for its part contends that the commander of the *Knez Domagoj* Brigade alone had authority in matters pertaining to the release of detainees, with the consent of the Brigade SIS – in the person of Ťarko Pavlović – and that the Military Police Administration only got involved in the release process insofar as it forwarded the requests for release to Colonel Obradović, who was supposed to approve

⁵³ Čorić Defence Final Trial Brief, para. 565; Stojić Defence Final Trial Brief, para. 515.

⁵⁴ Witness CP, T(F), pp. 11357 and 11358 and 11361-11363, closed session; P 09755 under seal, pp. 4-6; IC 00115; Witness DD, T(F), pp. 14439 and 14440, closed session; IC 00006; P 10135 under seal, para. 36; P 10143, pp. 6, 9 and 11; P 10125, p. 5.

⁵⁵ 2D 00715, p. 1; Witness DD, T(F), pp. 14449, 14450, 14493-14495, 14497 and 14498, closed session; 2D 00278; 2D 00412, p. 2.

⁵⁶ 2D 00715, p. 1; Witness DD, T(F), pp. 14449, 14450, 14493-14495, 14497 and 14498, closed session; 2D 00278; 2D 00412, p. 2.

⁵⁷ P 03129; P 03197; 5D 03008; Witness C, T(F), pp. 22552 and 22553, closed session; Witness DD, T(F), pp. 14528 and 14529, closed session; Witness CM, T(F), p. 11140.

⁵⁸ Prosecution Final Trial Brief, paras 1079-1081, citing document P 03220. The Čorić Defence repeatedly asserted over the course of the trial, as well as in its Final Trial Brief (paras 699-701), that this document was a forgery but the Chamber already ruled upon the authenticity of this document in the part relating to the Military Police. See “Responsibility of the Military Police in Matters of Detainee Release” in the Chamber’s findings on the military structure of the HZ(R) H-B.

⁵⁹ Petković Defence Final Trial Brief, paras 307-308.

or deny them.⁶⁰ Similarly, the Pušić Defence insists on the role of the SIS at the *Knez Domagoj* Brigade, particularly on the role of the commander of the said brigade in the process of releasing detainees.⁶¹

32. In the part relating to the structure of the Military Police, the Chamber previously determined that “the Military Police Administration had (...) the power and authority to order the release of persons detained by the HVO” while pointing out that this finding did not prevent the Chamber from noting that other HVO authorities also had the power to order the release of detainees.⁶²

33. Two orders issued respectively, by Nečeljko Obradović on 5 July 1993, and by Ivan Ančić, then assistant commander of the 3rd Military Police Battalion, on 6 July 1993, and confirmed by the statements of *Witness C*, indicate that no detainee could be released from Dretelj Prison without authorisation from Nečeljko Obradović,⁶³ acting on the recommendation of Tarko Pavlović, the deputy commander of the 1st *Knez Domagoj* Brigade responsible for security.⁶⁴ Nečeljko Obradović was involved in the release of prisoners,⁶⁵ either by approving the recommendations for release made by Tarko Pavlović⁶⁶ or by personally dispatching release orders to the warden of Dretelj Prison that did not involve Tarko Pavlović in any way.⁶⁷

34. The Chamber points out that Tomislav Šakota, the warden of Dretelj Prison, sent a request to Nečeljko Obradović asking for the release of a detainee, following a query to that effect from Valentin Ćorić, Chief of the Military Police Administration.⁶⁸ Moreover, the Chamber notes that Tomislav Šakota complained in a report to Mate Boban of having come up against the authority of the brigade commander with regard to matters concerning the release of detainees.⁶⁹

35. As concerns the transfer of detainees from Dretelj Prison to other detention sites, the Chamber has already detailed the role of the Military Police Administration as well as of the Chief

⁶⁰ Ćorić Defence Final Trial Brief, paras 577-579.

⁶¹ Pušić Defence Final Trial Brief, paras 333, 334 and 336.

⁶² See “Responsibility of the Military Police in Matters of Detainee Release” in the Chamber’s findings on the military structure of the HZ(R) H-B.

⁶³ Witness C, T(F), pp. 22391-22394, closed session; P 03201; P 03232.

⁶⁴ Witness C, T(F), pp. 22365, 22366, 22543, 22544 and 22547, closed session; see as an example of the system of detainee release 5D 02184.

⁶⁵ Witness C, T(F), pp. 22391-22394, closed session; P 03232; P 03201; 5D 02184; P 04941; P 03442.

⁶⁶ Witness C, T(F), pp. 22365, 22366, 22543, 22544 and 22547, closed session; see as an example of the system of detainee release 5D 02184; P 04079; P 04941.

⁶⁷ P 03442. Even though this document is entitled “request”, the Chamber notes that the contents do not appear to allow the interlocutor the choice to refuse, inasmuch as Nečeljko Obradović, having “requested” release, informs his interlocutor that the battalion commander and an SIS officer will come to pick up these detainees; P 03169.

⁶⁸ P 03883.

⁶⁹ Witness C, T(F), pp. 22440 and 22441, closed session; P 07341, p. 2.

of the Office responsible for prisoner exchanges, Berislav Pušić,⁷⁰ but here wishes to point out that on 23 September 1993, Valentin Ćorić, Chief of the Military Police Administration, ordered that five detainees from the Dretelj Prison be transferred to the one at Ljubuški, without involving NeČđjko Obradović.⁷¹

36. After reviewing all of the evidence, the Chamber finds that, in addition to the Military Police Administration and its Chief, Valentin Ćorić, the competent authorities to order the release or transfer of detainees were the commander of the 1st *Knez Domagoj* Brigade, NeČđjko Obradović, and the Brigade SIS chief, Ťarko Pavlović, who was likewise involved in the process.

II. Arrivals of Detainees at Dretelj Prison

37. The Indictment alleges that the HVO detained Muslim men from BiH at Dretelj Prison essentially from April to September 1993, but that some of them remained there until roughly April 1994.⁷²

38. The Prosecution places the establishment of Dretelj Prison within the framework of the JCE, contending that this prison was “re-opened”⁷³ due to the ultimatum set by the HVO on 3 April 1993 – requiring all ABiH units in Provinces 3, 8 and 10 to place themselves under the HVO prior to 15 April 1993 or otherwise leave these provinces – and the anticipated results, namely, the impending placement in detention of a vast number of Muslims.⁷⁴ The Prosecution argued, moreover, in its Pre-Trial Brief that, on 4 April 1993, that is, shortly before Dretelj Prison was created, it was visited by Jadranko Prlić, Bruno Stojić and Mate Boban.⁷⁵ The Ćorić Defence argues that Dretelj Barracks were not designed for detention; that their use for this purpose was dictated by overcrowding in the other “collection” centres and that it was converted by the 1st *Knez Domagoj* Brigade of the HVO to accommodate detainees.⁷⁶ Relying on the testimony of *Zoran Buntić*, the Stojić and Petković Defences, for their part, argue that Dretelj Prison was established by a decision of the municipal council of Čapljina Municipality and were thus under the latter’s remit.⁷⁷

⁷⁰ See “Responsibility of the Military Police in Exchanges, Transfers, Labour and Release of Detainees” in the Chamber’s findings on the military structure of the HZ(R) H-B.

⁷¹ Witness C, T(F), p. 22500, closed session; P 05312 under seal.

⁷² Indictment, para. 188.

⁷³ The Prosecution submits that Dretelj Prison was used by the HVO in 1992 to detain Serbs, and then was closed, prior to being reopened by the HVO because of the ultimatum. Prosecution Final Trial Brief, para. 465.

⁷⁴ Prosecution Final Trial Brief, paras 235, 464 and 465.

⁷⁵ Prosecution Pre-Trial Brief, para. 187.1, citing Exhibit P 01802.

⁷⁶ Ćorić Defence Final Trial Brief, paras 556-559.

⁷⁷ Stojić Defence Final Trial Brief (corrigendum), para. 512; Petković Defence Final Trial Brief, para. 328.

39. The first detainees arrived at Dretelj Prison in April 1993, following the arrests of members of the ABiH from the region of Čapljina which were ordered by the commander of the 1st *Knez Domagoj* Brigade, in cooperation with the MUP and the SIS of the *Knez Domagoj* Brigade.⁷⁸ The Chamber notes that it was the 1st Brigade SIS that took the decision to “accommodate” these detainees at Dretelj.⁷⁹ Following this Dretelj Prison held Muslim men up until the beginning of October 1993.⁸⁰ The detainees came in waves from Stolac, Čapljina and Mostar but also from other HVO detention centres.

40. Thus, the first detainees – Muslim intellectuals and Muslim members of the opposition affiliated with the SDA who were arrested by the HVO in the municipalities of Stolac and Čapljina – reached Dretelj Prison in April 1993.⁸¹

41. The Chamber notes that Muslim men – members of the ABiH,⁸² Muslim men of military age⁸³ and Muslim soldiers from the HVO⁸⁴ – were arrested in Mostar and taken to Dretelj Prison starting on 30 June 1993.

42. Most of the detainees therefore reached Dretelj Prison in late June and early July 1993, following waves of arrests conducted by the HVO in the Municipalities of Stolac and Čapljina.

⁷⁸ P 01900; P 05647; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2126 and 2127; Witness CR, T(F), pp. 11878-11882, private session; P 10137, para. 5; P 02117.

⁷⁹ P 05647.

⁸⁰ Fahrudin Rizvanbegović, T(F), p. 2226; P 10137, para. 13; P 09753 under seal, p. 7; Witness CM, T(F), pp. 11104 and 11106; P 10127 under seal, p. 7; P 10135 under seal, paras 101-103 and 105; P 10143, pp. 10 and 11; Witness DD, T(F), pp. 14466, 14490 and 14491, closed session; P 05222, p. 2; P 05219 under seal, pp. 1 and 2; P 05647; P 08498, p. 4.

⁸¹ See “Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993” in the Chamber’s factual findings on the Municipality of Čapljina; see “Arrests of Prominent Muslims in the Municipality of Stolac around 20 April 1993” in the Chamber’s factual findings on the Municipality of Stolac. See also Witness CR, T(F), pp. 11878-11882, private session; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2126 and 2127; P 10137, para. 5; P 02117.

⁸² Members of the ABiH were arrested by the HVO between 19 April 1993 and 11 May 1993 and detained in various detention camps before being brought to the Heliodrom, then on 30 June and 1 July 1993, to Dretelj Prison. The Indictment does not mention the arrests of these men in Mostar in April 1993, but the Chamber cites them here because these men were detained in Dretelj Prison starting on 30 June 1993. See concerning the arrests: Alija Lizde, T(E), pp. 17957, 17960, T(F), p. 17772; P 10233, paras 4-6 and 9-11; P 10234, p. 1; P 10122, para. 2.

⁸³ The Muslim men of military age were arrested, starting on 30 June 1993 and the initial days of July 1993, by the 3rd Company of the 3rd Military Police Battalion, in cooperation with the Čapljina MUP and the 1st *Knez Domagoj* Brigade, and taken to Dretelj Prison. See “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” in the Chamber’s factual findings on the Municipality of Mostar.

⁸⁴ Muslim members of the HVO were arrested on 1 July 1993 in West Mostar and taken to Dretelj Prison. See “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” in the Chamber’s factual findings on the Municipality of Mostar.

Thus, Muslim men members of the HVO as well as Muslim men of military age were arrested in the Municipalities of Stolac and Čapljina and taken to Dretelj Prison.⁸⁵

43. Detainees also came to Dretelj Prison after being moved from other HVO detention centres. For instance, as the Chamber previously determined, certain detainees were brought to Dretelj Prison from Ljubuški Prison, which did not have enough room, in July 1993; in August 1993, detainees were also moved from Ljubuški Prison to Dretelj Prison, but this time, the Chamber was not apprised of the grounds for their removal.⁸⁶

44. Dretelj Prison thus functioned as a detention centre between April 1993 and the early days of October 1993.

III. Number and Status of Detainees at Dretelj Prison

45. The Prosecution contends that the Muslim men were unlawfully imprisoned, on ethnic grounds alone, and that, once placed in detention, the HVO observed no distinction between military and civilian detainees, failing to detain them separately or to classify them, and treating them in the same manner regardless of age or status.⁸⁷ Once it has evaluated (A) the number of detainees at Dretelj Prison, the Chamber will then proceed to assess (B) their status.

A. Number of Detainees at Dretelj Prison

46. Reports issued by the HVO Military Police and sent, among other, to the Military Police Administration,⁸⁸ make it possible to evaluate the number of detainees at Dretelj Prison. For instance, on 3 July 1993, 1,820 Muslim men were detained at Dretelj Prison;⁸⁹ on 9 July 1993, there were 2,026,⁹⁰ and on 11 July 1993, 2,270.⁹¹ According to a report by the commander of the 5th

⁸⁵ See “Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993” in the Chamber’s factual findings on the Municipality of Čapljina; see “The Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993” in the Chamber’s factual findings on the Municipality of Stolac.

⁸⁶ See “Arrival and Relocation of Detainees of Ljubuški Prison” in the Chamber’s factual findings on the Municipality of Ljubuški and the detention centres there; Witness E, T(F), pp. 22075-22077, closed session; P 03401; P 03380. Some of the detainees transferred from Ljubuški were originally from Prozor. There was, in addition, even a hangar called the “Prozor Hangar”, which attests to their presence there, even if the Chamber lacks any further information concerning these detainees. P 10140 under seal, p. 5; P 10137; P 10143, pp. 6-8, 10 and 11; P 10125, p. 6.

⁸⁷ Prosecution Final Trial Brief, paras 1094 and 1099.

⁸⁸ These reports were primarily sent out by Krešimir Bogdanović, Commander of the 3rd Battalion of the 3rd Company and Branimir Tucak, Assistant Chief for Security of the HVO Military Police. P 03134, p. 3; P 03326; P 03377; P 03794; P 03958; P 03960; P 05222, p. 2, Witness C, T(F), p. 22504, closed session; P 04921.

⁸⁹ P 03134, p. 3.

⁹⁰ P 03326, p. 2; Witness C, T(F), pp. 22355 and 22356, closed session; P 03328.

⁹¹ P 03377; Witness DD, T(F), p. 14431, closed session; Witness C, T(F), p. 22406, closed session; see also P 03794; Witness DD, T(F), p. 14456, closed session; Witness C, T(F), p. 22504, closed session; P 03958; Witness DD, T(F), p. 14459, closed session; on 27 July 1993 and 5 August 1993, there were 1,699 and 1,835 detainees, respectively.

Military Police Battalion sent to Valentin Ćorić, Chief of the Military Police Administration, more than 2,500 Muslims were detained at Dretelj Prison between 30 June 1993 and 5 August 1993.⁹²

47. Two televised recordings from 28 August 1993 portray statements by newly released detainees indicating that, in August 1993, between 2,000 and 2,500 individuals were being held at Dretelj Prison.⁹³ On 20 September 1993, several days prior to the official closing of the camp,⁹⁴ 1,128 men were being held at Dretelj Prison,⁹⁵ and on 22 September 1993, 928 still remained.⁹⁶

B. Status of Detainees at Dretelj Prison

48. The Chamber has contradictory information concerning the registration of detainees when they arrived at Dretelj Prison, inasmuch as certain former detainees have said that they were registered whereas others contend that they were not subjected to any registration.⁹⁷ In any event, it appears from the entire collection of testimony that the “guards” at Dretelj Prison had lists of detainees.⁹⁸

49. The Chamber previously pointed out that the detainees from Dretelj Prison were divided into three main categories: ABiH soldiers, Muslim members of the HVO and Muslim men of military age.⁹⁹ The Chamber will elaborate upon the arguments of the parties relating to the status of the Muslim men of military age when it assesses the general requirements for the application of Articles 2, 3 and 5 of the Statute.

⁹² P 03960.

⁹³ P 00977a, Nermin Malović, T(F), p. 14343; P 00977b; Witness DD, T(F), pp. 14471-14473, closed session.

⁹⁴ See the Chamber’s factual findings with regard to Dretelj Prison.

⁹⁵ P 05222, p. 2, Witness CM, T(F), pp. 11104 and 11106.

⁹⁶ 1D 00938, p. 2.

⁹⁷ Some detainees said that they were not registered while they were in detention at Dretelj Prison. P 10127 under seal, p. 6; P 10140 under seal, p. 5. Other detainees contend that they were registered: P 10135 under seal, paras 31 and 35; P 10233, para. 12; P 10234, p. 1; see also the report by the commander of the 3rd Battalion of the 3rd Military Police Company in Čapljina, Krešimir Bogdanović, which he sent to the Military Police Administration and to the 3rd Battalion Command on 3 July 1993, which indicates that all of the men arriving at Dretelj Prison were searched and registered. P 03134, p. 2; P 03960, pp. 1 and 2.

⁹⁸ The witnesses are very vague concerning the status of these “guards”: *Witness BQ* speaks of soldiers; *Denis Šarić* refers only to wardens, whereas *Fadil Elezović* speaks simultaneously of guards, of HVO soldiers and of Vide Palameta (whom the Chamber has already determined was a member of the Military Police). For this reason, the Chamber has employed the term “guard”. *Witness BQ*, T(F), pp. 7906-7908, 7912, 7920-7921, closed session; see to this effect Document P 03104 under seal. According to *Witness BQ*, this list accounts for the names of the detainees who were released on or about 28 August 1993 and he stated that, upon release from Dretelj Prison, the HVO soldiers were allowed to call the detainees by name. P 10143, para. 12.

⁹⁹ As the Chamber will state later in its analysis, a number of Croatian soldiers from the HVO were also detained in connection with disciplinary proceedings, see “Status of Detainees at Dretelj Prison” in the Chamber’s factual findings with regard to Dretelj Prison.

50. As concerns the status of the Muslim members of the HVO detained by the HVO, the Chamber will likewise elaborate upon the parties' arguments in the part devoted to assessing the general requirements for the application of Articles 2, 3 and 5 of the Statute.

51. The Chamber also has in its possession information concerning the presence of "minors" and "elderly persons" among those detained at Dretelj Prison. The evidence indicates that the HVO arrested and held Muslim men under 16 years of age and over 60 years of age at Dretelj Prison, starting in late June 1993.¹⁰⁰

52. A report by the Department of Defence SIS, dated 20 September 1993, points out that there were several Muslim "minors".¹⁰¹ Several witnesses who were former detainees likewise confirmed the presence of "minors" inside Dretelj Prison; with one of them saying that the youngest was 13 years old.¹⁰²

53. The presence of elderly persons was confirmed by several former detainees¹⁰³ and in a report by Krešimir Bogdanović, the commander of the 3rd Company of the 3rd Military Police Battalion, which tallied 129 detainees over the age of 60 on 9 July 1993.¹⁰⁴

54. The Chamber also heard several witnesses indicate that "civilians" were detained alongside "soldiers", with no distinction of status.¹⁰⁵ However, elderly persons, "minors" as well as imams were detained, for at least the time period between 1 July 1993 and 1 October 1993, at the dispensary of Dretelj Prison,¹⁰⁶ and thus, in a distinct location.

55. The detainees at Dretelj were Muslim,¹⁰⁷ with the exceptions of some Croats who were members of the HVO and had committed disciplinary violations and might stay one or two days at

¹⁰⁰ P 09799 under seal, p. 3; Witness BB, T(F), pp. 17194, 17196, 17197 and 17198, 17254 and 17255, closed session; P 09678 under seal, para. 1; P 06697, para. 58; 5D 03008; Witness C, T(F), p. 22365, closed session; P 03328; P 10213, para. 26; P 03377, p. 2; Witness DD, T(F), pp. 14431 and 14432, closed session; Witness C, T(F), pp. 22405 and 22406, closed session; *see also* P 03952, pp. 2 and 3.

¹⁰¹ Witness CM, T(F), pp. 11104 and 11106; P 05222, p. 2.

¹⁰² Fahrudin Rizvanbegović, T(F), p. 2209, P 10137, paras 9 and 10. Witness II, P 10218, under seal, *Naletilić and Martinović* Case, T(F), p. 5125, open session. *See also* P 10124, paras 92, 94 and 95.

¹⁰³ Fahrudin Rizvanbegović, T(F), p. 2209 and 2226; Witness DD, T(F), pp. 14431 and 14432, closed session; Witness C, T(F), pp. 22405 and 22406, closed session; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4950, 4951, 5125, open session; P 10137, p. 1 and paras 1, 6, 8-10 and 13.

¹⁰⁴ Witness C, T(F), p. 22365, closed session; P 03328; P 03377.

¹⁰⁵ P 10208, para. 11; P 09947, p. 5; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4943, 5125 and 5126, open session; Witness DD, T(F), pp. 14432 and 14434, closed session.

¹⁰⁶ Witness DD, T(F), pp. 14441-14443, closed session; P 10135 under seal, paras 30, 31, 82, 94 and 102; P 10143, pp. 9 and 11; P 10125, pp. 2, 4, 5-7; P 03108; P 10137, para. 24. P 09755 under seal, p. 5; P 03377. Sejko Kajmović, T(F), pp. 11732 and 11733; P 09755 under seal, p. 5.

¹⁰⁷ Alija Lizde, T(F), pp. 17752 and 17947; Alija Lizde, T(E), p. 17754; P 10129 under seal, paras 1 and 26; P 10233, p. 1 and para. 3; P 10121, para. 2; P 10122, p. 1 and para. 1; P 10112, p. 1, paras 3, 6, 16 and 17; P 03075, p. 2; P 03134, pp. 3 and 4. Witness BB, T(F), pp. 17198, 17254 and 17255, closed session; P 06697, para. 58; P 03170; P 03326; P 03960; P 05222, p. 2; P 06596, p. 3.

Dretelj Prison before being transferred to Gabela Prison.¹⁰⁸ There were also several Serbs who were likewise released on the orders of NeČđjko Obradović on 4 July 1993.¹⁰⁹

IV. Conditions of Confinement and the Death of a Detainee

56. The Prosecution alleges that the conditions of confinement at Dretelj Prison were harsh and unsanitary due to overcrowding, poor ventilation, the lack of beds and bedding, sanitation facilities, food and water, and that the HVO often made detainees eat amid cruel and humiliating conditions. It further alleges that, in mid-July, at least one Muslim detainee died after not receiving any food or water.¹¹⁰

57. The Chamber notes that certain reports from the SIS of the Department of Defence and the assistant chief for security of the Military Police in July and September 1993 describe satisfactory conditions of confinement at Dretelj Prison.¹¹¹ However, in light of the entire collection of testimony from former detainees at Dretelj Prison as well as the reports from international organisations, the Chamber affords very little weight to documents issued by the HVO that pertain to the conditions of confinement. Thus, for example, in a letter of 20 January 1994, addressed in particular to Marijan Biškić, Milivoj Petković and Jadranko Prlić, the ICRC described the quite dramatic situation at Dretelj Prison in the preceding months and the deaths of several detainees due to “very bad” conditions of confinement and instances of “mistreatment”.¹¹²

58. More specifically, the Chamber notes that the detainees suffered, during their detention in the hangars and tunnels, from the lack of: (A) space and air, (B) hygiene, (C) food and water, and (D) medical care. It likewise notes that (E) the conditions of confinement in the isolation cells were particularly harsh and that (F) these conditions deteriorated noticeably subsequent to the events of mid-July 1993. (G) The arrival of Tomislav Šakota in late July 1993, however, had a positive impact on the conditions of confinement.

¹⁰⁸ Witness C, T(F), p. 22436, closed session; P 05279 / P 05283 (identical documents); *see also* P 05412.

¹⁰⁹ Witness C, T(F), pp. 22390 and 22391, closed session; Witness C, T(E), p. 22312, closed session; P 03169.

¹¹⁰ Indictment, para. 190.

¹¹¹ Witness C, T(F), p. 22504, closed session; Slobodan Bočić, T(F), pp. 36283, 36284 and 36288; P 03794; P 05133; 2D 00926; two of the four reports that appear to have been sent as annexes to this document have been admitted to the record under exhibit numbers P 05222 and P 05225.

¹¹² P 07629. The Chamber observes that the letter from the ICRC is very general with regard to the conditions of confinement.

A. Lack of Space and Air

59. The Chamber already determined that at least four hangars and two tunnels were used to detain prisoners.¹¹³ Overcrowding in Dretelj Prison was cited in the ECMM reports as well as by several witnesses held, for the most part, between early July and late September 1993.¹¹⁴ It is apparent from the minutes of the session of the HVO of the HZ H-B on 19 July 1993, chaired by Jadranko Prlić, that the HVO approved the Čapljina Municipal HVO's request to move the detainees in order to improve their conditions of confinement and relieve overcrowding.¹¹⁵ During this session, a decision was also taken to form a working group, consisting of Zoran Buntić,¹¹⁶ Darinko Tadić and Berislav Pušić, that was tasked with visiting the Municipality of Čapljina to inspect the detention sites and to propose measures designed to improve the conditions of confinement.¹¹⁷ During the HVO HZ H-B session of 20 July 1993, which was chaired by Jadranko Prlić, with Bruno Stojić present,¹¹⁸ the working group, in the person of Zoran Buntić, proposed identifying new detention sites in order to move some of the Čapljina detainees there, thus ending the overcrowding problems at Gabela and Dretelj.¹¹⁹ It was also decided that four individuals – including Jadranko Prlić – were to explore options for accommodating a number of detainees from Gabela Prison in other detention centres.¹²⁰ The Chamber has no information concerning the subsequent findings of these endeavours.

60. It appears from a report sent to Valentin Ćorić on 29 July 1993 by Branimir Tucak, deputy chief for security of the Military Police Administration, that the rooms were ventilated once every two hours.¹²¹ However, the Chamber heard many former detainees state that there was no air circulation in either the hangars or the tunnels.¹²² After inspecting Dretelj Prison on 17, 18 and 26

¹¹³ See the "Description of Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹¹⁴ P 03952, pp. 2 and 3; P 03278 under seal, p. 5; Klaus Johann Nissen, T(F), p. 20463; Witness DD, T(F), pp. 14428, 14429 and 14439, closed session; P 10131 under seal, para. 26; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(E), p. 4944, open session; P 10135 under seal, para. 40; P 10127 under seal, p. 6; P 10140 under seal, pp. 3 and 5; P 10141 under seal, paras 2 and 14; P 09716 under seal, p. 6; Edward Vulliamy, T(F), pp. 1568-1570, 1572.

¹¹⁵ P 03560, pp. 4 and 5. Also present at this meeting were: "N. Tomić", Zoran Buntić, Darinko Tadić and "S. Božić".

¹¹⁶ Zoran Buntić was at that time the head of the Department of Justice and General Administration of the HZ H-B, from 20 June 1992 until 28 August 1993. Zoran Buntić, T(F), pp. 30243, 30244 and 30249.

¹¹⁷ P 03560, P 03573.

¹¹⁸ Also present at this meeting were: "K. Zubak", "N. Tomić" and Zoran Buntić.

¹¹⁹ P 03573; Zoran Buntić, T(F), p. 30585.

¹²⁰ The conclusions assigned the following persons with the mission of exploring options for accommodating the detainees from Čapljina in other places: for the Municipality of Široki Brijeg, Jadranko Prlić; for the Municipalities of Grude and Posušje, Krešimir Zubak; for the Municipality of Čitluk, Zoran Buntić; and, for the Municipality of Ljubuški, Martin Raguš. P 03573, p. 2. *Zoran Buntić* explained that none of the municipality presidents wanted to lend assistance in this regard. Since the JNA's barracks and other buildings belonged to the municipalities and not to the HVO government, *Zoran Buntić* said that there was nothing more the government could do. Zoran Buntić, T(F), pp. 30585 and 30587.

¹²¹ P 03794; Witness DD, T(F), p. 14456, closed session.

¹²² Fahrudin Rizvanbegović, T(F), p. 2209; P 10143, p. 6.

August 1993, Dr Ivo Curić from the Department of Defence¹²³ sent an order to the commander of the *Knez Domagoj* Brigade and to the chief of the health service at the Department of Defence, asking them to use additional rooms to accommodate the detainees.¹²⁴ The Chamber, however, does not have any information in its possession showing that this order was carried out.

61. The floor inside the hangars and the tunnels was made of concrete, and some detainees barely had room enough to stretch out alongside the others so that they could sleep on the ground.¹²⁵ *Witness DD* explained that, due to the confined space, certain detainees developed psychological problems, such as claustrophobia or anxiety.¹²⁶

62. As for the hangars, witnesses indicated that roughly 500 men were detained in each one of them, the size of which varied so widely according to their statements that the Chamber finds it impossible to adjudicate this point.¹²⁷ Nevertheless, leaving aside the exact size of the hangars and the precise number of detainees, the Chamber observes that the premises were so overcrowded that certain detainees were unable to stretch out on the ground while others were unable to sit.¹²⁸ According to *Zijad Vujanović*, “the least cruel of the guards” opened the door approximately once a week to let in some oxygen and freshen the air in the hangar.¹²⁹ During the summer of 1993, when temperatures were very high outside and the heat inside excessive, the hangars were kept shut.¹³⁰

¹²³ Ivo Curić was commander of the infectious, epidemic and toxicological diseases service at the health section of the HVO Department of Defence.

¹²⁴ 2D 00278, pp. 1 and 2.

¹²⁵ Fahrudin Rizvanbegović, T(F), p. 2208; P 10131 under seal, para. 26; P 10208, para. 11; P 10143, p. 6; P 09947, p. 5; P 09755 under seal, p. 4.

¹²⁶ *Witness DD*, T(F), p. 14439, closed session.

¹²⁷ P 10129 under seal; P 10131 under seal, para. 26; *Witness II*, P 10218 under seal, *Naletilić and Martinović Case*, T(F), pp. 4943 and 5126; P 10137, paras 11-13; P 10208, para. 11; P 10127 under seal, pp. 6 and 7; P 10135 under seal, paras 9, 30, 31, 40 and 102; P 10140 under seal, p. 5; P 10141 under seal, para. 8; *Alija Lizde*, T(F), pp. 17782 and 17783; P 10125, pp. 4, 5 and 7; P 10147, pp. 5 and 6.

¹²⁸ P 10131 under seal, para. 26; *Witness II*, P 10218, under seal, *Naletilić and Martinović Case*, T(E), p. 4944, open session; P 10135 under seal, para. 40; P 10127 under seal, p. 6; P 10140 under seal, pp. 3 and 5; P 10141 under seal, paras 2 and 14; *Witness DD*, T(F), pp. 14428 and 14429, closed session; P 09716 under seal, p. 6; *Edward Vulliamy*, T(F), pp. 1568-1570, 1572; IC 00006 and IC 00007.

¹²⁹ P 10147, p. 6.

¹³⁰ P 10147, p. 6; *Witness C*, T(F), p. 22379, closed session; P 10127 under seal, p. 6; P 10140 under seal, pp. 3 and 5; P 10141 under seal, paras 2 and 14; P 00977a, *Nermin Malović*, T(F), p. 14343.

63. As far as the tunnels were concerned, two ECMM reports from 7 July 1993 and 4 August 1993 mention that roughly one thousand Muslim men were held in one of the tunnels at Dretelj.¹³¹ The Chamber examined the statements by the two witnesses, held between early July 1993 and 2 October 1993 in the tunnels of Dretelj, who indicated that the said tunnels could only be aerated using the door, as there were neither windows nor ventilation ducts.¹³² A single door, pierced by bullet holes,¹³³ provided ventilation when it was open, which, according to *Witness EC*, only happened at lunchtime.¹³⁴ This door made it possible to know whether it was day or night.¹³⁵ *Witness EC* added that there were petrol effusions in the tunnels because they had been used by the JNA as a warehouse for petrol and diesel.¹³⁶

64. In light of the foregoing, the Chamber finds that, at least between July and the early days of October 1993, Dretelj Prison was overcrowded and that the detainees in the hangars and tunnels lacked air and space.

B. Lack of Hygiene

65. There was a complete lack of hygiene at Dretelj Prison. The detainees did not have any toilets¹³⁷ and had to urinate into bottles, and defecate into plastic bags, tins or buckets – emptying them through the windows, when there were any¹³⁸ – and to do so in front of the other detainees.¹³⁹ *Witness CP* explained that, most of the time, detainees were not permitted to leave the hangars when nature called but that sometimes the “guards” would let them go out to defecate.¹⁴⁰ *Witness II*¹⁴¹ indicated that toilets were installed around 7 or 10 July 1993;¹⁴² however, this information is not corroborated by any other evidence.

¹³¹ P 03278 under seal, p. 5; Klaus Johann Nissen, T(F), p. 20463.

¹³² Edward Vulliamy, T(F), pp. 1567 and 1569; IC 00005; P 09716 under seal, p. 8; Witness BQ, T(F), pp. 7902-7903; P 09719; P 09721; P 10143, p. 6; P 10037, para. 7. Concerning the size of the tunnels, the Chamber holds evidence too divergent to permit an assessment.

¹³³ P 10129 under seal, para. 27.

¹³⁴ P 10131 under seal, para. 26.

¹³⁵ P 10129 under seal, para. 27.

¹³⁶ P 10131 under seal, para. 25.

¹³⁷ Witness C, T(F), p. 22379, closed session; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), p. 6077; P 07437; Belinda Giles, T(F), p. 2054.

¹³⁸ Fahrudin Rizvanbegović, T(F), pp. 2210 and 2211; P 09716 under seal, p. 7; P 10135 under seal, para. 40 ; P 10208, para. 1111; P 10140 under seal, p. 6; P 10125, pp. 2, 4, 5 and 7; P 10125, pp. 2, 4, 5 and 7. Some hangars apparently had a window. The tunnels, by contrast, had no windows. P 10143, p. 6.

¹³⁹ P 10147, p. 6.

¹⁴⁰ P 09755 under seal, p. 4.

¹⁴¹ Witness II was a Muslim soldier in the HVO who was detained at Dretelj from 1 to 21 July 1993. Witness II, P 10218 under seal, *Naletilić and Martinović Case*, T(F), pp. 4940 and 4941, open session.

¹⁴² Witness II, P 10218 under seal, *Naletilić and Martinović Case*, T(F), p. 4944, open session.

66. Certain detainees stated that they were unable to wash the entire time they were in detention.¹⁴³ Others indicated that they were only given the opportunity to shower on one occasion and that there was no soap.¹⁴⁴ In addition, *Zijad Vujanović*¹⁴⁵ stated that, to enable the detainees to wash, a tanker-truck came to the camp once per week, at which time all of the detainees in the hangar went out to the parking area located in front of the hangar.¹⁴⁶ The driver of the tanker-truck sprayed them with highly pressurized water from a hose, sometimes pointing it straight at the detainees' heads, which could knock them flat on the ground.¹⁴⁷

67. The Chamber finds that, despite minor variations in the witnesses' narratives as to whether they could wash and how often, it is generally apparent from their statements that hygienic conditions between July 1993 and the early days of October 1993 were extremely questionable.

C. Inadequate Access to Food and Water

68. As mentioned previously,¹⁴⁸ the 1st *Knez Domagoj* Brigade of the HVO was responsible for supplying food and water to the detainees.¹⁴⁹ In his report to Valentin Ćorić on 29 July 1993, Branimir Tucak, the deputy chief for security of the Military Police Administration, simply indicated that the prisoners were receiving "set" rations of water and food, without specifying the quantity or quality.¹⁵⁰ When shown this document, *Witness DD* explained to the Chamber that this did not at all reflect his experience while in detention.¹⁵¹ After an inspection of Dretelj Prison on 17, 18 and 26 August 1993, Dr Ivo Curić at the Department of Defence¹⁵² ordered the medical service of the *Knez Domagoj* Brigade to test the quality of the water and the food.¹⁵³ However, the Chamber has no information regarding any implementation of this order.

69. Regarding access to water, *Witness C* indicated that as Dretelj Barracks was not designed to accommodate detainees, there was a shortage of water available.¹⁵⁴ The 1st *Knez Domagoj* Brigade

¹⁴³ Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6078; P 00977b; Witness DD, T(F), pp. 14471-14473, closed session.

¹⁴⁴ P 09716 under seal, p. 7; Witness CM, T(F), pp. 11109 and 11110; P 09753 under seal, p. 7; P 10143, p. 7; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4944, open session.

¹⁴⁵ *Zijad Vujanović* was a 16-year-old Muslim inhabitant of the village of Prenj at the time of the events and was held in Dretelj from 19 July 1993 until the night of 7 September 1993. P 10147, pp. 2-6.

¹⁴⁶ P 10147, p. 5.

¹⁴⁷ P 10147, p. 5.

¹⁴⁸ See "Distribution of Powers Inside Dretelj Prison" in the Chamber's factual findings on Dretelj Prison.

¹⁴⁹ Witness C, T(F), p. 22508, closed session; P 05647, p. 2.

¹⁵⁰ P 03794; Witness DD, T(F), p. 14456, closed session.

¹⁵¹ Witness DD, T(F), pp. 14456 and 14457, closed session. *Witness DD* was held in Dretelj from 1 July 1993 through 2 October 1993.

¹⁵² Ivo Curić was the commander of the infectious, epidemic and toxicological diseases service at the Department of Defence of the HVO.

¹⁵³ Witness DD, T(F), pp. 14449, 14450, 14493 and 14494, closed session; 2D 00278.

¹⁵⁴ Witness C, T(F), p. 22377, closed session.

of the HVO delivered water using a tanker truck,¹⁵⁵ but the quantity continued to be insufficient given the number of detainees.¹⁵⁶ *Witnesses EE and EF*, who mentioned that there was a tank or a tap and the fact that the detainees collected water in tins,¹⁵⁷ explained that when the HVO soldiers wanted to scare the prisoners, they would close the tap so that they could not get water.¹⁵⁸ As for *Fadil Elezović*, he confirmed that the detainees were not given any water, except when one of them fainted.¹⁵⁹ According to *Witness II*, the temperatures were very high and the detainees were given water only twice throughout the day.¹⁶⁰

70. It is apparent from all of this testimony that the detainees were given very little water,¹⁶¹ just “enough to survive”.¹⁶²

71. As far as access to food was concerned, in July 1993, the detainees were receiving food once per day.¹⁶³ *Witness EC* indicated that the situation had improved somewhat following a visit by the ICRC in September 1993, because the detainees started receiving two meals per day.¹⁶⁴ Certain detainees at Dretelj Prison between 20 June and 2 October 1993 said that the food was of very poor quality and in insufficient amounts, consisting essentially of a piece of bread and burning hot soup that the detainees were required to swallow in a matter of seconds.¹⁶⁵ Some detainees spoke of being required to share “one loaf of bread” among 18 or 19 people.¹⁶⁶ For the meals, the guards brought the detainees out of the hangars and tunnels¹⁶⁷ and took advantage of that moment to humiliate them.¹⁶⁸ The evidence shows that the detainees received very little food, and many of them stated that they lost weight considerably while in detention.¹⁶⁹ In this regard, a report from the

¹⁵⁵ Witness C, T(F), p. 22377, closed session.

¹⁵⁶ Witness C, T(F), pp. 22378 and 22379, closed session.

¹⁵⁷ P 10135 under seal, para. 40; P 10140 under seal, p. 6.

¹⁵⁸ P 10135 under seal, para. 40.

¹⁵⁹ P 10208, paras 10-11.

¹⁶⁰ Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4944, open session.

¹⁶¹ Fahrudin Rizvanbegović, T(F), p. 2210; Witness DD, T(F), pp. 14430, 14437 and 14438, closed session; P 09716 under seal, p. 7; P 10229, p. 3, para. 9; P 08016, pp. 3 and 4.

¹⁶² P 10037, paras 2, 4, 6 and 10.

¹⁶³ Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4944, open session; P 10131 under seal, para. 26.

¹⁶⁴ P 10131 under seal, para. 27.

¹⁶⁵ Witness DD, T(F), pp. 14430, 14437 and 14438, closed session; Alija Lizde, T(F), pp. 17779-17780, 17782 and 17783; P 10140 under seal, pp. 3, 5-6; P 10141 under seal, paras 2 and 8; P 10208, paras 10 and 11; P 10233, p. 1, paras 3, 12 and 13, pp. 12 and 18; P 10234, pp. 1 and 2; P 10143, pp. 5, 6 and 10; Fahrudin Rizvanbegović, T(F), p. 2210; P 09716 under seal, pp. 6-7; P 10229, p. 3, para. 9.

¹⁶⁶ P 10208, para. 11; P 10140 under seal, pp. 5-6; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4944, open session. P 10147, p. 5; Alija Lizde, T(F), p. 17783. *Alija Lizde* stated that only every eleventh detainee would receive bread but this is contradicted by other testimony.

¹⁶⁷ Fahrudin Rizvanbegović, T(F) p. 2210; P 09716 under seal, pp. 6-7; P 10137, paras 6, 8, 9, 13 and 15.

¹⁶⁸ Alija Lizde, T(F), p. 17783; P 10135 under seal, paras 57 and 69.

¹⁶⁹ Witness DD, T(F), pp. 14430, 14437 and 14438, closed session; P 09755 under seal, p. 4. *Witness CP* lost 20 kilos. P 10140 under seal, pp. 3, 5 and 6; P 10141 under seal, paras 2 and 8. *Witness EF* lost 25 kilos. Fahrudin Rizvanbegović, T(F), pp. 2210 and 2214; P 10143, p. 11. *Denis Šarić* lost 18 kilos. P 09716 under seal, p. 7; Witness

CNN channel and the photographs taken by *Nermin Malović*, a photographer and interpreter in the ABiH,¹⁷⁰ from the time in late August 1993 when Muslim men at Dretelj Prison were released to go to the Grabovica hydropower plant, reveal just how skinny their bodies were after two months of detention in July and August 1993.¹⁷¹

72. In light of these matters, the Chamber finds that the detainees did indeed suffer from hunger and thirst throughout the entirety of their detention at Dretelj Prison.

D. Lack of Medical Care

73. The Chamber has already determined that the issue of access to medical care fell under the authority of the 1st *Knez Domagoj* Brigade.¹⁷² For instance, on 5 July 1993, NeĀđjko Obradović ordered the chief of the medical corps of the 1st and 3rd Brigades to examine the detainees, in particular those at Dretelj Prison, and to propose treatment for the most severely ill prisoners.¹⁷³ On 6 July 1993, the commanders of the 1st and 3rd HVO Brigades, the chiefs of the SIS, the commanders of the Military Police platoons embedded in the 1st and 3rd Brigades and Ivan AnĀić – designated as “Dretelj Prison Military Police commander”¹⁷⁴ – agreed that a medical commission ought to prepare a list of ill and disabled detainees and recommend to the SIS that they be released.¹⁷⁵ According to *Witness C*, this commission was indeed set up.¹⁷⁶ Nevertheless, the Chamber has no further information in its possession concerning this point.

BQ, T(F), p. 7917; P 09947, p. 5; P 10229, p. 3, para. 9; P 10135 under seal, paras 38 and 106; Witness BI, T(F), pp. 2403 and 2405. *See also* P 06596, p. 3.

¹⁷⁰ Nermin Malović, T(F), pp. 14331-14333 and 14413; 2D 00411, pp. 2 and 3.

¹⁷¹ P 00977b; Witness DD, T(F), pp. 14471-14473, closed session. Nermin Malović, T(F), pp. 14331-14333 and 14357 to 14369 and 14413; 2D 00411, pp. 2 and 3; P 04588; *see also* 4D 00801, pp. 3, 5-6 and 28-33; and for the physical condition of the detainees following their transfer to the Croatian islands, *see* P 10058, pp. 1 and 2; P 10124, para. 93.

¹⁷² *See* “Authorities Responsible for Medical Care” in the Chamber’s factual findings on Dretelj Prison.

¹⁷³ P 03129; P 03197; Witness DD, T(F), pp. 14528 and 14529, closed session; Witness CM, T(F), p. 11140.

¹⁷⁴ Ivan AnĀić was commander of the 3rd Company of the 3rd and then 5th Military Police battalion until the end of June 1993, and subsequently held the post of commander of the 5th Military Police Battalion between 5 August and 8 October 1993. The Chamber lacks information concerning any post that might have been held by Ivan AnĀić between the end of June and 5 August 1993, unless one may infer from reading this document that he remained in command of the 3rd Company of the 5th Military Police Battalion stationed at Dretelj. However, the Chamber has no indication concerning the specific post identified by the wording “Dretelj Prison Military Police commander”.

¹⁷⁵ Witness C, T(F), pp. 22552 and 22553, closed session; 5D 03008.

¹⁷⁶ Witness C, T(F), p. 22382, closed session.

74. Moreover, the Chamber notes that Krešimir Bogdanović¹⁷⁷ established “categories” for persons held at Dretelj Prison as of 9 July 1993,¹⁷⁸ following which, according to *Witness C*, certain persons were released.¹⁷⁹ It appears from a report by the commander of the 3rd Company of the 3rd Military Police Battalion, Krešimir Bogdanović, and an activity report issued by Tarko Jurić, commander of the 5th Military Police Battalion, that the “parents of the killed HVO soldiers” were released.¹⁸⁰ The Chamber, however, has no information concerning the release of other “categories” of detainees, particularly individuals who were wounded or had disabilities.

75. The Ćorić Defence claims that the activity report from 23 July 1993 is a fake, arguing that it is lacking both a signature and a stamp and that its register number begins with the digits “06” (a register number not used by the Military Police at that time).¹⁸¹ The Chamber recalls that in the “Decision on the Motion for Admission of Documentary Evidence (Čapljina/Stolac Municipalities)”, rendered publicly on 23 August 2007, it established that this document displayed the indicia of reliability, of relevance and of probative value sufficient for admission into evidence; that once admitted, this document was shown to *Witness BB*, who confirmed a substantial part of its contents;¹⁸² that the Ćorić Defence has raised no objection to the authenticity of this document until now, and that the format of the document is entirely similar to other reports admitted by the Chamber and whose authenticity has not been contested by the Ćorić Defence.¹⁸³ In light of the foregoing, the Chamber therefore holds that this document is indeed authentic.

76. On 23 July 1993 Jadranko Prlić himself made a public announcement concerning the release of ill detainees, saying that “[i]mmediately after the capture, medical examinations of all persons were conducted. All those persons that had medical problems, regardless of their age, were discharged”.¹⁸⁴ The Chamber heard *Witness CM* explain that neither he nor any other detainees he knew underwent medical exams when arriving or while detained at Dretelj Prison.¹⁸⁵

77. From the testimonies it appears that the doctors and nurses – including one *Denis Šarić*, a Muslim HVO soldier detained at Dretelj Prison between 2 July and 2 October 1993¹⁸⁶ – who

¹⁷⁷ The commander of the 3rd Company of the 3rd Military Police Battalion.

¹⁷⁸ *Witness C*, T(F), p. 22382, closed session; *see* for example P 03328.

¹⁷⁹ *Witness C*, T(F), p. 22382, closed session.

¹⁸⁰ P 03328; P 03666, p. 5.

¹⁸¹ Ćorić Defence Final Trial Brief, para. 698.

¹⁸² *Witness BB*, T(F), pp. 17229-17231, closed session.

¹⁸³ *See* for example: P 03542; P 03580 and P 03624.

¹⁸⁴ P 03673, pp. 1 and 2. During this announcement, Jadranko Prlić mentioned the Heliodrom and Dretelj Prison.

¹⁸⁵ P 09753 under seal, p. 2; *Witness CM*, T(F), p. 11142.

¹⁸⁶ P 10143, pp. 4-6 and 11.

constituted the “medical team” at the dispensary were Muslim detainees.¹⁸⁷ The dispensary contained between six and ten iron beds without sheets, with, at best, a few tablets.¹⁸⁸ *Zijad Vujinović*¹⁸⁹ mentioned that there was a doctor at Dretelj Prison, without specifying whether this was a detainee, but pointed out that, in any event, all he could do was “attempt to comfort their suffering with a saline solution”.¹⁹⁰ Two persons were laid in each bed and those who were not seriously ill lay on the ground.¹⁹¹

78. Other detainees spoke of never having received any medical care, let alone having undergone a medical examination of any sort while they were detained.¹⁹² According to *Witness DD*, only twice did the HVO provide for transportation outside of Dretelj Prison for the purposes of treating a sick detainee.¹⁹³

79. The dispensary likewise functioned as a place of detention for elderly persons, “minors” and six or seven imams, at least between 1 July and 1 October 1993.¹⁹⁴

80. In view of the foregoing, the Chamber finds that the detainees did not have access to care while in detention at Dretelj Prison.

E. Conditions of Confinement in Isolation Cells

81. The witnesses indicated that, on average, approximately 40 Muslim men – and sometimes as many as 65, according to *Witness EE*¹⁹⁵ – were held in the so-called “isolation cells”.¹⁹⁶ The evidence does not allow the Chamber to ascertain either how many isolation cells there were in Dretelj Prison or their size. Neither does it allow the Chamber to determine accurately the motives

¹⁸⁷ Edward Vulliamy, T(F), p. 1567; Witness CP, T(F), p. 11364, closed session; Fahrudin Rizvanbegović, T(F), p. 2211; P 03108, P 10135 under seal, paras 36-37; P 10143, pp. 7-9; P 10137, para. 24; P 10135 under seal, para. 36.

¹⁸⁸ Witness DD, T(F), pp. 14436 and 14437, closed session. They were prohibited from receiving visitors and thereby from obtaining medicine from outside Dretelj Camp; P 09755 under seal, p. 5; Witness CP, T(F), pp. 11361-11364, closed session; Fahrudin Rizvanbegović, T(F), p. 2211; P 10125, p. 7; P 10135 under seal, paras 30, 80 and 102. The Chamber has no information concerning the type of tablets available in the dispensary.

¹⁸⁹ P 10147, pp. 2-6. *Zijad Vujinović* was a Muslim inhabitant from the village of Prenj who was 16 years of age at the time of the events and who was detained in Dretelj Prison from 19 July 1993 until the night of 7 September 1993.

¹⁹⁰ P 10147, p. 6.

¹⁹¹ Edward Vulliamy, T(F), p. 1566; Witness CP, T(F), pp. 11357, 11358 and 11361-11363, closed session; P 09755 under seal, p. 5; IC 00115; P 10143, pp. 9 and 11; P 10135 under seal, para. 36.

¹⁹² Witness BQ, T(F), p. 7914; P 09753 under seal, p. 2; Witness CM, T(F), p. 11142.

¹⁹³ Witness DD, T(F), pp. 14525 and 14527, closed session.

¹⁹⁴ Witness DD, T(F), pp. 14441-14443, closed session; P 10143, pp. 9 and 11; P 10125, pp. 2, 4, 5-7; P 03108. P 09755 under seal, p. 5; P 10135 under seal, paras 30, 31, 82, 94 and 102; P 09755 under seal, p. 5; P 03377.

¹⁹⁵ P 10135 under seal, para. 57.

¹⁹⁶ P 03377; P 03794; Witness DD, T(F), pp. 14432 and 14488, closed session; Witness CM, T(F), pp. 11124, private session, and 11138, open session; P 09567; P 10135 under seal, para. 57; P 10137, para. 30; P 10127 under seal, p. 6; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1499; P 10037, para. 8; P 10140 under seal, p. 6; P 10125, pp. 4 and 7; P 10135 under seal, paras 48, 49, 52 and 57; P 10143, pp. 6 and 8; P 10129 under seal, para. 26; P 10147, p. 3.

which led the HVO to lock up detainees in isolation cells rather than in the hangars or the tunnels.¹⁹⁷ In any event, the Chamber points out that although certain detainees remained in isolation cells for a matter of days,¹⁹⁸ others were imprisoned there for almost 40 days.¹⁹⁹

82. In the cells, it was dark and there was not enough air²⁰⁰ – one of the cells lacked both windows and ventilation²⁰¹ and the detainees were obliged to relieve themselves indoors.²⁰² The detainees in the isolation cells would receive one meal per day, at best, consisting of a very thin soup; this was the only time they could go out.²⁰³ The detainees had to swallow the boiling soup in nine seconds or risk having it thrown in their faces.²⁰⁴ They received their meals last, after the other detainees were served;²⁰⁵ sometimes, there was nothing left for them.²⁰⁶

83. In light of this evidence, the Chamber finds that the conditions of confinement for the detainees in isolation cells were particularly trying.

F. Events of Mid-July 1993 Leading to the Death of at Least One Detainee

84. According to the Indictment, in the heat of mid-July 1993, the HVO left the detainees locked up without food and water for several days, thereby causing the death of at least one Muslim detainee.²⁰⁷

85. It is indeed clear from the evidence that the conditions of confinement at Dretelj Prison deteriorated in mid-July 1993, following HVO defeats in fighting with the ABiH in Čapljina Municipality during this period.²⁰⁸

¹⁹⁷ P 03377; P 03794. For instance, two reports by Branimir Tucak, dated 11 and 29 July, respectively, mention men held in separated cells because they were considered to be involved in propaganda and political activity on behalf of the ABiH and because they were made prisoner during an attack against HVO units. Witness DD, T(F), pp. 14431 and 14432, closed session. Witness CM, T(F), pp. 11110, 1111, 11124-11125 and 11138, private session; P 09567; IC 00139. Witness CM added that, in one of the isolation cells, forty or so “special prisoners” were detained, such as medical doctors or Muslim professors. P 10135 under seal, pp. 50 and 51. Witness EE explained that the detainees were sent to the isolation cell because they had been arrested at random, or were mentally retarded, or were prisoners of war arrested during combat operations or even because they had close ties to the ABiH. See also P 10137, para. 31. According to *Kemal Lizde*, there were many “civilians” in this cell, yet he provided no further detail.

¹⁹⁸ Witness CM, T(F), p. 11124, private session and 11138, open session; P 09567.

¹⁹⁹ P 10135 under seal, paras 48, 49 and 58.

²⁰⁰ P 10135 under seal, para. 52; Witness CM, T(F), p. 11124, private session, and p. 11138, open session; P 09567.

²⁰¹ P 10135 under seal, para. 52. The Chamber lacks any information in relation to the methods of aerating the other isolation cells.

²⁰² P 10135 under seal, para. 2.

²⁰³ P 10135 under seal, paras 57 and 69; P 10137, para. 31.

²⁰⁴ P 10137, para. 30. P 10125, p. 7; P 10135 under seal, paras 48, 57 and 58.

²⁰⁵ P 10135 under seal, paras 57 and 69.

²⁰⁶ P 10137, paras 30 and 31.

²⁰⁷ Indictment, para. 190.

²⁰⁸ Witness DD, T(F), pp. 14514-14520 and 14533-14539, closed session; Witness CR, T(F), p. 11876, private session; P 10137, paras 19, 20, 29 and 30; Witness C, T(F), pp. 22492 and 22493, closed session; P 03905, p. 2; P 05647, pp. 2

86. For instance, on 15 July 1993, the commander of the 1st *Knez Domagoj* Brigade of the HVO, Nečeljko Obradović, ordered the commander and the warden of Dretelj Prison to employ the most stringent measures of security toward the detainees in Dretelj Prison and to use “all means and forces” at their disposal.²⁰⁹ *Kemal Lizde*²¹⁰ explained that, on 16 July 1993, he heard one of the “police officers” say that they had been ordered not to give water to the detainees and that he saw Ivan Ančić²¹¹ reprimand and scream at a military police officer who had given him water just the same.²¹²

87. Also in mid-July 1993, the members of the HVO who were guarding the detainees²¹³ kept them locked up in the hangars, denying them any opportunity to go to the toilets²¹⁴ or to the dispensary.²¹⁵ The detainees received neither water nor food,²¹⁶ despite outside heat approaching 40 to 45 degrees Celsius.²¹⁷ Due to the lack of water, certain detainees had to drink their urine.²¹⁸

and 3; P 10135 under seal, para. 41; see also the statement by Kemal Lizde for the reprisals against the detainees from Prozor subsequent to fighting between the HVO and the ABiH in the Prozor zone. P 10137, paras 23 and 28; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4945 and 4946.

²⁰⁹ Witness C, T(F), pp. 22556-22557, closed session; P 03462.

²¹⁰ P 10137, paras 6, 8, 9 and 13. *Kemal Lizde* was held at Dretelj Prison between 1 July and late September 1993. He was thus in detention as the events of mid-July 1993 unfolded.

²¹¹ The Chamber recalls that it lacks information concerning the exact post held by Ivan Ančić between late June and 5 August 1993, unless he simply remained in command of the 3rd Company of the 5th Military Police Battalion at Dretelj. See “The 3rd Company of the 3rd and then 5th Military Police Battalion” in the Chamber’s factual findings on Dretelj Prison.

²¹² P 10137, paras 22 and 28. *Kemal Lizde*’s narrative concerning the events of mid-July 1993 begins with 13 July, then he says “on the fourth morning”, thus the Chamber may conclude that this was 16 July 1993.

²¹³ Edward Vulliamy, T(F), pp. 1568-1570 F“guards”g; Witness DD, T(F), p. 14517 Fthe “wardens”g; Alija Lizde, T(F), p. 17787 Fthe “guards”g. The Chamber does not have any information concerning the treatment of individuals detained in the tunnels during these incidents in mid-July 1993.

²¹⁴ P 10135 under seal, para. 41; P 10233, para. 14; P 10127 under seal, p. 6.

²¹⁵ P 10135 under seal, paras 36, 37 and 38.

²¹⁶ Witness DD, T(F), pp. 14443, 14534-14537, closed session; P 05647, pp. 2 and 3; P 06596, p. 3; P 09755 under seal, p. 6; Witness CR, T(F), p. 11876, closed session; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), p. 5937; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6077-6078; P 10229, p. 3, para. 9; P 10127 under seal, p. 6; see also P 08644 under seal, p. 3; P 10143, p. 6; Witness C, T(F), pp. 22377 and 22378, closed session; P 10137, para. 20.

²¹⁷ P 10137, paras 19 and 20; P 10127 under seal, p. 6.

²¹⁸ Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4945 and 4946; Witness DD, T(F), p. 14471, closed session; P 10137, para. 24; P 09716 under seal, p. 7; Edward Vulliamy, T(F), pp. 1568-1570; P 00977b.

88. Particularly striking for the Chamber were the words of *Denis Šarić*, indicating that a detainee from Prozor named “Plavuškić” died of dehydration on 16 July 1993.²¹⁹ *Witness BQ* also confirmed a detainee dying from dehydration. Although he did not specify his name, he indicated that this detainee was from the village of Paljike.²²⁰ The Chamber previously determined that this village was located two kilometres south of the the town of Prozor.²²¹ The Chamber therefore finds that *Witness BQ* corroborates the statements by *Denis Šarić* concerning this death.

89. Facing this situation, the Military Police at Dretelj Prison finally got together to provide water for the detainees.²²²

90. The Chamber points out that only one representative victim of the mistreatment in paragraph 190 of the Indictment is mentioned in the Annex²²³ yet the Chamber has no evidence concerning this person.²²⁴ Consequently, the Chamber is unable to rule on the fate of this person.

91. By contrast, the Chamber may reliably conclude in respect of the above that members of the HVO left the detainees locked up in the heat of mid-July 1993, without food and water, such that at least one of them died of dehydration.

G. Positive Impact of Tomislav Šakota’s Arrival on the Conditions of Confinement at Dretelj Prison

92. Several testimonies from former detainees show that when Tomislav Šakota arrived in late July 1993,²²⁵ there was a considerable improvement in the conditions of confinement and a decrease in the mistreatment to which the detainees were subjected.²²⁶ For instance, the detainees started to receive two meals per day,²²⁷ and the quality of the food improved.²²⁸ The sick found it

²¹⁹ P 10143, p. 7.

²²⁰ P 09716 under seal, p. 7. *Witness BQ*, T(F), pp. 7893 and 7894.

²²¹ For the geographical location of the village of Paljike, see “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber’s factual findings on the Municipality of Prozor.

²²² P 10137, para. 28; *Witness C*, T(F), pp. 22377 and 22378, closed session.

²²³ A representative victim of paragraph 190, cited in the Confidential Annex to the Indictment, p. 27.

²²⁴ The Chamber points out, moreover, that the Prosecution does not even cite this victim in the Annex to its Final Trial Brief with respect to the events at Dretelj.

²²⁵ P 07341, p. 1.

²²⁶ P 10135 under seal, paras 48, 58, 77, 80 and 91; P 10143, p. 10; *Witness DD*, T(F), pp. 14460, 14487, closed session; P 10125, p. 7.

²²⁷ *Witness CM*, T(F), pp. 11104, 11107 and 11108; P 05222, p. 2; P 09753 under seal, p. 7; P 10143, p. 10.

²²⁸ *Witness DD*, T(F), p. 14487, closed session.

easier to get to the dispensary to receive medical attention²²⁹ and Tomislav Šakota did his best to provide medicine and supplies.²³⁰

93. The Chamber noted contradictory information concerning Tomislav Šakota's authority over the isolation cells. *Witness DD* suggests that he had no real authority over these isolation cells,²³¹ whereas *Witnesses EE and CP* relate that he had them closed when he arrived at Dretelj Prison.²³² In any event, they were still in existence on 2 or 3 August 1993, according to the statements of two witnesses.²³³

94. Despite the improvements in the conditions of confinement, and particularly the quality and amount of the food, that happened as a result of Tomislav Šakota's arrival, the Chamber finds that between July 1993 and early October 1993, the date Dretelj Prison closed, the conditions of confinement were very harsh.

95. Moreover, the Chamber observes that it has no information concerning the conditions of confinement during the first months of operation of Dretelj Prison, namely, between April 1993, when the first detainees arrived, and the month of June 1993.

V. Treatment of Detainees and the Deaths of Several of Them

96. The Prosecution alleges that, throughout their detention at Dretelj Prison, the Muslim detainees were subjected by "members of the Herceg-Bosna/HVO forces, including the prison warden and members of Herceg-Bosna/HVO forces not attached to the prison" to acts of brutality and cruel treatment, and lived in constant fear of physical and psychological violence.²³⁴ It further alleges that the Muslim detainees were sometimes forced or encouraged to inflict acts of brutality and abuse on other Muslim detainees.²³⁵

97. The Chamber is once more compelled to emphasize how vague the witnesses formerly held at Dretelj Prison were concerning the status of the persons who mistreated them. The majority of them merely said that the "guards" had mistreated the detainees and very few made distinctions between the military personnel within the prison walls, that is, the Military Police, the 1st *Knez Domagoj* Brigade and the *Domobrani*. However, the Chamber considers that this observation does

²²⁹ Witness DD, T(F), p. 14488, closed session; P 10135 under seal, para. 80.

²³⁰ Witness C, T(F), p. 22505, closed session; Witness DD, T(F), p. 14460, closed session; P 10125, p. 7.

²³¹ Witness DD, T(F), p. 14488, closed session.

²³² P 10135 under seal, para. 91; P 09755 under seal, p. 5: the fact that Tomislav Šakota closed the isolation cells when he came to Dretelj Prison is clear from the statement by *Witness CP*; *Witness EE* did not assign a date to this initiative.

²³³ P 10135 under seal, para. 56; P 10137, para. 31.

²³⁴ Indictment, para. 191.

²³⁵ Indictment, para. 191.

not impair the credibility of their accounts in relation to the allegations of mistreatment inasmuch as the units present inside Dretelj Prison were identified previously.

98. The Chamber will first analyze (A) the evidence regarding the allegations of mistreatment of the detainees, then (B) the allegations regarding the deaths of certain detainees subsequent to the mistreatment, concluding with (C) a review of the evidence regarding the treatment of the detainees in the isolation cells.

A. Treatment of Detainees

99. Two reports by the HVO dated July and September 1993 state that no “mistreatment” was observed in Dretelj Prison.²³⁶ Although *Kemal Lizde* likewise stated that he was not beaten,²³⁷ he nevertheless testified to the acts of brutality inflicted upon other detainees. Moreover, the Chamber heard and admitted into evidence much testimony from former detainees at Dretelj Prison who were subjected to collective beatings while in detention and who explained that the men were beaten daily, kicked by boots and struck with rods of iron and even shovels.²³⁸

100. Despite an order from the commander of the 1st *Knez Domagoj* Brigade on 3 July 1993 prohibiting access to the detainees at Dretelj Prison by unauthorised persons,²³⁹ several witnesses held between 30 June and 2 October 1993 noted that there were persons from outside Dretelj Camp within the Prison enclosure – such as inhabitants of the region²⁴⁰ or soldiers from the HVO,²⁴¹ or even the HV²⁴² – and their involvement in the collective beatings and the humiliation inflicted upon the detainees.²⁴³

101. Moreover, despite the order by Ivan Ančić on 6 July 1993 forbidding members of the Military Police to “pay visits” to the Dretelj Prison detainees,²⁴⁴ several detainees testified that the members of the HVO Military Police subjected the detainees of Dretelj Prison to various acts of

²³⁶ A report by Branimir Tucak, the assistant chief for security of the HVO Military Police, sent to Valentin Čorić, Chief of the Military Police Administration of the HVO: P 03794 and a report from the security sector of the HVO Department of Defence: P 05222, p. 2.

²³⁷ P 10137, paras 6, 8, 9, 13 and 19.

²³⁸ Alija Lizde, T(F), pp. 17783-17785; P 10143, p. 8; P 10233, para. 16; P 10234, pp. 1 and 2; P 10127 under seal, p. 6; P 10125, pp. 4-7; P 10208, para. 12; P 10037, para. 6; P 10135 under seal, para. 60; P 09716 under seal, pp. 6-8; P 09755 under seal; P 10137, para. 44; P 00977b; Witness DD, T(F), pp. 14471-14473, closed session; P 00977a; Nermin Malović, T(F), p. 14343; P 07437; Belinda Giles, T(F), p. 2054.

²³⁹ Witness C, T(F), p. 22494, closed session; P 03161.

²⁴⁰ Alija Lizde, T(F), p. 17785; P 10125, p. 6.

²⁴¹ P 10137, para. 38; P 10125, p. 6; P 10143, p. 9; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4947 and 4948.

²⁴² P 10137, para. 38.

²⁴³ Alija Lizde, T(F), p. 17785; P 10125, p. 6; P 10143, p. 9 ; P 10137, para. 38.

²⁴⁴ P 03232.

brutality.²⁴⁵ Thus, Vide Palameta, nicknamed “Dugi”, a Military Police member,²⁴⁶ took part in beating a detainee on 20 or 25 July 1993.²⁴⁷

102. Several witnesses indicated that the “guards” from Dretelj Prison also participated in the brutal actions inflicted upon the detainees in Dretelj.²⁴⁸ They would not allow the detainees to sleep,²⁴⁹ and frequently came into a hangar with a list of detainees who were forced to leave the building and were beaten.²⁵⁰ *Kemal Lizde* saw “Goja”²⁵¹ and a police officer – without specifying whether or not it was a military police officer – beat two detainees, stick their heads in a cistern of water, and beat their heads with a cement block while forcing two other detainees to watch this scene.²⁵²

103. Several witnesses declared that the HVO soldiers used certain Muslim detainees,²⁵³ particularly Senad Basić *alias* “Trebinjac”, also “Bunda”, to beat the other detainees.²⁵⁴

104. The entire group of detainees from Dretelj Prison was subjected to humiliation such as being forced to sing blasphemous songs against Islam.²⁵⁵ *Witness BQ* testified that the “guards” at Dretelj Prison called the detainees “Balija”.²⁵⁶ *Alija Lizde* declared that one of the military police officers from the prison ordered two detainees to strike each other, mocking them as he watched them beat the living daylight out of each other.²⁵⁷

105. *Zijad Vujanović*²⁵⁸ explained that, when he came to Dretelj Prison on 19 July 1993, they were all in a line facing the wall, and a military police officer gave them each in turn punches and kicks, for about half an hour, while another military police officer looked on.²⁵⁹ *Zijad Vujanović*

²⁴⁵ Witness CM, T(F), p. 11108; P 10229, p. 3, para. 8; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6078 and 6087; P 10135 under seal, paras 66, 67, 68 and 71; P 10137, paras 39 and 40.

²⁴⁶ P 10208, paras 10 and 12; P 09755 under seal, p. 6; P 10137, paras 10 and 44; P 10135 under seal, paras 30, 31, 64 and 102; P 10143, pp. 8-10.

²⁴⁷ P 10137, para. 44.

²⁴⁸ P 10137, paras 37, 40 and 44; P 10143, p. 8; P 10140 under seal, p. 5; P 10208, para. 12.

²⁴⁹ P 00977b.

²⁵⁰ P 10143, p. 8; P 10140 under seal, p. 5; P 10208, para. 12.

²⁵¹ The Chamber notes that several witnesses mentioned that there was someone named “Goja” but that it is impossible for the Chamber to determine his status inasmuch as the witnesses are quite vague about him. P 10137, paras 37 and 43. *Kemal Lizde* describes him as being just a guard; P 10125, p. 4. *Ahmet Alić* refers to him as the deputy commander of Dretelj Camp; P 10135 under seal, para. 77. *Witness EE* refers to him as the HVO Military Police commander.

²⁵² P 10137, para. 37.

²⁵³ P 00977b; Witness DD, T(F), pp. 14453 and 14455, closed session.

²⁵⁴ P 10125, p. 5; P 10140 under seal, p. 5; P 10137, paras 32, 39 and 42; Witness DD, T(F), pp. 14453 and 14455, closed session; P 10127 under seal, p. 6; P 10037, para. 6; P 10135 under seal, paras 66, 67, 68 and 71.

²⁵⁵ P 10125, p. 6; P 09716 under seal, p. 8; P 00977a, Nermin Malović, T(F), p. 14343.

²⁵⁶ P 09716 under seal, pp. 6 to 8.

²⁵⁷ *Alija Lizde*, T(F), p. 17785.

²⁵⁸ A 16-year-old Muslim inhabitant of the village of Prenj at the time of the event who was detained in Dretelj from 19 July 1993 until the night of 7 September 1993; P 10147, pp. 3 and 5.

²⁵⁹ P 10147, p. 5.

stated that he himself was kicked in the back, which broke two of his ribs.²⁶⁰ This witness also told of various incidents during which the detainees he knew were subjected to acts of brutality. He explained that a man was beaten so hard that he could no longer walk;²⁶¹ that another man, who was extremely emaciated, was called by the “guards”, who brought him out so they could beat him in front of the hangar; he returned with his face covered in blood and his Adam’s apple visibly bruised.²⁶² Yet another man was beaten in front of his son by “HVO soldiers”, in front of their hangar, and forced to take the Ustasha oath – and at the time of his release he still bore the marks on his chest from the chain with which he had been beaten.²⁶³

106. Mealtimes were particularly humiliating for the detainees. The food was placed on the ground²⁶⁴ and the detainees were placed in rows of 11 persons each.²⁶⁵ There were 11 spoons and 11 plates for all of the detainees and the kitchen utensils were never washed.²⁶⁶ They were only given a few seconds to eat.²⁶⁷ *Zijad Vujanović* explained that once the 11 plates were filled by the “chef”, the detainees were supposed to run while eating, before giving the dishes to the following bunch of detainees; if they had not finished eating their bread before they returned to the hangars, the guards would punish them by forcing them to stretch out on the burning hot asphalt.²⁶⁸ Shirtless in the heat, their skins would stick to the surface, and they were forced to roll around on the ground before going back to sit with the others.²⁶⁹

107. *Witness II* explained that the collective beatings varied in frequency according to the intensity of the fighting between the HVO and the ABiH, and the losses suffered by the HVO.²⁷⁰ As previously discussed in the part on the conditions of confinement, in mid-July 1993, the circumstances faced by the detainees at Dretelj Prison were especially harsh. The Chamber heard *Witness CR* state that he and other detainees were beaten in front of Ivica Kraljević’s office on 14 July 1993 while waiting to be interrogated. The latter thus witnessed these collective beatings and heard the noises they produced.²⁷¹

²⁶⁰ P 10147, p. 5.

²⁶¹ P 10147, p. 2.

²⁶² P 10147, p. 3.

²⁶³ P 10147, p. 3.

²⁶⁴ Alija Lizde, T(F), p. 17783; Fahrudin Rizvanbegović, T(F), p. 2210; P 09716 under seal, pp. 6-7.

²⁶⁵ P 10140 under seal, pp. 5-6; P 10147, p. 5.

²⁶⁶ P 10140 under seal, pp. 5-6; P 10135 under seal, para. 69.

²⁶⁷ P 09716 under seal, pp. 6-7; Alija Lizde, T(F), p. 17783; P 10140 under seal, p. 6; P 10147, p. 5.

²⁶⁸ P 10147, p. 5.

²⁶⁹ P 10147, p. 5.

²⁷⁰ *Witness II*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4946.

²⁷¹ *Witness CR*, T(F), pp. 11874, 11875, 11877 and 11878, private session.

108. Although the treatment of the detainees improved towards the end of July 1993 when Tomislav Šakota arrived, the detainees stated that while he was away, the Military Police, the HVO soldiers and also persons from the outside entered the camp and mistreated the detainees.²⁷²

109. The Chamber notes that, according to a report prepared by Dr Aida Kapetanović on 7 October 1993, based on stethoscope examinations of former detainees from Dretelj Prison, who were then housed on the island of Badija, the detainees displayed lesions caused by the brutal beatings to which they were subjected.²⁷³ One young man, in particular, had genital mutilation; another had to have his leg amputated from the wounds caused by bullets fired by the prison “guards”.²⁷⁴ More generally, the Chamber observes that the detainees suffered contusions, wounds, rib fractures and broken arms.²⁷⁵

110. In addition, a report dated 11 November 1993, prepared by four doctors from the medical service of the RBiH embassy in Croatia who had just met with 288 former detainees from Dretelj Prison on the Croatian island of Badija, indicates that 181 of them had been physically mistreated while in detention.²⁷⁶

111. In light of the foregoing, the Chamber finds that between July 1993 and early October 1993, the detainees were subjected to acts of severe brutality, not merely from the Military Police officers who were at Dretelj Prison and from the “guards” but also from persons from outside the prison – such as inhabitants of the region, soldiers from the HVO and from the HV – and occasionally even from other Muslim detainees who acted under duress.

112. Moreover, the Chamber observes that it lacks information concerning the treatment of the detainees during the initial months of operation of Dretelj Prison, namely, between April 1993, when the first detainees arrived, and June 1993.

B. Deaths of Several Detainees

113. The Chamber points out that, according to *Witness C*, five detainees died at Dretelj Prison of what he said, however, were “natural causes”.²⁷⁷ In addition, a report by Branimir Tucak, the assistant chief for security of the HVO Military Police, sent to Valentin Ćorić on 29 July 1993,

²⁷² Witness DD, T(F), pp. 14459, 14460 and 14487, closed session; Witness CP, T(F), pp. 11373 and 11374, closed session; P 09755 under seal, pp. 5-6; P 10135 under seal, paras 76 and 91. The Chamber notes specifically that Witness *Ahmet Alić* explained how a bread delivery man from Čapljina stopped his delivery van every day in front of a hangar, and then went inside to beat the detainees. P 10125, p. 6.

²⁷³ P 10058, pp. 1 and 2.

²⁷⁴ P 10058, pp. 1 and 2.

²⁷⁵ Witness DD, T(F), pp. 14451-14452, closed session.

²⁷⁶ Witness DD, T(F), pp. 14462 and 14463, closed session; P 06596, p. 2.

likewise describes five deaths recorded up to that date.²⁷⁸ He adds that three of them were killed while trying to break down the entrance door and that two others died of natural causes, probably of a heart attack.²⁷⁹ *Enver Vilogorac* likewise confirmed the death by heart attack of a man who was detained in his hangar on 30 June 1993.²⁸⁰

114. The Chamber concludes that, in mid-July, while the detainees were locked up in the hangars,²⁸¹ several of them were wounded by shots from the outside. The bullets pierced the sheet metal partitions.²⁸² *Witness II* and three of his companions were injured by projectiles or by metal shrapnel from the hangar's partitions.²⁸³ Following these gunshots, the wounded did not receive immediate medical attention,²⁸⁴ and at least three detainees died, including Hasan Duvnjak, one of the representative victims of paragraph 192 of the Indictment.²⁸⁵

115. The detainees who testified concerning this incident were unable to identify the persons doing the shooting because they themselves were inside the hangars at the time of the events.²⁸⁶ However, two official notes issued on 14 and 15 July 1993, respectively, by the commander of the 3rd Company of the 5th Battalion, Krešimir Bogdanović, sent personally to Valentin Ćorić, Chief of the Military Police Administration, recount incidents where two detainees were wounded and a third one died having been fired at by the members of the Military Police.²⁸⁷

116. In addition, the Chamber points out that the Prosecution further alleges the death of Kasim Kahrmanović, a representative victim of paragraph 192. In the record, however, the Chamber has just two exhibits pertaining to his death. It has, first of all, an official note from the department for criminal investigations in Čapljina, dated 22 July 1993, which mentions Kasim Kahrmanović's

²⁷⁷ Witness C, T(F), p. 22413, closed session; P 03555, p. 2; P 03605 under seal.

²⁷⁸ P 03794, p. 3.

²⁷⁹ P 03794. This report does not indicate the names of deceased persons.

²⁸⁰ P 10145, pp. 3 and 4.

²⁸¹ P 10135 under seal, paras 36, 37, 38 and 41; P 10233, para. 14; P 10234, p. 2; P 10127 under seal, p. 6; P 10137, paras 19 and 20; Edward Vulliamy, T(F), pp. 1568-1570; Witness DD, T(F), p. 14517, closed session; Alija Lizde, T(F), p. 17787.

²⁸² P 07636, p. 2; P 08644 under seal, p. 3; P 10143, pp. 6-7; Edward Vulliamy, T(F), p. 1570; P 10229, p. 3, para. 9; Alija Lizde, T(F), pp. 17787-17789; P 00977a; Nermin Malović, T(F), p. 14343; P 10125, p. 6; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4948-4950; P 10137, para. 43; Witness DD, T(F), pp. 14445-14448, closed session; P 08644 under seal, p. 3. The fact that the military police officers shot and wounded the detainees becomes apparent from two official notes from the commander of the 3rd Company of the 5th Military Police Battalion, sent on 14 and 15 July 1993 to Valentin Ćorić, Chief of the Military Police Administration. P 03446; P 03476; P 05091, p. 7, para. 21.

²⁸³ Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4949 and 4950.

²⁸⁴ Alija Lizde, T(F), p. 17787; P 10143, pp. 6, 7 and 8; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4950.

²⁸⁵ Hasan Duvnjak is a representative victim of para. 192 of the Indictment; P 03446; Witness C, T(F), pp. 22400-22403, closed session; Witness DD, T(F), pp. 14457, 14530 and 14531, closed session; P 09716 under seal, p. 7; Witness BQ, T(F), pp. 7897 and 7898; P 10229, p. 3, para. 9; P 10135 under seal, para. 73; P 10125, p. 6; P 10143, pp. 7 and 8; P 07629.

²⁸⁶ P 10143, p. 6; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4949 and 4950.

death after being beaten by “civilians” who had entered Dretelj Camp without authorisation and by members of the Military Police.²⁸⁸ The Ćorić Defence alleges this document to be a forgery.²⁸⁹ In support of its argument, it argues that (1) this document contains neither a signature nor a stamp that might make it possible to establish its authenticity; (2) its authenticity was even contested by Ivica Kraljević when he was subjected to questioning as a suspect by the Prosecution;²⁹⁰ and (3) this document differs radically from the other documents signed by Ivica Kraljević in terms of its layout and lack of a stamp, seal or signature.²⁹¹ The Chamber points out that this document was admitted through *Witness DD*, who brought up the deaths of certain detainees at Dretelj Prison but during his testimony nevertheless claimed to know nothing about Kasim Kahrmanović.²⁹² The Chamber points out, following the example of the Ćorić Defence, that the Prosecution itself raised questions concerning the authenticity of this document during the hearing of another witness. While cross-examining Witness *Ivan Bandić* on 18 March 2009, the Prosecution used this document to test the credibility of this witness.²⁹³ After this cross-examination, the Prosecution researched the authenticity of this document and found supplementary evidence:²⁹⁴ specifically Ivica Kraljević’s assertion of doubt regarding the document’s authenticity made while he was being questioned as a suspect.²⁹⁵ During the hearing of 23 March 2009, the Prosecution made it known that the supplementary evidence in its possession cast such doubt upon the authenticity of this document that, had the Prosecution known of this while cross-examining Ivan Bandić, they would not have used it.²⁹⁶

117. After evaluating the other documents coming from Ivica Kraljević and admitted to the record, and having noted the lack of signature, stamp and seal, as well as pointing out the Prosecution’s own explanations, the Chamber has decided to disregard this document and take no account thereof.

²⁸⁷ P 03446, P 03476.

²⁸⁸ P 03630, p. 1; Witness DD, T(F), p. 14457, closed session.

²⁸⁹ Ćorić Defence Final Trial Brief, para. 703. The Chamber points out that the Ćorić Defence had previously objected to this document being admitted into evidence through its IC 00447 list, on grounds that it did not offer requisite evidence of authenticity. However, the Chamber had admitted the document to the record by means of the “Order to Admit Evidence Regarding Witness DD”, rendered publicly on 3 September 2007.

²⁹⁰ Ćorić Defence Final Trial Brief, para. 703, referring to the explanations supplied by the Prosecution concerning Ivica Kraljević’s interrogation as a suspect, during which he cast doubt upon the authenticity of this document purportedly signed by him. These explanations by the Prosecution are thus later in time than the Order of 3 September 2007, whereby the Chamber admitted Document P 03630 into evidence.

²⁹¹ Ćorić Defence Final Trial Brief, para. 703, citing these documents: P 02412; P 02607; P 02889; P 02961; P 05214; P 06349 .

²⁹² Witness DD, T(F), p. 14458.

²⁹³ T(F), p. 38242.

²⁹⁴ T(F), p. 38371.

²⁹⁵ T(F), pp. 38370-38375.

²⁹⁶ T(F), p. 38373.

118. The Chamber also admitted pursuant to Rule 92 *bis* of the Rules the written statement by *Witness EE* mentioning the death of Kasim Kahrmanović.²⁹⁷ Despite this, the Chamber has no corroborating information in its possession. After disregarding P 03630, the Chamber cannot then rely solely upon the statement by *Witness EE* to establish beyond a reasonable doubt the death of this representative victim subsequent to the treatment received.

119. Concerning the death of Omer Kohnić – originally from Čapljina Municipality and also a representative victim of paragraph 192 of the Indictment – the Chamber points out that he was held in an isolation cell at Dretelj Prison, in front of which he was severely beaten, and where he died on 2 or 3 August 1993.²⁹⁸ During this time, security at Dretelj Prison was provided by three military police officers from the 3rd Company of the 5th Battalion, eight military police officers from Klis, and six members of the *Domobrani* unit.²⁹⁹

120. In view of the foregoing, the Chamber may plausibly find that Omer Kohnić was beaten to death by members of the HVO on 2 or 3 August 1993. However, the Chamber lacks any evidence supporting a finding as to which HVO units were responsible for his death.

121. Concerning the alleged death of Emir Repak, a representative victim of paragraph 192 of the Indictment, the Chamber notes that several testimony from former detainees in Dretelj mention his death while in detention at Dretelj Prison. The Chamber concludes that Emir Repak died from the blows of Senad Besić/Basić, also known as “Bunda” or “Trebinjac”.³⁰⁰ Two witnesses claimed that “police officers” also beat him.³⁰¹ Emir Repak was a member of the ABiH and was arrested on 2 August 1993 in Stolac.³⁰² In August 1993,³⁰³ certain members of the HVO – including at least one military police officer, Vide Palameta³⁰⁴ – forced Emir Repak to fight Senad Besić/Basić while the detainees and other members of the HVO looked on.³⁰⁵ Emir Repak was subsequently taken to the dispensary of Dretelj Prison, where he died.³⁰⁶ Giving consideration to this evidence, the Chamber finds that Emir Repak did indeed die in August 1993 from the blows of another Muslim detainee acting on the orders of the Military Police officers.

²⁹⁷ P 10135 under seal, para. 54.

²⁹⁸ Alija Lizde, T(F), pp. 17787 and 17788; P 10135 under seal, para. 56. P 10137, para. 31; P 03892 under seal, p. 3.

²⁹⁹ P 03892 under seal, p. 3.

³⁰⁰ P 09755 under seal, p. 6; P 10137, para. 32; P 10135 under seal, paras 69 and 70; Witness DD, T(F), pp. 14452, 14453 and 14455, closed session.

³⁰¹ P 10143, p. 10; P 10137, para. 32; P 10135 under seal, paras 69 and 70.

³⁰² P 10135 under seal, paras 69 and 70; P 10143, p. 9.

³⁰³ P 10143, p. 9; P 10135 under seal, paras 48, 58 and 70; P 10125, pp. 6 and 7; P 10137, para. 44.

³⁰⁴ P 10135 under seal, para. 64; P 10143, p. 8. See also Fahrudin Rizvanbegović, T(F), pp. 2378 and 2382.

³⁰⁵ Witness DD, T(F), pp. 14452, 14453 and 14455, closed session; P 10135 under seal, paras 69 and 70; P 10143, pp. 9 and 10.

³⁰⁶ Witness DD, T(F), pp. 14452, 14453 and 14455, closed session; P 10125, pp. 6 and 7; P 10135 under seal, paras 69 and 70; P 10137, para. 32; P 10143, pp. 9 and 10.

122. The Chamber therefore finds that the detainees of Dretelj Prison were subjected to such treatment by HVO soldiers and Military Police officers, and that in August 1993 Omer Kohnić and Emir Repak, at least, died from it. The Chamber likewise finds that at least three persons, including Hasan Duvnjak, died as a result of members of the Military Police firing at the hangars where they were being held.

C. Treatment of Detainees in Isolation Cells

123. It is apparent from the testimony of former detainees at Dretelj Prison that the persons held in the isolation cells were beaten every day, and even, according to some witnesses, repeatedly day and night.³⁰⁷

124. Three of the detainees from the hangars explained that from where they were, they could hear the collective beatings and the screams of the detainees in the isolation cells.³⁰⁸

125. Members of the HVO Military Police took particular advantage of the lunch hour to mistreat and humiliate the detainees from the isolation cells. Two former detainees described similar scenes:³⁰⁹ each day when it was time to eat, the men held in the isolation cell were made to go out and walk in front of a row of military police officers, who struck them.³¹⁰ The Chamber notes that *Witness EE*, who was able to draw the distinction between the members of the Military Police and the soldiers of the HVO throughout his statement, did in fact make clear that the perpetrators of these actions were Military Police officers, as was, moreover, corroborated by *Denis Šarić*.³¹¹ During meals, the Military Police officers continued to beat these detainees until they collapsed, while the other detainees were forced to sing Ustashi songs to cover up the sound of the blows and the screams.³¹² These very same prisoners were also sometimes forced to squat while the guards beat them on the back with metal chains.³¹³ *Witness EE* explained that, after lunch, the detainees had to line up facing a wall, with arms and legs stretched out, while certain members of the HVO Military Police struck them with billy clubs, truncheons, boards and even chains,³¹⁴ and buffeted them with kicks in the ribs and shoulders.³¹⁵ The members of the Military Police sometimes

³⁰⁷ P 10135 under seal, paras 57, 58 and 60-68; P 10127 under seal, p. 6; P 10125, p. 7; P 09753 under seal, p. 6; P 10229, pp. 3 and 8.

³⁰⁸ P 10143, p. 8; P 10125, p. 7; P 10137, para. 30; P 10127 under seal, p. 6. *See also* P 06596, p. 3.

³⁰⁹ P 10135 under seal, paras 57 and 58; P 10143, p. 8.

³¹⁰ P 10135 under seal, paras 57 and 58; P 10143, p. 8.

³¹¹ P 10135 under seal, paras 57 and 58; P 10143, p. 8.

³¹² P 10135 under seal, paras 57 and 58; P 10143, p. 8; P 10137, para. 30; P 10125, p. 7.

³¹³ P 10135 under seal, paras 57 and 58; P 10143, p. 8.

³¹⁴ P 10135 under seal, paras 57 and 69.

³¹⁵ P 10135 under seal, para. 57.

required the detainees to stretch out on the ground, while other soldiers marched on top of them.³¹⁶ On occasion, the detainees were forced to spread out on the burning asphalt, face down, while the HVO soldiers walked over their fingers.³¹⁷

126. In view of the foregoing, the Chamber finds that the Muslim men detained in the isolation cells were indeed victims of collective beatings and humiliation inflicted by members of the Military Police.

VI. Restrictions on Access to Detainees and Concealment of Certain Detainees from ICRC Representatives

127. The Indictment alleges in paragraph 193 thereof that, (A) through approximately August 1993, the HVO denied international observers and humanitarian organisations access to Dretelj Prison, and that, (B) in late August 1993, the HVO transferred the Muslim clerics, the prisoners in the worst physical condition, and those in isolation cells to the “Silos” in Čapljina, in order to hide them from the view of the ICRC representatives, who visited Dretelj Prison in early September 1993.

A. Restrictions on Access to Dretelj Prison

128. It is apparent from the evidence admitted to the record that, between June and early September 1993, the HVO denied access to Dretelj Prison to the representatives of international organisations, including the ICRC and the mediators from the EC and UNPROFOR.³¹⁸ The Chamber, of course, notes that on 8 July 1993 Valentin Ćorić issued a permit authorising *Witness BA*, a staff member of an international organisation,³¹⁹ to visit several detention facilities, including Dretelj Prison.³²⁰ Despite this, the Chamber lacks any evidence enabling it to conclude that *Witness BA* did in fact visit Dretelj Prison. In addition, the Chamber points out that on 23 August 1993, the HVO denied the ICRC access to Dretelj Prison on grounds that it first needed to visit Croat prisoners “in the detention centres of East Mostar”.³²¹ Finally, in September 1993, the international organisation for which *Witness BB* worked received, for the very first time, HVO authorisation to

³¹⁶ P 10135 under seal, para. 57.

³¹⁷ P 10135 under seal, para. 57.

³¹⁸ P 02882 pp. 3 and 4. Witness C, T(F), p. 22553, closed session; 5D 03008. Witness BB, T(F), p. 17254; P 10140 under seal, p. 6.

³¹⁹ Witness BA, T(F), p. 7153, closed session; P 09712 under seal, para. 3.

³²⁰ Witness BA, T(F), p. 7226, closed session; P 03292 under seal.

³²¹ P 04440 under seal, pp. 1 and 2; Philip Watkins, T(F), p. 18874; P 04431 under seal, para. 29; P 10140 under seal, p. 6; P 04447 under seal, p. 2.

enter Dretelj Prison³²² and several journalists likewise obtained authorisation to enter this prison thanks to the laissez-passers issued by Slobodan Praljak and Tarko Tole.³²³

129. In a public letter dated 6 September 1993 addressed to Mate Boban, Franjo Tuđman asked him to grant the ICRC access to the detention facilities located within the territory of Herceg-Bosna, to which it had not yet had access.³²⁴ On 15 September 1993, Mate Boban ordered the Defence Department and the Main Staff to give the ICRC access to all facilities holding “prisoners of war”.³²⁵

130. It is apparent from the testimony of former detainees, as well as from the reports of international organisations, that the ICRC gained access to Dretelj Prison from 6 September 1993 onwards, and that it was able to register the detainees, their body measurements and weight³²⁶ following authorisation to this effect issued by Tomislav Šakota, who held the post of prison warden on that date.³²⁷

131. The Chamber also has in its possession evidence pertaining to other ICRC visits to Dretelj Prison over the course of the month of September,³²⁸ including on a visit on 20 September 1993 in which Jadranko Prlić, President of the HR H-B Government, Zdravko Sančević, Ambassador of Croatia to BiH, and Mate Granić, Foreign Minister of Croatia, likewise took part.³²⁹

132. The Chamber therefore finds that, although Valentin Ćorić did grant *Witness BA* authorisation to visit several detention facilities including Dretelj Prison, the evidence supports the fact that no international organisations were allowed to visit Dretelj Prison prior to 6 September 1993.

³²² Witness BB, T(F), p. 17282.

³²³ Slobodan Praljak, T(F), pp. 40918-40920. See also Edward Vulliamy, T(F), pp. 1639 and 1640.

³²⁴ P 10248, pp. 2 and 3; P 09496; P 09497, pp. 5 and 6; Edward Vulliamy, T(F), pp. 1556, 1558-1562 and 1639; P 09507, p. 6.

³²⁵ 1D 01638. See also the same order by Mate Boban directed to specific brigades, including the *Rama*, *Eugen Kvaternik* and *Dr Ante Starčević* Brigades, 1D 01704, p. 2.

³²⁶ P 10135 under seal, para. 81; Witness DD, T(F), p. 14461, closed session; P 09753 under seal, p. 7; P 09755 under seal, p. 5; P 10143, p. 10; Witness C, T(F), p. 22565 closed session; Witness DD, T(F), pp. 14460, 14461 and 14493, closed session; Fahrudin Rizvanbegović, T(F), p. 2215; P 07366; P 04863 under seal, p. 1; P 09507, p. 2.

³²⁷ Witness DD, T(F), pp. 14460 and 14486; P 10125, p. 7; P 10135 under seal, para. 81; P 10143, p. 10. For Tomislav Šakota’s post, see “Management of Dretelj Prison” in the Chamber’s factual findings on Dretelj Prison.

³²⁸ For the ICRC being at Dretelj Prison on 15 September 1993, see P 08124 under seal, p. 1; for the ICRC visit to Dretelj Prison on 21 September 1993, see 1D 02230, pp. 1 and 25; for the ICRC visit to Dretelj Prison on 22 September 1993, see 1D 00938, p. 2; 1D 01585, p. 3.

³²⁹ Zdravko Sančević, T(F), pp. 28815-28817; Witness DZ, closed session; T(F), p. 26623; P 05219 under seal, pp. 1 and 2; P 05221, pp. 1 and 2; Adalbert Rebić, T(F), pp. 28312 and 28313; 1D 01936, p. 1. For Zdravko Sančević’s post, see Zdravko Sančević, T(F), pp. 28520, 28525-28527 and 28658.

B. Concealment of Certain Detainees in the Silos of Čapljina in Late August 1993 to Hide Them from ICRC Representatives

133. Before the ICRC's initial visit to Dretelj Prison on 6 September 1993, the imams, the "minors", the elderly, and the detainees from an isolation cell, that is to say, roughly 120 prisoners, were transferred from Dretelj Prison to the "Silos" of Čapljina, where they spent the night before returning to Dretelj Prison on the evening of the following day.³³⁰

134. According to *Zijad Vujinović*, the same transfer also took place the next day because the ICRC returned to Dretelj Prison.³³¹ After having kept the imams hidden from view for a time of the ICRC representatives, Tomislav Šakota acknowledged their presence to the ICRC, thereby enabling them to be registered, as was the case for *Ahmet Alić*.³³²

135. Although the Chamber lacks specific information concerning the dates of these incidents, it may reliably conclude that certain detainees were taken to the Silos of Čapljina before 6 September 1993, so that they would be hidden from the view of the ICRC representatives.

VII. Departures of Detainees from Dretelj Prison

A. Departure of Detainees from Dretelj Prison to Other Detention Sites

136. The Chamber was informed of several departures of detainees from Dretelj Prison to the Heliodrom. A report sent by the warden of the Heliodrom to Valentin Ćorić and Zlatan Mijo Jelić³³³ indicates that 726 detainees arrived at the Heliodrom from Dretelj Prison on or about 20 July 1993.³³⁴ Moreover, several detainees from Dretelj, arrested in Stolac and Čapljina Municipalities, were brought to the Heliodrom between 20 and 21 July 1993.³³⁵ On 15 September 1993, prisoners from Mostar, Prozor and Novi Šeher were again taken to the Heliodrom.³³⁶ Lastly, according to a report by the warden of the Heliodrom on 29 September 1993, 200 detainees were taken from

³³⁰ Edward Vulliamy, T(F), pp. 1575 and 1576; Witness CP, T(F), pp. 11367 and 11368; P 09755 under seal, p. 5; P 10143, pp. 10 and 11; P 10125, pp. 5, 7 and 8; P 10135 under seal, paras 81, 83, 84 and 99; P 10137, para. 55; P 10147, p. 6.

³³¹ P 10147, p. 6.

³³² P 10135 under seal, paras 82-83; P 10125, pp. 2, 4 and 7.

³³³ On this date Zlatan Mijo Jelić was the commander of the central sector for the defence of the city of Mostar. P 03117; Slobodan Praljak, T(F), p. 42530; Witness NO, T(F), pp. 51180 and 51210-51211, closed session; 5D 05110 under seal, para. 7.

³³⁴ P 03942, p. 2.

³³⁵ P 10208, paras 1, 9, 10 and 13; P 10213, para. 5; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1500.

³³⁶ P 10143, paras 9 and 11; P 08031 under seal, p. 2. See also P 10135 under seal, para. 101.

Dretelj Prison to the Heliodrom.³³⁷ On 23 September 1993, Valentin Ćorić, Chief of the Military Police Administration, ordered that five detainees be transferred from the Dretelj Prison to the one in Ljubuški.³³⁸ The Chamber has no indication of the underlying reasons for these various moves.

137. In September 1993, several hundred detainees were taken from Dretelj Prison to Gabela Prison and the Heliodrom.³³⁹ As described in the various testimony, the last detainees to leave Dretelj Prison were taken to Gabela Prison in the first days of October 1993, in other words, when Dretelj Prison was closed.³⁴⁰ The Prosecution alleges that Dretelj Prison continued to hold some Muslim men until April 1994,³⁴¹ but the Chamber has no evidence concerning detentions through that date.

138. The imams who were detained in the dispensary of Dretelj Prison between at least 1 July 1993 and 1 October 1993³⁴² were released by Tomislav Šakota after staying several days at the Ćapljina mosque guarded by HVO soldiers, alternating with the Military Police.³⁴³ *Ahmet Alić*, who was released on this occasion, explained that, after attempting to obtain laissez-passers to travel to an area under ABiH control, which the President of the “Ćapljina Government” refused to give them, the imams got in touch with the Mufti of Zagreb, who provided letters of guarantee enabling them to go to Croatia.³⁴⁴

B. Departure of Detainees from Dretelj Prison to the Croatian Islands

139. The Indictment very briefly addresses the issue of the departure of the detainees from Dretelj Prison in paragraph 189, indicating that “many Bosnian Muslims detained at Dretelj Prison were deported by the Herceg-Bosna/HVO authorities to other countries, via the Republic of Croatia” and that to obtain release, the Bosnian Muslims were required, among other HVO criteria,

³³⁷ P 05563; see also P 08202, p. 8. See also the confirmation of this by Josip Praljak, who was *de facto* deputy warden of the Heliodrom from 21 September 1992 until 10 December 1993 and co-warden of the Heliodrom from 10 December 1993 until 1 July 1994. Josip Praljak, T(F), p. 14805.

³³⁸ Witness C, T(F), p. 22500, closed session; P 05312 under seal.

³³⁹ *Witness EC*, a resident of the Municipality of Ćapljina, was himself brought to Gabela Prison on 28 September 1993. P 10131 under seal, paras 1, 29 and 32. P 08031 under seal, p. 1. The ICRC points out in this letter that 234 detainees disappeared while in transit and that it had no information concerning their fate. After that letter, Marijan Biškić ordered the chief of the Military Police Administration to conduct an investigation in order to collect data concerning the disappearance of these detainees. P 08124 under seal, p. 1. The Chamber however does not have information regarding the outcome of this investigation.

³⁴⁰ Witness DD, T(F), pp. 14464-14466 and 14490 and 14491, closed session; P 10143, pp. 11-12; P 10127 under seal, p. 7; P 10135 under seal, paras 101-102; P 10137, p. 1 and para. 62. Witnesses DD, EB, EE, Denis Šarić and Kemal Lizde were among the last detainees to leave Dretelj and were themselves transferred from Dretelj to Gabela on this occasion.

³⁴¹ Indictment, para. 188.

³⁴² Witness DD, T(F), pp. 14441-14443, closed session; P 10135 under seal, paras 82-83; P 10143, p. 9; P 10125, pp. 2, 4, 5, 7; P 03108. P 09755 under seal, p. 5; P 03377; Sejko Kajmović, T(F), pp. 11731-11732.

³⁴³ P 10135 under seal, paras 81-84; P 10125, pp. 2, 4, 7.

³⁴⁴ P 10125, pp. 7 and 8.

to be married to a Croat or possess a visa and a letter of guarantee in order to leave Bosnia and Herzegovina for another country.

140. The Chamber points out that on 25 August 1993, the deputy chief for security of the 1st *Knez Domagoj* Brigade, *Žarko Pavlović*, did in fact inform the Chief of Staff *Žarko Tole*, that, according to the procedures in place at Gabela and Dretelj prisons, groups of persons could be “released”, provided they posed no problem for security.³⁴⁵ These were men married to Croatian women, and individuals in possession of a letter of guarantee for departure to a third country and a transit visa for Croatia, as well as individuals for whom Croatia had issued warrants.³⁴⁶

141. This procedure was enforced as of 10 August 1993, as indicated by a written request issued by *Žarko Pavlović* – addressed to and approved by *Nečeljko Obradović* – for the release of 28 detainees from Dretelj Prison on grounds that they were married to Croatian women.³⁴⁷

142. Moreover, multiple documents originating with the HVO demonstrate that the commander of the 1st *Knez Domagoj* Brigade did in fact authorise the release of detainees from Dretelj Prison if they presented a letter of guarantee and were willing to go abroad.³⁴⁸

143. In the initial phase, between 6 and 15 September 1993, the detainees in the worst state of health were brought to the islands of Croatia, in particular to the islands of *Korčula*, to *Prižba* and to *Badija*.³⁴⁹

144. In the days that followed a meeting that was held on or about 20 September 1993 between *Mate Granić* and several HVO representatives, among whom were *Jadranko Prlić*, *Berislav Pušić* and *Bruno Stojić*, and representatives from the ICRC, the HCR and UNPROFOR³⁵⁰ certain detainees holding letters of guarantee were sent to third countries.³⁵¹

145. The Chamber finds that, throughout the entire time Dretelj Prison was in operation as a detention facility, detainees were taken to other detention facilities, either because Dretelj Prison was going to close or for other reasons unknown to the Chamber, and that, starting in September

³⁴⁵ P 04496, pp. 1 and 2.

³⁴⁶ Witness C, T(F), p. 22548, closed session; P 04496, pp. 1 and 2.

³⁴⁷ P 04079.

³⁴⁸ Witness C, T(F), pp. 22395, 22396 and 22548, closed session; P 04941; P 10187; P 04496, pp. 1 and 2.

³⁴⁹ P 10143, p. 11; Witness DD, T(F), p. 14460, closed session.

³⁵⁰ P 05219 under seal, pp. 1 and 2.

³⁵¹ P 10137, para. 54; P 10127 under seal, p. 7; P 10124, paras 91-92; *Azra Krajšek*, T(F), p. 20045; P 10056, p. 1; P 05422, pp. 1 and 2; 1D 01936; P 05304; Witness DD, T(F), pp. 14462 and 14465, closed session; Witness C, T(F), pp. 22418 and 22420, closed session; P 10127 under seal, p. 7; P 05322 under seal; P 07341, p. 2; P 05731, p. 4; P 05662, p. 2; 1D 02735, p. 7. Concerning the fact that detainees from Dretelj Prison were brought between late August and September 1993 by bus, to Split at first, then to Denmark by lorry, see Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5126.

1993, detainees left Dretelj Prison and were sent to the islands of Croatia, including Korčula and Brač, in particular, in anticipation of their departure to third countries.

Heading 11: Gabela Prison

146. This part of the Judgment pertains to crimes associated with the detention of Muslim men at Gabela Prison. In paragraphs 195 to 203 of the Indictment, it is alleged that Herceg-Bosna/HVO forces detained Muslim men in four tin hangars in a former JNA logistics base outside the village of Gabela in Čapljina Municipality. It is likewise alleged that Herceg-Bosna/HVO forces held the Muslim men, irrespective of their status, from April 1993, but more specifically from 8 June 1993 to April 1994, and did so under harsh and unhealthy conditions. Members of the HVO subjected the detainees to physical and mental abuse and to ethnic slurs. As a result of these acts and the conditions of confinement, numerous detainees suffered serious bodily harm or consequences to their health that caused the death of some of the detainees. The Prosecution submits, moreover, that the HVO denied access to international observers and humanitarian organisations during the first months of the camp's existence. In October 1993, the HVO also concealed some of the Bosnian Muslim detainees from representatives of an international humanitarian organisation who had come to inspect the prison. Finally, according to the Prosecution, release was granted to detainees married to a Croatian woman or in possession of a visa and a letter of guarantee to leave BiH for another country.

147. All these acts are charged by the Prosecution as persecution (Count 1), murder (Count 2), wilful killing (Count 3), deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16) and cruel treatment (Count 17).

148. To determine the alleged acts, the Chamber has reviewed a collection of evidentiary material. It examined, inter alia., the *viva voce* testimony of witnesses *Ivan Bandić, Marijan Biškić, BB, BI, Zoran Buntić, C, CQ, DD, E, Larry Forbes, Hasan Hasić, Sejfo Kajmović, Nermin Malović, Amor Mašović, Klaus Johann Nissen, Marita Vihervuori, Edward Vulliamy, Philip Roger Watkins, Zoran Perković* and *2D-AB*, as well as the statements of witnesses *Salko Bojčić, CK, CM, CR, CW, DV, DW* and *Ismet Poljarević*, admitted under Rule 92 *ter* of the Rules and supplemented by their testimony in court. The Chamber also took into account the written statements and transcripts of the evidence of witnesses *DT, EB, EC, ED, EE, Halid Jazvin, Huso Marić, NN, OO, Šefik Ratkušić,*

Denis Šarić, Alija Šuta and Ibro Zlomužica admitted under Rule 92 *bis* of the Rules. Lastly, the Chamber examined a large number of exhibits admitted into evidence through these witnesses or written filings.

149. To establish the events which took place at Gabela Prison, the Chamber will (I) describe the organisation of Gabela Prison. It will then look into (II) the evidence that relates to the detainees' arrival at Gabela Prison, (III) their number and status, (IV) their conditions of confinement, (V) the treatment to which they were subjected and the deaths of several of them. The Chamber will also review (VI) the allegations of restricted access to the detainees and the concealment of some of them from representatives of international organisations. Lastly, (VII) the Chamber will describe how the detainees left Gabela Prison.

I. Organisation of Gabela Prison

150. Having determined (A) the opening and closing dates of Gabela Prison, the Chamber will describe (B) Gabela Prison and examine (C) its command structure and the distribution of powers among the various authorities.

A. Opening and Closing of Gabela Prison

151. The Prosecution alleges that even though Gabela Prison was only officially established on 8 June 1993 and converted into a transit centre on 22 December 1993, it was used to hold BiH Muslim men from April 1993 to April 1994.³⁵² The Prosecution also alleges that Gabela Prison was established on 8 June 1993 pursuant to a decision by Jadranko Prlić, who also appointed its first warden, Boško Previšić, and that it was "under the jurisdiction of the Military Police Administration".³⁵³

152. The Prlić Defence holds that Jadranko Prlić's decision of 8 June 1993 could not have served as a basis for the establishment of Gabela Prison since it was flawed in several ways, was never published and, as such, could not have been implemented.³⁵⁴ The Prlić Defence notes that the decision did specify the general area where the detention centre was to be established, but did not designate any actual place for the facility.³⁵⁵ The Prlić Defence submits that Gabela Prison was

³⁵² Indictment, para. 196.

³⁵³ Prosecution Pre-Trial Brief, paras 196.1 and 196.2; Prosecution Final Trial Brief, paras 466 and 1065.

³⁵⁴ Prlić Defence Final Trial Brief, para. 234.

³⁵⁵ Prlić Defence Final Trial Brief, para. 234.

opened following the “events of 30 June 1993”.³⁵⁶ The Stojić and Petković Defence teams submit, on the other hand, that Gabela Prison was indeed set up pursuant to the decision of 8 June 1993.³⁵⁷

153. Finally, the Prlić and Stojić Defence teams submit that it was Mate Boban who ordered Gabela Prison to be closed down, whereas the Petković Defence and the Prosecution hold that it was closed down pursuant to an HZ H-B government order of 22 December 1993.³⁵⁸

154. The Chamber notes that pursuant to two decisions signed by Jadranko Prlić, as president of the HVO, on 8 June 1993, the HVO of the HZ H-B set up Gabela Prison³⁵⁹ and appointed Boško Previšić as its warden.³⁶⁰

155. The fact that the decision of 8 June 1993 on the establishment of Gabela Prison was never published, as the Prlić Defence holds, was confirmed by *Zoran Perković*, advisor to the committee for laws and regulations of the HVO, and thereafter of the HR H-B, during his testimony before the Chamber.³⁶¹ However, this witness did not state that since the decision was not published it implied it did not enter into force,³⁶² as claimed by the Prlić Defence.³⁶³ The Chamber does not support the arguments submitted by the Prlić Defence on the alleged irregularities of the said decision, insofar as the decision expressly provides for its immediate entry into force and that Jadranko Prlić, then Prime Minister of the HR H-B, thought it necessary to take a further decision on 22 December 1993, thereby overturning the decision and Boško Previšić’s official appointment.³⁶⁴

156. The Chamber finds that Gabela Prison was indeed formally established on 8 June 1993 pursuant to Jadranko Prlić’s decision and that he officially appointed Boško Previšić as its warden on the same day.

³⁵⁶ Prlić Defence Final Trial Brief, para. 235.

³⁵⁷ Petković Defence Final Trial Brief, paras 318 (ii) and 359; Stojić Defence Final Trial Brief, paras 489 and 517. The Stojić Defence infers that Gabela Prison was not established pursuant to Mate Boban’s Decree on the Treatment of Persons Captured in Combat in the HZ H-B, and that Bruno Stojić therefore has no link with its establishment. The Stojić Defence notes that in Jadranko Prlić’s decision there is no mention of the decree issued by Mate Boban, President of the HVO and of the HZ H-B, on the Treatment of Persons Captured in Combat in the HZ H-B, dated 3 July 1992. P 00292.

³⁵⁸ Prlić Defence Final Trial Brief, para. 237; Stojić Defence Final Trial Brief, para. 532; Petković Defence Final Trial Brief, paras 318 and 363; Prosecution Final Trial Brief, para. 486.

³⁵⁹ Jadranko Prlić’s decision on the establishment of two detention centres: the “county” Military Prison and the “county prison” in the municipalities of Čapljina, Neum, Ljubuški and Ravno at Gabela. P 02679; *see also* P 03350, p. 3.

³⁶⁰ P 02674 - spelled “Boko Previšić” in the decision. *See also* P 03350, p. 3.

³⁶¹ Zoran Perković, T(F), pp. 31808-31811. Zoran Perković was an advisor to the committee for laws and regulations of the HVO and thereafter of the HR H-B from mid-July to mid-August 1992 and from mid-December 1992 into 1994. Zoran Perković, T(F), pp. 31627, 31629 and 31639.

³⁶² Prlić Defence Final Trial Brief, para. 234

³⁶³ Zoran Perković, T(F), pp. 31808-31811

³⁶⁴ P 07668.

157. Nonetheless, some of the evidence shows that Gabela Prison took in detainees as of April 1993,³⁶⁵ i.e. before it was officially established and that Boško Previšić was exercising his duties as prison warden as of May 1993,³⁶⁶ i.e., before his official appointment. However, the Chamber does not have any information on the circumstances surrounding the time Gabela Prison was first used as a detention centre or on how it was managed.

158. Moreover, with regard to its closure, the Chamber notes that even though it is led to believe by virtue of the decision of 22 December 1993 that Gabela Prison was officially closed by Jadranko Prlić on that date, evidence shows that it was in fact converted into a transit centre as of 13 December 1993,³⁶⁷ and as such continued to take in detainees until the last days of December 1993.³⁶⁸ However, the Chamber has no evidence to the effect that detainees were there after December 1993 and up to April 1994, as claimed by the Prosecution.³⁶⁹

B. Description of Gabela Prison

159. Gabela Prison was a former JNA building³⁷⁰ located in the town of Gabela, south of the town of Čapljina.³⁷¹

160. In the compound of Gabela Prison there were 12 hangars, of which three, and later, after the arrival of detainees following the closure of Dretelj Prison in the first few days of October 1993,³⁷² four were used to house detainees.³⁷³ There were also a former stable and a sports field in the compound of Gabela Prison.³⁷⁴

³⁶⁵ P 10133 under seal, paras 36, 52, 55, 56, 79 and 80; P 09799 under seal, p. 2; Witness CK, T(F), p. 11001. In her prior statement, Witness CK stated that her husband had been arrested in July 1993; she corrected herself at trial, stating that he had been arrested on 13 May 1993 and sent to Gabela. Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5879 and 5880; T(E), p. 5875. Witness NN saw his former ABiH commander, Bajro Pizović, who arrived at Gabela in April 1993. P 02117. P 07529, p. 1.

³⁶⁶ P 10133 under seal, paras 52 and 54.

³⁶⁷ On 13 December 1993, *Marijan Biškić* ordered the transfer of all detainees registered as prisoners of war by the HVO to the "Heliodrom Collection Centre for Prisoners of War" and the transfer of all other detainees to the "Gabela transit centre", *Marijan Biškić*, T(F), pp. 15113, 15114 and 15385-15387; P 07149.

³⁶⁸ P 07065, p. 2; P 07184; P 07212; P 07140; P 08498, p. 4, para. 16; P 07852; Amor Mašović, T(F), pp. 25040 and 25041.

³⁶⁹ Indictment, para. 196.

³⁷⁰ P 10133 under seal, p. 5, para. 53 and p. 7, para. 78; P 09948, para. 35; P 10213, para. 4.

³⁷¹ P 10924.

³⁷² Witness DD, T(F), p. 14466, closed session; P 10133 under seal, pp. 5 and 6, paras 56 and 57; P 09753 under seal, p. 7; P 10135 under seal, paras 101 and 102.

³⁷³ P 10133 under seal, p. 5, para. 53, p. 6, paras 56 and 57 and p. 9, para. 97; Hasan Hasić, T(F), p. 10754; Witness CQ, T(F), p. 11474; P 04253, p. 2; P 05225, p. 1; P 06729, p. 2; P 09016. The other hangars were used for storing HVO and HV military equipment.

³⁷⁴ P 10138, paras 22, 24 and 25. Members of the ABiH *Bregava* Brigade were detained in this stable for some time between July and October 1993.

161. Three former detainees at Gabela Prison spoke of an “isolation cell” in which they were kept for several days with other detainees.³⁷⁵ However, the Chamber is not in a position to determine whether there were one or more isolation cells; it has no knowledge of their size or the reasons for holding some of the detainees in such cells.

162. Finally, the Gabela Prison had a Health Unit.³⁷⁶

C. Command Structure at Gabela Prison and Distribution of Powers among the Various Authorities

163. According to the Prosecution, the Military Police was purportedly in charge of running Gabela Prison.³⁷⁷ The Stojić and Ćorić Defence teams hold conversely that Gabela Prison was under the exclusive authority of the commander of the 1st *Knez Domagoj* Brigade, NeĀeljko Obradović.³⁷⁸

164. To get a better understanding of how Gabela Prison operated and what responsibilities the various authorities/units in or involved in the prison had, the Chamber will examine (1) who was responsible for managing the Gabela Prison and (2) the distribution of powers in Gabela Prison among the various authorities/units.

1. Management of Gabela Prison

165. From May 1993 to December 1993 at least, the warden of Gabela Prison was Boško Previšić, known as “Boko”, and his deputy was Nikola Andrun, both members of the 1st *Knez Domagoj* Brigade of the HVO.³⁷⁹ They performed “administrative tasks” and were involved in “security control”.³⁸⁰ Boško Previšić was directly responsible to NeĀeljko Obradović, commander of the 1st *Knez Domagoj* Brigade.³⁸¹

³⁷⁵ P 10129 under seal, p. 6, para. 32. *Witness EC*, detained at Gabela from 28 September 1993 to 10 October 1993 stated that two nights after his arrival, he was taken to an isolation cell where he was detained with 52 other detainees. P 09948, paras 33 and 38-40. *Ibro Zlomužica* was detained in the isolation cell in October 1993 with 12 other detainees. P 10138, paras 21 and 22. *Huso Marić* was detained in the isolation cell in early July 1993 with ten or so other detainees for at least one day. Hasan Hasić, T(F), pp. 10749-10751, 10757 and 10758. *Hasan Hasić*, detained at Gabela from 14 July 1993 for at least 50 days, mentioned the existence of an isolation cell at Gabela.

³⁷⁶ P 10143, p. 12; P 05485, p. 2; P 05948, pp. 1 and 2. *See also* P 05225.

³⁷⁷ Prosecution Final Trial Brief, para. 1065.

³⁷⁸ Stojić Defence Final Trial Brief, paras 491 and 518-520; Ćorić Defence Final Trial Brief, paras 549, 564-566 and 570; Closing Arguments for the Ćorić Defence, T(F), pp. 52946 and 52947.

³⁷⁹ P 10133 under seal, pp. 5, 54 and p. 6, para. 60; P 03731, pp. 3 and 4; P 05225, p. 1; P 05485, p. 1; P 0672, p. 3; P 07065, p. 2; P 07214, p. 2; Hasan Hasić, T(F), p. 10752; Witness CQ, T(F), p. 11475; Witness 2D-AB, T(F), pp. 37549 and 37550, private session; P 10135 under seal, para. 105; P 10138, para. 20; P 09948, paras 35 and 36; P 10127 under seal, p. 7; P 10129 under seal, para. 34; P 10143, p. 12.

³⁸⁰ P 05225.

³⁸¹ 5D 04096; P 03462; P 03731.

166. As the Chamber has already noted in its analysis of events relating to Dretelj Prison, between 22 July and 25 December 1993, Tomislav Šakota served as coordinator for the detention centres³⁸² and, in this connection, was involved in the management of Gabela Prison, at least in September 1993.³⁸³ The Chamber is, however, not in a position to determine the exact role he may have played at Gabela Prison or his relations with the prison management.

2. Distribution of Powers within Gabela Prison

167. In addition to the warden and his deputy, several HVO units were involved in Gabela Prison, either (a) to grant access to the prison for people outside, (b) to provide food and water to the detainees, (c) to guard the detainees and ensure their security, (d) to organise and provide medical care for the detainees, or (e) to manage the departure of detainees from the prison.

a) Authorities Granting Access to Gabela Prison for People from Outside

168. Although the command of the 1st *Knez Domagoj* Brigade was not physically present in the prison, it was largely involved in all managerial aspects of the facility, particularly when it came to granting access to the prison to people from outside. For example, on 17 June 1993, NeČeljko Obradović ordered the warden of Gabela Prison to allow the head of the VOS of the brigade and his advisor to enter the prison and interrogate the detainees.³⁸⁴ In addition, according to a report from the security sector of the HVO Department of Defence on 20 September 1993, persons not working at Gabela Prison could enter if they had a written authorisation from the commander of the 1st *Knez Domagoj* Brigade of the HVO and from the SIS chief of that brigade.³⁸⁵

169. The Chamber finds that it was the 1st *Knez Domagoj* Brigade of the HVO that granted or denied access to Gabela Prison to people from outside.

b) Authorities Controlling Detainee Access to Food and Water

170. The Chamber has little information about the authorities who controlled detainee access to food and water, but Ivo Curić's reports³⁸⁶ show that food for the detainees came from the main kitchen of the 1st *Knez Domagoj* Brigade in Čapljinina.³⁸⁷ As to water, one of his reports indicates

³⁸² He held this position between 22 July and 25 December 1993 but initially dealt only with Dretelj Prison. See "Management of Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

³⁸³ The information that the Chamber has on Tomislav Šakota's involvement at Gabela Prison is limited to September 1993. Veso Vegar, T(F), p. 36943; Ivan Bandić, T(F), pp. 38085 and 38089; P 05133; 2D 00973.

³⁸⁴ 5D 04096.

³⁸⁵ P 05225, p. 1.

³⁸⁶ Ivo Curić was the commander of the infectious, epidemic and toxicological diseases service at the HVO Department of Defence.

³⁸⁷ P 05485, p. 2; P 05948, p. 3. See also in this connection, P 05225; Witness 2D-AB, T(F), p. 37557, private session.

that it was brought in by water trucks from the Čapljina pumping station and that the quality of the water was checked by the medical corps of the 1st *Knez Domagoj* Brigade.³⁸⁸

171. In light of this evidence, the Chamber finds that the 1st *Knez Domagoj* Brigade was responsible for the supply of food and water to detainees at Gabela Prison. However, the Chamber was unable to determine who distributed the food and water to the detainees.

c) Authorities Responsible for Guarding the Detainees and Ensuring Their Security

172. The Prosecution claims that security at Gabela Prison was mainly provided by the *Domobrani* and that members of the Konjic Military Police were also present.³⁸⁹ The Ćorić Defence asserts that the 1st *Knez Domagoj* Brigade and the *Domobrani* unit deployed by the commander of that brigade were charged with providing “accommodation” for the prisoners at Gabela Prison and that the Military Police and its administration had no powers whatsoever in terms of security, all the more so since the Military Police were not present at Gabela.³⁹⁰

173. The evidence shows that from May 1993 at least, security for the detainees in Gabela Prison was ensured by a *Domobrani* unit³⁹¹ under the 1st *Knez Domagoj* Brigade of the HVO.³⁹² All the prison “guards” were *Domobrani*.³⁹³ They wore uniforms and were armed.³⁹⁴

174. In addition, on 17 August 1993, pursuant to an order to this effect issued by Chief of Staff Țarko Tole, NeĀeljko Obradović ordered the members of the “Klis Battalion” to go to Gabela Prison to ensure security and replace the “Konjic men” as of 18 August 1993.³⁹⁵ *Witness ED*, whose evidence was confirmed by *Sejfo Kajmović*, stated that some of the *Domobrani* originated from Konjic.³⁹⁶ However, the Chamber does not know whether NeĀeljko Obradović’s order of 17 August 1993 was implemented, and no witness or document mentions any changes to the group of men charged with ensuring security at Gabela Prison. Two HVO reports from September and November 1993 mention, conversely, that security was always ensured by the *Domobrani* at that time.³⁹⁷

³⁸⁸ P 05948, p. 3.

³⁸⁹ Prosecution Final Trial Brief, para. 1076.

³⁹⁰ Ćorić Defence Final Trial Brief, paras 569, 571 and 574.

³⁹¹ Witness C, T(F), p. 22564, closed session; P 05225; P 06805, p. 1; Marijan Biškić, T(F), pp. 15300 and 15373.

³⁹² P 10133 under seal, p. 4, paras 30-33 and p. 5, para. 52; P 06729, p. 4; P 05225, p. 1; P 05485, p. 2; Witness 2D-AB, T(F), p. 37549, private session. For the subordination of the *Domobrani* units to the brigade commanders in general see also “The *Domobrani*” in the Chamber’s factual findings with regard to the military structure of the HZ(R) H-B.

³⁹³ P 05225, p. 1; P 06805, p. 1; P 10133 under seal, p. 6, paras 67 and 68 and p. 7, paras 70-72.

³⁹⁴ Sejfo Kajmović, T(F), p. 11718; P 10138, para. 24.

³⁹⁵ P 04266, p. 1.

³⁹⁶ P 10133 under seal, p. 7, para. 73; Sejfo Kajmović, T(F), pp. 11718, 11720 and 11721.

³⁹⁷ P 06729, p. 4; P 05225, p. 1.

175. The “Klis Battalion” under the command of the *Herceg Stjepan* Brigade was part of the armed forces of the HVO³⁹⁸ just as the *Domobrani* unit that guarded the detainees. Accordingly, the Chamber finds that detainee surveillance and security at Gabela Prison were ensured by the armed forces of the HVO. However, no evidence supports a finding, as alleged by the Prosecution, that the Military Police had any responsibility in the matter.

d) Authorities Responsible for Organising and Providing Medical Care

176. With regard to medical services at Gabela Prison, the Stojić Defence states that they were provided under the authority of the medical staff of the 1st Knez Domagoj Brigade³⁹⁹ and that the health sector of the Department of Defence was responsible for the epidemiological protection of the population, including in detention centres but that it had no specific mandate regarding the medical treatment of prisoners.⁴⁰⁰ The Ćorić Defence also ascertains that the 1st Knez Domagoj Brigade was in charge of providing medical assistance to the detainees.⁴⁰¹

177. The evidence shows that throughout the time Gabela Prison was in operation, those responsible for health care at the HVO Department of Defence – i.e. Ivan Bagarić of the health sector of the HVO Department of Defence, and Ivo Curić, commander of the infectious, epidemic and toxicological diseases service at the HVO Department of Defence – ordered the commander of the 1st *Knez Domagoj* Brigade to provide medical assistance to the detainees at the prison.⁴⁰² On 5 July 1993, Nečeljko Obradović then ordered the medical services of the 1st and 3rd Brigades to set up a medical commission that would address the health of the detainees, including at Gabela Prison,⁴⁰³ although the Chamber does not know whether this commission was ever set up.

178. The head of the medical corps of the 1st *Knez Domagoj* Brigade, Nikica Šutalo, took part in inspection visits organised by Ivo Curić at Gabela Prison on at least two occasions, 29 September and 18 October 1993.⁴⁰⁴ He also sent at least one report to Ivo Curić on 15 November 1993 concerning sanitary conditions at Gabela Prison.⁴⁰⁵

179. The head of the health service of the HVO Department of Defence also sent reports on 29 September and 19 October 1993 to the cabinet of the President of the HR H-B, the Main Staff and

³⁹⁸ 2D 00639; 3D 01100. See also “Operative Zones and the Brigades” in the Chamber’s factual findings with regard to the military structure of the HZ(R) H-B.

³⁹⁹ Stojić Defence Final Trial Brief, paras 519 and 528.

⁴⁰⁰ Stojić Defence Final Trial Brief, para. 528.

⁴⁰¹ Ćorić Defence Final Trial Brief, para. 565.

⁴⁰² 2D 00278; 2D 00134; 2D 00131.

⁴⁰³ P 03197; Witness C, T(F), pp. 22489-22490, closed session.

⁴⁰⁴ P 05485, p. 1; P 05948, pp. 1 and 2.

⁴⁰⁵ 2D 01537; 2D 01538; Ivan Bagarić, T(F), p. 38998.

the medical service of the 1st *Knez Domagoj* Brigade, noting the presence of a medical team at Gabela Prison made up of detainees and supervised by the medical team of the 1st *Knez Domagoj* Brigade.⁴⁰⁶ However, the Chamber has no specific information on the actual functioning of the health unit.

180. For the foregoing reasons the Chamber finds that the health service of the Department of Defence ordered the commander of the 1st *Knez Domagoj* Brigade to take measures to ensure that detainees had access to medical care. The 1st *Knez Domagoj* Brigade, which was also supposed to supervise staff at the health unit, was therefore the authority in charge of this matter at Gabela Prison.

e) Authorities Responsible for Managing the Departures of Detainees

181. In its Final Trial Brief, the Prosecution alleges that on numerous occasions Valentin Ćorić personally ordered the transfer of detainees from Gabela Prison to other detention facilities⁴⁰⁷ and that the decision-making power regarding prisoner removal lay in the hands of Berislav Pušić⁴⁰⁸. The Stojić and Ćorić Defence teams agree that the transfer of detainees from Gabela Prison to other detention facilities would have fallen under the authority of the commander of the 1st *Knez Domagoj* Brigade.⁴⁰⁹

182. As to departures from Gabela Prison to other detention facilities, the Chamber notes that on 23 September 1993 Valentin Ćorić ordered seven detainees to be taken from Gabela Prison to Ljubuški Prison, but the reasons for the transfer are unknown to the Chamber.⁴¹⁰ In addition, on 15 December 1993, pursuant to an order from the head of the Military Police Administration to move “prisoners of war” from Gabela Prison to the Heliodrom, almost 400 detainees were taken to the Heliodrom.⁴¹¹ Again, on 28 December 1993, detainees, including *witnesses Ismet Poljarević* and *CW*, were taken from Gabela Prison to the Heliodrom because they were regarded as “prisoners of war”, this time on the order of Marijan Biškić, the Deputy Minister for Security and the HVO

⁴⁰⁶ P 05485, p. 2; P 05948, pp. 1 and 2. See also P 05225.

⁴⁰⁷ Prosecution Final Trial Brief, para. 1078.

⁴⁰⁸ Prosecution Final Trial Brief, para. 1209.

⁴⁰⁹ Stojić Defence Final Trial Brief, para. 521; Ćorić Defence Final Trial Brief, para. 415.

⁴¹⁰ P 05302. *Huso Marić*, whose name appears in this order confirmed that he was taken to Ljubuški Prison where he was detained until 19 March 1994. P 10138, paras 30-33.

⁴¹¹ P 07184; P 07212; See also P 00285, item 764, p. 131: this is only a list of documents and not the documents themselves; Witness CQ, T(F), pp. 11481-11483; Witness CM, T(F), pp. 11100, 11117 and 11118.

Military Police in the Ministry of Defence.⁴¹² The Military Police Administration was advised of the transfers on 15 and 28 December 1993.⁴¹³

183. Additionally, the Chamber admitted an order issued on 13 December 1993 by Berislav Pušić, the head of the Service for the Exchange of Prisoners and Other Persons, concerning the transfer of 17 detainees from Gabela Prison to Ljubuški Prison to prepare for their departure to a third country.⁴¹⁴

184. The aforementioned evidence shows that the Military Police Administration, in the person of its head Valentin Ćorić, had the authority to order the transfer of detainees from Gabela Prison to other detention facilities. In addition, Berislav Pušić, head of the Service for the Exchange of Prisoners and Other Persons, had the power to order the transfer of detainees from Gabela Prison to Ljubuški Prison to prepare for their departure to third countries.

185. With regard to the release of detainees from Gabela Prison, the Prosecution submits in addition that this also fell under the authority of Valentin Ćorić and refers in this regard to a notice he allegedly sent to NeĀđjko Obradović on 6 July 1993 indicating that the “military remand prisons fall under the exclusive jurisdiction of the Military Police Administration” and that the commander of the 1st *Knez Domagoj* Brigade was therefore “not authorised to order the release of prisoners”, including from Gabela Prison.⁴¹⁵ The Prosecution also alleges that Berislav Pušić personally authorised numerous releases.⁴¹⁶

186. The Ćorić Defence, firstly, challenges the authenticity of the notice by Valentin Ćorić of 6 July 1993 and, secondly, it holds, as do the Stojić and Pušić Defence teams, that prisoner release fell under the authority of the commander of the 1st *Knez Domagoj* Brigade.⁴¹⁷ Finally, the Ćorić and Pušić Defence teams stress the role of the SIS of the Brigade in the release process.⁴¹⁸

⁴¹² Ismet Poljarević, T(F), p. 11663; Witness CW, T(F), pp. 12666, 12668 and 12669, private session; P 09807 under seal, pp. 9 and 10; 6D 00216; P 07378 indicates that on 28 December 1993 Ismet Poljarević was transferred from Gabela to the Heliodrom. P 10127 under seal, pp. 7 and 8. Witness EB, a Muslim member of an HVO company, was transferred from Gabela Prison to the Heliodrom at the end of December 1993 and was kept in detention there until April 1994. On the status of Marijan Biškić, see Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998, p. 1.

⁴¹³ P 07184; P 07212; 6D 00216; P 07378.

⁴¹⁴ P 07140.

⁴¹⁵ Prosecution Closing Arguments p. 52092-52094; Prosecution Final Trial Brief, paras 1079-1081 quoting document P 03220. The Ćorić Defence ascertained several times during the trial and in its Final Trial Brief (paras 699-701) that this document was a forgery but the Chamber already ruled on the authenticity of this document in the part that refers to the Military Police. See “Responsibility of the Military Police in Matters of Detainee Release” in the Chamber’s findings with regard to the military structure of the H(R) H-B.

⁴¹⁶ Prosecution Final Trial Brief, para. 1210.

⁴¹⁷ Stojić Defence Final Trial Brief, paras 491 and 522. The Ćorić Defence holds that the Military Police Administration took part in the release process only to the extent that it forwarded the requests for release to Colonel NeĀđljko

187. The Chamber recalls that in the part that refers to Dretelj Prison, it already accepted the authenticity of the notice issued by Valentin Ćorić on 6 July 1993.⁴¹⁹ In addition, in the part that refers to the Military Police, the Chamber determined that the “Military Police Administration had (...) competence to order the release of detainees held by the HVO”, noting, however, that this finding did not preclude it from noting that other HVO authorities also had the power to order the release of detainees.⁴²⁰

188. With regard to the authority of Valentin Ćorić to release detainees, the Chamber notes that a document dated 21 August 1993 and issued by Ante Prlić, commander of Ljubuški Prison, shows that, pursuant to an order from Valentin Ćorić, two men held “in the military prisons in Dretelj or Gabela” were to be handed over to the Ljubuški Military Police to be reunited with their families and leave Herzegovina.⁴²¹

189. The Chamber finds, nonetheless, that the 1st *Knez Domagoj* Brigade played a major role in the release of detainees. It was the Brigade that controlled the release procedure, as described on 25 August 1993 by the Deputy Commander for Security of the 1st *Knez Domagoj* Brigade to Tarko Tole, Chief of Staff.⁴²² According to the procedure, men married to Croatian women and people holding both a letter of guarantee to leave for a third country and a transit visa for Croatia could be released by the 1st *Knez Domagoj* Brigade so long as they did not constitute a “security risk”.⁴²³ *Witnesses E* and *ED* confirmed that the detainees at Gabela were indeed able to leave Gabela Prison if they had a letter of guarantee authorising them to move to Croatia or to a third country.⁴²⁴ Once they left the prison, they had to leave HZ H-B territory with their families within 24 hours.⁴²⁵

Obradović, who was responsible for approving or denying them. Ćorić Defence Final Trial Brief, paras 577-579; Pušić Defence, Final Trial Brief paras 299, 333, 334 and 336.

⁴¹⁸ Ćorić Defence Final Trial Brief, paras 577-579; Pušić Defence Final Trial Brief, paras 299, 333, 334 and 336.

⁴¹⁹ P 03220; *see also* “Responsibility of the Military Police in Matters of Detainee Release” in the Chamber’s findings with regard to the military structure of the HZ(R) H-B.

⁴²⁰ *See* “Responsibility of the Military Police in in Matters of Detainee Release” in the Chamber’s findings with regard to the military structure of the HZ(R) H-B.

⁴²¹ P 10187.

⁴²² *See* “Slobodan Praljak, Commander of the Main Staff from 24 July 1993 to 9 November 1993” in the Chamber’s findings with regard to the military structure of the HZ(R) H-B.

⁴²³ Witness C, T(F), p. 22548, closed session; P 04496, pp. 1 and 2. According to the Deputy Commander for security of the 1st *Knez Domagoj* Brigade, before this procedure was set up, the South-East OZ had not set up any procedure to release detainees which forced the local HVO presidencies and the commands of the various brigades to adopt their own procedures. The Witness does not state when this procedure was put in place.

⁴²⁴ Witness E, T(F), pp. 22094-2100, 22106 and 22283-22284, closed session; P 10133 under seal, p. 5, para. 45; 5D 02056; *See also* P 04164 under seal, p. 11: “The same sources (the organisation Doctors of the World: without any further details) informed us that the prison authorities are ready to release all prisoners who present a letter of guarantee by whichever country committing itself to take care of them and to allow them to enter the country.”

⁴²⁵ Witness E, T(F), pp. 22094-22096 and 22106, closed session; P 10133 under seal, p. 5, paras 45 and 48; *see for example* 5D 02056.

190. The SIS of the *Knez Domagoj* Brigade and the SIS centres at Čapljina and Mostar were responsible for evaluating any security issues that might prevent a detainee from taking part in the release procedure as described above.⁴²⁶ For example, on 4 December 1993, Berislav Pušić sent the deputy warden of Gabela Prison a request for the release of 17 men being held there.⁴²⁷ Nikola Andrun then informed the head of the SIS centre at Čapljina of the release request.⁴²⁸ Andrun then informed the SIS at the Ministry of Defence that the detainees were members of the ABiH *Bregava* Brigade and that he was against their release.⁴²⁹ The Chamber has no information on what subsequently happened to these detainees.

191. The Chamber notes that, following Mate Boban's decision of 10 December 1993 to close down the detention facilities on HR H-B territory, Berislav Pušić, head of the Service for the Exchange of Prisoners and Other Persons, issued numerous reports on the release of detainees, including from Gabela Prison.⁴³⁰ A report signed by Berislav Pušić shows that on 15 and 20 December 1993 respectively, 83 and 189 detainees were released from Gabela and left for third countries, including Denmark.⁴³¹ According to a report dated 3 January 1994 signed by Berislav Pušić, 502 detainees were released to leave for third countries on 14, 15 and 20 December 1993.⁴³² Although the Chamber has no information as to which authority ordered the releases, it notes that it was Berislav Pušić who issued the relevant reports.

192. For the foregoing reasons, the Chamber finds that the Military Police Administration, the commander of the 1st *Knez Domagoj* Brigade, the SIS of the *Knez Domagoj* Brigade, the SIS centres at Čapljina and Mostar and, from December 1993, the head of the Service for the Exchange of Prisoners and Other Persons, Berislav Pušić, all took part in the release process of the detainees.

⁴²⁶ 5D 02056; P 07222, p. 2; P 07178; P07023, p. 3

⁴²⁷ P 07033.

⁴²⁸ P 07033.

⁴²⁹ P 07033.

⁴³⁰ P 07178; P 07246, p. 1; P 07468. See also Philip Watkins, T(F), pp. 18885-18886 and P 07219 under seal, p. 2. P 07143, pp. 4 and 5.

⁴³¹ P 07178; P 07280 under seal, p. 1. The wave of releases on 15 December 1993 was confirmed by two witnesses who, however, offered no information on where the detainees went. *Denis Šarić* states that on 15 December 1993, ten Red Cross lorries arrived and 500 prisoners were released. P 10143, p. 12. *Witness DT*, a Muslim resident of Stolac stated that two of his relatives were released from Gabela on 15 December 1993. P 09946 under seal, para. 73.

⁴³² P 07468.

II. Arrival of Detainees at Gabela Prison

193. The Prosecution alleges that when the mass arrests of Muslim men were carried out from 30 June to mid-July 1993 – which included boys under the age of sixteen and men over sixty – many of them were imprisoned at Gabela Prison.⁴³³

194. The Chamber notes that Muslim men – Muslim members of the HVO, members of the ABiH and other Muslim men – were held at Gabela Prison as of April 1993.⁴³⁴ *Witness ED* explained that Muslim men of the HVO were being held at Gabela Prison in April 1993 and that about 1,500 Muslim men wearing “civilian clothes” aged between 16 and 60 were imprisoned at Gabela Prison in May 1993.⁴³⁵ In addition, *Witness NN* stated that he saw his former ABiH commander who arrived at Gabela Prison in April 1993.⁴³⁶ Aside from these two testimonies, the Chamber has no further information on the men held at Gabela Prison as of April 1993. It has no information on how long they were held at the prison and if, where and when they were transferred to other detention sites.

195. Later on, military-aged Muslim men – the Chamber does not know if they were members of the ABiH – and Muslim members of the HVO started arriving at Gabela Prison on 30 June 1993 and at the beginning of July 1993, after having been arrested in the municipalities of Stolac and Čapljina.⁴³⁷

196. Other detainees arrived at Gabela Prison from other detention centres. Many detainees arrived from Dretelj Prison at the end of September 1993 – a few days before it closed down – and at the beginning of October 1993 as it was being closed down.⁴³⁸ Also at the beginning of October

⁴³³ Indictment, para. 197; Prosecution Pre-Trial Brief, paras 198.4, 198.6 and 198.8.

⁴³⁴ P 10133 under seal, paras 36, 52, 55, 56, 79 and 80; P 09799 under seal, p. 2; Witness CK, T(F), p. 11001. In her prior statement, Witness CK said that her husband had been arrested in July 1993; she corrected this in court and stated that he had been arrested on 13 May 1993 and taken to Gabela. *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5879 and 5880; T(E), p. 5875; P 02117; P 07529, p. 1.

⁴³⁵ P 10133 under seal, paras 36, 52, 55, 56 and 80.

⁴³⁶ *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5879 and 5880; T(E), p. 5875.

⁴³⁷ Klaus Johann Nissen, T(F), pp. 20465-20467; Witness C, T(F), p. 22341, closed session; Sejfo Kajmović, T(F), pp. 11699-11702 and 11732-11733; Witness BB, T(F), pp. 17198, 17254 and 17255, closed session; Ivan Bandić, T(F), pp. 38170-38172; P 09948, paras 2, 13, 33-35 and 47; P 09935, p. 3; P 10213, paras 3 and 4; P 09753 under seal, pp. 6 and 7; P 10112, paras 16 and 17; P 10138, para. 20; P 09946 under seal, paras 27, 41 and 73; 3D 03759, p. 11; P 07148, p. 8; P 03057, p. 3; P 03347, p. 2; P 03361 under seal, pp. 6 and 7; P 09847 under seal, p. 2; P 06729, p. 2; P 06697, para. 58. The Chamber recalls that pursuant to an order issued on 30 June 1993 by Milivoj Petković, chief of the Main Staff, a campaign was conducted by the Military Police and the 1st *Knez Domagoj* Brigade that led to the arrest of many Muslim men who were subsequently held in detention, in particular at Gabela Prison. See “Arrest and Incarceration of Muslim Men of Military Age in the Municipality of Stolac in July 1993” in the Chamber’s factual findings with regard to the Municipality of Stolac, and “Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

⁴³⁸ P 05422, p. 1; P 09753 under seal, p. 7; Witness DD, T(F), p. 14466 closed session; P 10143, p. 11; P 10135 under seal, paras 101 and 102.

1993, although the Chamber has no further details, the “HVO” brought Muslim men being held at Koštana Hospital to Gabela Prison.⁴³⁹ On 6 November 1993, two detainees from the Heliodrom arrived at Gabela Prison on the order of Berislav Pušić, although the Chamber does not know the reasons for the transfer.⁴⁴⁰

197. According to the *Rama* Brigade, 105 detainees from the detention facilities in Prozor arrived at Gabela Prison on 14 November 1993, due to a lack of space there.⁴⁴¹

198. On 15 December 1993, 13 detainees were taken from Ljubuški to Gabela Prison on the order of Berislav Pušić, head of the Service for the Exchange of Prisoners and Other Persons.⁴⁴² The Chamber however, does not know the reasons for the transfer. Finally, the Chamber admitted a list issued by the Service for the Exchange of Prisoners and Other Persons dated 23 December 1993, that gives the names of 43 detainees sent from the Heliodrom to Gabela Prison.⁴⁴³ The Chamber is only in a position to conclude that some of these 43 detainees were going to be exchanged and is unable to determine who ordered the transfer of the detainees.⁴⁴⁴

III. Number and Status of Detainees at Gabela Prison

199. As a preliminary matter, the Chamber notes that all the detainees at Gabela Prison were BiH Muslims,⁴⁴⁵ with the exception of a few Croatian HVO soldiers who had committed disciplinary offences and were kept in a separate location from the Muslims.⁴⁴⁶ On average, about 1,000 people were detained at Gabela Prison at any given time between August and December 1993.⁴⁴⁷

⁴³⁹ Witness CQ, T(F), pp. 11453, 11463 and 11464; P 09948, paras 33-35. *Ibro Zlomužica* was transferred from Koštana Hospital to Gabela on 1 or 2 October 1993. See also “Incarceration of Muslim Men in Koštana Hospital and their Departure to Other HVO Detention Facilities” in the Chamber’s factual findings with regard to the Municipality of Stolac,

⁴⁴⁰ P 00285, p. 126, items 723 and 725 - this is only a list of documents and not the documents themselves; P 00352, p. 31. The evidence shows that the transfer was carried out on the order of Berislav Pušić.

⁴⁴¹ P 06658; P 06662. See also P 06569, p. 2.

⁴⁴² P 06982, p. 4.

⁴⁴³ P 07317, pp. 2 and 3.

⁴⁴⁴ P 07317, pp. 2 and 3. This list shows that: 22 persons were transferred and “have no restrictions and are not on the list for exchange”; 16 persons were transferred to be exchanged at Mostar and five persons were transferred to be exchanged at Jablanica.

⁴⁴⁵ Witness BB, T(F), pp. 17198 and 17254, closed session; Witness BI, T(F), p. 2401; Witness CQ, T(F), p. 11427; Witness DD, T(F), pp. 14423, 14425, 14426, 14466, closed session; Hasan Hasić, T(F), pp. 10712 and 10749-10751; Sejfo Kajmović, T(F), pp. 11671, 11672 and 11675; P 09799 under seal, p. 3; P 09807 under seal, pp. 1, 9 and 10; P 10138, paras 16 and 18-20; P 09753 under seal, pp. 1 and 7; Witness CR, T(F), p. 11894, closed session; P 08395 under seal; P 10112, p. 1, para. 17; P 09948, p. 1, paras 2 and 35; Witness C, T(F), p. 22341; P 03057; P 03371 under seal, p. 10; P 03347; P 03952, pp. 2 and 3; P 05091, para. 17; P 05225, p. 1; P 06662; P 09851 under seal, para. 2.7; P 06697, paras 57 and 58; P 06729, p. 2; P 03371 under seal, pp. 6, 7 and 10.

⁴⁴⁶ Witness C, T(F), p. 22436, closed session.

⁴⁴⁷ P 05091, para. 19. 1,100 prisoners on 30 August 1993; P 05225, p. 1: 1,300 detainees on 20 September – Muslim men – held in three hangars. ID 01585, p. 3, 1,038 Muslim detainees on 1 September 1993. P 06695, p. 2. 1,100 detainees on 17 November 1993. P 07039 under seal, p. 6. 1,000 Muslims on 5 December 1993. P 05884. According to

200. The Chamber has no information on the status of all the detainees, but has heard testimony and admitted statements of former detainees that enable it to establish that the detainees were members of the ABiH,⁴⁴⁸ Muslim members of the HVO⁴⁴⁹ and men who were not serving in any armed force, such as farmers,⁴⁵⁰ two drivers,⁴⁵¹ two imams,⁴⁵² a member of the SDA,⁴⁵³ and a young man of 17 who had just finished secondary school.⁴⁵⁴

201. The Prosecution claims that the men were held at Gabela Prison irrespective of their civilian or military status, and that the Herceg-Bosna/HVO authorities made no *bona fide* or adequate effort to distinguish between them or to provide generally for the release of civilian detainees.⁴⁵⁵

202. The Chamber notes in this connection that on 6 August 1993, a “commission” chaired by Berislav Pušić was set up by Bruno Stojić, head of the Department of Defence, with the aim of compiling a list of detainees and sorting them into categories.⁴⁵⁶ However, a report by Branko Cvitanović,⁴⁵⁷ sent to Marijan Biškić⁴⁵⁸ personally on 18 November 1993 reveals that nothing had been done to determine which detainees had been arrested and under what circumstances, or to separate the various categories of detainees at Gabela Prison.⁴⁵⁹ On 3 December 1993, a report from the SIS centre in Mostar was still recommending that detained ABiH members be separated from “civilian prisoners.”⁴⁶⁰

203. Finally, the Chamber has some information to the effect that some of the detainees at Gabela Prison were the subject of “judicial proceedings” at the time of their detention. For example, a

a press report dated 14 October 1993, there were 750 detainees at Gabela. P 05091, para. 20. According to the report submitted to the Security Council on 15 September 1993 by the Special Rapporteur on the situation in the former Yugoslavia, the testimony of a former detainee at the military prison at Gabela stated that between 2,000 and 3,000 people were held at the prison at any given time. The Chamber notes, however, that this figure is two or three times higher than what is stated in the information at its disposal and accordingly decides not to consider it since it seems out of proportion with the rest of the evidence and therefore highly improbable. P 07148, p. 4; Marijan Biškić, T(F), p. 15102. Around 1,256 detainees on 11 December 1993.

⁴⁴⁸ Witness CQ, T(F), pp. 11423-11425, 11481 and 11482; P 0737; P 09807 under seal, pp. 9 and 10; P 10138, paras 5, 6, 16, 20 and 28; P 10129 under seal, paras 11 and 36. See also Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5877-5881.

⁴⁴⁹ P 10135 under seal, paras 24, 101 and 102; P 10127 under seal, pp. 3 and 7; P 10143, pp. 4, 11 and 12; P 09799 under seal, pp. 2, 3 and 5; Witness CK, T(F), pp. 11001 and 11013. See also Witness OO, P 10224 under seal, *Naletilić and Martinović* Case T(F), pp. 5935 and 5936 and P 10213, paras 3 and 4.

⁴⁵⁰ Hasan Hasić, T(F), pp. 10710-10712, 10749-10751, 10755; P 10112, p. 1, paras 2, 3 and 19.

⁴⁵¹ P 09798, pp. 2-4; Ismet Poljarević, T(F), pp. 11623, 11663 and 11664; P 09726, pp. 2 and 6.

⁴⁵² Sejfo Kajmović, T(F), pp. 11671, 11701, 11702 and 11732; P 09948, paras 2 and 45-47.

⁴⁵³ Witness CR, T(F), pp. 11820 and 11894, private session; P 08395 under seal.

⁴⁵⁴ P 09753 under seal, pp. 2, 3 and 7.

⁴⁵⁵ Indictment, para. 197; Prosecution Pre-Trial Brief, paras 198.4, 198.6 and 198.8.

⁴⁵⁶ P 03995.

⁴⁵⁷ Branko Cvitanović was advisor to the HVO Military Police (“Advisor for general and traffic military police”).

⁴⁵⁸ Marijan Biškić was the Deputy Minister for Security and the HVO Military Police in the HR H-B Ministry of Defence from 1 December 1993. Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998, p. 1.

⁴⁵⁹ P 06729, p. 3.

⁴⁶⁰ P 07023, p. 3.

report from the SIS centre at Čapljina dated 7 December 1993 showed that the status of 1,200 detainees at Gabela was unknown since no judicial decision had been taken.⁴⁶¹ On the same day, Marijan Biškić indicated in a report sent to Gojko Šušak, the Croatian Minister of Defence, that the “categories of people who qualify as prisoners of war have not been defined” and that “lists have not been organised, nor have any criminal proceedings been instigated.”⁴⁶² On 13 December 1993 Marijan Biškić sent a report to Berislav Pušić referring to 406 people detained in Čapljina “for whom criminal reports were filed, so they are treated as prisoners of war.”⁴⁶³ With regard to these “proceedings” the Chamber admitted the statement of *Huso Marić*, a member of the *Bregava* Brigade of the A BiH, who was held at Gabela Prison from July to October 1993, in which he explained that he and other members of the brigade had been convicted of various crimes, without trial, including the “destruction of the constitutional system of Herceg-Bosna.”⁴⁶⁴ *Huso Marić* was found guilty of this crime and sentenced to twelve and a half years in prison.⁴⁶⁵

204. The Chamber finds, based on the evidence, that, despite instructions received from higher HVO authorities, the Gabela authorities did not categorise and separate the detainees according to their status.

IV. Conditions of Confinement at Gabela Prison

205. In paragraph 198 of the Indictment and in its Pre-Trial Brief, the Prosecution holds that the conditions of detention at Gabela Prison were harsh and unhealthy due to overcrowding, bad ventilation, no beds and insufficient bedding, and inadequate sanitary facilities.⁴⁶⁶ It alleges that the HVO provided the detainees with insufficient food and water and often made them eat under cruel and humiliating circumstances. In the heat of mid-July 1993, the HVO kept detainees locked up without food and water for several days.⁴⁶⁷

206. The Chamber notes that, according to the reports of two international organisations from August 1993, detention conditions at Gabela Prison were generally “very bad.”⁴⁶⁸

207. Contrary to a report from the head of the medical corps of the 1st *Knez Domagoj* Brigade dated 11 October 1993,⁴⁶⁹ testimony and all the documents received by the Chamber show that

⁴⁶¹ P 07065, pp. 2 and 3. “The court has not made up its mind about their guilt”. P 07155.

⁴⁶² P 07064, p. 2.

⁴⁶³ P 07155; 1D 02189 under seal, pp. 15 and 19. At a meeting on 22 December 1993 attended by *Witness DZ* and the Bosniak authorities of East Mostar, they stated that 400 people were being held at Gabela Prison, “awaiting trial.”

⁴⁶⁴ P 10138, paras 5, 6 and 27.

⁴⁶⁵ P 10138, para. 27.

⁴⁶⁶ Indictment, para. 198; Prosecution Pre-Trial Brief, paras 198.2 and 198.3.

⁴⁶⁷ Indictment, para. 198; Prosecution Pre-Trial Brief, para. 198.8.

⁴⁶⁸ P 09847 under seal, p. 3; P 03952, pp. 2 and 3.

most of the detainees did not have warm clothing and there were not enough blankets.⁴⁷⁰ *Witness DW*, for example, stated that detainees at Gabela Prison had told him that the only winter clothing they received had been provided by the Red Cross.⁴⁷¹ In addition, according to a report sent to the Military Police Administration on 17 November 1993 that reviewed the accommodation capacity of the detention centres, over half of the detainees at Gabela Prison did not have beds, clothing or blankets.⁴⁷² Most of the time, the detainees were kept locked in the hangars,⁴⁷³ sometimes in the dark since there were no windows.⁴⁷⁴

208. Two HVO reports – one from Ivo Curić⁴⁷⁵ dated 19 October 1993, and the other from Branko Cvitanović⁴⁷⁶ dated 18 November 1993 – drafted after their visits to Gabela Prison, show that detention conditions with regard to food, medical care, clothing, shelter, heating and the availability of water and toilets, were not good.⁴⁷⁷

209. The Chamber notes that during their period of detention, the detainees suffered in particular from a lack of (A) room and (B) hygiene; that (C) they also suffered from insufficient access to food and water and to (D) medical care and, finally, that (E) the conditions of detention were particularly difficult for the detainees at Gabela Prison in mid-July 1993.

A. Lack of Space

210. When Gabela Prison was opened in April 1993,⁴⁷⁸ three hangars were used to hold the Muslim men.⁴⁷⁹ The detainees were crammed into the three hangars, each of which measured approximately 300 to 450 m².⁴⁸⁰

211. Overcrowding and lack of room at Gabela were examined by the HZ H-B authorities as of July 1993. The minutes of a meeting of the HVO of the HZ H-B held on 19 July 1993 and chaired

⁴⁶⁹ 2D 01538. According to this report, the detainees had enough shoes and blankets. *See also* P 05225. According to a report from the HVO security sector on 20 September 1993, the detainees had two blankets one of which was spread on the cement floor where they slept. *See also* P 07039 under seal, p. 6; *Witness DW*, T(F), p. 23113.

⁴⁷⁰ *Witness DD*, T(F), p. 14504, closed session; *Witness CM*, T(F), p. 11133; P 09948, para. 40; P 07283 under seal, p. 4; P 10287 under seal, paras 94-95.

⁴⁷¹ P 10287 under seal, paras 94 and 95.

⁴⁷² P 06695, p. 3

⁴⁷³ Sejfo Kajmović, T(F), pp. 11704; *Witness CM*, T(F), pp. 11112; *Witness CQ*, T(F), pp. 11466 and 11467; P 09807 under seal, p. 10. *Witness ED* explained that the detainees were rarely allowed outside to use the toilet and were forced to use buckets inside the hangar in the presence of the other detainees. P 10133 under seal, p. 7, paras 71 and 76.

⁴⁷⁴ *Witness CQ*, T(F), pp. 11473, private session.

⁴⁷⁵ Commander of the infectious, epidemic and toxicological diseases service at the HVO Department of Defence.

⁴⁷⁶ Branko Cvitanović was adviser to the HVO Military Police.

⁴⁷⁷ P 05948; P 06729; P 06858; *Witness DD*, T(F), pp. 14468 and 14469, closed session.

⁴⁷⁸ “Opening and Closing of Gabela Prison” in the Chamber’s factual findings with regard to Gabela Prison.

⁴⁷⁹ Hasan Hasić, T(F), p. 10754; P 10133 under seal, p. 5, paras 55 and 56. In May 1993, *Witness ED* stated that each of the 3 hangars held about 500 detainees.

⁴⁸⁰ Hasan Hasić, T(F), p. 10754; P 10133 under seal, p. 5, para. 56.

by Jadranko Prlić, show that the HVO approved the request from the HVO of Čapljina Municipality to move the detainees in order to improve their detention conditions and reduce overcrowding.⁴⁸¹ It was also decided at this meeting to set up a working group composed of Zoran Buntić,⁴⁸² Darinko Tadić and Berislav Pušić tasked with visiting Čapljina Municipality, inspecting the detention facilities and proposing measures to improve conditions of detention.⁴⁸³ During a meeting of the HVO of the HZ H-B held on 20 July 1993 and chaired by Jadranko Prlić, in the presence, inter alia, of Bruno Stojić,⁴⁸⁴ the working group proposed finding new detention facilities so that some of the detainees could be sent to Čapljina to solve the problem of overcrowding at Gabela and Dretelj.⁴⁸⁵ It was also decided that four people – including Jadranko Prlić – would explore the possibility of accommodating some of the detainees from Gabela Prison at other detention facilities.⁴⁸⁶ The Chamber has no information as to the tentative outcome of these endeavours.

212. On 29 September 1993, a report by Ivo Curić, sent to the President of the HR H-B and the head of the Department of Defence, noted that the substantial overcrowding at the prison could result in “epidemiological incidents such as intestinal and especially respiratory diseases.”⁴⁸⁷

213. With the arrival of detainees from Dretelj Prison when it was closed down in early October 1993,⁴⁸⁸ a fourth hangar was used to hold them.⁴⁸⁹ About 300 detainees were still kept in each hangar, despite the addition of a fourth one.⁴⁹⁰

214. Several witnesses stated that there was not enough room and air in the hangars.⁴⁹¹ One report from an international organisation dated 5 December 1993 noted moreover that many of the detainees were unable to lie on the floor because the facilities were too cramped.⁴⁹²

⁴⁸¹ P 03560, pp. 1, 4 and 5. Also present at this meeting were: “N. Tomić”, Zoran Buntić, Darinko Tadić and “S. Bojić”.

⁴⁸² From 20 June 1992 to 28 August 1993 Zoran Buntić was head of the department of justice and general administration of the HZ H-B. Zoran Buntić, T(F), pp. 30243, 30244 and 30249.

⁴⁸³ P 03560; P 03573.

⁴⁸⁴ Also present at this meeting were: “K. Zubak”, “N. Tomić” and “Zoran Buntić”.

⁴⁸⁵ P 03573; Zoran Buntić, T(F), p. 30585. In his testimony before the Chamber, Zoran Buntić stated that the working group visited neither Dretelj nor Gabela Prison, Zoran Buntić, T(F), p. 30578.

⁴⁸⁶ The findings specified that the following people were assigned to explore possibilities to accommodate some detainees from Čapljina at other sites: Jadranko Prlić for Široki Brijeg municipality, Krešimir Zubak for Grude and Posušje municipalities, Zoran Buntić for Čitluk municipality and Martin Raguč for Ljubuški municipality. P 03573, p. 2. *Zoran Buntić* explained that no municipality heads expressed a willingness to help in that matter, since the barracks and other buildings of the JNA belonged to the municipalities and not to the HVO government. *Zoran Buntić* stated that there was nothing more the government could do. Zoran Buntić, T(F), pp. 30585 and 30587.

⁴⁸⁷ P 05485, p. 2.

⁴⁸⁸ Witness DD, T(F), p. 14466, closed session; P 10133 under seal, p. 6, paras 56 and 57; P 09753 under seal, p. 7; P 10135 under seal, paras 101 and 102. See also “Arrival of Detainees at Dretelj Prison” in the Chamber’s factual findings with regard to Dretelj Prison.

⁴⁸⁹ P 10133 under seal, p. 6, paras 56 and 57; P 09753 under seal, p. 7.

⁴⁹⁰ P 09948, para. 40. *Ibro Zlomužica* noted that during his detention in hangar number 1, between 10 October and 10 November 1993 approximately, it still held more than 300 detainees. His evidence is confirmed by report P 06729, p. 2.

215. The evidence shows that the detainees at Gabela Prison suffered from overcrowding and a lack of room throughout the time the prison was in operation.⁴⁹³

B. Lack of Hygiene

216. *Witness DD*, who was held at Gabela Prison from 2 October 1993,⁴⁹⁴ noted that the detainees had “access to water” – but not hot water – though he did not specify how often.⁴⁹⁵ A sanitary inspection report by Ivo Curić,⁴⁹⁶ dated 19 October 1993, stated that there was a “lack of hot water” and that “the inmates claimed they had not had a bath for a month”.⁴⁹⁷ *Witness CM* explained, for example, that he was unable to wash at any time during his detention at Gabela Prison from 27 September to 15 December 1993.⁴⁹⁸ *Witness CM* stated moreover that during his detention, the facilities were neither cleaned nor disinfected⁴⁹⁹ and that the detainees were covered in lice.⁵⁰⁰ The Chamber admitted a report from the crime department of the Military Police on detention conditions at prisons in Herzegovina, dated 17 November 1993, that was sent to the Military Police Administration and to Marijan Biškić personally. According to the report, the washrooms and toilet facilities at Gabela Prison were located outside the “dormitory”.⁵⁰¹ However, with the exception of this report, all the evidence the Chamber has points to a total lack of hygiene and, above all, both Ivo Curić’s report and *Witness CM* testify to the fact that the detainees were unable to wash for several weeks.

217. In light of the evidence, even though, according to the report of 17 November 1993, there were washrooms and toilet facilities, the Chamber finds that the hygiene conditions were extremely precarious at least between September and December 1993.

⁴⁹¹ Sejfo Kajmović, T(F), p. 11704; *Witness CM*, T(F), pp. 11112, 11120 and 11121, private session; IC 00138; *Witness CQ*, T(F), pp. 11473 and 11474, private session; P 10133 under seal, p. 7, para. 76; P 09753 under seal, p. 7; P 09016; P 05091, para. 20. The report prepared by Tadeusz Mazowiecki, Special Rapporteur of the Human Rights Commission, notes that the detainees asked for air and the guards threatened to spray the hangar walls with heavy-calibre machine-guns. P 10924.

⁴⁹² P 07039 under seal, p. 6; *Witness DW*, T(F), p. 23113.

⁴⁹³ Hasan Hasić, T(F), pp. 10749-10751, 10754 and 10755; Sejfo Kajmović, T(F), pp. 11702 and 11704; P 09798, p. 3. Some of the men arrested in early July 1993 spent only a few hours at Gabela before being sent to Dretelj Prison because Gabela Prison was already full and had no room for any new detainees. P 10229, p. 2, paras 2, 3 and 6; *Witness OO*, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5935 and 5936, and T(E), p. 5935 and 5936; P 10213, paras 3 and 4. Conversely, several witnesses stated that some of the Muslim men arrested in early July 1993 were held at Dretelj for a day or two before being sent to Gabela. P 10138, paras 16 and 18-20; P 10112, paras 16 and 17; P 03952, p. 3; P 10217 under seal, para. 134; P 07039 under seal, p. 6; P 00977; *Witness 2D-AB*, T(F), pp. 37549, 37553 and 37554, private session; P 09948, para. 40; P 0133 under seal, p. 7, para. 76; P 05485, p. 2.

⁴⁹⁴ *Witness DD*, T(F), p. 14466, closed session. The Chamber has no information on the end date of his detention.

⁴⁹⁵ *Witness DD*, T(F), p. 14504, closed session.

⁴⁹⁶ Ivo Curić was commander of the infectious, epidemic and toxicological diseases service at the HVO Department of Defence.

⁴⁹⁷ P 05948, p. 2.

⁴⁹⁸ *Witness CM*, T(F), pp. 11110 and 11131.

⁴⁹⁹ *Witness CM*, T(F), pp. 11117 and 11143; P 09753 under seal, p. 7.

C. Lack of Access to Food and Water

218. The Chamber has admitted several HVO reports about a “satisfactory” situation with regard to food and water at Gabela Prison and a report filmed by Croatian Television (HTV) from inside the prison in which a detainee being interviewed stated that the detainees were getting two meals a day and that they had enough food and water.⁵⁰²

219. Nonetheless, the Chamber heard several testimonies from former detainees⁵⁰³ and admitted the report of an international organisation,⁵⁰⁴ that provided completely different information and stated that the detainees did not receive enough food and drinking water during their incarceration at Gabela Prison. The Chamber also notes that Ivo Curić’s sanitary report⁵⁰⁵ of 29 September 1993 indicates that during an inspection of Gabela Prison several cases of severe malnutrition had been observed.⁵⁰⁶

220. *Witness CM* explained that food was not only in scarce supply, limited in quantity and mixed with water, but also that it was served in dirty dishes.⁵⁰⁷ According to the report submitted to the Security Council on 15 September 1993 by the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, and largely confirmed by the statements of *Witnesses EB* and *CW*, and by the testimony of *Sejfo Kajmović*, the daily food ration consisted of 650 grams of bread, to be shared between 16 prisoners, and a bowl of thin soup.⁵⁰⁸ Several witnesses also stated that the detainees lost a great deal of weight during their incarceration at Gabela Prison.⁵⁰⁹

221. With regard to access to water, the Chamber admitted the statement of *Witness ED*, who explained that in front of each hangar there was one small water tank which would normally be

⁵⁰⁰ *Witness CM*, T(F), p. 11111.

⁵⁰¹ P 06695, p. 3.

⁵⁰² P 07023; P 05225; P 05948, p. 3; *Witness 2D-AB*, T(F), p. 37557, private session; P 06729, p. 3; P 06695, p. 3; P 04205.

⁵⁰³ *Witness DD*, T(F), pp. 14467-14469, closed session; *Hasan Hasić*, T(F), pp. 10749-10751, 10755, 10756 and 10761-10762 and T(E), p. 10755; *Sejfo Kajmović*, T(F), p. 11705; P 09753 under seal, p. 7; *Witness CM*, T(F), p. 11112, private session and 11135; *Witness 2D-AB*, T(F), pp. 37553 and 37554 private session; P 06858; P 06729, p. 3; P 04822, para. 20.

⁵⁰⁴ P 03952, p. 3.

⁵⁰⁵ Ivo Curić was commander of the infectious, epidemic and toxicological diseases service at the HVO Department of Defence.

⁵⁰⁶ P 05485, p. 2.

⁵⁰⁷ P 09753 under seal, p. 7; *Witness CM*, T(F), pp. 11112, private session, and 11135.

⁵⁰⁸ P 05091, para. 20; P 10924.

⁵⁰⁹ *Witness CQ*, T(F), pp. 11464, 11465 and 11481. *Witness CQ*, who was himself detained at Gabela from 2 October to 15 December 1993 lost a lot of weight. *Witness BI*, T(F), pp. 2403 and 2405. *Witness BI* explained that his father, who was detained at Dretelj and Gabela camps for six or seven months, lost about 30 kilos while in detention. P 09946 under seal, para. 73. *Witness DT* explained that two of his relatives were detained at Gabela Prison and both lost 50 kilos.

refilled every night by the “guards”.⁵¹⁰ However, the Chamber also admitted a report by the television channel TV5 in August 1993 and the statement of a former detainee who stated that some detainees at Gabela Prison were sometimes so thirsty that they would even resort to drinking their own urine.⁵¹¹ *Sejfo Kajmović*, who was detained at Gabela Prison from 17 July 1993 to 24 September 1993,⁵¹² explained that he still suffered from digestive and kidney problems because of the lack of water during his detention.⁵¹³

222. The Chamber notes that the only evidence that goes to show that the food and water situation was satisfactory are HVO reports and a film made by Croatian television. These are widely disputed by former detainees at Gabela Prison who testified about their experience in detention and who all agreed that there was insufficient access to food and water. In light of the above, the Chamber finds that the detainees at Gabela Prison suffered from hunger and thirst during their detention at Gabela Prison.

D. Lack of Access to Medical Care

223. According to reports dated October and November 1993 from the head of the medical corps of the 1st *Knez Domagoj* Brigade, Nikica Šutalo, the hygiene and epidemiological situation at Gabela Prison was “satisfactory” and medicine was supplied regularly by the brigade.⁵¹⁴ The reports issued by the head of the health sector of the HVO Department of Defence on 29 September and 19 October 1993 refer to the existence within Gabela Prison of a health unit and a medical team composed of detainees under the supervision of the medical team of the 1st *Knez Domagoj* Brigade.⁵¹⁵ *Denis Šarić* himself worked as a nurse at the health unit during his detention between 19 October 1993 and 15 December 1993.⁵¹⁶ However, other than specifying that a doctor was present with him at the health unit, he did not provide any information about the unit’s operation, detainee access or its medical equipment. The written statements of *Witnesses ED* and *Huso Marić* show that, although in the summer of 1993 the prison warden, Boško Previšić, permitted one Muslim doctor to sleep outside the hangars in order to assist the detainees, he did not provide him with any medicine.⁵¹⁷

⁵¹⁰ P 10133 under seal, p. 7, para. 77.

⁵¹¹ P 00977; Witness CQ, T(F), pp. 11464, 11465 and 11481; P 04588; Nermin Malović, T(F), pp. 14357-14369.

⁵¹² *Sejfo Kajmović*, T(F), pp. 11671, 11672, 11675, 11690, 11692 and 11732.

⁵¹³ *Sejfo Kajmović*, T(F), pp. 11705 and 11706.

⁵¹⁴ 2D 01538; 2D 01537; Ivan Bagarić, T(F), pp. 38998.

⁵¹⁵ P 05485, pp. 1 and 2; P 05948, pp. 1 and 2; P 05225. P 10133 under seal, p. 9, para. 92; P 10138, paras 25 and 26.

⁵¹⁶ P 10143, p. 12.

⁵¹⁷ P 10133 under seal, p. 9, para. 92; P 10138, paras 25 and 26.

224. The Chamber notes that, according to Branko Cvitanović's report, advisor to the HVO Military Police, dated 18 November 1993, the number of sick people, most of whom had contagious diseases, was constantly on the rise and many detainees suffered from skin complaints due to a lack of hygiene.⁵¹⁸

225. Moreover, the former detainees who testified before the Chamber all stated that they received no medical assistance and that they suffered from all kinds of ailments.⁵¹⁹ *Witness CM*, for example, who was held at Gabela from 27 September 1993 to 15 December 1993, explained that 40 men who were in very bad health because of their previous detention in an isolation cell at Dretelj Prison, did not receive any medical treatment when they arrived at Gabela Prison.⁵²⁰

226. The Chamber cannot lend credence to the HVO reports that describe a "satisfactory" medical situation at Gabela Prison since they are clearly contradicted by Branko Cvitanović's report and the statements of former detainees. As to the medical unit in the prison, with the exception of *Denis Šarić* who provided no information about its operation, the testimony of former detainees shows that they did not benefit from it. In light of the above, the Chamber finds that the detainees had no access to medical care during their detention.

E. Conditions of Confinement in mid-July 1993

227. The evidence indicates that on some occasions the detainees received no food for two or three days in a row, in particular when the HVO forces suffered defeat.⁵²¹ In mid-July 1993, for example, the commander of the 1st *Knez Domagoj* Brigade ordered the warden of Gabela Prison to raise the security level at Gabela Prison and, in doing so, to "use all means and forces at your disposal".⁵²² According to *Witness ED*, Boško Previšić then ordered the *Domobrani* to withhold food and water from the detainees in reprisal for the losses suffered by the HVO during combat with ABiH troops on the Dubrava plateau.⁵²³

228. The Chamber notes that only *Witness ED* – whose statement was admitted under Rule 92 *bis* – testified about the events at Gabela prison in mid-July. It recalls, however, that in the part of the judgment that refers to Dretelj Prison, it reviewed in detail events of a similar nature that took place

⁵¹⁸ P 06729, p. 3.

⁵¹⁹ Hasan Hasić, T(F), p. 10757; *Witness CM*, T(F), pp. 11110-11112, private session and 11140; *Witness DD*, T(F), pp. 14504 and 14510, closed session; *Witness CQ*, T(F), pp. 11464 and 11465.

⁵²⁰ *Witness CM*, T(F), pp. 11110 and 11111.

⁵²¹ P 05091, para. 20; P 10133 under seal, p. 4, para. 30, p. 7, para. 81 and p. 8, para. 82; Hasan Hasić, T(F), pp. 10761 and 10762. Detainees told *Hasan Hasić* that before he arrived on 14 July 1993, they sometimes went two or three days without food.

⁵²² P 03462.

⁵²³ P 10133 under seal, p. 4, para. 30, p. 7, para. 81 and p. 8, para. 82.

at the same time in that prison.⁵²⁴ The Chamber holds that the evidence about the conditions of confinement at Dretelj Prison corroborates the testimony of *Witness ED*, on which it relies, and therefore finds that in mid-July 1993, the detainees at Gabela Prison were held in even harsher conditions and were deprived of food and water in reprisal for HVO defeats on the front.

V. Treatment of Detainees and Death of Several Detainees

229. In paragraph 199 of the Indictment, the Prosecution alleges that throughout the time the Muslims were detained at the prison, members of Herceg-Bosna/HVO forces, including the prison warden and members of the Herceg-Bosna/HVO not attached to the prison subjected detainees to beatings and cruel treatment. They were harassed, subjected to ethnic slurs and humiliated, and were sometimes forced or prompted to beat or abuse other Muslim detainees. In paragraph 200 of the Indictment, the Prosecution holds that these acts and practices resulted in the serious injury and occasional death of Muslim detainees, and that at least six of them died at Gabela Prison as a consequence of being beaten or shot by HVO members.

230. After having reviewed (A) the evidence concerning the mistreatment of detainees, the Chamber will examine (B) the evidence concerning the death of several detainees as a result of this mistreatment.

A. Treatment of Detainees

231. The Chamber notes that *Witnesses CM* and *EE*, whose statements were admitted under Rule 92 *bis* of the Rules and who were detained at Gabela Prison between 27 September 1993 and 15 December 1993 and between 1 and 19 October 1993 respectively, stated that they were not abused during their detention at Gabela Prison.⁵²⁵ The Chamber also notes that, in the Croatian television report filmed from inside the prison – undated but probably recorded after October 1993⁵²⁶ – Muslim detainees stated that they had not been beaten during their detention.⁵²⁷

232. Nonetheless, the Chamber heard and admitted statements from former detainees at Gabela Prison who either witnessed the beatings or were themselves beaten by “guards”, the warden of

⁵²⁴ See “Conditions of Confinement and the Death of a Detainee” in the Chamber’s factual findings with regard to Dretelj Prison.

⁵²⁵ P 09753 under seal, p. 7. *Witness CM* was held at Gabela Prison from 27 September to 15 December 1993. P 10135 under seal, paras 101, 102 and 105. *Witness EE* was held from 1 to 19 October 1993.

⁵²⁶ P 04205. The video is not dated but at the end of the report, the commentator refers to releases after 31 October 1993.

⁵²⁷ P 04205; *Witness DD*, T(F), p. 14467, closed session.

Gabela Prison and his deputy, or by people from outside the prison, including “members of the HVO Military Police” and by detainees themselves.

233. At the time of his arrival at Gabela Prison in June 1993, *Witness NN* saw his former ABiH commander, who was also being detained there, but had difficulty recognising him because he was covered in bruises.⁵²⁸ *Hasan Hasić* and *Witness CW*, both *viva voce* witnesses, also stated that they witnessed severe beatings at Gabela Prison.⁵²⁹ *Hasan Hasić* explained that the man who administered the beatings, whom he saw beating a detainee, was a guard from Konjic, although he gave no further details.⁵³⁰ *Witness CW* said that he was present during the beating of an “old man from Čapljina”, without stating who beat the man.⁵³¹

234. The Chamber also heard the testimony of a former detainee at Gabela Prison who was himself severely beaten. *Witness CQ* said, although he was in very bad shape as a result of beatings he had received at Koštana Hospital where he had earlier been held (and was unable to move as a result), Marinko Marić, a member of the SIS,⁵³² ordered detainees to drag him to a wall where he beat him all over his body, and especially in the head.⁵³³ As a consequence of the beatings he received at Koštana Hospital and at Gabela Prison, *Witness CQ* had three fractured ribs and when he came to testify before the Chamber was still unstable when walking and was experiencing numbness in his right arm, hand, leg and foot.⁵³⁴

235. “Interrogations” were carried out at Gabela Prison by members of the VOS of the *Knez Domagoj* Brigade and of the SIS, although the Chamber is unable to ascertain which SIS was involved.⁵³⁵ *Witnesses ED* and *EC* explained that the “interrogations” were particularly bad moments for the detainees.⁵³⁶ *Witness EC*⁵³⁷ stated that he was interrogated for several hours by Marinko Marić during the first days of his detention in September/October 1993.⁵³⁸ However, no

⁵²⁸ *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case T(F), pp. 5879 and 5880; T(E), p. 5875.

⁵²⁹ *Hasan Hasić*, T(F), pp. 10756 and 10757; P 09807 under seal, pp. 9 and 10.

⁵³⁰ *Hasan Hasić*, T(F), pp. 10756 and 10757.

⁵³¹ P 09807 under seal, pp. 9 and 10.

⁵³² Marinko Marić was a member of the SIS. However the Chamber has no information as to whether he was an SIS member in the *Knez Domagoj* Brigade or a member of an SIS centre. P 10129 under seal, para. 35; *Witness CQ*, T(F), p. 11477; P 09802 under seal; P 10138, para. 25.

⁵³³ *Witness CQ* was held at Gabela Prison from 2 October to 15 December 1993. *Witness CQ*, T(F), pp. 11473, private session, 11481 and 11489; P 09802 under seal.

⁵³⁴ *Witness CQ*, T(F), pp. 11453 and 11463, private session, 11488 and 11489.

⁵³⁵ P 10129 under seal, para. 35; 5D 04096. *Slobodan Praljak* denied having any knowledge of this order: *Slobodan Praljak*, T(F), p. 42791. The Chamber notes that on 17 June 1993, Nečeljko Obradović ordered the warden of Gabela Prison to allow the head of the brigade VOS and his advisor to interrogate detainees to gather intelligence whenever they wanted.

⁵³⁶ P 10133 under seal, p. 8, para. 87; P 10129 under seal, para. 33.

⁵³⁷ P 10129 under seal, paras 1, 11 and 22. *Witness EC*, a member of the ABiH, was held at Gabela Prison from 28 September 1993 to 10 October 1993.

⁵³⁸ P 10129 under seal, para. 35. According to the statement of *Witness EC*, Marinko Marić was a member of the SIS.

witness stated that he was physically abused or beaten during interrogation by members of the VOS.

236. A Muslim detainee and former member of the HVO called Almir Kudra and nicknamed “Hogar” was used by the “interrogators” to beat the detainees.⁵³⁹ *Witness ED* explained that Boško Previšić and his deputy Nikola Andrun allowed the “so-called HVO interrogators” dressed in civilian clothes to enter the prison at night, take the detainees outside behind the hangar and beat them.⁵⁴⁰ *Witness EC*⁵⁴¹ was himself interrogated for several hours in the first days of his detention when Marinko Marić,⁵⁴² Almir Kudra and Nikola Andrun twice attempted to hang him with a belt that they tightened until he was in a semi-comatose state.⁵⁴³ They then forced *Witness EC* to stand under a tap which they then turned on; the water entered his mouth and lungs.⁵⁴⁴

237. The Chamber also heard *Hasan Hasić*⁵⁴⁵ explain that the prison warden, Boško Previšić, humiliated the detainees, and called them illiterate and “balijas”.⁵⁴⁶ It also heard the testimony of *Sejfo Kajmović*, who was detained at Gabel Prison from 17 July 1993 to 24 September 1993,⁵⁴⁷ who indicated that Boško Previšić inspected the detainees when they came back from work⁵⁴⁸ and whenever he found tinned food or cigarettes on them, he would strike them on the head or with a rifle butt.⁵⁴⁹

238. The Chamber also received evidence to the effect that people from outside Gabela Prison entered the facility and beat up the detainees. A report from the security sector of the Department of Defence, dated 20 September 1993, stated that people from outside could enter the prison with a written authorisation from the commander of the 1st *Knez Domagoj* Brigade and from the head of the SIS of that brigade.⁵⁵⁰

239. *Sejfo Kajmović* stated that at the beginning of his detention at Gabela in mid-July 1993, “both military and then civilians from outside the camp” could enter and beat the detainees as they

⁵³⁹ P 10129 under seal, paras 33 and 35; P 10133 under seal, p. 5, paras 52 and 54, p. 6, para. 60 and p. 8, para. 87. *Witness ED* arrived at Gabela in May and remained there until 18 October 1993.

⁵⁴⁰ P 10133 under seal, p. 8, para. 87.

⁵⁴¹ P 10129 under seal, paras 1, 11 and 22. *Witness EC*, a member of the ABiH, was held at Gabela Prison from 28 September 1993 to 10 October 1993.

⁵⁴² P 10129 under seal, para. 35. According to the statement of *Witness EC*, Marinko Marić was a member of the SIS.

⁵⁴³ P 10129 under seal, paras 33 and 35.

⁵⁴⁴ P 10129 under seal, para. 33.

⁵⁴⁵ Hasan Hasić, a farmer, was held at Gabela from 14 July 1993 onwards for at least 50 days.

⁵⁴⁶ Hasan Hasić, T(F), p. 10758. On the fact that the detainees were forced to sing songs that were insulting to the Muslims, see also: P 00977; Nermin Malović, T(F), p. 14343.

⁵⁴⁷ Sejfo Kajmović, T(F), pp. 11690, 11692 and 11732.

⁵⁴⁸ The Chamber will not go into the detail of any forced labour the detainees may have performed since forced labour is not alleged by the Prosecution with regard to the criminal events at Gabela Prison.

⁵⁴⁹ Sejfo Kajmović, T(F), p. 11710.

wished.⁵⁵¹ This was confirmed by *Huso Marić*, who stated that he and four other detainees were beaten by a group of people from outside, “Ustashas” who wore the “U” insignia and metal badges displaying the face of Ante Pavelić, and by a person called Luka Perić.⁵⁵² He was beaten until he lost consciousness and did not wake up until four or five days later inside the hangar with his body covered in bruises.⁵⁵³ At the beginning of his detention, in mid-July 1993, *Sejfo Kajmović*, imam in Čapljina Municipality, a detainee at Gabela Prison between 17 July and 24 September 1993, witnessed the beating of several detainees from one of the hangars.⁵⁵⁴ He explained that at the beginning of his detention, he was present when a “group of several men” from outside the prison, including a man wearing the uniform of the HVO Military Police and a “civilian” from Split arrived at hangar no. 3 and brutally kicked and beat several prisoners in the face with a truncheon.⁵⁵⁵ *Sejfo Kajmović* also stated that members of the “Military Police” took detainees out of the hangars and that the detainees sometimes never returned.⁵⁵⁶ He noted that several days after 17 July 1993, Boško Previšić informed the detainees that from then on only members of the HVO Military Police would have the right to enter the prison.⁵⁵⁷ The Chamber also admitted the statement of *Witness ED*, under Rule 92 *bis* of the Rules, in which he stated that the HVO Military Police did not come to “abuse” detainees.⁵⁵⁸

240. With regard to the issue of knowing whether members of the Military Police did in fact beat up detainees, the Chamber notes that only the statement of *Witness ED* contradicts the *viva voce* testimony of *Sejfo Kajmović*. In view of the high degree of credibility it accords to the testimony of *Sejfo Kajmović*, the Chamber decides not to lend credence to the statement of *Witness ED* on this point and finds that “members of the Military Police” took detainees out of the hangars, that sometimes the detainees did not return and that a man wearing a Military Police uniform beat up several detainees at Gabela Prison.

241. As to the prison “guards”, *Sejfo Kajmović* explained that some of them treated the detainees correctly whereas others abused them.⁵⁵⁹ Like *Hasan Hasić*, he mentioned a particularly violent “guard” from Konjic nicknamed “is that fair”, because he would always ask the detainees if what

⁵⁵⁰ P 05225, p. 1.

⁵⁵¹ *Sejfo Kajmović*, T(F), pp. 11719 and 11720.

⁵⁵² *Huso Marić* was held at Gabela Prison between July and October 1993. P 10138, paras 18, 23 and 30.

⁵⁵³ P 10138, para. 23.

⁵⁵⁴ *Sejfo Kajmović*, T(F), pp. 11708-11710 and 11720.

⁵⁵⁵ *Sejfo Kajmović*, T(F), pp. 11708-11710.

⁵⁵⁶ *Sejfo Kajmović*, T(F), pp. 11715-11717 and 11720.

⁵⁵⁷ *Sejfo Kajmović*, T(F), p. 11720.

⁵⁵⁸ P 10133 under seal, p. 8, para. 88.

⁵⁵⁹ *Sejfo Kajmović*, T(F), pp. 11715-11717, 11720 and 11721 As to the conduct of the “guards” from Konjic in general, see also the statement of *Witness ED*. P 10133 under seal, p. 7, para. 73. *Witness ED* confirmed that some of the guards from Konjic attacked the detainees in retaliation for abuse allegedly committed by Muslim soldiers at Konjic.

happened was fair.⁵⁶⁰ This man was in the habit of making people lie down on the concrete floor and pretend they were swimming.⁵⁶¹ Another “guard” called Marko, who was very brutal, forced the detainees to lie on their stomachs for a long time and threatened to shoot them if they raised their heads.⁵⁶² The witnesses did not state which HVO unit these guards belonged to, but the Chamber has already determined that security at Gabela Prison was maintained by a *Domobrani* unit.⁵⁶³ Accordingly, the Chamber finds that when the witnesses mentioned “guards”, they were referring to the *Domobrani*.

242. With regard to the treatment of detainees in the isolation cell, the Chamber received the written statement of *Ibro Zlomužica*⁵⁶⁴ pursuant to Rule 92 *bis* of the Rules who stated that he had been abused during his detention in an isolation cell in the first days of October 1993.⁵⁶⁵ However, since *Ibro Zlomužica*’s statement is not corroborated by any other evidence, the Chamber is unable to conclude that the detainees in the isolation cell were also subjected to violence and severe beatings.

243. In light of the above, the Chamber finds that at least between June and October 1993, the detainees at Gabela Prison were severely beaten and humiliated by the prison warden and his deputy, a SIS member – although the Chamber has been unable to determine which SIS was involved– by some *Domobrani* and by people from outside the prison, including members of the Military Police as well as by other individuals whose identity the Chamber has not been able to ascertain. Finally, the Chamber is unable to conclude that the detainees in the isolation cell were subjected to this treatment.

B. Death of Several Detainees

244. The Prosecution alleges that at least six detainees died at Gabela Prison as a consequence of being beaten or shot by HVO members: Alija Čolaković, Hifzija Dizdar, Nusret Elezović, Sreten Kapetanović, Mustafa Obradović and Enver Šabanović, all representative victims of the people killed at Gabela Prison.⁵⁶⁶

⁵⁶⁰ Hasan Hasić, T(F), p. 10757; Sejfo Kajmović, T(F), pp. 11718, 11720 and 11721.

⁵⁶¹ Sejfo Kajmović, T(F), p. 11718.

⁵⁶² Sejfo Kajmović, T(F), pp. 11718 and 11719.

⁵⁶³ See “Authorities Responsible for Guarding the Detainees and Ensuring their Security” in the Chamber’s factual findings with regard to Gabela Prison

⁵⁶⁴ *Ibro Zlomužica* is a representative victim in paragraph 199 of the Indictment with regard to beatings.

⁵⁶⁵ P 09948, paras 13, 33 and 38.

⁵⁶⁶ Indictment, para. 200. In the annex to the Indictment, the Prosecution includes a list of representative victims of the deaths at Gabela Prison.

245. The Ćorić Defence holds that the Prosecution has provided absolutely no proof of the deaths of Alija Ćolaković, Sreten Kapetanović and Enver Šabanović.⁵⁶⁷

246. The Chamber notes, as does the Ćorić Defence, that it has no relevant evidence of the deaths of Alija Ćolaković and Sreten Kapetanović.

247. With regard to the death of Enver Šabanović, the Chamber has the written statement of *Huso Marić* who stated that between July and October 1993, Enver Šabanović was taken to the sports area of Gabela Prison, brutally beaten and left for dead;⁵⁶⁸ that his spine was broken and that he died a little later.⁵⁶⁹ *Huso Marić's* written statement admitted under Rule 92 *bis* of the Rules is the only evidence concerning the death of Enver Šabanović. Absent any other evidence corroborating this statement, the Chamber is unable to conclude that Enver Šabanović died “as a consequence of being beaten or shot by HVO members” at Gabela Prison.

248. The Ćorić Defence submits that the death certificates are the only evidence of the death and cause of death of victims Hifzija Dizdar and Nusret Elezović.⁵⁷⁰ The Ćorić Defence notes that the certificates were not issued by a court, were not corroborated by any other sources, and consequently are not sufficient to establish beyond a reasonable doubt that these people died as a result of actions that involve the criminal responsibility of the Accused.⁵⁷¹

249. Like the Ćorić Defence, the Chamber notes that it only has an ABiH certificate reporting the death of Nusret Elezović, an ABiH soldier, on the first day of his detention at Gabela Prison, 16 July 1993,⁵⁷² and that the certificate provides no details about the circumstances or causes of his death. Absent further evidence and more specific information, the Chamber is unable to establish whether the death of Nusret Elezović was caused by treatment inflicted upon him by the HVO during his detention at Gabela.

250. Nonetheless, with regard to the death of Hifzija Dizdar, the Chamber notes that it has three documents related to him: 1) a death certificate issued by the ABiH indicating that the HVO shot and killed Hifzija Dizdar at Gabela Prison on 29 August 1993;⁵⁷³ 2) an extract from the Registry of Wounded or Missing Persons, issued by Mostar Municipality on 28 July 1999, with the same

⁵⁶⁷ Ćorić Defence Final Trial Brief, para. 753.

⁵⁶⁸ P 10138, para. 25.

⁵⁶⁹ P 10138, para. 25.

⁵⁷⁰ Ćorić Defence Final Trial Brief, para. 771.

⁵⁷¹ Ćorić Defence Final Trial Brief, para. 771.

⁵⁷² P 08782.

⁵⁷³ P 08783.

description of the death of Hifzija Dizdar in the night of 28 to 29 August 1993⁵⁷⁴ and 3) the undated death notice of that same man, issued by the Mostar Islamic Centre, with the same description of the death, but back dated to 19 August 1993 and announcing a funeral service for 16 November 1996.⁵⁷⁵ The Chamber holds that the fact that one of these documents provides a different date of death does not vitiate the probative value of the overall evidence, which, for the remainder, is largely corroborated. The Chamber finds that the ABiH soldier Hifzija Dizdar was shot and killed by the HVO during his detention at Gabela Prison on 19 or 29 August 1993 although it does not have any further evidence on the perpetrators.

251. Several witnesses explained that Boško Previšić killed the ABiH soldier Mustafa Obradović⁵⁷⁶ during his detention at Gabela Prison.⁵⁷⁷ The Chamber has no information on the exact date of his death but notes that the witnesses who testified about it were all detained at Gabela Prison between 2 October and 15 December 1993 and can accordingly infer that the death of Mustafa Obradović occurred at that time.⁵⁷⁸ As to the circumstances of his death, the witnesses explained that when he discovered a piece of bread on the detainee, Boško Previšić seized the weapon of a *Domobrani*, and fired at Mustafa Obradović in front of the other detainees – including the victim’s own father – and then left the body on the ground where it remained till the next day.⁵⁷⁹ During a meeting of the working group tasked with implementing Mate Boban’s order on closing down the detention centres, held on 11 December 1993,⁵⁸⁰ Boško Previšić stated that he killed a detainee who attacked him.⁵⁸¹ On 15 December 1993, *Marijan Biškić*⁵⁸² ordered the Military Police Administration to conduct an inquiry into the death of Mustafa Obradović.⁵⁸³ During his testimony before the Chamber, *Marijan Biškić* stated that he was unaware of the results of the inquiry.⁵⁸⁴ The Chamber has no information to support a finding that Boško Previšić was sanctioned following the

⁵⁷⁴ P 04301.

⁵⁷⁵ P 04294.

⁵⁷⁶ P 09271 under seal.

⁵⁷⁷ P 09948, para. 46; P 10143, p. 12; Witness CQ, T(F), pp. 11475-11479; Witness DD, T(F), pp. 14466 and 14470, closed session; P 10133 under seal, p. 8, para. 86; P 10127 under seal, p. 7.

⁵⁷⁸ Witness CQ, T(F), pp. 11453, 11463 and 11481-11482. *Witness CQ* was held at Gabela Prison from 2 October to 15 December 1993. P 07184; Witness DD, T(F), p. 14466, closed session. *Witness DD* was held at Gabela Prison from 2 October 1993 - the Chamber has no information on the date of his release. P 10127 under seal, p. 7. *Witness EB* was held at Gabela Prison between mid-October and the end of December 1993. P 10143, pp. 11 and 12. *Denis Šarić* was held at Gabela Prison from 2 October 1993 to 15 December 1993.

⁵⁷⁹ Witness DD, T(F), p. 14466, closed session; P 10127 under seal, p. 7; P 10143, p. 12; Witness CQ, T(F), pp. 11475-11479.

⁵⁸⁰ Present at this meeting were: the Minister of Defence Perica Jukić, the chief of the Military Police Administration, Rade Lavrić, the “head of the office for the exchange of prisoners of war”, Berislav Pušić, the head of the SIS administration and the deputy Minister of Defence of Croatia.

⁵⁸¹ P 07124, p. 8.

⁵⁸² *Marijan Biškić* was officially appointed Deputy Minister for Security and the HVO Military Police in the HR H-B Ministry of Defence on 1 December 1993 by Jadranko Prlić. *Marijan Biškić*, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2 art. 4; P 06994; P 06998, p. 1.

⁵⁸³ P 07194, p. 3. *Marijan Biškić*, T(F), pp. 15104 and 15105.

inquiry. Based on all the evidence, the Chamber finds that Boško Previšić, the warden of Gabela Prison, shot and killed the ABiH soldier, Mustafa Obradović, while he was detained at Gabela Prison.

252. In addition, the Chamber received evidence about the death of another detainee, Mirsad Țujo, known as “Šile”. *Sejfo Kajmović* and *Witness EB*⁵⁸⁵ both mentioned and explained that he was taken away one night by Nikola Andrun and a *Domobrani* called “little Mali” and never seen again.⁵⁸⁶ They also reported having heard that his remains were found during an exhumation in 1997, and that an autopsy was carried out,⁵⁸⁷ but that it did not provide any further detail. However, the Chamber has no evidence enabling it to establish the circumstances of his death. As such, the Chamber cannot find that the death of Mirsad Țujo was caused by the HVO.

253. In light of the above, the Chamber finds that the ABiH soldier, Hifzija Dizdar, was shot and killed by “the HVO” during his detention at Gabela Prison and that the ABiH soldier, Mustafa Obradović, was shot and killed by Boško Previšić during his detention at Gabela Prison.

VI. Restricted Access to Detainees and Concealment of Detainees from Representatives of an International Humanitarian Organisation

254. It is alleged in paragraph 201 of the Indictment that the HVO denied international observers and humanitarian organisations access to Gabela Prison during the first months of its existence and that during October 1993, the HVO concealed Muslim detainees held in the isolation cell at Gabela Prison from international observers and representatives of international organisation when those representatives came to inspect the prison and visit the detained persons.

255. In its Final Trial Brief, the Prosecution holds that Slobodan Praljak granted media access to Gabela Prison,⁵⁸⁸ and that although he knew that the HVO was still detaining Muslim prisoners at Gabela, he stated on 7 September 1993 that the HVO was no longer holding any prisoners of war and that humanitarian aid organisations and journalists were “free to visit those alleged prison camps.”⁵⁸⁹

256. The Pušić Defence submits that there were conflicting views within the HVO as to whether international organisations should be granted access to detention facilities during the summer and

⁵⁸⁴ Marijan Biškić, T(F), p. 15105.

⁵⁸⁵ The written statement of Witness *EB* was admitted under Rule 92 *bis* of the Rules.

⁵⁸⁶ *Sejfo Kajmović*, T(F), pp. 11716 and 11717; P 10127 under seal, p. 7.

⁵⁸⁷ P 10127 under seal, p. 7; *Sejfo Kajmović*, T(F), p. 11717.

⁵⁸⁸ Prosecution Final Trial Brief, para. 756.

⁵⁸⁹ Prosecution Final Trial Brief, paras 800 and 801.

autumn of 1993 and, with regard to Gabela Prison, only the commander of the 1st *Knez Domagoj* Brigade and the head of the SIS of the brigade were authorised to grant access to these facilities.⁵⁹⁰

257. The Chamber will deal (A) with the allegations of restricted access to detainees at Gabela Prison and (B) with the concealment of some of the detainees from representatives of an international humanitarian aid organisation.

A. Restricted Access to Detainees at Gabela Prison

258. At a meeting on 6 July 1993, the commanders of the 1st and 3rd HVO brigades, the SIS heads of the brigades and the commanders of the platoons of the Military Police integrated into those brigades decided not to allow international and humanitarian organisations access to the “barracks”.⁵⁹¹ Although the Chamber is unable to conclude with any certainty on reading the “report” of the meeting that this decision referred to Gabela Prison, the ECMM report of 23 August 1993 shows that the ICRC was unable to visit Dretelj and Gabela Prisons because “the HVO” would only grant access to the ICRC on condition that international organisations visit Croatian prisoners held in Muslim prisons in east Mostar prior to that.⁵⁹²

259. Later, however, the ICRC was granted access to Gabela Prison. The report of Tadeusz Mazowiecki, Special Rapporteur of the Human Rights Commission on the human rights situation in the territory of the former Yugoslavia, shows that the ICRC was able to access Gabela Prison on 30 August 1993.⁵⁹³

260. Former detainees from Gabela Prison testified that the ICRC visited the prison on at least two occasions in September 1993 and around 10 October 1993, even though they were not able to specify the exact dates of those visits.⁵⁹⁴ *Witness BB*, a representative of an international organisation,⁵⁹⁵ confirmed that the ICRC was granted access to the “detention facilities”, including Gabela Prison, in “September or October of 1993”.⁵⁹⁶ According to an ICRC letter dated 7 October

⁵⁹⁰ Pušić Defence Final Brief, paras 395 and 397.

⁵⁹¹ Witness C, T(F), pp. 22552 and 22553, closed session; 5D 03008.

⁵⁹² P 04431 under seal, p. 5 para. 29; P 04440 under seal, pp. 1 and 2; Philip Watkins, T(F), pp. 18873 and 18874; *See* also P 04447 under seal.

⁵⁹³ P 04822, p. 4, para. 19; P 05091, para. 19.

⁵⁹⁴ Witness CQ, T(F), pp. 11465 and 11466. *Witness CQ* was held at Gabela from 2 October to 15 December 1993 and mentions two ICRC visits without giving the dates. Hasan Hasić, T(F), pp. 10718, 10750, 10751 and 10755. The testimony of *Hasan Hasić* shows that an ICRC visit took place in early September 1993. P 10127 under seal, p. 7. *Witness EB* indicates that the ICRC visited the prison in September 1993. P 10129 under seal, para. 36. *Witness EC* mentions an ICRC visit to Gabela Prison on 10 October 1993. P 09754 under seal, p. 5. *Witness CN*, held in the Čapljinina Silos, stated that he saw detainees arrive from Gabela Prison on around 11 or 12 October, who were taken to the Silos to conceal them from the ICRC that was visiting the prison at the time.

⁵⁹⁵ Witness BB, T(F), pp. 17133, 17134 and 17136; T(E), p. 17133, closed session.

⁵⁹⁶ Witness BB, T(F), p. 17254, closed session.

1993, the ICRC visited Gabela Prison on 1 September 1993,⁵⁹⁷ although no information was given as to whether this was its first visit there. *Witness BB* also stated that his organisation – which was not the ICRC – first gained access to Gabela Prison in September 1993.⁵⁹⁸

261. In light of all the evidence, the Chamber finds that “the HVO” allowed international organisations to visit Gabela Prison only as of 30 August or 1 September 1993.

B. Concealment of Some of the Detainees from ICRC Representatives in October 1993

262. According to the report of an international organisation in November 1993, one of its members met a former detainee from Gabela Prison who told him that during the “ICRC visits” some prisoners were “hidden” and could not be registered, although he did not give the date of this event.⁵⁹⁹ The Chamber admitted the written statement of *Witness EC*,⁶⁰⁰ who explained that on 9 October 1993, the ICRC was not allowed to enter Gabela Prison and said that it would return the next day.⁶⁰¹ As a consequence, on 10 October 1993, *Witness EC* and 54 detainees from the isolation cell were moved to the Silos at Čapljina and concealed before the ICRC returned to Gabela Prison as it had announced.⁶⁰² His statement is corroborated by the written statement of *Witness CN*, who was detained at the Silos himself and who testified that around 11 October 1993 he saw around 50 detainees from Gabela Prison who were brought to the Silos and concealed from the ICRC which was visiting the prison.⁶⁰³ The Chamber notes that, although the dates differ by one day in the statements of *Witnesses EC* and *CN*, this difference does not vitiate their credibility.

263. The Chamber finds that in October 1993, around 50 detainees from Gabela Prison were taken to the Silos at Čapljina and concealed from the ICRC that was visiting the prison at the time.

VII. Transfer and Release of Detainees from Gabela Prison

264. When he implemented Mate Boban’s decision of 10 December 1993 to close down all the detention centres on the territory of the HR H-B as of 17 December 1993 at the latest,⁶⁰⁴ the head of the Service for the Exchange of Prisoners and Other Persons, Berislav Pušić, issued a series of

⁵⁹⁷ ID 01585, p. 3.

⁵⁹⁸ *Witness BB*, T(F), p. 17282, closed session. The international organisation for which *Witness BB* worked first received HVO permission to visit the Dretelj and Gabela prisons in September 1993.

⁵⁹⁹ P 06590 under seal, p. 2; Philip Watkins, T(F), pp. 18869 and 18870.

⁶⁰⁰ *Witness EC* was a resident of the village of Lokve in the municipality of Čapljina who was held at Gabela Prison from 28 September 1993 to 10 October 1993. P 10129 under seal, paras 1, 22 and 36.

⁶⁰¹ P 10129 under seal, para. 36.

⁶⁰² P 10129 under seal, para. 36. *Witness EC* explained that he was held at the Čapljina Silos for 17 days, before being transferred to Ljubuški Prison.

⁶⁰³ P 09754 under seal, p. 5

⁶⁰⁴ P 07096.

orders on the release of detainees and reports in which he kept the government of the HR H-B, the Minister of Defence and the Military Police Administration informed about the release of detainees from Gabela Prison between 13 and 17 December 1993.⁶⁰⁵ For example, according to the minutes of a meeting of the working group tasked with implementing Mate Boban's decision to close down the detention centres, held on 13 December 1993, Gabela Prison still held 1,249 men, 16 of whom could be released and remain on the territory of the HR H-B, 406 were to remain in prison, 730 could be released and transferred to territories under the control of the ABiH and 97 transferred to third countries.⁶⁰⁶

265. A report by the Service for the Exchange of Prisoners and Other Persons dated 18 December 1993 indicated that, pursuant to Mate Boban's decision, 1,040 people had been "released" from Gabela Prison by that date and 406 remained in detention.⁶⁰⁷ Although the Chamber has no information about what happened to those 1,040 people, it notes that very few detainees released from Gabela Prison during this period were allowed to remain on the territory of the HR H-B.⁶⁰⁸

266. After having examined (1) the various transfers of Gabela detainees to other facilities from September 1993 onwards, the Chamber notes (2) that many detainees were released on the condition that they leave for a third country.

A. Transfer of Detainees from Gabela Prison to other Detention Centres

267. Valentin Ćorić, head of the Military Police Administration, issued an order to take seven detainees from Gabela Prison to Ljubuški Prison on 23 September 1993.⁶⁰⁹ Huso Marić, whose name appears in the order, confirmed that he was taken to Ljubuški Prison where he remained in detention until 19 March 1994.⁶¹⁰

268. On 15 December 1993, pursuant to an order from the acting head of the Military Police Administration, Radoslav Lavrić, to move the "prisoners of war" from Gabela Prison to the Heliodrom, about 400 detainees, including *Witnesses CQ* and *CM*, were taken to the Heliodrom.⁶¹¹

⁶⁰⁵ P 07140; P 07178; P 07246, p. 1; P 07468. See also Philip Watkins, T(F), pp. 18885-18886 and P 07219 under seal, p. 2.

⁶⁰⁶ P 07143, pp. 4 and 5.

⁶⁰⁷ P 07246, p. 1.

⁶⁰⁸ The minutes of the working meeting of 13 December 1993 show that, according to information from Ivica Lučić, in charge of the SIS, out of the 1,249 people detained at Gabela Prison, 16 "can stay" on the territory of the HZ H-B, P 07143, pp. 4 and 5. It can be seen from Berislav Pušić's report that one detainee was released on 15 December 1993 in the territory under the control of the HVO. P 07468; P 07465, p. 2.

⁶⁰⁹ P 05302.

⁶¹⁰ P 10138, paras 16, 18-20, 28-30 and 33.

⁶¹¹ P 07184; P 07212; See also P 00285, item 764, p. 131: this is only a list of documents and not the documents themselves; Witness CQ, T(F), pp. 11481-11483; Witness CM, T(F), pp. 11100 and 11117.

On 28 December 1993, detainees, including *Witnesses Ismet Poljarević* and *CW*, were also taken from Gabela Prison to the Heliodrom.⁶¹² *Witnesses CQ, CM, Ismet Poljarević* and *CW* remained in detention at the Heliodrom until March 1994.⁶¹³ The Chamber notes in addition that the reports on the transfers of 15 and 28 December 1993 claim that the detainees were transferred from Gabela Prison to the Heliodrom because they qualified as “prisoners of war.”⁶¹⁴

B. Departures of Detainees to Third Countries

269. Although some detainees from Gabela Prison were transferred to other detention facilities to be (a) sent afterwards to third countries, others were (b) sent there directly from Gabela Prison.

1. Gabela Prison Detainees Transferred to Ljubuški Prison or the Heliodrom in Order to Leave for Third Countries

270. Some detainees from Gabela Prison were taken to other detention facilities as part of a process aimed at making them leave the territory of the RBiH. Accordingly, in the part of the Judgment relating to Ljubuški Municipality and Ljubuški Prison, the Chamber has already held, for example, that the detainees from this municipality who were being held in other detention facilities, including Gabela Prison, were transferred to Ljubuški Prison and released in August 1993 so that they could leave with their families for third countries.⁶¹⁵ Equally, the Chamber notes that on 19 October 1993, 174 detainees from Gabela Prison were transferred to the Heliodrom in order to leave for Denmark, as planned, on 20 December 1993.⁶¹⁶

2. Detainees Released from Gabela Prison on Condition of Leaving for Third Countries

271. In paragraph 202 of the Indictment, it is alleged that the Herceg-Bosna/HVO authorities deported many Muslims detained at Gabela Prison to other countries via the Republic of Croatia.⁶¹⁷

⁶¹² Ismet Poljarević, T(F), pp. 11623 and 11663; Witness CW, T(F), pp. 12666, 12668 and 12669, private session; P 09807 under seal, pp. 9 and 10; 6D 00216; P 07378 shows that Ismet Poljarević was transferred from Gabela to the Heliodrom on 28 December 1993. P 10127 under seal, pp. 3, 5, 7 and 8. *Witness EB*, a Muslim member of an HVO company, was transferred from Gabela Prison to the Heliodrom at the end of December 1993 and was held in detention there until April 1994.

⁶¹³ Witness CQ, T(F), p. 11488; P 09753 under seal, p. 7; Witness CM, T(F), p. 11100; Ismet Poljarević, T(F), pp. 11663 and 11664; P 09726, p. 6; Witness CW, T(F), pp. 12666, 12668 and 12669; P 09807 under seal, pp. 9 and 10. See also P 10143, p. 12.

⁶¹⁴ P 07184; P 07212; 6D 00216; P 07378.

⁶¹⁵ See “Organisation of the Departure of Muslims from Ljubuški Municipality” in the Chamber’s factual findings with regard to the Ljubuški detention centres. See for example: P 10187; P 10190.

⁶¹⁶ P 07181.

⁶¹⁷ Indictment, para. 202.

In paragraph 197 of its Pre-Trial Brief,⁶¹⁸ the Prosecution notes that according to the criteria, inter alia, for releasing Bosnian Muslim men from detention they needed to be married to a Croatian woman or possess a visa and letter of guarantee to leave BiH for another country.

272. From 13 December 1993, Gabela Prison was also used as a transit facility to house detainees from other detention centres such as Ljubuški⁶¹⁹ and the Heliodrom⁶²⁰ who were destined to leave for third countries.⁶²¹

273. The Chamber has already described the procedure for releasing detainees from Gabela Prison when it examined which authorities were competent for organising the departure of the detainees,⁶²² and recalls in this instance that men married to Croatian women and people in possession of a letter of guarantee for third countries and a transit visa for Croatia could be released.⁶²³ The evidence shows that several hundred detainees were released from Gabela Prison so they could leave for third countries. On 15 and 20 December 1993, 83 and 189 detainees respectively were released from Gabela and left for third countries, including Denmark.⁶²⁴ According to a report signed by Berislav Pušić on 3 January 1994, 502 detainees had been released and had left for third countries on 14, 15 and 20 December 1993.⁶²⁵ *Witness EB*⁶²⁶ confirmed that the detainees from Gabela Prison who had letters of guarantee left and went abroad in December 1993.⁶²⁷

274. For the foregoing reasons the Chamber finds that several hundred detainees from Gabela Prison were released in December 1993 on the condition that they depart for third countries.

Heading 12: Municipality of Vareš

275. This part of the Judgement relates to the crimes allegedly committed by the Herceg-Bosna/HVO forces between October 1993 and November 1993 in the Municipality of

⁶¹⁸ Prosecution Pre-Trial Brief, para. 202.1. “A medical humanitarian organisation informed the UNPROFOR Spanish Battalion that the authorities in Gabela Prison were “ready to release all prisoners who present a letter of guarantee by any country willing to allow such prisoners to enter its territory.”

⁶¹⁹ P 07140; P 06982, p. 4.

⁶²⁰ P 07391, p. 3, item 17; P 08202, p. 3, item 17; P 07238, p. 1; P 07242.

⁶²¹ P 07222, p. 2; P 07391, p. 2, item 11; P 08202, p. 2, item 11; P 07226 under seal, p. 2; P 07317; Philip Watkins, T(F), pp. 18831 and 18832 in relation to P 07356 under seal, p. 2; P 07371; P 07395 under seal, p. 6; P 07234, p. 4; P 07246, p. 2; Marijan Biškić, T(F), pp. 15126 and 15127.

⁶²² See “Responsibility of the Military Police in Matters of Detainee Release” in the Chamber’s findings with regard to the military structure of the HZ(R) H-B.

⁶²³ Witness C, T(F), p. 22548, closed session; P 04496, pp. 1 and 2; Witness E, T(F), pp. 22094-22100, 22106 and 22283-22284, closed session; P 10133 under seal, p. 5, paras 45 and 48; 5D 02056; P 04164 under seal, p. 11.

⁶²⁴ P 07178; P 07280 under seal, p. 1; P 10143, p. 12; P 09946 under seal, paras 6 and 73.

⁶²⁵ P 07468.

⁶²⁶ P 10127 under seal, pp. 3, 5 and 8. *Witness EB* was a Muslim member of the HVO and was held in various prisons from June 1993 to March 1994.

Vareš, and, more specifically, in the town of Vareš and the village of Stupni Do. Thus paragraph 207 of the Indictment alleges that on 18 October 1993, Herceg-Bosna/HVO forces arrested six local ABiH members at an HVO checkpoint in Pajtov Han and interrogated and beat them. Paragraph 208 of the Indictment alleges that HVO military commanders, including Milivoj Petković, decided to reinforce their troops in Vareš after the ABiH attacked the village of Kopjari on 21 and 22 October 1993, and that the HVO forces reached the town of Vareš on 22 October 1993. In paragraphs 209, 210 and 213 of the Indictment, the Prosecution further alleges that on 23 October 1993, Herceg-Bosna/HVO forces arrested several Vareš HVO officials and more than 250 Muslim men and detained them at the Vareš Elementary School and Vareš High School and some are alleged to have been detained at Vareš Majdan Prison until 3 November 1993. The Prosecution contends that the conditions of detention of the men were horrible and that HVO soldiers physically abused the detainees. It also claims that, after arresting the Muslim men on 23 October 1993, HVO soldiers entered their houses, abused the people present and robbed them of their valuables.

276. In paragraph 211 of the Indictment, the Prosecution submits that on 23 October 1993, Herceg-Bosna/HVO attacked the village of Stupni Do. During the attack, the HVO soldiers robbed the villagers of their valuables, sexually assaulted Muslim women and killed at least 31 men, women and children, during and following the attack. The Herceg-Bosna/HVO forces are also alleged to have wantonly destroyed almost the entire village.

277. In paragraph 212 of the Indictment, the Prosecution states that in the days following the HVO attack on Stupni Do, thousands of Croats left Vareš because the Herceg-Bosna/HVO authorities had told them that they had to leave because of the risk of being killed by the ABiH. In paragraph 214 of the Indictment, the Prosecution also submits that UNPROFOR representatives were blocked from entering Stupni Do until 26 October 1993 as well as from entering the two schools in the town of Vareš.

278. Finally, in paragraph 215, the Prosecution alleges that on 26 October 1993, Milivoj Petković ordered an investigation into the events in Stupni Do and informed international representatives that an investigation had been requested and all of the commanders suspended but that as of 30-31 October 1993, none of the HVO commanders involved had been suspended or disciplined in any way. In paragraph 216, the Prosecution submits that Ivica Rajić, the HVO officer commanding the Herceg-Bosna/HVO forces in Vareš and Stupni Do simply changed his name and remained in essentially the same position.

⁶²⁷ P 10127 under seal, p. 7.

279. The Prosecution alleges that these events constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), rape (Count 4), inhuman treatment (sexual assault) (Count 5), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of towns or villages, or devastation not justified by military necessity (Count 20), appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22), and plunder of public or private property (Count 23).

280. To rule on the facts alleged, the Chamber analysed a collection of evidence. The Chamber, *inter alia*, heard the *viva voce* testimony of the witnesses *Ivan Bandić, Hakan Birger, Salem Ćerenić, Nelson Draper, Peter Galbraith, Ferida Likić, Husnija Mahmutović, Philip Watkins, DE, DF, DG and EA*, as well as the testimony of *Slobodan Praljak and Milivoj Petković*. It also received the statements of witnesses *Mufid Likić, Mufida Likić, Kemal Likić, DH and L*, admitted pursuant to Rule 92 *ter* of the Rules, supplemented by their testimony in court. The Chamber then analysed the written statements and transcripts of the testimony of witnesses *Jan Koet, Daniel Ekberg, Ruzdi Ekenheim, Ulf Henricsson, Patrick Gustafsson, Patrick Martin, Rolf Weckesser, AI, EG, J, K and W*, admitted pursuant to Rule 92 *bis* of the Rules. Finally, the Chamber analysed the exhibits admitted into the record through these witnesses or by way of a written procedure.

281. After analysing (I) the geographic and demographic situation in the Municipality of Vareš, the Chamber will examine (II) its political, administrative and military structure. It will then analyse the evidence relating to (III) the criminal events the Indictment alleges to have taken place in the Municipality of Vareš.

I. Geographic and Demographic Situation in the Municipality

282. Vareš Municipality is located in Central Bosnia.⁶²⁸ The town of Vareš, in the centre-west of the municipality, is approximately three kilometres north of the village of Stupni Do.⁶²⁹

283. According to the 1991 census, the Municipality of Vareš had 22,203 inhabitants, of whom 9,016, or approximately 40 % of the population, were Croats, 6,714, or approximately 30 % of the

⁶²⁸ P 02875, pp. 5 and 6.

⁶²⁹ P 09276, p. 23; Decision of 14 March 2006, Adjudicated Fact no. 361 (*Kordić and Ćerkez* Judgement, para. 740); Ferida Likić, T(F), p. 16195; P 07838/P 07840 (identical documents), para. 2.

population, were Muslims, and 3,644, or approximately 16.5 % of the population, were Serbs.⁶³⁰ The rest of the population, that is, approximately 13.5 %, were people who had refused to declare their ethnicity or had declared themselves as "other".⁶³¹ Vareš was a predominantly Croat town,⁶³² while Stupni Do was a predominantly Muslim village.⁶³³

284. Following an ABiH attack on the Municipality of Kakanj⁶³⁴ on 13 June 1993,⁶³⁵ between 10,000 and 15,000 Croats fled the area⁶³⁶ and arrived in the Municipality of Vareš.⁶³⁷ Among the Croats were women, children, elderly people and 3,500 men of military age.⁶³⁸

285. The evidence shows that the Croats who arrived in the Municipality of Vareš in June 1993 began to leave the municipality between June 1993 and November 1993.⁶³⁹

II. Political, Administrative and Military Structure of the Municipality

A. Political and Administrative Structure

286. In November 1990, the "SDP"⁶⁴⁰ won the municipal elections, taking more than 20 of the 50 seats.⁶⁴¹ The HDZ won 13 or 14 seats⁶⁴² and the SDA 13 seats.⁶⁴³ The "SDP" then appointed a person named "Andrijević", a Croat, as President of the Municipal Council,⁶⁴⁴ while Zvonimir Dugonić, a member of the HDZ, was appointed Chairman of the Municipal Executive Committee.⁶⁴⁵

⁶³⁰ P 09276, p. 31; Witness DE, T(F), p. 15455, closed session.

⁶³¹ P 09276, p. 31; Witness DE, T(F), p. 15455, closed session.

⁶³² P 09276, p. 31.

⁶³³ P 10080 under seal, pp. 28, 114, 288-289; P 09276, p. 31; Ferida Likić, T(F), pp. 16193 and 16194; Decision of 14 March 2006, Adjudicated Fact no. 361 (*Kordić and Čerkez* Judgement, para. 740); P 07838/P 07840 (identical documents), para. 2.

⁶³⁴ P 10080 under seal, pp. 119-120; P 02740 under seal, p. 6; Salem Čerenić, T(F), pp. 15916 and 15917.

⁶³⁵ P 10080 under seal, pp. 119-120; P 02740 under seal, p. 6; Salem Čerenić, T(F), pp. 15916 and 15917.

⁶³⁶ Witness DE, T(F), pp. 15623 to 15625; Salem Čerenić, T(F), pp. 15917 and 15918; 1D 01262; 1D 01263; 1D 01264.

⁶³⁷ P 02875, p. 1; Salem Čerenić, T(F), pp. 15916-15918, 15942; Ferida Likić, T(F), p. 16194; Witness DG, T(F), pp. 15976 and 15977; Witness EA, T(F), pp. 24376-24377 and 24927, closed session; P 02765, para. 5; Witness DE, T(F), pp. 15493-15496, 15624-15625, closed session; P 02758; 1D 01264; P 10080 under seal, pp. 119-121; P 10082 under seal, para. 47; P 02740 under seal, p. 6; 1D 02830; 3D 00837; 3D 02331; 2D 01467; P 06454, pp. 1, 7 and 28; P 03337; 1D 01829, p. 2; 1D 01672, p. 2; 1D 00927. Witness W states that between 15,000 and 20,000 "refugees", including former members of the Kakanj police, arrived in the Municipality of Vareš; Witness W, P 10015, *Kordić and Čerkez* Case, T(E), p. 10929.

⁶³⁸ Witness DE, T(F), pp. 15493-15496, closed session; P 10080 under seal, p. 123.

⁶³⁹ See "Departure of Croats Living in Vareš" in the Chamber's factual findings relating to the Municipality of Vareš.

⁶⁴⁰ The Serbs in Vareš Municipality did not found their own political party and joined the "SDP". See Witness DE, T(F), p. 15458, closed session.

⁶⁴¹ Witness DE, T(F), p. 15457, closed session.

⁶⁴² Witness DE, T(F), pp. 15456 and 15457, closed session.

⁶⁴³ Witness DE, T(F), p. 15457, closed session.

⁶⁴⁴ Witness DE, T(F), p. 15458, closed session; P 10080 under seal, pp. 26 and 152.

⁶⁴⁵ Witness DE, T(F), p. 15459, closed session.

287. After the Muslims of Vareš refused in June 1992 to have the municipality organised under the exclusive control of the HVO,⁶⁴⁶ Dario Kordić, Vice-President of the HVO of the HZ H-B, instructed Borivoj Malbašić, Commander of the Joint Staff of the TO of Vareš Municipality and the HVO,⁶⁴⁷ and Ante Pejčinović, Chairman of the Vareš HDZ at that time,⁶⁴⁸ to take over power in the municipality; he ordered, among other things, that the key buildings in town, such as the town hall, the court and the police station, be placed under control.⁶⁴⁹ This was done on 1 July 1992.⁶⁵⁰

288. The HVO forces, under Borivoj Malbašić's command, then relieved the Muslims elected among the municipal authorities of their duties.⁶⁵¹ However, at least four Muslims, who were not members of the SDA⁶⁵² and were prepared to share the responsibilities in the municipality, stayed on and held posts in the Vareš HVO from 3 July 1992 until a date which the Chamber does not know.⁶⁵³

289. On 3 July 1992, Mate Boban appointed Ante Pejčinović President of the Municipal Council and Zvonimir Dugonić Vice-President.⁶⁵⁴

290. In response to the HVO takeover of power on 1 July 1992, the SDA formed a government in exile known under the name of "war presidency", whose seat was in Striježevo⁶⁵⁵ and then in the village of Dabravine.⁶⁵⁶

291. In August 1992, Ivica Gavran was appointed Commander of the Vareš MUP.⁶⁵⁷

B. Military Structure

292. Until 1 July 1992, the Joint TO of the Municipality of Vareš, put in place in the spring of 1992⁶⁵⁸ and composed of Croats and Muslims, was led by Borivoj Malbašić.⁶⁵⁹ On 1 July 1992, the Muslims withdrew from the Joint TO Staff of the Municipality of Vareš.⁶⁶⁰

⁶⁴⁶ Witness DE, T(F), pp. 15468-15470, closed session.

⁶⁴⁷ P 10082 under seal, paras 12 and 14; Witness DE, T(F), pp. 15463 and 15464, closed session.

⁶⁴⁸ Witness DE, T(F), p. 15456, closed session.

⁶⁴⁹ Witness DE, T(F), pp. 15470-15471, closed session.

⁶⁵⁰ Witness DE, T(F), p. 15471, closed session; Salem Ćerenić, T(F), p. 15873; P 10080 under seal, pp. 26-28 and 152; Witness AI, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14532, 14534-14535, closed session.

⁶⁵¹ Witness AI, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14535, 14570 and 14577, closed session; Witness W, P 10015, *Kordić and Ćerkez* Case, T(F), pp. 10894, 10895 and 10923, closed session.

⁶⁵² P 10082 under seal, paras 15 and 16; 2D 01320, pp. 1 and 2; P 06215, p. 1.

⁶⁵³ Witness DE, T(F), pp. 15477 and 15478; P 00296.

⁶⁵⁴ P 10080 under seal, pp. 26, 27, 29 and 152; Witness DE, T(F), pp. 15456, 15472; P 00296.

⁶⁵⁵ Witness AI, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14535, 14536 and 14570, closed session; Witness DE, T(F), p. 15474, closed session.

⁶⁵⁶ Witness DE, T(F), p. 15474, closed session; Witness AI, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14535, 14536 and 14570, closed session.

⁶⁵⁷ P 10080 under seal, p. 26.

293. The Chamber notes that from January 1993 until at least October 1993, the Municipality of Vareš was encircled by the ABiH to the north and south, and by the VRS to the east.⁶⁶¹

1. 2nd Operations Group

294. In October 1992, Tihomir Blaškić, Commander of the Central Bosnia OZ,⁶⁶² formed operations groups within his OZ.⁶⁶³ Thus the 2nd Operations Group covered the municipalities of Kiseljak, Vareš and Kakanj.⁶⁶⁴ By authorisation of Bruno Stojić, Head of the Department of Defence, and Milivoj Petković, Chief of the Main Staff, on 12 May 1993 Tihomir Blaškić appointed Ivica Rajić Commander of the 2nd Operations Group.⁶⁶⁵ Ivica Rajić then assumed command over the *Kotromanić* Brigade from Kakanj, the *Bobovac* Brigade from Vareš and the *Ban Josip Jelačić* Brigade from Kiseljak.⁶⁶⁶

2. Bobovac Brigade

295. The *Bobovac* Brigade, whose command was in Ponikve, three kilometres to the north of the town of Vareš on the road to Tuzla,⁶⁶⁷ was formed in October 1992.⁶⁶⁸ On 18 November 1992, Emil Harah was appointed the brigade's commander.⁶⁶⁹ He held this post until 24 October 1993,⁶⁷⁰ when, further to an order from Tihomir Blaškić, Ivica Rajić transferred command of the brigade to Krešimir Božić.⁶⁷¹

⁶⁵⁸ P 10082 under seal, para. 12.

⁶⁵⁹ P 10082 under seal, paras 12 and 14.

⁶⁶⁰ Witness DE, T(F), p. 15475, closed session.

⁶⁶¹ For January 1993: Witness EA, T(F), pp. 24627, 24628 and 24634, closed session; IC 00715; P 10080 under seal, pp. 69-70, 94, 291 and 292. For March and April 1993: Witness EA, T(F), pp. 24629 and 24634, closed session; IC 00716. For June 1993: Witness EA, T(F), pp. 24629 and 24634, closed session; IC 00717. For July 1993: Witness EA, T(F), pp. 24631 and 24632, closed session. For September 1993: Witness EA, T(F), pp. 24632 and 24634, closed session; IC 00719. For October 1993: Rolf Weckesser, P 10104, *Kordić and Čerkez* Case, T(F), pp. 24-25; Hakan Birger, T(F), pp. 16373 and 16374.

⁶⁶² P 00280; P 00661.

⁶⁶³ P 00554.

⁶⁶⁴ P 00554.

⁶⁶⁵ P 02295, p. 2. The Chamber notes that, although the report was also addressed to Valentin Ćorić, it nevertheless considers that Valentin Ćorić had no authority over the appointment of military commanders. Witness EA, T(F), pp. 24330-24331, closed session; P 02328.

⁶⁶⁶ IC 00710.

⁶⁶⁷ Witness EA, T(F), pp. 24427-24431, closed session; Rolf Weckesser, P 10104, *Kordić and Čerkez* Case, T(F), p. 25; P 03337.

⁶⁶⁸ P 10082 under seal, para. 20.

⁶⁶⁹ P 00765; Witness DE, T(F), p. 15492; P 10082 under seal, paras 22, 23 and 29.

⁶⁷⁰ Witness DE, T(F), pp. 15537 and 15538, closed session; Witness EA, T(F), pp. 24736, 24982 and 24983, closed session; P 10090, para. 11; 4D 00851; 4D 00847; 4D 00532; P 10238, paras 3, 6 and 99. Emil Harah was officially relieved of his position as commander of the *Bobovac* Brigade in early February 1994; Borivoj Malbašić replaced him in this post: P 10082 under seal, para. 110; P 06454, p. 7; P 10202, paras 48 and 78.

⁶⁷¹ P 10090, para. 11; Witness EA, T(F), pp. 24736, 24982 and 24983, closed session; 4D 00851; 4D 00847; 4D 00532; P 10238, paras 3, 6 and 99; Witness DE, T(F), pp. 15537 and 15538, closed session; P 10202, para. 40.

296. As of October 1992, the *Bobovac* Brigade had between 950 and 1,050 men, and comprised three battalions: the 1st Battalion, commanded by Marcel Dusper, the 2nd Battalion, commanded by Mario Andrić, and the 3rd Battalion, commanded by Marinko Dodik.⁶⁷² Each battalion had between two and four companies of 90 to 100 men each of which had two or three platoons of 25 to 30 men themselves composed of squads.⁶⁷³

297. The *Bobovac* Brigade also had a logistics department and an artillery unit.⁶⁷⁴ In August 1992, Zvonimir Dužnović was appointed Deputy Commander of the SIS in the *Bobovac* Brigade.⁶⁷⁵

298. Finally, the *Bobovac* Brigade comprised a Military Police platoon, based in Vareš, which belonged to the 7th Military Police Battalion from Vitez and was attached to the *Bobovac* Brigade as of 1 July 1992.⁶⁷⁶ The platoon was under the command of Paško Ljubičić in July 1993,⁶⁷⁷ under the command of Leon Dodik from at least 18 October 1993 until 25 October 1993⁶⁷⁸ and, finally, under the command of Branko Lekić as of 25 October 1993.⁶⁷⁹ This Military Police platoon received orders directly from Zvonimir Dužnović, Deputy Commander of the SIS in the *Bobovac* Brigade,⁶⁸⁰ and was subordinated to Emil Harah, Commander of the *Bobovac* Brigade.⁶⁸¹

299. From May 1992 to at least October 1993, this Military Police platoon was responsible for, among other things, securing the checkpoints on the road between Vareš and Breza⁶⁸² and for preventing, at least during the day on 25 October 1993, all passage to the villages of Stupni Do and Mir.⁶⁸³

⁶⁷² P 10082 under seal, para. 24.

⁶⁷³ P 10082 under seal, paras 25 and 26.

⁶⁷⁴ P 10082 under seal, para. 30; P 10080 under seal, pp. 64 and 65.

⁶⁷⁵ P 10082 under seal, para. 16; 2D 01320, pp. 1 and 2; P 06215, p. 1.

⁶⁷⁶ P 10082 under seal, paras 30, 31 and 55; P 10080 under seal, pp. 61, 64 and 65. In this regard, *see* "Command and Control Authority of the OZ and HVO Brigade Commanders over Military Police Units" in the Chamber's findings relating to the military structure of the HZ(R) H-B.

⁶⁷⁷ 5D 04039.

⁶⁷⁸ Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14546; P 09883, p. 4.

⁶⁷⁹ Witness EA, T(F), p. 24417, closed session; P 06126.

⁶⁸⁰ P 10082 under seal, paras 15, 16, 30, 31 and 55; P 10080 under seal, pp. 61, 64 and 65; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14528, closed session; 2D 01320, pp. 1 and 2; P 06215, p. 1; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14528.

⁶⁸¹ P 00765; 5D 04039.

⁶⁸² P 10080 under seal, pp. 65 and 66.

⁶⁸³ P 06126. In this respect, *see also* "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings relating to the Municipality of Vareš.

3. Maturice and Apostoli Special Units

300. The *Maturice* and *Apostoli* special units, formed in April and June 1993 respectively,⁶⁸⁴ were based in Kiseljak and were directly integrated into the *Ban Josip Jelačić* Brigade.⁶⁸⁵ They were, therefore, under the command of Ivica Rajić, who was the commander of all the brigades in his zone of responsibility.⁶⁸⁶

301. On 22, 23 and 24 October 1993, Marinko Ljoljo was the commander of the *Maturice* and *Apostoli* special units.⁶⁸⁷ They were commanded by Dominik Ilijašević, *alias* "Como",⁶⁸⁸ and Marinko Jurišić, *alias* "Špiro",⁶⁸⁹ respectively.

302. The members of the special units were notorious for their violent behaviour.⁶⁹⁰ The Chamber reviewed, *inter alia*, a report that Mario Bradara, Commander of the *Ban Josip Jelačić* Brigade, sent to Tihomir Blaškić, Commander of the Central Bosnia OZ, and Ante Slišković, Deputy Commander of the SIS in the Central Bosnia OZ, describing the behaviour of members of the *Maturice* special unit in August 1993 which was contrary to the rules of military conduct.⁶⁹¹ The Chamber also reviewed a report drawn up by the SIS of the Main Staff and sent to Perica Jukić, Minister of Defence, Ante Roso, Chief of the HVO Main Staff, and M. Vira, who was in charge of the Political Administration of the HR H-B. The report speaks of a conflict between Ivica Rajić and Țeljko Bošnjak, "deputy commander for security in the 2nd Operations Group", which ended in August 1993 when Ivica Rajić and his men assassinated Țeljko Bošnjak.⁶⁹²

⁶⁸⁴ P 10156, p. 1; P 02732 under seal, p. 1; P 09951; Witness EA, T(F), pp. 24351, 24353, 24354, 24705 and 24706, closed session; P 10330 under seal, para. 8; P 09882 under seal, p. 13, para. 71.

⁶⁸⁵ Witness EA, T(F), pp. 24397 and 24706, closed session; Witness L, T(F), p. 15745, closed session; P 09882 under seal, p. 14, par. 75.

⁶⁸⁶ Witness EA, T(F), pp. 24351, 24353, 24354, 24397, 24705 and 24706, closed session; Witness L, T(F), p. 15745, closed session; P 09882 under seal, p. 14, para. 76; P 06647, p. 3; P 06870; according to an order issued by Viktor Andrić on 31 January 1994, on that date Marinko Ljoljo was still the commander of the *Maturice* and *Apostoli* special units (P 07757); P 08162, p. 2; P 10156, p. 1; P 02732 under seal, p. 1; P 09951; P 10330 under seal, para. 8. Regarding the responsibility of the *Ban Josip Jelačić* Brigade, see "Operations Zones and Brigades" in the Chamber's findings relating to the military structure of the HZ(R) H-B.

⁶⁸⁷ Witness EA, T(F), pp. 24490, 24707, 24769, closed session; P 06291 under seal, p. 1; P 09882 under seal, paras 71, 72 and 73; P 06647, p. 3. In June 1993, the *Apostoli* special unit, originally based in Travnik, was relocated to Kiseljak and placed under the authority of Mario Bradara - the deputy commander of the *Ban Josip Jelačić* Brigade from Kiseljak - who was himself subordinated to Ivica Rajić. See Witness EA, T(F), p. 24353, closed session; P 10330 under seal, para. 8. An order issued by Viktor Andrić on 31 January 1994 shows that on that date Marinko Ljoljo was still the commander of the *Maturice* and *Apostoli* special units. See P 07757.

⁶⁸⁸ Witness EA, T(F), p. 24407; P 09882 under seal, p. 13, para. 71; P 06647, p. 3; P 08162, p. 2.

⁶⁸⁹ Witness EA, T(F), pp. 24397 and 24398, closed session; P 06291, p. 1; P 09882 under seal, p. 13, para. 71; P 06647, p. 3.

⁶⁹⁰ P 10082 under seal, para. 73.

⁶⁹¹ P 11196.

⁶⁹² P 06828, pp. 3-5; P 06647.

III. Sequence of the Criminal Events

303. The Chamber will first analyse the allegations relating to (A) the arrest of ABiH members in Pajtov Han on 18 October 1993 and their incarceration, and then those relating to (B) the response of the HVO forces to the ABiH attack on Kopjari on 21 and 22 October 1993 and the preparations for an HVO attack on the Municipality of Vareš. It will then analyse the allegations relating to (C) the order to "show no mercy to anyone" issued by Slobodan Praljak on 23 October 1993 to the Herceg-Bosna/HVO forces in the Vareš area, (D) the arrest of several Vareš HVO officials, and (E) the arrest and detention of Muslim men in Vareš on 23 October 1993. The Chamber will also examine the allegations of (F) sexual abuse by the Herceg-Bosna/HVO forces before they left the town of Vareš. It will then analyse (G) the attack on the village of Stupni Do and the crimes allegedly committed during the attack. Finally, the Chamber will examine the allegations relating to (H) the concealment of the crimes and their perpetrators by the HVO, and (I) the context in which the Croats left the Municipality of Vareš.

A. Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention

304. Paragraph 207 of the Indictment alleges that on 18 October 1993, Herceg-Bosna/HVO forces arrested six ABiH members at an HVO checkpoint in Pajtov Han, and then interrogated and beat them in order to obtain information about armed Muslims in the village of Stupni Do.

305. On 18 October 1993, Ešref Likić, Jakub Likić, Mehmed Likić and Himzo Likić, members of the ABiH,⁶⁹³ as well as Rešad Likić and *Mufid Likić* – who did not belong to the ABiH⁶⁹⁴ – were travelling in a vehicle when they were stopped in Pajtov Han⁶⁹⁵ at a checkpoint held by HVO soldiers.⁶⁹⁶ According to *Mufid Likić*, the HVO soldiers were wearing camouflage uniforms and HVO insignia on their sleeves.⁶⁹⁷ The Chamber does not have evidence to determine exactly to which unit these soldiers belonged.

306. The soldiers called the Military Police platoon attached to the *Bobovac* Brigade. Military policemen then came to the checkpoint and took the six men in a van to the Military Police prison

⁶⁹³ P 09883, p. 3; Ferida Likić, T(F), p. 16202; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14547; T(F), p. 14573, closed session; P 09913 under seal, p. 3; P 05980 under seal, p. 3; Kemal Likić, T(E), pp. 26375 and 26440.

⁶⁹⁴ Mufid Likić, T(F), pp. 16039, 16044-16045; P 09883, pp. 2 and 3; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14541.

⁶⁹⁵ Pajtov Han is a locality near the village of Budoče lje. See Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), pp. 14541 and 14573, closed session.

⁶⁹⁶ P 09883, p. 4; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), pp. 14541 and 14573, closed session.

⁶⁹⁷ P 09883, p. 4.

in Vareš opposite the Vareš town hall where they were detained until 23 October 1993.⁶⁹⁸ Among the military policemen at the Military Police prison in Vareš was Leon Dodik, commander of the platoon at that date.⁶⁹⁹

307. During their detention, a member of the Military Police platoon attached to the *Bobovac* Brigade forced the six men to kneel on the ground with their hands behind their backs and remain in that position for several hours.⁷⁰⁰ Moreover, members of the Military Police platoon attached to the *Bobovac* Brigade violently beat the six men while they were being interrogated by Leon Dodik.⁷⁰¹ They first beat Jakub Likić⁷⁰² and Ahmed Likić⁷⁰³ for 45 minutes each.⁷⁰⁴ The other detainees could hear their screams.⁷⁰⁵ They then put a pair of trousers with a rope over *Mufid Likić's* head, handcuffed him and beat him with bats, punched him and kicked him.⁷⁰⁶

308. Around 22 October 1993, six soldiers of the *Maturice* special unit arrived at the Military Police prison in Vareš. They also interrogated the six men and severely beat one of them, Himzo Likić, until he lost consciousness.⁷⁰⁷ On 23 October 1993, the six men were moved from the Military Prison in Vareš to Vareš Majdan Prison.⁷⁰⁸

309. The Chamber finds that between 18 and 23 October 1993, six Muslim men were arrested by HVO soldiers and taken to the Military Police prison in Vareš. Among them were four members of the ABiH and two men who did not belong to any armed forces. During their detention from 18 to 23 October 1993, the six men were subjected to violent blows, sometimes up to the point of their losing consciousness, by members of the Military Police platoon attached to the *Bobovac* Brigade and soldiers of the *Maturice* special unit.

B. ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response

310. Paragraph 208 of the Indictment alleges that on 21 and 22 October 1993, the ABiH attacked the village of Kopjari in Vareš Municipality, with the village's Croat residents moving to Pogar. The Prosecution alleges that also around 21 October 1993, Milivoj Petković and Ivica Rajjić decided

⁶⁹⁸ P 09883, p. 4; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), pp. 14550-14551, closed session; P 09281, pp. 10 and 11; P 08850, p. 4.

⁶⁹⁹ Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14543; P 09883, p. 4.

⁷⁰⁰ Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), pp. 14543 and 14545, closed session.

⁷⁰¹ P 09883, pp. 4 and 5; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), pp. 14547-14554, closed session.

⁷⁰² P 09883, p. 4.

⁷⁰³ Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14542, closed session.

⁷⁰⁴ P 09883, p. 4; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14542, closed session.

⁷⁰⁵ P 09883, p. 4; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14542, closed session.

⁷⁰⁶ P 09883, p. 5.

⁷⁰⁷ P 09883, p. 5.

⁷⁰⁸ P 09281, pp. 10 and 11; P 08850, p. 4 of the BCS version; P 09883, p. 5; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14550, closed session.

to send additional Herceg-Bosna/HVO forces to Vareš and that on the same day, Herceg-Bosna/HVO forces, including the *Maturice* and *Apostoli* special units, left Kiseljak for Vareš. Finally, the Prosecution submits that the HVO forces passed through Bosnian Serb-controlled territory and reached the town of Vareš on 22 October 1993.

311. On 21 October 1993, the 304th Brigade and some elements of the 309th Brigade of the ABiH carried out a victorious offensive against the village of Kopjari⁷⁰⁹ in the west of the municipality on the border between the municipalities of Vareš and Kakanj,⁷¹⁰ near the villages of Dragovići and Mijakovići.⁷¹¹ After the attack, the Kopjari HVO unit and the Croat population, with the assistance of Norbat,⁷¹² left the village for Pogar, about three kilometres to the north of the town of Vareš.⁷¹³

312. In response to the advance by ABiH troops towards Vareš,⁷¹⁴ Tihomir Blaškić ordered that the *Bobovac* Brigade be reinforced with troops and weapons.⁷¹⁵

313. On 22 October 1993 at around 0230 hours, on Milivoj Petković's orders,⁷¹⁶ Ivica Rajić went to Vareš with 210 men, about 100 or 150 of whom were soldiers of the *Maturice* and *Apostoli* special units, and soldiers of the *Ban Josip Jelačić* Brigade from Kiseljak.⁷¹⁷ Eight military policemen of the Military Police platoon attached to the *Ban Josip Jelačić* Brigade from Kiseljak were also sent to Vareš with the troops.⁷¹⁸ On 25 October, Milivoj Petković informed Mate Boban of his order and told him that the decision was based on the "total disorganisation of the defence of Vareš".⁷¹⁹

314. According to *Witness EA*, Ivica Rajić did not receive any written orders or instructions from Milivoj Petković on the actions to be carried out other than a general order about the mission. According to that order, a defence line was to be established to defend the town of Vareš against the

⁷⁰⁹ 4D 00646; P 05994; P 06215, p. 2; P 02980, pp. 12 and 14; P 10082 under seal, para. 62; P 10080 under seal, pp. 164 and 167; P 06053, p. 2; 3D 00808; P 06069; P 10202, paras 23-25; 4D 00519, p. 1; Witness EA, T(F), pp. 24446, 24447 and 24699.

⁷¹⁰ P 09276, p. 23.

⁷¹¹ 4D 00519, p. 1.

⁷¹² P 10080 under seal, p. 133; P 05994, p. 1; P 10090, para. 7.

⁷¹³ P 09276, p. 23.

⁷¹⁴ Witness EA, T(F), pp. 24380, 24385, 24386 and 24702, closed session.

⁷¹⁵ Witness EA, T(F), pp. 24385, 24386 and 24699-24700, closed session; 4D 00527; 3D 00808; 4D 00645.

⁷¹⁶ Milivoj Petković, T(F), p. 49612; Witness EA, T(F), pp. 24379-24382; P 06069.

⁷¹⁷ Witness EA, T(F), pp. 24379-24382, 24386, 24387, 24403, 24404 and 24407, closed session; Milivoj Petković, T(F), pp. 49610, 49612, 49614, 49843 and 49844; P 06454, pp. 57-59; P 06082; P 10082 under seal, paras 63 and 67; P 10080 under seal, pp. 134, 139, 156 and 157; Salem Čerenić, T(F), pp. 15875, 15876 and 15922; Witness L, T(F), p. 15755, 15780 and 15806; P 09882 under seal, para. 57; P 09954; P 06069, p. 2.

⁷¹⁸ Witness EA, T(F), p. 24398, closed session; P 05988.

⁷¹⁹ P 06069, p. 2.

advance by ABiH forces.⁷²⁰ According to *Witness EA*, Ivica Rajić thus enjoyed considerable scope for manoeuvre with regard to specific actions to be taken on the ground.⁷²¹

315. The troops who had gone to Vareš under Ivica Rajić's command returned to Kiseljak on 26 October 1993.⁷²²

316. The Chamber finds that in response to the attack on the village of Kopjari by the ABiH forces on 21 October 1993, Milivoj Petković instructed Ivica Rajić to go to Vareš with about 210 HVO soldiers to establish a defence line in order to defend the town of Vareš against the advance by ABiH forces.

C. Slobodan Praljak's Order of 23 October 1993

317. Paragraph 209 of the Indictment alleges that on 23 October 1993, Slobodan Praljak ordered Herceg-Bosna/HVO forces in the Vareš area to "show no mercy to anyone". It is also alleged that on 23 October 1993, HVO forces arrested several Vareš HVO officials and more than 250 Muslim men.

318. On 23 October 1993, Slobodan Praljak ordered Milivoj Petković, Mario Bradara, Ivica Rajić, Dario Kordić and Tihomir Blaškić to "sort out the situation in Vareš showing no mercy to anyone" with people who are "up to [...] the [...] tasks".⁷²³

319. In its Final Trial Brief, the Prosecution states that in the context of the conflict between the HVO and the ABiH and the crimes committed against the Muslim population during that conflict, the order could only have contributed to the alleged criminal events in the Municipality of Vareš.⁷²⁴

320. In its Final Trial Brief, the Praljak Defence submits that this "message" was sent to Milivoj Petković merely as a piece of advice and not as an order, in response to the reports which reached him "later that day", on 23 October 1993, about the events unfolding in Stupni Do.⁷²⁵ The Praljak Defence adds that the words "showing no mercy to anyone" referred to the Vareš Croat community who might have committed crimes and not to the Muslim population of the municipality.⁷²⁶

321. In its Final Trial Brief, the Petković Defence submits that the document in question referred to "people in the command and those around the command and headquarters who clashed with the

⁷²⁰ Witness EA, T(F), pp. 24385-24389, closed session.

⁷²¹ Witness EA, T(F) pp. 24388 and 24389, closed session.

⁷²² P 06172.

⁷²³ Witness EA, T(F), pp. 24427-24434, closed session; P 06028; P 06051; P 10330 under seal, para. 16; P 09813.

⁷²⁴ Prosecution Final Trial Brief, para. 735.

⁷²⁵ Praljak Defence Final Trial Brief, paras 400 to 406.

command",⁷²⁷ in the case of whom it was agreed to "show no mercy to anyone" inasmuch as they had defied the authority of the command.⁷²⁸

322. The Chamber notes first that, during his testimony before it, *Slobodan Praljak* stated that the words "showing no mercy to anyone" concerned three HVO soldiers who were responsible for the problems in Stupni Do⁷²⁹ and that he then asserted that the order referred to the Croat HVO soldiers engaging in criminal activities, such as smuggling.⁷³⁰

323. According to the testimony of *Milivoj Petković* the order in question referred to "people in the command and those around the command and headquarters who clashed with the command" and not to the Muslims.⁷³¹

324. The Chamber observes that although the testimony of *Slobodan Praljak* and *Milivoj Petković* both refer to the fact that the words "showing no mercy towards anyone" were directed at Croats and not Muslims, they are contradictory and for that reason cannot be considered.

325. The Chamber heard the testimony of *Witness EA*, who stated that Ivica Rajić received Slobodan Praljak's order on 24 October 1993 at around 0200 or 0300 hours.⁷³² The Chamber gives credence to this testimony and thus considers that Slobodan Praljak's order was not received on 23 October, but on 24 October 1993. Likewise, it notes that also according to *Witness EA*, as of the morning of 24 October 1993, the order was leaked among the HVO soldiers in Vareš.⁷³³ The aggressive attitude of the HVO soldiers to Bosnian Muslims increased, making it very difficult for Ivica Rajić to control troops in the Vareš area.⁷³⁴

326. The Chamber finds, by majority, with Judge Antonetti dissenting, that the HVO forces in the Municipality of Vareš received and interpreted Slobodan Praljak's order as permission to act violently at least from the time Slobodan Praljak's order was received, that is, as stated by *Witness EA*, around 0200 or 0300 hours on 24 October 1993.

⁷²⁶ Praljak Defence Final Trial Brief, para. 406.

⁷²⁷ Petković Defence Final Trial Brief, para. 446, referring to Milivoj Petković, T(F), p. 49614; Ivan Bandić, T(F), p. 38181; 4D 01652, p. 5.

⁷²⁸ Petković Defence Final Trial Brief, para. 446.

⁷²⁹ Slobodan Praljak, T(F), pp. 41901-41902.

⁷³⁰ Slobodan Praljak, T(F), pp. 43728-43732, 43738.

⁷³¹ Milivoj Petković, T(F), p. 49615.

⁷³² Witness EA, T(F), p. 24428, closed session.

⁷³³ Witness EA, T(F), pp. 24432-24434, closed session; P 10330 under seal, para. 16.

⁷³⁴ Witness EA, T(F), pp. 24432-24434, closed session; P 10330 under seal, para. 16.

D. Arrest of Several HVO Officials on 23 October 1993

327. Paragraph 209 of the Indictment alleges that on 23 October 1993, HVO forces arrested several Vareš HVO officials.

328. The Chamber observes that on 23 October 1993, HVO members under the command of Ivica Rajić, placed into isolation three municipal officials, namely Ante Pejčinović, President of the Municipal Council of Vareš, Ivica Gavran, Commander of the Vareš MUP, and Zvonimir Dužnović, Deputy Commander of the SIS in the *Bobovac* Brigade⁷³⁵ who, according to the testimony of *Witness EA*, were undermining the military potential of the Vareš HVO by demobilising troops.⁷³⁶ On the evening of 24 October 1993, the three men were taken to Kiseljak to be interrogated and detained in HVO facilities.⁷³⁷

329. Ivica Rajić sent a report to Dario Kordić, Vice-President of the HZ H-B, Milivoj Petković, Deputy Commander of the Main Staff, Tihomir Blaškić, Commander of the Central Bosnia OZ, and Mario Bradara, Commander of the *Ban Josip Jelačić* Brigade, informing them of the arrest of the three representatives of the Vareš civilian authorities.⁷³⁸

330. During the night of 23-24 October 1993, Ivica Rajić received an order, dated 23 October 1993, from Milivoj Petković stating that Ante Pejčinović, Ivica Gavran and Zvonimir Dužnović were to be relieved of their duties.⁷³⁹

331. The Petković Defence contends that the order of 23 October 1993 is not authentic and submits, *inter alia*, that the BCS version of the document is a translation of the English document, that there is no evidence that the document was written in Croatian and that the registration number of the document does not correspond to the numbering system Milivoj Petković regularly used.⁷⁴⁰ The Chamber recalls that in its "Order to Admit Evidence Regarding Witness DE", issued in open court on 29 March 2007, it established that the document had satisfactory indicia of reliability, relevance and probative value for admission into the record; that, despite the fact that the document was admitted in an English version, it was submitted to *Witness DE*, who confirmed its content;⁷⁴¹ that the document was also submitted to *Witness EA*, who not only confirmed the content of the document, but also stated that Ivica Rajić had received it during the night of 23-24 October

⁷³⁵ Witness DE, T(F), pp. 15535-15537, closed session; P 06454, pp. 1, 7, 58 and 59; P 10080 under seal, pp. 26, 218 and 219; P 06026, p. 3.

⁷³⁶ Witness EA, T(F), p. 24993, closed session.

⁷³⁷ Witness DE, T(F), p. 15536; P 06454, pp. 1 and 59.

⁷³⁸ P 06026.

⁷³⁹ Witness EA, T(F), pp. 24421 and 24839-24841, closed session; P 06022; P 06069, p. 2; P 06964.

⁷⁴⁰ Petković Defence Final Trial Brief, para. 484.

1993,⁷⁴² and that the Petković Defence neither appealed nor filed a request for reconsideration of the Order of 29 March 2007. In view of the foregoing, the Chamber considers, by majority, with Judge Antonetti dissenting, that the document is indeed authentic.

332. Consequently, the Chamber finds, by majority, with Judge Antonetti dissenting, that three officials of the Municipality of Vareš were indeed arrested on 23 October 1993 and relieved of their duties further to an order to that effect from Milivoj Petković.

E. Arrest of Muslim Men in Vareš on 23 October 1993 and their Detention

333. Paragraph 209 of the Indictment alleges that on 23 October 1993, HVO forces arrested more than 250 Muslim men; that while arresting the men, HVO soldiers entered their houses, physically and mentally abused the persons present and robbed them of their valuables.

334. Paragraph 210 of the Indictment also alleges that the Herceg-Bosna/HVO forces detained the Muslim men in the Vareš Elementary School and Vareš High School where the detention conditions were horrible; that HVO soldiers entered the schools and physically abused the detainees and that some of the detainees were transferred to Vareš Majdan Prison, where HVO soldiers severely beat them.

335. Moreover, paragraph 214 of the Indictment alleges that HVO forces blocked access to the two schools in Vareš by UNPROFOR representatives.

336. Finally, paragraph 213 of the Indictment states that around 3 November 1993, the Herceg-Bosna/HVO forces guarding the Vareš Elementary School and Vareš High School left the area and that, consequently, the Muslim detainees were free to leave.

337. In the confidential Annex to the Indictment, the Prosecution gave the name of a representative victim of the crimes set out in paragraphs 209 and 210. However, the Chamber found no information in the evidence about that person.

338. After analysing the evidence relating to (1) the arrest of Muslim men on 23 October 1993 and the crimes allegedly committed during the arrests, the Chamber will examine the allegations relating to (2) their detention conditions and the treatment to which they were subjected at the Vareš Elementary School, the Vareš High School and Vareš Majdan Prison. The Chamber will then examine (3) the circumstances surrounding the release of the Muslim men.

⁷⁴¹ Witness DE, T(F), pp. 15536, 15543 and 15571.

⁷⁴² Witness EA, T(F), pp. 24418-24422, closed session.

1. Arrests of Muslim Men and Crimes Allegedly Committed during Arrests

339. The evidence indicates that on the morning of 23 October 1993, the telephone lines in the town of Vareš were cut off.⁷⁴³ That same day, Ivica Rajić ordered the soldiers of the *Ban Josip Jelačić* Brigade and the *Maturice* and *Apostoli* special units placed under his command⁷⁴⁴ to search houses in the town and arrest all Muslim men of military age.⁷⁴⁵

340. On 23 October 1993, he sent a report to Milivoj Petković, Deputy Commander of the HVO Main Staff, informing him that the town of Vareš had been "mopped up" and all the Muslims of military age placed "under surveillance".⁷⁴⁶ On that date, Milivoj Petković was in Kiseljak.⁷⁴⁷

341. The Petković Defence contends that Milivoj Petković did not receive Ivica Rajić's report because the packet communication system would not have allowed the report to be directed to any destination other than the one to which it had been sent, that is, Mostar.⁷⁴⁸ The Prosecution, on the other hand, contends that the packet communication system allowed Milivoj Petković to receive communications while he was not at the headquarters and that the fact that the duty officer sent the communication to Slobodan Praljak, who was neither one of the addressees nor at the Mostar location, proves that the communication could be forwarded to Milivoj Petković.⁷⁴⁹

342. In this regard, the Chamber recalls its findings that the means of communication within the HVO, such as telephones and packet communication, as well as procedures set up by successive chiefs/commanders of the Main Staff, operated relatively well or, in any event, sufficiently well to ensure that the chief/commander of the Main Staff or his deputy was informed of the prevailing situation on the ground.⁷⁵⁰

343. The Chamber heard the testimony of *Salem Ćerenić*, a member of the ABiH,⁷⁵¹ who stated that on the morning of 23 October 1993, soldiers wearing camouflage uniforms and the HVO insignia on one of their sleeves - but who, according to the witness, did not belong to the *Bobovac* Brigade from Vareš - came to his house; the witness was in the house together with his wife and

⁷⁴³ Witness DF, T(F), pp. 15957 and 15961, private session; Witness DG, T(F), pp. 15981, 15982 and 15984; P 10082 under seal, paras 71 and 76.

⁷⁴⁴ See "ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response" in the Chamber's factual findings relating to the Municipality of Vareš.

⁷⁴⁵ Witness EA, T(F), p. 24417, closed session; P 09978, p. 2; P 10329 under seal, para. 22; Salem Ćerenić, T(F), p. 15876; P 06172; P 06159 under seal, p. 3; P 06169 under seal, p. 2; P 06293 under seal, p. 2; P 06042, p. 3.

⁷⁴⁶ P 06026, p. 3; Witness EA, T(F), pp. 24422, 24423, 24731, 24732 and 24963, closed session.

⁷⁴⁷ Milivoj Petković, T(F), p. 49614; Witness EA, T(F), p. 24732, closed session.

⁷⁴⁸ Petković Defence Final Trial Brief, paras 421 and 422, referring to Milivoj Petković, T(F), p. 49614.

⁷⁴⁹ Prosecution Final Trial Brief, para. 900.

⁷⁵⁰ See "Structures and Means for Alerting the Main Staff and its Chief Regarding the Situation in the Field" in the Chamber's findings relating to the military structure of the HZ(R) H-B.

⁷⁵¹ Salem Ćerenić, T(F), pp. 15872 and 15873.

two children.⁷⁵² The soldiers insulted *Salem Ćerenić*, calling him "*balija*", put a rifle barrel into his mouth and asked him for gold, money and weapons.⁷⁵³ They then threw him out of his house, without giving him time to get dressed,⁷⁵⁴ and stole his wedding ring.⁷⁵⁵ The soldiers then ordered him to run - with his head down and his hands behind his neck - to another group of soldiers about 50 or 70 metres away from his house. He did as he was told and had to run from one group of soldiers to another, while they shoved and insulted him, until he reached the Vareš High School.⁷⁵⁶

344. *Witness DF*, a Muslim inhabitant of Vareš,⁷⁵⁷ stated that on 23 October 1993, at 0600 hours, soldiers wearing the HVO insignia, checkerboard emblems on their caps and sleeves, and Croatian uniforms⁷⁵⁸ – the witness did not say what the uniforms looked like – knocked at her door, looked at the identity card of her 74-year-old ill father and said that he had to come with them.⁷⁵⁹ The soldiers then took him to the Vareš High School.⁷⁶⁰ *Witness DF* also stated that, when the soldiers took her father out of the apartment, some other inhabitants - the witness did not say if they were members of the ABiH - were in front of their own houses, sometimes in underwear, and some of them were hit with rifle butts.⁷⁶¹

345. According to *Witness DG*, a Muslim inhabitant of Vareš,⁷⁶² on 23 October 1993, at around 0700 or 0730 hours, an armed soldier in camouflage uniform was holding several neighbours at gunpoint in front of her house, while another soldier was coming out of a neighbouring house with another man.⁷⁶³ A third soldier took *Muris Arapović*, a Muslim man who was not a member of either the TO or the ABiH,⁷⁶⁴ out of his house and all the men, namely *Muris Arapović*, the neighbours and the soldiers, left.⁷⁶⁵ According to *Witness DG*, all the men taken away that morning were Muslims,⁷⁶⁶ while the soldiers, in camouflage uniforms and armed with rifles and knives were not from the local HVO.⁷⁶⁷ *Witness DG* also stated that the soldiers stole money, totalling about 5,000 or 6,000 German marks, from the Muslim inhabitants they arrested.⁷⁶⁸

⁷⁵² Salem Ćerenić, T(F), p. 15876.

⁷⁵³ Salem Ćerenić, T(F), pp. 15876 and 15877.

⁷⁵⁴ Salem Ćerenić, T(F), p. 15877.

⁷⁵⁵ Salem Ćerenić, T(F), p. 15878.

⁷⁵⁶ Salem Ćerenić, T(F), pp. 15877 and 15878.

⁷⁵⁷ Witness DF, T(F), p. 15957.

⁷⁵⁸ Witness DF, T(F), p. 15958.

⁷⁵⁹ Witness DF, T(F), p. 15959.

⁷⁶⁰ Witness DF, T(F), pp. 15959 and 15960.

⁷⁶¹ Witness DF, T(F), p. 15959.

⁷⁶² Witness DG, T(F), p. 15975, private session.

⁷⁶³ Witness DG, T(F), p. 15981.

⁷⁶⁴ Witness DG, T(F), p. 15980, private session, and p. 15981.

⁷⁶⁵ Witness DG, T(F), pp. 15981 and 15982.

⁷⁶⁶ Witness DG, T(F), p. 15982.

⁷⁶⁷ Witness DG, T(F), p. 15982.

⁷⁶⁸ Witness DG, T(F), pp. 15984 and 15985.

346. The Chamber also received several pieces of evidence, including ECMM reports, establishing that between the morning of 23 October 1993 and 24 October 1993, the soldiers from the *Maturice* special unit arrested Muslim men living in Vareš, some of whom were members of the ABiH,⁷⁶⁹ and detained them at the Vareš Elementary School and Vareš High School.⁷⁷⁰

347. The Chamber finds that HVO members, some of whom belonged to the *Maturice* special unit, arrested Muslim men of the town of Vareš. The Chamber notes that among the men were both members of the ABiH and men who were not.

348. Moreover, the Chamber notes that Milivoj Petković had been informed by Ivica Rajić of the arrests and that, during the arrests, the HVO soldiers, some of whom belonged to the *Maturice* special unit, insulted, threatened and beat the arrested Muslim men and stole property and money from the Muslim inhabitants of the town of Vareš.

2. Detention of Muslim Men at the Vareš High School, the Vareš Elementary School and Vareš Majdan Prison

349. Paragraph 210 of the Indictment alleges that the Herceg-Bosna/HVO forces detained the arrested Muslim men in the Vareš Elementary School and Vareš High School, where the detention conditions were horrible, with insufficient food and no sanitary facilities. The detainees were forced to stand during the day with their hands behind their backs and looking at the floor. The Prosecution further alleges that HVO soldiers entered the schools, physically abused the detainees and forced them to beat each other as well as other family members. Finally, the Prosecution alleges that some of the detainees were transferred to Vareš Majdan Prison, where HVO soldiers severely beat them.

350. Paragraph 214 of the Indictment also alleges that as information began to reach international organisations in the Vareš area, UNPROFOR representatives attempted to enter the Vareš Elementary School and Vareš High School, but the HVO forces blocked and obstructed these international organisations.

351. The Chamber will first examine the evidence relating to (a) the alleged detention of the Muslim men at the Vareš High School, (b) those at the Vareš Elementary School and (c) those in Vareš Majdan Prison.

⁷⁶⁹ P 10080 under seal, pp. 178-180, 215 and 286; P 10082 under seal, paras 70, 71, 73 and 75; P 06159 under seal, p. 3; P 06169 under seal, p. 2; P 06293 under seal, p. 2; Witness W, P 10015, *Kordić and Čerkez* Case, T(E), p. 10900; P 08086 under seal, p. 16; P 10329 under seal, para. 24; Salem Čerenić, T(F), pp. 15872 and 15873.

⁷⁷⁰ P 10082 under seal, para. 73.

a) Detention of Muslim Men at the Vareš High School

352. After describing (i) the arrival and the number of detainees, and the organisation of the Vareš High School as a detention centre, the Chamber will examine (ii) the conditions under which the Muslim men were detained as well as (iii) the treatment to which they were subjected during their detention and the alleged obstruction of access by UNPROFOR.

i. Arrival, Number of Detainees and Organisation of the Vareš High School as a Detention Centre

353. Most of the men arrested in the town of Vareš on 23 October 1993 were first taken to the Vareš High School by the soldiers who had arrested them.⁷⁷¹ During the day of 23 October 1993, the number of people detained in the sports hall of the Vareš High School increased from 70 to 250.⁷⁷² The majority of the Muslim men, aged between 17 and 70, were ordinary residents of the town of Vareš, but there were also members of the ABiH among them.⁷⁷³ Between 24 and 26 October 1993, Himzo Likić and *Mufid Likić* were moved, along with Ešref Likić, Rešad Likić, Jakub Likić and Ahmed Likić,⁷⁷⁴ from Vareš Majdan Prison, where they had been detained since 23 October 1993,⁷⁷⁵ to the Vareš High School.⁷⁷⁶

354. *Salem Ćerenić* testified that four or five days after his arrival at the sports hall of the Vareš High School, that is, around 27 October 1993, the "HVO soldiers" separated "the men of military age" from the elderly and the sick,⁷⁷⁷ and that same day took "the men of military age", between 160 and 170 of them, including *Salem Ćerenić*, to the Vareš Elementary School. The other prisoners continued to be detained at the Vareš High School.⁷⁷⁸ Therefore, approximately 60 elderly and/or sick people⁷⁷⁹ continued to be detained at the Vareš High School after 27 October 1993.

⁷⁷¹ Salem Ćerenić, T(F), p. 15878; P 08850; P 09281; Witness DG, T(F), pp. 16000 and 16002.

⁷⁷² Salem Ćerenić, T(F), pp. 15876-15878 and 15881; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), pp. 14554 and 14558, closed session. Witness AI is a victim from paragraph 207 of the Indictment mentioned in the Annex to the Indictment; Witness W, P 10015, *Kordić and Čerkez* Case, T(E), pp. 10915 and 10916, closed session; P 08850; P 09281; P 06182, p. 1; P 10238, para. 15.

⁷⁷³ Salem Ćerenić, T(F), p. 15881; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14558, closed session; P 09883, p. 5; Mufid Likić, T(F), pp. 16030, 16034, 16035 and 16061.

⁷⁷⁴ Mufid and Rešad Likić did not belong to the ABiH at that time. See "Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention" in the Chamber's factual findings relating to the Municipality of Vareš.

⁷⁷⁵ See "Arrival, Number of Detainees and Organisation of Vareš Majdan Prison" in the Chamber's factual findings relating to the Municipality of Vareš.

⁷⁷⁶ Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), pp. 14554 and 14558, closed session; P 09883, p. 5; Mufid Likić, T(F), pp. 16034, 16035 and 16061; P 08850.

⁷⁷⁷ Salem Ćerenić, T(F), pp. 15884 and 15885.

⁷⁷⁸ Salem Ćerenić, T(F), pp. 15884 and 15885.

⁷⁷⁹ Salem Ćerenić, T(F), pp. 15884; P 08850; P 09281.

355. Members of the Military Police platoon attached to the *Bobovac* Brigade stood at the entrance to the Vareš High School and were in charge of controlling the entrance and guarding the people detained inside.⁷⁸⁰ In this regard, the Chamber notes an order that Krešimir Božić, Commander of the *Bobovac* Brigade,⁷⁸¹ sent to the commander of the Military Police platoon attached to the *Bobovac* Brigade on 28 October 1993, forbidding the use of repressive measures, especially physical abuse and mistreatment, of detainees in the zone of responsibility of the *Bobovac* Brigade.⁷⁸²

ii. Detention Conditions at the Vareš High School

356. The detention conditions at the Vareš High School were very harsh. The detainees had no water or food and hygiene was very poor. The prisoners were allowed to go to the toilet only for very short periods when the guards were "in a good mood".⁷⁸³ On 26 October 1993, doctor Dražen Grgić, an officer of the *Bobovac* Brigade's medical corps, came to the Vareš High School and began to treat the detainees, but the "HVO soldiers" kicked him out.⁷⁸⁴ According to *Salem Ćerenić*, on 23 and 24 October 1993, people from the municipal Red Cross brought food to the detainees, but for the next three or four days, they received no food.⁷⁸⁵ The Chamber has no additional evidence about the type of food that the detainees received and the detainees' access to drinking water.

357. According to *Salem Ćerenić* and *Witness DF*, the prisoners had no beds and slept on mats or on the bare floor.⁷⁸⁶

358. In view of the evidence, the Chamber finds that Muslim men, most of them ordinary residents of the town of Vareš but also members of the ABiH, were detained at the Vareš High School under the guard of the Military Police platoon attached to the *Bobovac* Brigade, and that the conditions in which the men were detained were very harsh.

iii. Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School

359. On 23 October 1993, during his detention at the Vareš High School, *Salem Ćerenić* was beaten by seven "HVO soldiers", who kicked him and hit him with bats and rifle butts for one

⁷⁸⁰ P 10238, para. 47; Hakan Birger, T(F), pp. 16348, 16360 and 16361; P 06161, p. 3; P 02980, p. 19.

⁷⁸¹ 4D 00847.

⁷⁸² 5D 02017.

⁷⁸³ Salem Ćerenić, T(F), p. 15885.

⁷⁸⁴ Salem Ćerenić, T(F), pp. 15908, 15928 and 15944.

⁷⁸⁵ Salem Ćerenić, T(F), p. 15885.

⁷⁸⁶ Salem Ćerenić, T(F), p. 15885; Witness DF, T(F), pp. 15963 and 15964.

hour.⁷⁸⁷ On that occasion, *Salem Ćerenić* sustained two broken teeth, broken ribs, a fractured skull and an injured spine; he was all black and blue and covered in bruises.⁷⁸⁸ He did not know any of the HVO members who beat him and said only that the soldiers were not from Vareš.⁷⁸⁹ He stated that during the five or six days of his detention at the Vareš High School, he was beaten five or six times a day by the "HVO soldiers"⁷⁹⁰ and that he received no medical assistance.⁷⁹¹ He also stated that on 23 October 1993, other prisoners were also beaten.⁷⁹² During his testimony before the Chamber, *Mufid Likić* stated that Ibrahim Karić, who was detained with him at the Vareš High School, had been forced to beat the other detainees on pain of being beaten himself.⁷⁹³ However, he did not say who had forced Ibrahim Karić to do that.

360. *Salem Ćerenić* also stated that on 23 October 1993, Ibro Likić was beaten by "HVO soldiers" and lay in "a very bad state" on the floor of the sports hall.⁷⁹⁴ He had been hit in the face, he was bleeding and was covered in bruises.⁷⁹⁵ Two "HVO soldiers" also shouted abuse at him.⁷⁹⁶

361. On 24 October 1993, Muris Arapović, who had been detained at the Vareš High School since 23 October 1993,⁷⁹⁷ was taken by "HVO soldiers" to a garage near the house of *Witness DG* in order to start his car because the soldiers could not get it started on their own.⁷⁹⁸ *Witness DG* then saw an HVO soldier extinguish a cigarette in Muris Arapović's hand, holding him at gunpoint; the witness also saw that Muris Arapović's face was covered in blood.⁷⁹⁹ According to the witness, about an hour or an hour and a half later, the soldiers left and returned Muris Arapović to the Vareš High School, where he continued to be detained until 27 October, before being taken, together with other detainees, to the Vareš Elementary School.⁸⁰⁰

⁷⁸⁷ Salem Ćerenić, T(F), pp. 15882 and 15883.

⁷⁸⁸ Salem Ćerenić, T(F), pp. 15883, 15897, 15900 and 15901; P 06042, p. 6.

⁷⁸⁹ Salem Ćerenić, T(F), pp. 15882, 15884. See also Witness W, P 10015, *Kordić and Ćerkez* Case, T(E), pp. 10915 and 10916, closed session; P 10238, para. 37.

⁷⁹⁰ Salem Ćerenić, T(F), p. 15886.

⁷⁹¹ Salem Ćerenić, T(F), pp. 15882-15884.

⁷⁹² Salem Ćerenić, T(F), p. 15884.

⁷⁹³ Mufid Likić, T(F), pp. 16034 and 16035; P 08850, no. 122, p. 4 of the BCS version; P 09281, no. 106, p. 9.

⁷⁹⁴ Salem Ćerenić, T(F), pp. 15878-15880; P 08850, no. 151, p. 4 of the BCS version.

⁷⁹⁵ Salem Ćerenić, T(F), p. 15880.

⁷⁹⁶ Salem Ćerenić, T(F), pp. 15880 and 15881.

⁷⁹⁷ Witness DG, T(E), p. 15988.

⁷⁹⁸ Witness DG, T(F), p. 15987.

⁷⁹⁹ Witness DG, T(E), p. 15986 and pp. 15987-15988, private session.

⁸⁰⁰ Witness DG, T(E), p. 15986 and pp. 15987-15988, private session.

362. On 26 October 1993, three "HVO soldiers" entered the sports hall and forced the detainees to sing two songs, one of which was a "song [...] [of] the Ustasha [...] movement in World War II"; the detainees were made to sing the songs "repeatedly" until 27 October 1993.⁸⁰¹

363. On 24 October 1993, *Hakan Birger*, Commander of the 8th Mechanised Company of Norbat,⁸⁰² went to the Military Police station in Vareš and had the chance to take a quick look at a list containing the names of the 233 people detained at the Vareš High School.⁸⁰³ He asked the military policemen who were there to allow him to enter the high school, but they told him that that was not possible.⁸⁰⁴

364. Moreover, in the early evening of 25 October 1993, *Daniel Ekberg*, an UNPROFOR officer, attended a meeting with Krešimir Božić, Commander of the *Bobovac* Brigade, at the *Bobovac* Brigade headquarters, together with Colonel Ulf Henricsson, a Norbat colonel,⁸⁰⁵ commander Hakan Birger and an interpreter.⁸⁰⁶ During the meeting, they asked to visit one of the schools in Vareš.⁸⁰⁷ According to *Daniel Ekberg*, Krešimir Božić refused to authorise such a visit, giving no explanation.⁸⁰⁸ The Chamber could not determine whether it was the Vareš High School or the Vareš Elementary School.

365. Also on 25 October 1993, carrying out an order dated 23 October 1993 sent by Slobodan Praljak to various HVO officers in Kiseljak and Vitez, Ivica Rajić ordered the *Bobovac* Brigade to control the points of entry and exit in Vareš situated in its zone of responsibility.⁸⁰⁹

366. Finally, on 26 October 1993, *Daniel Ekberg* was allowed to visit the Vareš High School, where he saw nearly 66 men over 60 years of age wearing "civilian clothes" who were detained in the sports hall.⁸¹⁰ According to the report drafted after the UNPROFOR representatives' visit, the prisoners appeared frightened and refused to answer several questions about their injuries, which were visible, and the treatment to which other prisoners had been subjected.⁸¹¹ The UNPROFOR members were allowed, among other things, to speak with Mustafa Operta, aged 63, who had a

⁸⁰¹ Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14556, closed session.

⁸⁰² P 10238, para. 6.

⁸⁰³ Hakan Birger, T(F), pp. 16336 and 16338; P 02980, p. 15; P 10238, para. 15.

⁸⁰⁴ Hakan Birger, T(F) p. 16338.

⁸⁰⁵ P 10238, para. 1.

⁸⁰⁶ P 10238, para. 2.

⁸⁰⁷ P 10238, paras 22 and 23.

⁸⁰⁸ P 10238, para. 23.

⁸⁰⁹ Witness EA, T(F), pp. 24577, 24578, 24608-24610, and T(E), p. 24884, closed session; P 06114 under seal; P 06028.

⁸¹⁰ P 10238, paras 37 and 38.

⁸¹¹ P 06161, p. 3; P 02980, pp. 18 and 19.

bruised left eye and pains in the stomach, and Aslan Kurtišaj, who had blood on his collar and who was shaking and appeared frightened.⁸¹²

367. *Daniel Ekberg* also stated that during the visit to the Vareš High School on 26 October 1993, he saw bullet holes on the walls and blood on the floor.⁸¹³ According to him, all the detainees appeared to have been beaten and had bruises on their faces.⁸¹⁴ The detainees were sitting along the wall, with their heads between their legs; they looked dirty and tired.⁸¹⁵ He also stated that the "guards" had told him that the prisoners remained seated all day.⁸¹⁶

368. The Chamber finds that, during their detention, the Muslim men detained at the Vareš High School suffered beatings that resulted in severe injuries as well as burns and insults by HVO members. The Chamber also notes that HVO forces prevented UNPROFOR members from going to the Vareš High School before 26 October 1993.

b) Detention of Muslim Men at the Vareš Elementary School

369. After describing (i) the arrival, the number of detainees and the organisation of the Vareš Elementary School as a detention centre, the Chamber will examine (ii) the conditions under which the Muslim men were detained and (iii) the treatment to which they were subjected during their detention and the alleged obstruction of access by UNPROFOR.

i. Arrival, Number of Detainees, and Organisation of the Vareš Elementary School as a Detention Centre

370. The Chamber has already noted that most of the Muslim men arrested on 23 October 1993 in Vareš were first detained at the Vareš High School and then moved to the Vareš Elementary School.⁸¹⁷ The Chamber also has evidence confirming that Muslim men from the town of Vareš were detained at the Vareš Elementary School from 23 October 1993 to 3 November 1993.⁸¹⁸ Among them was at least one member of the ABiH, Salem Ćerenić.

⁸¹² P 06161, p. 3; P 02980, pp. 18 and 19. See also P 08850, p. 4, no. 131 (BCS version); P 09281, p. 9, no. 113, and p. 12, no. 155.

⁸¹³ P 10238, para. 37.

⁸¹⁴ P 10238, para. 37.

⁸¹⁵ P 10238, para. 37.

⁸¹⁶ P 10238, para. 38.

⁸¹⁷ See "Arrival, Number of Detainees and Organisation of the Vareš High School as a Detention Centre" in the Chamber's factual findings relating to the Municipality of Vareš.

⁸¹⁸ P 06092; P 02980, p. 15; Salem Ćerenić, T(F), pp. 15884 and 15885; P 09281; P 08850.

371. The Chamber also notes that some of the people detained at the Vareš Elementary School were released between 26 October and 4 November 1993,⁸¹⁹ whereas others were moved, on a date the Chamber does not know either to Vareš Majdan Prison or a prison near Dvica or to the Military Police prison in Vareš, where they remained in detention until 3 November 1993.⁸²⁰

372. Members of the Military Police platoon attached to the *Bobovac* Brigade stood at the entrance to the building and were in charge of controlling the entrance and guarding the people detained inside.⁸²¹ They were replaced by soldiers from the *Bobovac* Brigade, but the Chamber does not have evidence to determine the date when the guards were changed.⁸²²

373. The Chamber has no additional evidence about the organisation of the Elementary School as a detention centre.

ii. Detention Conditions at the Vareš Elementary School

374. The detainees received no food, they were not allowed to go to the toilet⁸²³ and had no bedding.⁸²⁴ The Chamber has no evidence on the detainees' access to water.

375. Furthermore, *Witness DG* said that she had learned from Muris Arapović, who was detained at the Vareš Elementary School from 27 October 1993 to 2 November 1993,⁸²⁵ that after the members of the Military Police platoon attached to the *Bobovac* Brigade were replaced by soldiers from the *Bobovac* Brigade, the prisoners had access to a doctor and were treated better; they were allowed to go to the toilet and were given cigarettes.⁸²⁶

376. The Chamber finds that Muslim men, at least one of whom was a member of the ABiH, were detained at the Vareš Elementary School under the guard of members of the Military Police platoon attached to the *Bobovac* Brigade and then members of the *Bobovac* Brigade, and that the conditions in which the men were detained were very harsh.

⁸¹⁹ Witness DG, T(F), p. 15997; Salem Ćerenić, T(F), pp. 15884 and 15885; P 09281; P 08850.

⁸²⁰ Salem Ćerenić, T(F), pp. 15884 and 15885; P 09281; P 08850.

⁸²¹ P 10238, para. 47; Hakan Birger, T(F), pp. 16348, 16360 and 16361; P 06161, p. 3; P 02980, p. 19.

⁸²² Witness DG, T(F), p. 15996.

⁸²³ Salem Ćerenić, T(F), pp. 15887 and 15888; Witness DG, T(F), p. 15996.

⁸²⁴ Salem Ćerenić, T(F), pp. 15887 and 15888.

⁸²⁵ Witness DG, T(F), p. 15997.

⁸²⁶ Witness DG, T(F), p. 15996.

iii. Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School

377. According to an ECMM report dated 25 October 1993, based on information provided by the Vareš Red Cross representative, the Muslims from Vareš detained at the Vareš Elementary School were beaten when they arrived at the school.⁸²⁷

378. The Chamber furthermore notes that between 27 October 1993 and 1 November 1993, a group of between 25 and 27 prisoners were severely beaten, but it cannot determine who beat them, whether it was the guards or members of the HVO coming from elsewhere.⁸²⁸

379. *Salem Ćerenić* was detained at the Vareš Elementary School for about five days⁸²⁹ where he was beaten once or twice a day by "HVO soldiers".⁸³⁰ According to him, all the detainees were "military-aged men" who were suffering from visible injuries.⁸³¹ With the exception of *Salem Ćerenić*, the Chamber does not have evidence to determine which of the detained men of military age were members of the ABiH.

380. On 27 October 1993, Muris Arapović was taken from the Vareš High School to the Vareš Elementary School, where he stayed until 2 November 1993, when he escaped.⁸³² *Witness DG* said that Muris Arapović told her that he and the other detainees had been beaten, without saying by whom, and had had to remain crouched down with their hands behind their backs and their heads down.⁸³³

381. Regarding the alleged obstruction of access to the Vareš Elementary School by UNPROFOR, the Chamber notes that, according to the testimony of *Salem Ćerenić*, "HVO soldiers" told him that UNPROFOR representatives sometimes came to the Elementary School to see the detainees.⁸³⁴ The Chamber, however, notes that *Salem Ćerenić* provides no further details or the dates of visits.

382. Nevertheless, the Chamber recalls its previous considerations relative to access to the Vareš High School by UNPROFOR representatives, in which it observed, particularly in view of the

⁸²⁷ P 06092, p. 1.

⁸²⁸ *Salem Ćerenić*, T(F), p. 15886.

⁸²⁹ *Salem Ćerenić*, T(F), pp. 15888 and 15927.

⁸³⁰ *Salem Ćerenić*, T(F), pp. 15881 and 15886.

⁸³¹ *Salem Ćerenić*, T(F), pp. 15886 and 15887.

⁸³² *Witness DG*, T(F), p. 15997.

⁸³³ *Witness DG*, T(F), p. 15996.

⁸³⁴ *Salem Ćerenić*, T(F), p. 15886.

testimony of *Daniel Ekberg*, that Krešimir Božić had refused to allow Norbat to visit the Vareš Elementary School and Vareš High School until 26 October 1993.⁸³⁵

383. The Chamber finds that between 23 October 1993 and 4 November 1993, during their detention at the Vareš Elementary School, the Muslim men detained at the Vareš Elementary School suffered repeated severe beatings, resulting in visible injuries, by HVO members and that HVO members forced them to remain in painful and humiliating positions during the days they spent at the Vareš Elementary School. The Chamber also finds that the HVO forces prevented the UNPROFOR members from going to the Vareš Elementary School until at least 26 October 1993.

c) Detention of Muslim Men at Vareš Majdan Prison

384. After describing (i) the arrival, number of detainees, and organisation of Vareš Majdan Prison, the Chamber will examine (ii) the conditions under which the Muslim men were detained and (iii) the treatment to which they were subjected during their detention.

i. Arrival, Number of Detainees, and Organisation of Vareš Majdan Prison

385. Vareš Majdan Prison is situated three kilometres to the south of the town of Vareš.⁸³⁶

386. On 23 October 1993 and then from 25 to 27 October 1993, Ahmed Likić, Ešref Likić, Himzo Likić, Jakub Likić, members of the ABiH,⁸³⁷ as well as Rešad Likić and *Mufid Likić*⁸³⁸ were taken by "members of the Military Police" to Vareš Majdan Prison.⁸³⁹ During their second stay at Vareš Majdan Prison from 25 to 27 October 1993, *Mufid Likić*, Ešref Likić, Himzo Likić, Jakub Likić and Ahmed Likić were detained in a room with about ten other people, including Nedžad Čazimović, Farhrija Balta, Šemsudin Ibrišimović and Besim Paralangaj.⁸⁴⁰ Nedžad Čazimović was a member of the ABiH, while Farhrija Balta, Šemsudin Ibrišimović and Besim Paralangaj were, according to *Mufid Likić*, "civilians".⁸⁴¹

387. Around 31 October 1993, *Salem Čerenić* was taken by "HVO soldiers", in a group of between 25 and 27 detainees, from the Vareš Elementary School to Vareš Majdan Prison, where he

⁸³⁵ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings relating to the Municipality of Vareš.

⁸³⁶ Salem Čerenić, T(F), p. 15890; P 09276, p. 23.

⁸³⁷ P 09883, p. 3; Ferida Likić, T(F), p. 16202; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), p. 14547; T(F), pp. 14572 and 14573, closed session; P 09913 under seal, p. 3; P 05980 under seal, p. 3; P 06053, p. 2; Kemal Likić, T(E), pp. 26375 and 26440.

⁸³⁸ Rešad Likić remained at the Vareš High School during their second transfer, that is, on 25 October 1993.

⁸³⁹ P 09883, pp. 5 and 6; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14550, closed session.

⁸⁴⁰ P 09883, pp. 5 and 6; P 08850, nos 24, 40, 90 and 192; P 09281, nos 23, 35, 81, 156.

⁸⁴¹ P 09883, p. 6.

remained for three or four days, that is, until 3 or 5 November 1993.⁸⁴² According to *Salem Ćerenić*, there were no detainees at Vareš Majdan Prison when he arrived there.⁸⁴³

388. According to *Salem Ćerenić*, Vareš Majdan Prison was a former industrial school whose ground floor had been converted into a prison.⁸⁴⁴

389. The guards in charge of guarding the detainees and taking their personal details were members of the Vareš MUP.⁸⁴⁵ Members of the Military Police platoon attached to the *Bobovac* Brigade were also there and also guarded the detainees.⁸⁴⁶

ii. Detention Conditions at Vareš Majdan Prison

390. Concerning the detention conditions, the Chamber has only the statement of *Witness AI*, received pursuant to Rule 92 *bis* of the Rules, who stated that around 2 or 3 November 1993, the detainees were given "normal" food and were allowed to go to the toilet.⁸⁴⁷

391. Absent other evidence describing the detention conditions, the Chamber cannot determine that there was insufficient food and that there were no sanitary facilities at Vareš Majdan Prison.

iii. Treatment of Detainees at Vareš Majdan Prison

392. The evidence shows that the detainees were not mistreated by members of the Military Police platoon attached to the *Bobovac* Brigade who guarded them.⁸⁴⁸ However, between 25 and 27 October 1993, three drunken "HVO soldiers" in camouflage uniforms entered the room in which *Mufid Likić*, *Ešref Likić*, *Rešad Likić*, *Himzo Likić*, *Jakub Likić* and *Ahmed Likić* were being detained, asked them if they were from Stupni Do and told them that they had killed *Ramiz Likić* in Stupni Do.⁸⁴⁹ The soldiers then fired shots over the detainees' heads, stabbed *Ahmed Likić* in the leg with a knife and, after cutting off *Nedžad Ćazimović's* beard, forced him to eat it.⁸⁵⁰ The soldiers then left, promising they would return the following day to kill them. However, they never came back.⁸⁵¹

⁸⁴² *Salem Ćerenić*, T(F), p. 15890. See also P 09281; P 08850.

⁸⁴³ *Salem Ćerenić*, T(F), p. 15890.

⁸⁴⁴ *Salem Ćerenić*, T(F), p. 15890.

⁸⁴⁵ P 09883, p. 5; *Witness AI*, P 10014, *Kordić and Ćerkez* Case, T(F), p. 14550, closed session.

⁸⁴⁶ *Salem Ćerenić*, T(F), p. 15891.

⁸⁴⁷ *Witness AI*, P 10014, *Kordić and Ćerkez* Case, T(F), p. 14560, closed session.

⁸⁴⁸ *Salem Ćerenić*, T(F), pp. 15891 and 15944; P 09883, p. 5; *Witness AI*, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14552 and 14554, closed session.

⁸⁴⁹ P 09883, p. 6; *Witness AI*, P 10014, *Kordić and Ćerkez* Case, T(F), pp. 14559-14560, closed session.

⁸⁵⁰ P 09883, p. 6; *Witness AI*, P 10014, *Kordić and Ćerkez* Case, T(F), p. 14560, closed session.

⁸⁵¹ P 09883, p. 6.

393. According to *Mufid Likić*, other prisoners later told him that the soldiers were members of the *Maturice* special unit.⁸⁵²

394. On 27 October 1993, because of the condition of their health after the mistreatment they suffered during their detention, *Mufid Likić* et *Himzo Likić* were transported by two members of the Vareš MUP to the hospital in Vareš Majdan.⁸⁵³

395. The Chamber finds that between 23 October 1993 and 4 November 1993, Muslim men were detained at Vareš Majdan Prison and were guarded by members of the Vareš MUP as well as by members of the Military Police platoon attached to the *Bobovac* Brigade. The Chamber also notes that the detained Muslims were subjected to acts of violence by HVO members which, in the case of at least two detainees, led to hospitalisation. However, solely on the basis of the testimony of *Mufid Likić*, who spoke about information he had got from a third party, the Chamber cannot determine to which units the soldiers belonged.

3. Release of Detainees

396. Paragraph 213 of the Indictment alleges that on about 3 November 1993, the Herceg-Bosna/HVO forces guarding the Vareš Elementary School and Vareš High School left the area and, consequently, the Muslim detainees were free to leave.

397. The Chamber notes that around 3 November 1993, all the HVO troops did in fact withdraw from the town of Vareš in the direction of Kiseljak,⁸⁵⁴ thus leaving, *inter alia*, the Vareš High School and Vareš Elementary School as well as Vareš Majdan Prison.⁸⁵⁵ On 5 November 1993, the town of Vareš fell into the hands of the ABiH.⁸⁵⁶

398. The Chamber notes that on 3 November 1993, Norbat forced open the doors of the Vareš Elementary School and freed about 160 Muslim prisoners detained there.⁸⁵⁷ On 2 or 3 November 1993, the HVO left Vareš Majdan Prison⁸⁵⁸ and the detainees got out on their own, identified themselves to UNPROFOR officers who were in the area⁸⁵⁹ and were then taken by UNPROFOR either to the town of Vareš⁸⁶⁰ or to the hospital in Vareš Majdan to be treated for the injuries

⁸⁵² P 09883, p. 6.

⁸⁵³ P 09883, pp. 6-7.

⁸⁵⁴ Witness DG, T(F), p. 16005; P 10080 under seal, pp. 239, 240, 245 and 246.

⁸⁵⁵ Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14560, closed session.

⁸⁵⁶ Witness DG, T(F), pp. 16005 and 16006; Witness EA, T(F), pp. 24633 and 24634, closed session; IC 00721.

⁸⁵⁷ P 02980, p. 24; Hakan Birger, T(F), pp. 16350, 16351 and 16362; P 10080 under seal, pp. 239 and 240.

⁸⁵⁸ Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14560, closed session.

⁸⁵⁹ Salem Čerenić, T(F), pp. 15892, 15893, 15937 and 15938.

⁸⁶⁰ Salem Čerenić, T(F), pp. 15892, 15893, 15937 and 15938; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14562, closed session.

sustained during their detention.⁸⁶¹ *Salem Ćerenić* had to undergo several months of treatment and he is still suffering from after-effects.⁸⁶²

399. The people who remained at the Vareš High School after 27 October 1993 left it between 29 October and 4 November 1993; they were moved by the HVO either to the Vareš Elementary School or to Vareš Majdan Prison, or were released on 3 or 4 November, once the HVO had left the town of Vareš.⁸⁶³

F. Thefts and Sexual Abuse of the Muslim Population of Vareš

400. Paragraph 213 of the Indictment alleges that from 23 October 1993 to 3 November 1993, before leaving Vareš town, Herceg-Bosna/HVO forces appropriated and looted Muslim and other property, and sexually assaulted Muslim women.

401. *Witness DF* stated that on 23 October 1993, three "soldiers", one of whom had a cap with the letter U, entered her house.⁸⁶⁴ One of them took her to a room in the house and forced her to have sexual intercourse "from the back" before ejaculating into her mouth. All this occurred in front of the other two soldiers.⁸⁶⁵ He then told her: "I've hurt you. I've humiliated you."⁸⁶⁶ The soldiers also took jewellery and money from *Witness DF*.⁸⁶⁷

402. *Witness DG* stated that on the morning of 24 October 1993, several "HVO soldiers" who had been arresting Muslim men the day before came to her neighbour's house - where she was at the time - and stayed there all day drinking alcohol.⁸⁶⁸ *Witness DG* stated that during the night of 24-25 October 1993, three of the soldiers, two of whom reeked of alcohol, took her to her house and forced her to have sexual intercourse - she was a virgin and was bleeding during the intercourse - in a particularly brutal manner.⁸⁶⁹ *Witness DG* also stated that the following day she learned - she did not say from whom she obtained this information - that the soldiers belonged to the *Maturice* special unit.⁸⁷⁰

⁸⁶¹ P 09883, p. 6.

⁸⁶² Salem Ćerenić, T(F), pp. 15883 and 15893.

⁸⁶³ P 08850; P 09281.

⁸⁶⁴ Witness DF, T(F), pp. 15960 and 15961, private session.

⁸⁶⁵ Witness DF, T(F), pp. 15960 and 15961, private session.

⁸⁶⁶ Witness DF, T(F), pp. 15960 and 15961, private session.

⁸⁶⁷ Witness DF, T(F), p. 15960, private session.

⁸⁶⁸ Witness DG, T(F), p. 15986, private session.

⁸⁶⁹ Witness DG, T(F), pp. 15989-15991, private session, 15994.

⁸⁷⁰ Witness DG, T(F), pp. 15995, 16018.

403. The Chamber notes that, before 1 November 1993, HVO soldiers plundered Muslim apartments and shops, but the Chamber has no further details as to which unit the soldiers belonged.⁸⁷¹

404. In view of the evidence, the Chamber notes that HVO members, some of whom belonged to the *Maturice* special unit,⁸⁷² forced two Muslim women from Vareš to have sexual intercourse with them. The Chamber also finds that HVO soldiers stole things from Muslim houses and shops.

G. Village of Stupni Do

405. In this part, the Chamber will address (1) the ultimatum that the HVO issued to the inhabitants of the village of Stupni Do around June 1993; it will then address (2) the HVO attack on the village of Stupni Do on 23 October 1993 and the crimes allegedly committed against the Muslim population of the village, before examining (3) the evidence relating to the allegations that the HVO prevented UNPROFOR from entering the village of Stupni Do.

1. HVO Ultimatum Around June 1993

406. Paragraph 206 of the Indictment states that around June 1993, the Vareš HVO government issued an ultimatum to the Muslims in the village of Stupni Do to surrender their weapons or they would be attacked. The villagers in Stupni Do refused to give up their weapons and, on the expiration of the ultimatum and fearing an attack, fled to neighbouring villages. After several days when the HVO did not attack Stupni Do, the villagers returned home.

407. The Chamber observes that in June 1993,⁸⁷³ Emil Harah, Commander of the *Bobovac* Brigade, issued an ultimatum to the inhabitants of Stupni Do and Daštansko to surrender their weapons before a date unspecified in the evidence presented to the Chamber.⁸⁷⁴

408. The inhabitants of Stupni Do refused to surrender their weapons.⁸⁷⁵ At the same time, 80 % of the population of Stupni Do – namely, elderly people, children and the majority of the women, with the exception of the men and five women – left the village through the woods.⁸⁷⁶ After a meeting between Emil Harah, Husnija Mahmutović, president of the local commune of Stupni Do,

⁸⁷¹ Witness DF, T(F), p. 15964; P 02980, p. 23; P 10090, para. 40.

⁸⁷² See "Arrests of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings relating to the Municipality of Vareš.

⁸⁷³ P 02875, p. 6; Ferida Likić, T(F), p. 16195.

⁸⁷⁴ Ferida Likić, T(F), p. 16195; P 02875, p. 6; P 10080 under seal, p. 127; P 10082 under seal, para. 55; P 10072 under seal, para. 5; Kemal Likić, T(F), p. 26394.

⁸⁷⁵ Ferida Likić, T(F), pp. 16197 and 16199; P 10082 under seal, paras 56 and 57; P 10080 under seal, p. 128; P 10072 under seal, para. 5.

⁸⁷⁶ Ferida Likić, T(F), pp. 16196 and 16197.

and Himzo Likić, member of the ABiH - during which Emil Harah had the opportunity to inspect the weapons held by the villagers - Emil Harah allowed the villagers to keep their weapons, whose fire power, in the view of the HVO, did not pose a major risk.⁸⁷⁷ About 15 days after this decision was announced, the population of Stupni Do returned to the village.⁸⁷⁸

2. Attack on Stupni Do and Crimes Alleged

409. Paragraph 211 of the Indictment alleges that on the morning of 23 October 1993, Herceg-Bosna/HVO forces attacked the village of Stupni Do; that after gaining control of various parts of the village, HVO soldiers forced the civilians out of their homes and hiding places, robbed them of their valuables, sexually assaulted Muslim women and killed at least 31 Muslim men, women and children; that during and following the attack, Herceg-Bosna/HVO forces wantonly destroyed almost the entire village; that, all together, the HVO attack on the village of Stupni Do resulted in the deaths of at least 37 Muslim men, women and children.

410. After noting that (a) the attack on the village of Stupni Do began on the morning of 23 October 1993, the Chamber will determine (b) who carried out the attack before analysing the allegations relating to (c) the sexual abuse of the Muslim population of Stupni Do and to (d) the death of villagers. Finally, the Chamber will examine the evidence admitted into the record relating to (e) thefts and the destruction of property.

a) Attack on the Village of Stupni Do

411. During the month of October 1993, the ABiH fortified its positions on Bogoš, a hill overlooking the entire area, and more specifically, the villages of Stupni Do, Mir and Vareš Majdan.⁸⁷⁹ On 21 or 22 October 1993, Ivica Rajić, Commander of the 2nd Operations Group,⁸⁸⁰ Krešimir Božić, Chief of Operations of the *Bobovac* Brigade at the time, and senior officers of the *Bobovac* Brigade⁸⁸¹ held a meeting to discuss what operations should be carried out to stabilise the front lines. Ivica Rajić and Krešimir Božić spoke of a military operation towards the villages of Zdravko, Dragovići, Mijakovići and Stupni Do.⁸⁸² After the meeting, Emil Harah, Commander of

⁸⁷⁷ Ferida Likić, T(F), pp. 16197 and 16199; P 10082 under seal, para. 57; P 10072 under seal, para. 5.

⁸⁷⁸ Ferida Likić, T(F), pp. 16199 and 16200. See also P 10072 under seal, para. 5.

⁸⁷⁹ P 10080 under seal, p. 187.

⁸⁸⁰ P 10080 under seal, pp. 133 and 134.

⁸⁸¹ P 10080 under seal, pp. 161 and 162.

⁸⁸² P 10080 under seal, pp. 161-165 and 206-207.

the *Bobovac* Brigade, ordered the 1st Battalion of the *Bobovac* Brigade, commanded by Marcel Dusper, to increase "the combat readiness towards the area of Stupni Do".⁸⁸³

412. The Petković Defence contends that Milivoj Petković was not informed of the decision to attack Stupni Do and that the decision was taken by Ivica Rajić in consultation with, among others, Marcel Dusper.⁸⁸⁴ In this regard, the Chamber recalls that on 23 October 1993, Ivica Rajić sent a report to Milivoj Petković, informing him that he, Ivica Rajić, had taken the decision to attack Stupni Do on his own. The Chamber thus finds that Milivoj Petković did not participate in taking that decision.⁸⁸⁵

413. According to *Witness EA*, on 23 October 1993, in the first stage of the operation, the *Maturice* and *Apostoli* special units, commanded by Marinko Ljoljo, had the task of taking control of Bogoš Hill in order to establish a defence line and prevent the ABiH from taking Vareš.⁸⁸⁶ In the second stage of the operation, the village of Stupni Do was to be taken and placed under surveillance.⁸⁸⁷

414. The Chamber further notes that on 22 October 1993, the only Croat inhabitant of Stupni Do left the village of Stupni Do at the recommendation of her brother, who suspected that an attack on the village was imminent.⁸⁸⁸

415. The village of Stupni Do had 70 houses, and between 220 and 250 inhabitants.⁸⁸⁹ In October 1993, the village of Stupni Do was protected by a "village guard". It consisted of about 43 guards, aged between 18 and 60, some of whom were not wearing a uniform.⁸⁹⁰ They had not received any training, except for those who had served in the former JNA.⁸⁹¹ They were under the authority of the ABiH, probably of the 322nd *Dabrovine* Brigade, according to witness *Kemal Likić*.⁸⁹² On

⁸⁸³ P 10080 under seal, pp. 165-166 and 173.

⁸⁸⁴ Petković Defence Final Trial Brief, para. 417 *et seq.*

⁸⁸⁵ Witness DE, T(F), pp. 15535-15537, closed session; P 06454, pp. 7, 58 and 59; P 10080 under seal, p. 222; P 06026, p. 2.

⁸⁸⁶ Witness EA, T(F), pp. 24450, 24455, 24490, 24707, closed session; P 06291 under seal, p. 1.

⁸⁸⁷ Witness EA, T(F), pp. 24387, 24450, 24455, closed session; P 06291, p. 1.

⁸⁸⁸ Ferida Likić, T(F), pp. 16194, 16206 and 16207; P 07838/P 07840 (identical documents), para. 5.

⁸⁸⁹ P 10072 under seal, para. 3; P 07838/P 07840 (identical documents), para. 2. *See also* P 10080 under seal, p. 288; P 08461, p. 2.

⁸⁹⁰ Kemal Likić, T(F), p. 26374; P 10102, para. 7.

⁸⁹¹ Kemal Likić, T(F), p. 26374.

⁸⁹² Kemal Likić, T(F), pp. 26375 and 26439.

18 October 1993, Himzo Likić, commander of the Stupni Do village guard,⁸⁹³ was arrested by the HVO⁸⁹⁴ and replaced by Suvaid Likić.⁸⁹⁵

416. On 22 October 1993, the members of the Stupni Do village guard were armed with hunting rifles, some automatic weapons, a rocket launcher, a limited quantity of ammunition and hand-grenades.⁸⁹⁶ They also had a mortar.⁸⁹⁷ The village of Stupni Do had some fortified positions, such as trenches and cellars converted into fortified positions.⁸⁹⁸ On the morning of the attack on Stupni Do, the capability of the villagers to put up armed resistance was weak.⁸⁹⁹ According to *Kemal Likić*, an inhabitant and member of the village guard in Stupni Do,⁹⁰⁰ the HVO armed forces had at least twice as many men as the village guard and were much better equipped.⁹⁰¹ A UN report also draws attention to the small number of men responsible for defending the village of Stupni Do.⁹⁰²

417. The HVO offensive on Stupni Do began at around 0800 hours on 23 October 1993.⁹⁰³ The inhabitants of the village heard as witnesses stated that the first shell fell on the village at 0800 hours and was followed by small-arms fire.⁹⁰⁴ A report by the UN Secretary-General also mentions shells landing in the village between 0800 hours and 1000 hours, which set houses on fire.⁹⁰⁵

418. According to *Kemal Likić*, the HVO forces attacked Stupni Do from Bijelo Borje and Vareš Majdan, because that front line, unlike the area between the villages of Budoželje and Striježevo, was not protected by the ABiH.⁹⁰⁶

419. The testimony heard by the Chamber shows that at the beginning of the attack, some members of the village guard went to the woods to fight the HVO, while others took cover in and around the village.⁹⁰⁷

⁸⁹³ Kemal Likić, T(F), p. 26440.

⁸⁹⁴ Kemal Likić, T(F), pp. 26375 and 26440. *See also* "Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention" in the Chamber's factual findings relating to the Municipality of Vareš.

⁸⁹⁵ Kemal Likić, T(F), p. 26440.

⁸⁹⁶ Witness EA, T(E), pp. 24502 and 24959, closed session; P 10330 under seal, para. 20; Nelson Draper, T(F), pp. 16471, 16472, 16479 and 16532, private session; P 06978 under seal, pp. 12 and 13; P 10080 under seal, pp. 288-289; P 07838/P 07840 (identical documents), para. 5; P 10090, para. 8.

⁸⁹⁷ Kemal Likić, T(F), p. 26376; Nelson Draper, T(F), pp. 16611 and 16612; Witness EA, T(E), pp. 24502 and 24503, closed session; P 10330 under seal, para. 20.

⁸⁹⁸ Witness EA, T(F), pp. 24614 and 24960, closed session.

⁸⁹⁹ Kemal Likić, T(F), p. 26375; P 06053, p. 2; P 06140, p. 5; P 07838/P 07840 (identical documents), para. 5.

⁹⁰⁰ P 10102, paras 2 and 8.

⁹⁰¹ Kemal Likić, T(F), p. 26393.

⁹⁰² P 07838/P 07840 (identical documents), para. 5.

⁹⁰³ P 09913 under seal, p. 2; P 10072 under seal, para. 6; Ferida Likić, T(F), pp. 16207 and 16208; Nelson Draper, T(F), pp. 16469, 16501 and 16502; P 07838/P 07840 (identical documents), para. 6; Kemal Likić, T(F), pp. 26376 and 26418; P 10102, para. 9; P 09883, p. 5; P 07917, p. 6; P 06182; P 06131; P 06575, p. 9; 4D 00519, pp. 1 and 5.

⁹⁰⁴ Ferida Likić, T(F), pp. 16207 and 16208; Kemal Likić, T(F), p. 26376; P 09913 under seal, p. 2; P 10072 under seal, para. 6; P 06978 under seal, p. 13; P 07838/P 07840 (identical documents), para. 6.

⁹⁰⁵ P 07838/P 07840 (identical documents), para. 6.

⁹⁰⁶ P 10074, para. 8; P 09913 under seal, p. 2.

420. The Chamber notes that around 200 villagers, most of whom had found refuge in several houses in the village,⁹⁰⁸ managed to escape to the woods at the beginning of the attack and stayed there throughout the attack.⁹⁰⁹ In this regard, the Petković Defence submits that the village of Stupni Do was not completely surrounded by HVO forces, that there was a free area on one side of the village and that civilians who wanted to leave were able to do so.⁹¹⁰

421. The HVO soldiers entered the village a little later in the morning,⁹¹¹ after 1000 hours.⁹¹²

422. At 1630 hours, the shooting diminished and the HVO forces withdrew, which allowed the inhabitants of Stupni Do to return to the village and look for survivors.⁹¹³

b) Perpetrators of the Attack on Stupni Do

423. The witnesses heard by the Chamber identified members of the *Maturice* and *Apostoli* special units, more specifically, the commander of the *Maturice* special unit, Dominik Ilijašević *alias* "Como",⁹¹⁴ and Marinko Jurišić, *alias* "Spiro", the commander of the *Apostoli* special unit.⁹¹⁵ The HVO commander in charge of the Stupni Do operation on the ground was Marinko Ljoljo, the commander of the *Maturice* and *Apostoli* special units.⁹¹⁶ There were also the soldiers Miroslav Anić, *alias* "Firga"⁹¹⁷ and Erhin Curtić, as well as soldiers by the name or nickname of "Dragan ",

⁹⁰⁷ Nelson Draper, T(F), pp. 16553 and 16554; Kemal Likić, T(F), pp. 26376, 26377, 26391 and 26418; P 10102, paras 10, 11, 12 and 15; IC 00777.

⁹⁰⁸ Ferida Likić, T(F), pp. 16209 and 16211; IC 00507; Kemal Likić, T(F), pp. 26445 and 26446; IC 00784; Witness DH, T(F), pp. 16111 and 16112, private session; P 09913 under seal, p. 3; P 10072 under seal, para. 6; Nelson Draper, T(F), pp. 16471 and 16472, private session; P 06978 under seal, pp. 7, 8, 12 and 13; P 07838/P 07840 (identical documents), para. 6; P 09884, pp. 3-5; P 09885, p. 2; P 10074, para. 8.

⁹⁰⁹ Witness EA, T(F), p. 24575, closed session; Ferida Likić, T(F), p. 16238; P 10072 under seal, para. 18; Witness DH, T(F), pp. 16113 and 16115, private session; P 09913 under seal, pp. 7 and 8; P 09884, p. 7; P 09885, pp. 2 and 3; Nelson Draper, T(F), pp. 16477, 16478 and 16544. The Chamber observes that around 25 October 1993, UNPROFOR took charge of the villagers who had fled through the woods and took them to Breza and Dabrovine. In this regard, see Ferida Likić, T(F), p. 16248; P 09884, p. 10.

⁹¹⁰ Petković Defence Final Trial Brief, para. 455.

⁹¹¹ Witness EA, T(F), pp. 24453, 24615 and 24616, closed session; P 09913 under seal, pp. 2 and 3.

⁹¹² Witness EA, T(F), pp. 24453, 24615 and 24616, closed session.

⁹¹³ P 07838/P 07840 (identical documents), para. 6.

⁹¹⁴ Witness EA, T(F), pp. 24407-24409, 24769 and 24770, closed session; P 10330 under seal, para. 15; P 06964, P 06291; Ferida Likić, T(F), p. 16254, private session; Nelson Draper, T(F), pp. 16504, 16506, 16597 and 16598, private session, pp. 16473, 16474, 16535 and 16595; P 07838/P 07840 (identical documents), para. 12; 4D 00534 under seal, p. 2; Witness L, T(F), p. 15760, closed session; P 09882 under seal, p. 12, para. 63, and p. 13, para. 71; P 10080 under seal, V000-4939-1-A, pp. 16 and 17, V000-4940-1-A, pp. 21 and 22, and V000-4940-1-A, pp. 22 and 23; P 06215, p. 4; P 06575, p. 12.

⁹¹⁵ Witness EA, T(F), pp. 24397 and 24398, closed session; P 06291, p. 1.

⁹¹⁶ Witness EA, T(F), pp. 24450, 24455, 24490, 24707, 24769, 24770, 24979 and 24980, closed session; P 06291 under seal, p. 1.

⁹¹⁷ P 09882 under seal, para. 58.

"Kum", "Ljubo", "Filip" and "Kakanjac".⁹¹⁸ The Chamber has no evidence to determine whether those soldiers belonged to the *Maturice* or the *Apostoli* special unit.

424. Although the *Bobovac* Brigade did not directly participate in the attack on the village of Stupni Do,⁹¹⁹ it was responsible for providing logistical support to the HVO special units and was supposed to take control of the territory once the special units had left.⁹²⁰

425. There is evidence that some of the soldiers of the *Maturice* and *Apostoli* special units were under the influence of alcohol.⁹²¹

c) Sexual Abuse of Women in the Village of Stupni Do

426. The Chamber heard the testimony of *Witness DH*, a Muslim inhabitant of Stupni Do aged 17 at the time of the events,⁹²² who stated that at the beginning of the attack, she found refuge in Mehmed Likić's house together with other villagers.⁹²³ An HVO soldier found the shelter in the village where she and other people had found refuge, and asked them to line up in front of a neighbouring house.⁹²⁴ *Witness DH* stated that, coming out of the shelter, she saw about 20 armed HVO soldiers.⁹²⁵ One of the HVO soldiers, by the name of "Filip",⁹²⁶ then took *Witness DH* to the basement of a house, hitting her with his rifle.⁹²⁷ He ordered her to undress and, after she had lain down, he first put the barrel of his rifle in her mouth, threatening to kill her if she did not do what she was told; he then put his knife against her neck to dissuade her from screaming.⁹²⁸ He then inserted his penis into her vagina, forced her to have sexual intercourse and, in exchange for 100 German marks, let her go.⁹²⁹

⁹¹⁸ P 09882 under seal, para. 71; P 09914 under seal, p. 3; P 09884, p. 7; P 09885, p. 3; P 06978 under seal, pp. 12-14; P 09913 under seal, p. 3; P 08121. See also Philip Watkins, T(F), pp. 18793, 18794, 18891 and 18892; P 06473 under seal, p. 1; P 06211 under seal.

⁹¹⁹ Witness EA, T(F), pp. 24392, 24979 and 24980, closed session.

⁹²⁰ Witness EA, T(E), pp. 24978-24980, closed session.

⁹²¹ P 10072 under seal, paras 7, 9 and 16; Nelson Draper, T(F), pp. 16471 and 16472, private session; P 06978 under seal, pp. 12 and 14.

⁹²² P 09913 under seal, p. 2.

⁹²³ Witness DH, T(F), pp. 16097 and 16099; P 09913 under seal, p. 3; P 09914 under seal, p. 2; P 06978 under seal, pp. 12 and 13; P 10072 under seal, paras 6, 9 and 10.

⁹²⁴ Witness DH, T(F), pp. 16097 and 16099; P 09913 under seal, p. 3; P 09914 under seal, p. 2; P 06978 under seal, pp. 12 and 13; P 10072 under seal, paras 6, 9 and 10.

⁹²⁵ Witness DH, T(F), pp. 16097 and 16099; P 09913 under seal, p. 3.

⁹²⁶ P 10072 under seal, para. 9.

⁹²⁷ Witness DH, T(F), pp. 16097 and 16099; P 09913 under seal, p. 4; Nelson Draper, T(F), pp. 16471 and 16472, private session; P 06978 under seal, pp. 12 and 13; Ferida Likić, T(F), pp. 16214, 16233 and 16234, private session; P 10072 under seal, para. 9; IC 00507; Ferida Likić, T(F), pp. 16227 and 16228.

⁹²⁸ P 09913 under seal, p. 4.

⁹²⁹ Witness DH, T(F), pp. 16097 and 16099; P 09913 under seal, pp. 4 and 5; Nelson Draper, T(F), pp. 16471 and 16472, private session; P 06978 under seal, pp. 12 and 13; Ferida Likić, T(F), pp. 16214, 16233, private session; P 10072 under seal, para. 9; IC 00507; P 10238, para. 32; P 08121, para. 19 (d).

427. In her written statement, *Witness EG*, a Muslim inhabitant of Stupni Do,⁹³⁰ also said that on 23 October 1993, an HVO soldier by the name of "Filip", tall, blond, aged about 27 who smelled of alcohol,⁹³¹ forced her to follow him to a neighbour's house⁹³² and to undress.⁹³³ Since *Witness EG* told him that she was menstruating, "Filip" ordered her to put her clothes back on, without forcing her to have sexual intercourse.⁹³⁴ "Filip" then took her outside the house and the witness saw in front of Husnija Mahmutović's house several villagers who had been gathered together by the HVO soldiers.⁹³⁵ Another HVO soldier, by the nickname of "Kum", then ripped her T-shirt and her brassiere, and grabbed her breasts and squeezed them very hard in front of all the neighbours.⁹³⁶

428. Lastly, the Chamber notes that UNPROFOR and UN reports mention the "rape" of two Muslim women from Stupni Do by members of the HVO forces.⁹³⁷

429. On the basis of the testimony and the reports of international organisations, the Chamber finds that three Muslim women, inhabitants of Stupni Do, were forced to have sexual intercourse and/or suffered other sexual abuse by HVO soldiers, members of the *Maturice* or the *Apostoli* special unit.

d) Death of Villagers

430. Paragraph 211 of the Indictment alleges that Herceg-Bosna/HVO forces killed at least 31 Muslim men, women and children, and that, all together, the attack on the village of Stupni Do resulted in the deaths of at least 37 people.

431. The Chamber received several statements about the death of villagers (i) in and around Kemal Likić's house, (ii) in front of Zejnil Mahmutović's house and (iii) in and around the village.

i. Death of Villagers in and around Kemal Likić's House

432. When the HVO attacked the village of Stupni Do on 23 October 1993, *Mufida Likić*, a Muslim inhabitant of Stupni Do aged 14 at the time of the attack,⁹³⁸ took refuge in the basement of Kemal Likić's house together with her sister Medina Likić, her aunt Hatidža Likić, her neighbour

⁹³⁰ P 10072 under seal, para. 3.

⁹³¹ P 10072 under seal, para. 9.

⁹³² P 10072 under seal, paras 8 and 9.

⁹³³ P 10072 under seal, paras 8 and 9.

⁹³⁴ P 10072 under seal, paras 8 and 9.

⁹³⁵ P 10072 under seal, para. 10. See also P 09913 under seal, p. 3.

⁹³⁶ P 10072 under seal, para. 10.

⁹³⁷ P 06140, p. 4; P 06182; P 07917, p. 4.

⁹³⁸ P 09884, p. 1.

Nevzeta Likić, Lejla Likić, Merima Likić, Adis Likić and three children: Indira Țutić, aged 3, Mebrura Likić, aged 13, and Vahidin Likić, aged 8.⁹³⁹

433. Looking through a window in the basement of Kemal Likić's house, *Mufida Likić* saw "three or four HVO soldiers".⁹⁴⁰ As the HVO soldiers were getting closer to the house where the villagers were hiding, all the occupants - except for Medina Likić, Hatidža Likić and Nevzeta Likić - went out to seek another shelter.⁹⁴¹ As she was running away, *Mufida Likić* was hit in the left leg by a bullet, but she could not say who had shot at her.⁹⁴²

434. *Mufida Likić* then returned to hide in the basement of Kemal Likić's house. Medina Likić, Hatidža Likić and Nevzeta Likić were still there. Medina Likić then hid *Mufida Likić* behind her so that she could not be seen from the entrance to the basement.⁹⁴³ *Mufida Likić* stated that the three women had a rifle and a grenade of some sort.⁹⁴⁴

435. HVO soldiers by the names of "Dragan", "Kum" and "Kakanjac" then came to the basement,⁹⁴⁵ confiscated the rifle and the grenade from the women and left the basement.⁹⁴⁶ Later on, two grenades exploded in the basement, but none of the four women were injured.⁹⁴⁷ The explosion was followed by a burst of rifle fire.⁹⁴⁸ At that moment, *Mufida Likić* felt the body of her sister Medina Likić, under whom she was hidden, slump down.⁹⁴⁹ After the soldiers had left, *Mufida Likić* saw that Medina Likić, Hatidža Likić and Nevzeta Likić had been killed by the shots.⁹⁵⁰ *Mufida Likić* then managed to get out of the village and reach the woods.⁹⁵¹

⁹³⁹ P 09884, pp. 3-5; P 09885, p. 2. Medina Likić, Hatidža Likić, Nevzeta Likić, Lejla Likić, Indira Țutić, Merima Likić, Mebrura Likić, Vahidin Likić and Adis Likić are representative victims of paragraph 211 of the Indictment mentioned in the Annex to the Indictment.

⁹⁴⁰ P 09884, p. 6; P 09885, p. 2. See also the testimony of Kemal Likić, who stated that he found his wife, Kata, in the woods together with another woman from the village, Zineta, who told him that they were the only survivors from among the inhabitants who had found refuge in his house. Kemal Likić, T(F), pp. 26381, 26382, 26392 and 26419; P 10102, para. 16.

⁹⁴¹ P 09884, p. 6.

⁹⁴² *Mufida Likić*, T(F), pp. 16084 and 16085; P 09884, p. 6; P 09885, p. 2.

⁹⁴³ *Mufida Likić*, T(F), pp. 16077 and 16086; P 09884, pp. 6 and 7.

⁹⁴⁴ *Mufida Likić*, T(F), p. 16079.

⁹⁴⁵ P 09884, p. 6; P 09885, p. 3.

⁹⁴⁶ *Mufida Likić*, T(F), pp. 16078 and 16089; Kemal Likić, T(F), pp. 26431, 26433 and 26438; P 10102, para. 33.

⁹⁴⁷ P 09884, p. 7.

⁹⁴⁸ P 09884, p. 7.

⁹⁴⁹ *Mufida Likić*, T(F), p. 16079; P 09884, p. 7.

⁹⁵⁰ *Mufida Likić*, T(F), p. 16079; P 09884, p. 7; Nelson Draper, T(F), pp. 16462, 16464, 16465; P 06978 under seal, pp. 7 and 8; P 08121, p. 38; Witness EA, T(F), pp. 24670, 24679 and 24690, closed session; P 10329 under seal, para. 27 (e); P 10330 under seal, para. 27; P 09884, p. 7; P 06116, pp. 108, 113 and 138; P 08656; P 08659; P 08661; P 06314, pp. 17 and 18; P 06314, pp. 21 and 22; P 06314, pp. 29 and 30; Kemal Likić, T(F), pp. 26426-26431; P 10102, para. 33; P 10074, paras 4 and 5; P 07838/P 07840 (identical documents), para. 1; P 10238, para. 32.

⁹⁵¹ P 09884, p. 7; P 09885, pp. 2 and 3.

436. According to *Kemal Likić* who saw the bodies of the three women when he returned to his house on 25 October 1993 in the evening. Hatidža Likić's throat had been slashed and one of her breasts cut off, while Nevzeta Likić's left cheek showed signs of heavy blows.⁹⁵² Considering the testimony of *Mufida Likić* and *Kemal Likić*, the Chamber finds that the bodies of the three women were mutilated after their death.

437. The Chamber notes that the charred bodies⁹⁵³ of Merima Likić and her two children, Mebrura and Vahidin Likić, as well as those of Lejla Likić and her granddaughter Indira Ćutić were found in and around Kemal Likić's house.⁹⁵⁴

438. Furthermore, the charred bodies of Suhra Likić and Adis Likić were found in and around Kemal Likić's house.⁹⁵⁵ Adis Likić participated in the village guard⁹⁵⁶ and was a member of the ABiH.⁹⁵⁷

439. The Chamber therefore notes that ten inhabitants of Stupni Do were killed by members of the *Maturice* and/or *Apostoli* special units in or around Kemal Likić's house in Stupni Do. Among them were six women, three children and one man, Adis Likić, who belonged to the village guard and was a member of the ABiH. On the basis of the evidence, the Chamber cannot determine whether Adis Likić was killed in combat or after he had fallen into HVO hands.

440. Concerning one of the women, Medina Likić, the Chamber notes it has two contradictory pieces of evidence about her membership in the ABiH.⁹⁵⁸ In any case, the Chamber finds that Medina Likić was killed by the HVO soldiers after she had been disarmed.

ii. Death of Villagers in front of Zejnil Mahmutović's House

441. The Chamber notes that about 20 HVO soldiers assembled about 15 people, including Rifet Likić, Rašida Likić, Edin Mahmutović and Mehmed Likić, in front of Zejnil Mahmutović's house.⁹⁵⁹

⁹⁵² P 10102, paras 23 and 33; P 10074, para. 5.

⁹⁵³ P 06249; P 06284; P 06978 under seal, pp. 7-9; P 08121, p. 38; Kemal Likić, T(F), pp. 26384, 26385, 26389, 26425 and 26426; P 10102, paras 1, 30, 32 and 34; P 10074, paras 3 and 8; Nelson Draper, T(F), pp. 16462, 16464, 16465 and 16482; P 06978 under seal, pp. 7 and 8; P 09884, p. 9; P 08461; P 08682; P 08693; P 08674; P 08690; P 08670; P 08678.

⁹⁵⁴ P 09884, p. 9; P 10102, para. 33; P 10074, para. 5; P 10330 under seal, para. 27 (e); P 08121, p. 38.

⁹⁵⁵ P 10075, para. 6; Kemal Likić, T(F), pp. 26387-26389.

⁹⁵⁶ Kemal Likić, T(F), pp. 26387-26389.

⁹⁵⁷ P 08461.

⁹⁵⁸ Mufida Likić, T(F), p. 160780; P 08461.

⁹⁵⁹ Ferida Likić, T(F), pp. 16236 and 16237. According to *Ferida Likić*, Mehir and Fuad were "little". See also P 10072 under seal, para. 10; P 09913 under seal, p. 3.

442. An HVO soldier called "Kum"⁹⁶⁰ then kicked Rifet Likić, a member of the ABiH, in the stomach.⁹⁶¹ The soldier called "Kum", the only one wearing a badge with the letter U,⁹⁶² slit Rifet Likić's throat with a knife and fired several shots into his head in full view of the villagers assembled in front of Zejnil Mahmutović's house.⁹⁶³

443. The soldier called "Kum" then kicked Rašida Likić and killed her with a single bullet.⁹⁶⁴ Rašida Likić's charred body was later found and identified at the mortuary.⁹⁶⁵

444. "Kum" then fired on Edin Mahmutović, a member of the ABiH,⁹⁶⁶ and Mehmed Likić, a disabled man,⁹⁶⁷ killing them.⁹⁶⁸

445. HVO soldiers then threw the bodies of Rifet Likić, Rašida Likić, Edin Mahmutović and Mehmed Likić into Zejnil Mahmutović's burning house.⁹⁶⁹

446. The other people assembled in front of Zejnil Mahmutović's house were able to run away to the woods. Around 25 October 1993, UNPROFOR took charge of them and took them to Breza.⁹⁷⁰

447. The Chamber therefore notes that members of the *Maturice* and/or *Apostoli* special units first arrested and then killed in front of Zejnil Mahmutović's house four inhabitants of Stupni Do, namely Rifet Likić, Rašida Likić, Edin Mahmutović and Mehmed Likić - two of whom were members of the ABiH.

⁹⁶⁰ P 09913 under seal, p. 3; P 10072 under seal, paras 7, 8 and 10.

⁹⁶¹ P 10072 under seal, paras 11 and 12; Witness AI, P 10014, *Kordić and Čerkez* Case, T(E), pp. 14557 and 14558, closed session; P 08461.

⁹⁶² P 10072 under seal, para. 10.

⁹⁶³ Ferida Likić, T(F), pp. 16220 and 16223; P 06314; Nelson Draper, T(F), pp. 16471, 16472, 16478 and 16479, private session; P 07838/P 07840 (identical documents), para. 8; P 06978 under seal, pp. 7, 9, 12 and 14; P 08121, pp. 17 and 38; P 10072 under seal, paras 11 and 12; P 08660; P 09913 under seal, pp. 3 and 4; Kemal Likić, T(F), p. 26382.

⁹⁶⁴ The testimony of *Ferida Likić* and the testimony of *Witness EG* differ with respect to whether the bullet was fired into the victim's back or the back of the victim's head. Since the victim's body was charred, the autopsy report could not provide an answer. The Chamber, however, holds that this point of divergence in the statements is not sufficiently significant to vitiate the credibility of the witnesses. See *Ferida Likić*, T(F), pp. 16225, 16226, 16251 and 16252; Nelson Draper, T(F), pp. 16478 and 16479, closed session; P 07838/P 07840 (identical documents), para. 8; P 06978 under seal, pp. 7 and 9; P 08121, pp. 17 and 38; Witness DH, T(F), p. 16105, closed session; P 09913 under seal, p. 6; P 09914 under seal, pp. 2 and 3; P 08663; P 06314, pp. 35 and 36; P 10072 under seal, para. 11.

⁹⁶⁵ P 06314, pp. 35 and 36.

⁹⁶⁶ Kemal Likić, T(F), pp. 26387-26389; P 08461.

⁹⁶⁷ Husnija Mahmutović, T(F), p. 25659.

⁹⁶⁸ Ferida Likić, T(F), p. 16223; P 10072 under seal, paras 11 and 13; Nelson Draper, T(F), pp. 16471, 16472, 16478 and 16479, private session; P 06978 under seal, pp. 7, 9, 12 and 14; P 08121, pp. 17 and 38; P 07838/P 07840 (identical documents), para. 8; P 09913 under seal, pp. 4 and 8; P 09914 under seal, pp. 2 and 3; P 08658; P 08662; P 06314, pp. 41 and 42; P 06314, pp. 15 and 16.

⁹⁶⁹ Ferida Likić, T(F), pp. 16237 and 16238; Nelson Draper, T(F), pp. 16456, 16462, 16463, 16468, 16471 and 16472, 16478-16479, 16501, 16502, 16529-16531, private session; P 06978 under seal, pp. 7, 9, 12 and 14; IC 00507; P 06116; P 06314, pp. 37-38 and 41-42; P 09913 under seal, p. 6; P 10072 under seal, para. 16; P 06159 under seal, p. 2; P 06169

iii. Death of Villagers in and around the Village of Stupni Do

448. Zejnil Mahmutović, a Muslim from Stupni Do and member of the ABiH,⁹⁷¹ was killed by HVO soldiers while he was on guard duty to the north of the village of Stijenčica on the road between the hamlet of Prica Do and Stupni Do.⁹⁷² UNPROFOR investigators found his body at that location during their visit to Stupni Do on 27 October 1993; the body was lying on the ground and had a large wound in the back.⁹⁷³

449. According to *Witness EG*, during the attack of 23 October 1993, the soldier known as "Kum"⁹⁷⁴ took the witness's mother to their house.⁹⁷⁵ *Witness EG* stated that she then heard shots.⁹⁷⁶ The soldier called "Kum" later told her that she would never see her mother again and, indeed, she never did see her again.⁹⁷⁷ However, only on the basis of this statement received pursuant to Rule 92 bis of the Rules, the Chamber cannot make a finding on the death of *Witness EG*'s mother.

450. The Chamber also notes that the evidence mentions the death of a person named Samir Likić or Rahić, aged 33, a member of the ABiH or the village guard,⁹⁷⁸ who was shot dead,⁹⁷⁹ but the Chamber cannot determine the circumstances of his death, that is, whether he died in combat or after he had fallen into the hands of the HVO troops.

451. The charred body of Salih Likić, a 74-year-old man who was shot dead,⁹⁸⁰ was also found in the village by UNPROFOR.⁹⁸¹

452. According to *Witness AI*, members of the same family, namely Ibrahim Likić, aged 79, Dzevha Likić, aged 63, Abdulah Likić and his wife Šerifa Likić were killed in the vicinity of their

under seal; P 06249; P 06284; P 02980, p. 19; P 06182; P 09914 under seal, p. 3; P 07838/P 07840 (identical documents), para. 8; P 08121, p. 38; P 08660; P 08662; P 08663 and P 08668.

⁹⁷⁰ Ferida Likić, T(F), p. 16248.

⁹⁷¹ Kemal Likić, T(F), pp. 26387-26389; P 08461.

⁹⁷² Kemal Likić, T(F), pp. 26381, 26382, 26392, 26419, 26433 and 26434; P 10102, paras 2, 8, 16 and 23; P 08664; Nelson Draper, T(F), pp. 16462, 16468, 16469, 16494, 16496 and 16497; Nelson Draper, T(E), p. 16509; P 06978 under seal, pp. 7 and 9; P 06116, p. 479; P 06116, p. 480; P 06116, p. 753.

⁹⁷³ Nelson Draper, T(F), pp. 16462, 16468, 16469, 16494, 16496 and 16497; Nelson Draper, T(E), p. 16509; P 06978 under seal, pp. 7 and 9; P 08121, p. 38; P 06116, p. 479; P 06116, p. 480; P 06116, p. 753; P 08664. *See also* Kemal Likić, T(F), pp. 26433 and 26434; P 10102, para. 23.

⁹⁷⁴ P 10072 under seal, para. 10.

⁹⁷⁵ P 10072 under seal, paras 7, 8 and 10.

⁹⁷⁶ P 10072 under seal, paras 7, 8 and 10.

⁹⁷⁷ P 10072 under seal, paras 7, 8 and 10.

⁹⁷⁸ P 08461; Nelson Draper, T(F), pp. 16462, 16465, 16466, 16494 and 16497; P 06978 under seal, pp. 7 and 8; P 06116, p. 33; P 06116, p. 36; P 06116, p. 41; P 10102, para. 2.

⁹⁷⁹ Nelson Draper, T(F), pp. 16462, 16465, 16466, 16494 and 16497; P 06978 under seal, pp. 7 and 8; P 06116, p. 33; P 06116, p. 36; P 06116, p. 41.

⁹⁸⁰ Nelson Draper, T(F), pp. 16462, 16466, 16506, 16509, 16574 and 16575; P 06978 under seal, pp. 7 and 8; P 08655; P 08121, p. 38.

⁹⁸¹ Nelson Draper, T(F), pp. 16462, 16468, 16508 and 16611; P 06978 under seal, pp. 7 and 9; P 08121, p. 38; P 08654. According to Exhibit P 08461, Salih Likić was a "civilian".

house.⁹⁸² The Chamber notes that the bodies of the four people were indeed found near their house.⁹⁸³ Ibrahim Likić, Dzevha Likić and Šerifa Likić did not belong to any armed forces.⁹⁸⁴ As regards Abdulah Likić, however, the Chamber has both, *Witness AI's* statement, received pursuant to Rule 92 *bis* of the Rules, according to which Abdulah Likić was a "civilian",⁹⁸⁵ and a document attesting that he was a member of the village guard.⁹⁸⁶ In view of the contradictory evidence, the Chamber notes that it cannot determine whether or not Abdulah Likić was a member of the village guard. Moreover, the Chamber cannot determine the circumstances of his death, that is, whether he died in combat or after he had fallen into the hands of the HVO troops.

453. The bodies of Salko Likić, Muamer Likić and Šefko Likić, members of the ABiH,⁹⁸⁷ were found in the trenches on Bogoš Hill.⁹⁸⁸

454. According to *Mufida Likić*, Avdan Likić's body was lying in front of his burnt-down house.⁹⁸⁹ The Chamber has no additional information to support a finding that he did not belong to the village guard and/or the ABiH, or that he was killed after he had fallen into the hands of the HVO troops.

455. Furthermore, during the attack on the village on 23 October 1993, Šerifa Lulić, a 64-year-old Muslim woman, was burned alive and died.⁹⁹⁰

456. Nazif Likić, aged 66, was riddled with bullets by "HVO soldiers" in front of his house when he tried to go out, unarmed, and attempted to talk to the soldiers; his body was then taken back into the house which the "HVO soldiers" had set on fire.⁹⁹¹ Nazif Likić was a member of the village guard.⁹⁹² The Chamber nevertheless deems that given the fact that he came out of his house unarmed and attempted to talk to the HVO members, Nazif Likić had surrendered to the HVO members and, consequently, was a non-combatant.

⁹⁸² Witness AI, P 10014, *Kordić and Čerkez Case*, T(E), pp. 14557 and 14558, closed session.

⁹⁸³ Nelson Draper, T(F), pp. 16462, 16468, 16508 and 16611; P 06978 under seal, pp. 7 and 9; P 08121, p. 38; P 09913 under seal, p. 8; P 08673; P 08654.

⁹⁸⁴ Witness AI, P 10014, *Kordić and Čerkez Case*, T(E), p. 14557 and 14558, closed session; P 08461.

⁹⁸⁵ Witness AI, P 10014, *Kordić and Čerkez Case*, T(E), pp. 14557 and 14558, closed session.

⁹⁸⁶ P 08461.

⁹⁸⁷ Kemal Likić, T(F), pp. 26387-26389; P 06978 under seal, p. 5; P 08121, p. 38; P 08461.

⁹⁸⁸ Nelson Draper, T(F), pp. 16574 and 16575; P 08121, p. 38; Kemal Likić, T(F), pp. 26387-26389; P 08461; P 08121, p. 38; P 06978 under seal, p. 6; P 09913 under seal, p. 4; P 09914 under seal, p. 3; P 10102, para. 12; P 08665 and P 08672.

⁹⁸⁹ P 09884, p. 10.

⁹⁹⁰ Witness DF, T(F), pp. 15964 -15966, private session; P 08683; P 08121, p. 38. Exhibit P 08461 characterises Šerifa Lulić as a "civilian".

⁹⁹¹ P 08121, p. 18; P 06978 under seal, p. 26.

⁹⁹² P 08461.

457. Eight members of the same family, namely Ramiz Likić, Alija Likić, aged 62, Enis Likić, aged 3, Minheta Likić, Refika Likić, Sabina Likić, aged 2, Vernest Likić and Zahida Likić were burned alive in Ramiz Likić's house surrounded by the HVO.⁹⁹³ Regarding Ramiz Likić, the Chamber also took note of the testimony of *Mufid Likić* and *Witness AI*, who stated that "soldiers belonging to the HVO"⁹⁹⁴ told them they had killed Ramiz Likić in Stupni Do.⁹⁹⁵ The Chamber observes that Ramiz Likić belonged to the village guard and Vernest Likić to the ABiH.⁹⁹⁶ However, inasmuch as all the people in the house were burned alive, the Chamber deems that the only possible inference is that the HVO surrounded the house and prevented the people inside from getting out. Therefore, at the time of their death, Ramiz Likić and Vernest Likić were in HVO hands.

458. Thanks to Mensud Likić, who survived the attack, UNPROFOR investigators were also able to identify the body of Munira Likić.⁹⁹⁷

459. The Chamber further notes that Rasema Likić died of a heart attack while she was in the woods.⁹⁹⁸

460. The Chamber observes that Hafa Likić, a 61-year-old inhabitant of Stupni Do, was also found dead,⁹⁹⁹ but the Chamber cannot determine how she died and whether or not she was killed by HVO members.

461. The Chamber can therefore find that 22 inhabitants of Stupni Do were killed by members of the *Maturice* and/or *Apostoli* special units at various locations in and around the village of Stupni Do. Of the 22 people killed, eight were members of the village guard or the ABiH. Of the eight men, four (Zejnil Mahmutović, Salko Likić, Muamer Likić and Šefko Likić) were killed in combat and three (Nazif Likić, Ramiz Likić and Vernest Likić) were killed after being arrested or overpowered by the HVO forces; as for one, Samir Likić or Rahić, the Chamber does not know if he was killed in combat or not.

⁹⁹³ P 08121, pp. 17, 18 and 38; P 06978 under seal, pp. 6 and 26; P 08461; Husnija Mahmutović, T(F), p. 25717; Witness W, P 10015, *Kordić and Čerkez* Case, T(E), p. 10913, closed session.

⁹⁹⁴ See "Treatment of Detainees at Vareš Majdan Prison" in the Chamber's factual findings relating to the Municipality of Vareš.

⁹⁹⁵ P 09883, p. 6; Witness AI, P 10014, *Kordić and Čerkez* Case, T(F), p. 14562, closed session.

⁹⁹⁶ P 08461. The Chamber notes that two persons by the name of Ramiz Likić are mentioned in Exhibit P 08461, but it has not been able to determine which one this is. The Chamber however notes that Exhibit P 08461 indicates that both were members of the village guard.

⁹⁹⁷ P 08121, pp. 17 and 38. See also P 08461; Witness W, P 10015, *Kordić and Čerkez* Case, T(E), p. 10913, closed session. Exhibit P 08461 characterises Munira Likić as a "civilian".

⁹⁹⁸ P 10072 under seal, para. 19; P 08121, p. 38; P 08461. Exhibit P 08461 characterises Rasema Likić as a "civilian".

⁹⁹⁹ P 06978 under seal, p. 28; P 08121, p. 38; P 08461.

462. For another two persons from among the 22 killed, namely Avdan Likić and Abdulah Likić, the Chamber does not have evidence to determine whether or not they belonged to the village guard and/or the ABiH, or whether they were killed after they had fallen into the hands of the HVO forces.

463. Finally, the Chamber considers that although the evidence supports a finding that Rasema Likić and Hafa Likić did indeed die, it does not support a finding that they were killed by members of the *Maturice* and/or *Apostoli* special units during the attack on the village.

464. The Chamber therefore finds that during the attack on the village of Stupni Do by the members of the *Maturice* and/or *Apostoli* special units, 38 people, Muslim inhabitants of the village of Stupni Do, died; that of the 38 people, 36 were killed by the members of the *Maturice* and/or *Apostoli* special units and that of those 36 people, 11 were members of the village guard and/or the ABiH. For three other persons from among the 38, the Chamber does not know if they belonged to the ABiH or not, but the Chamber finds that one of them, Medina Likić, was killed after she had been disarmed by the HVO members.

e) Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do

465. The testimony heard by the Chamber shows that during the attack on Stupni Do on 23 October 1993, the HVO soldiers systematically stole property in the houses in the village and confiscated livestock, money, jewellery and other valuables from villagers.¹⁰⁰⁰

466. The Chamber further notes that houses and stables in the village of Stupni Do were on fire as of the late morning of 23 October 1993,¹⁰⁰¹ but it has no information as to who was responsible. In the afternoon of 23 October 1993, other houses and stables in the village were deliberately set on fire by HVO soldiers.¹⁰⁰² The HVO soldiers used Zejnil Mahmutović's burning house to throw in

¹⁰⁰⁰ Ferida Likić, T(F), pp. 16209-10, 16220 and 16230; P 09913 under seal, pp. 3 and 6; P 09914 under seal, p. 2; P 10072 under seal, paras 13-14 and 20-21; Nelson Draper, T(F), pp. 16459, 16460, 16469-16472, private session, 16501 and 16502; P 06978 under seal, pp. 12-14; P 07838/P 07840 (identical documents), paras 6 and 11; P 10072 under seal, para. 6; P 10090, paras 26 and 27. See also Witness W, P 10015, *Kordić and Čerkez* Case, T(E), p. 10900.

¹⁰⁰¹ 4D 00519, pp. 1, 5, 6 and 14; P 10075, para. 4; P 09883, p. 5; P 08121, para. 7 (c); P 09913 under seal, p. 6; P 08372 and P 08382; Husnija Mahmutović, T(E), pp. 25649, 25655-35656, 25709; P 09884, pp. 5 and 6; P 09885, p. 2; P 10202, paras 31, 40 and 78.

¹⁰⁰² Ferida Likić, T(F), pp. 16208, 16209, 16217, 16227 and 16228; P 08382; IC 00507; P 09913 under seal, p. 6; P 09914 under seal, pp. 2 and 3; Witness DH, T(E), p. 16104; Nelson Draper, T(F), pp. 16453, 16454, 16455, 16459, 16460, 16470, 16471, 16472, 16494, private session, 16485, 16491, 16494, 16497 and 16501; P 06978 under seal, pp. 12, 14 and 15; P 07838/P 07840 (identical documents), para. 8; P 06116, p. 39; P 06116, p. 240; P 06116, p. 278; P 06321; P 06318; P 09884, pp. 5, 6 and 8; P 09885, pp. 2 and 3; P 10072 under seal, paras 6, 14 and 18; P 10080 under seal, pp. 215 and 290; Kemal Likić, T(F), pp. 26380-26381; P 10102, paras 24, 25 and 26; P 06055; P 06053, p. 2; P 06140, pp. 2 and 4; P 06182.

the bodies of both dead people¹⁰⁰³ and people who were alive.¹⁰⁰⁴ The Chamber also observes that, on 25 October 1993, seeing a thick cloud of smoke, first black, then suddenly white, rising above the village of Stupni Do, members of Norbat detected the use of phosphorous grenades.¹⁰⁰⁵ When he saw the smoke, police officer *Patrik Gustafsson*¹⁰⁰⁶ thought the HVO forces were trying to destroy the evidence of what might have happened in Stupni Do.¹⁰⁰⁷ According to *Patrick Martin*, a UN military observer in Central Bosnia in October 1993¹⁰⁰⁸ who managed to enter Stupni Do on 25 October 1993, the village had been completely destroyed.¹⁰⁰⁹ The Norbat members who entered the village on 26 October 1993 saw that all the houses had been burned down.¹⁰¹⁰

467. The Chamber finds that all the houses and adjacent buildings, such as stables and sheds, in the village of Stupni Do were destroyed during and following the attack on the village by the *Maturice* and/or *Apostoli* special units. It also finds that the same units robbed the villagers of their property.

3. Restrictions Imposed on Access by UNPROFOR to Stupni Do

468. Paragraph 214 of the Indictment alleges that, as information on the events in the town of Vareš and in Stupni Do began to reach international organisations in the area, UNPROFOR representatives attempted to enter Stupni Do, but HVO forces blocked and obstructed those international organisations. UNPROFOR finally entered Stupni Do in armoured vehicles on 26 October 1993.

469. In its Pre-Trial Brief, the Prosecution further submits that on 24 October 1993, as an UNPROFOR battalion deployed to monitor the Vareš situation, Ivica Rajić informed the HVO Main Staff that if UNPROFOR did not withdraw, his forces would "intervene" and could not be held responsible for the consequences; on the same day, the Chief of the HVO Main Staff responded, stating that HVO anti-armour weapons would be deployed around the UNPROFOR vehicles and that UNPROFOR would be warned that the HVO forces would "destroy them in case they rendered inoperative [HVO] actions in fighting" the ABiH forces.¹⁰¹¹

¹⁰⁰³ P 09913 under seal, p. 5; P 09914 under seal, p. 3.

¹⁰⁰⁴ P 08121, para. 9 (r); Nelson Draper, T(F), pp. 16471 and 16472, private session; P 06978 under seal, pp. 12 and 15; P 10072 under seal, para. 18.

¹⁰⁰⁵ P 10084, para. 13.

¹⁰⁰⁶ A member of the Norbat 8th Company stationed in Vareš between 19 October 1993 and 29 October 1993, and between 14 November 1993 and the end of November 1993. See P 10084, paras 1, 29-32 of the English version.

¹⁰⁰⁷ P 10084, para. 13.

¹⁰⁰⁸ P 10202, paras 1-15.

¹⁰⁰⁹ P 10202, paras 84-86.

¹⁰¹⁰ P 10090, para. 31. See also P 07838/P 07840 (identical documents), paras 3 and 6; P 10084, para. 17.

¹⁰¹¹ Prosecution Pre-Trial Brief, para. 214.1.

470. According to the United Nations Secretary-General's report on the "massacre in Stupni Do", on 23 October 1993, the 2nd Norbat Battalion received an order to enter the village of Stupni Do to investigate the allegations of a massacre of the civilian population.¹⁰¹² However, the evidence admitted into the record and examined by the Chamber shows that the *Bobovac* Brigade obstructed Norbat's attempts to access the village of Stupni Do on 23 and 24 October 1993¹⁰¹³ by setting up roadblocks, by mining the HVO checkpoints around the village and by firing at UNPROFOR vehicles.¹⁰¹⁴ Moreover, further to an order from Ivica Rajić on 25 October 1993, Branko Lekić, Commander of the Military Police platoon attached to the *Bobovac* Brigade, assigned four members of his platoon to block access to the villages of Stupni Do and Mir.¹⁰¹⁵ The Chamber also heard the testimony of *Witness K*,¹⁰¹⁶ who stated that the order also applied to the 1st Battalion of the *Bobovac* Brigade.¹⁰¹⁷

471. The Chamber notes that further to Ivica Rajić's report to the HVO Main Staff on 24 October 1993, in which he said that if UNPROFOR did not withdraw, his forces would "intervene", Žarko Tole, the Chief of Staff, ordered him, in a response, to deploy HVO anti-armour weapons around the UNPROFOR vehicles and to warn them that the HVO would "destroy them in case they rendered inoperative [HVO] actions in fighting" the ABiH forces.¹⁰¹⁸

472. On 25 October 1993, further to an order dated 23 October 1993 sent by Slobodan Praljak to various officers of the Kiseljak and Vitez HVO, Ivica Rajić ordered the *Bobovac* Brigade to control the points of entry and exit in Vareš situated in its zone of responsibility.¹⁰¹⁹ *Ruzdi Ekenheim*¹⁰²⁰ said that, after being prevented from passing through the checkpoints at Vareš Majdan, Colonel Henricsson of Norbat finally managed to obtain a document from Ivica Rajić authorising them to enter Stupni Do.¹⁰²¹

473. During the night of 24-25 October, Milivoj Petković ordered Krešimir Božić, Commander of the *Bobovac* Brigade, to "cease all combat activities against UNPROFOR" and to cooperate with

¹⁰¹² P 07838/P 07840 (identical documents), para. 7; P 06053, p. 3.

¹⁰¹³ Nelson Draper, T(F), pp. 16459 and 16460; Hakan Birger, T(F), p. 16328; P 02980, pp. 14 and 15; P 10084, para. 4 of the English version; P 06053, pp. 3 and 4; P 06055 under seal, p. 1; P 07838/P 07840 (identical documents), para. 7.

¹⁰¹⁴ Nelson Draper, T(F), pp. 16459, 16460, 16501, 16502, 16594; P 06251, p. 11; Ferida Likić, T(F), p. 16247; P 02980, pp. 14 and 15; P 06251, p. 11; P 07838/P 07840 (identical documents), paras 7 and 12; P 06122, p. 1; P 06140, pp. 2 and 4; P 06182, p. 1; P 10090, para. 32; Hakan Birger, T(F), p. 16328; P 10084, para. 4.

¹⁰¹⁵ *Witness EA*, T(F), p. 24441, closed session; P 06126.

¹⁰¹⁶ P 10082 under seal, paras 23, 24, 26 and 27.

¹⁰¹⁷ P 10080 under seal, pp. 221-228.

¹⁰¹⁸ Prosecution Pre-Trial Brief, para. 214.1, referring to P 06067 and P 06066.

¹⁰¹⁹ *Witness EA*, T(F), pp. 24577-24578, 24608-24610, and T(E), p. 24884, closed session; P 06114 under seal; P 06028.

¹⁰²⁰ A member of Norbat between September 1993 and July 1994. See P 10090, paras 1 and 3.

¹⁰²¹ P 10090, para. 31.

it.¹⁰²² Accordingly, on 25 October 1993, *Patrick Martin*, a member of UNMO, was authorised to access the village in the company of Ivica Rajić,¹⁰²³ following negotiations between UNPROFOR, Krešimir Božić, Commander of the *Bobovac* Brigade, and Ivica Rajić.¹⁰²⁴

474. A 2nd Norbat Battalion patrol, accompanied by an HVO liaison officer and members of the ECMM, two Kiseljak television teams and a Britbat battalion entered Stupni Do during the day of 26 October 1993.¹⁰²⁵

475. The Chamber therefore finds that the HVO forces prevented UNPROFOR from accessing the village of Stupni Do between 23 and 25 October 1993.

H. Concealment of Crimes and their Perpetrators by the HVO

476. In paragraph 215 of the Indictment, the Prosecution alleges that on 26 October 1993, in response to media allegations of HVO atrocities in Vareš and Stupni Do, Milivoj Petković ordered an investigation and on 31 October 1993, Jadranko Prlić, when questioned about the events in Stupni Do, informed international representatives that any crimes committed there were unacceptable, that an investigation had been requested and that all of the commanders involved had been suspended whereas, in fact, as of 30-31 October 1993, none of the HVO commanders involved had been suspended or disciplined in any way.

477. In its Pre-Trial Brief, the Prosecution further submits that shortly after the crimes in Stupni Do were committed, Ivica Rajić and other HVO leaders, including Milivoj Petković, began covering up the crimes; that on 1 November 1993, Bruno Stojić recommended that Ivica Rajić be promoted and that Mate Boban promoted Ivica Rajić to the rank of Colonel in the HVO; that on 27 December 1993, Ivica Rajić informed Milivoj Petković that he had changed his name to Viktor Andrić; that on 30 December 1993, the Commander of the HVO Vitez Military District officially "dismissed" Colonel Ivica Rajić from his duty as Commander of the Kiseljak Forward Command Post and appointed "Viktor Andrić" Commander of the Kiseljak Forward Command Post.¹⁰²⁶ The Prosecution Pre-Trial Brief also alleges that Milivoj Petković met in Kiseljak with Ivica Rajić ("Viktor Andrić") during the first week of January 1994 to discuss the reorganisation of HVO units

¹⁰²² P 10202, paras 42, 43, 48 and 49; Witness EA, T(F), p. 24744, closed session; P 06063; P 06454, pp. 1, 59 and 60.

¹⁰²³ Witness EA, T(F), pp. 24448, 24449, 24458, 24459, 24574 and 24575, closed session; P 06146; P 06076; P 06102, p. 1.

¹⁰²⁴ Witness EA, T(F), p. 24744, closed session; P 06063; P 06053, p. 4; P 02980, p. 18; P 06215, p. 3.

¹⁰²⁵ Nelson Draper, T(F), p. 16501; P 07838/P 07840 (identical documents), para. 7; P 06169 under seal, p. 1; P 06159 under seal, pp. 1 and 2; P 06140, pp. 1 and 4; P 06215, p. 3; P 06182, p. 1.

¹⁰²⁶ Prosecution Pre-Trial Brief, paras 215.1-215.5.

under the command and control of the Kiseljak Forward Command Post, commanded by Ivica Rajić.¹⁰²⁷

478. In paragraph 216 of the Indictment, the Prosecution further submits that following a meeting in Zagreb involving Franjo Tučman and others, the international community was assured that Ivica Rajić had been removed and that a judicial investigation had been initiated; however, neither Ivica Rajić nor any other person was ever disciplined or punished for what happened in Stupni Do.

479. After analysing the evidence confirming that (1) the HVO authorities were informed of or themselves ordered investigations into the events in Stupni Do and Vareš, and after observing that none of those responsible for the events in Stupni Do was prosecuted, the Chamber will note that (2) Ivica Rajić remained in the same position and adopted the assumed name of Viktor Andrić.

1. Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution

480. The Chamber observes that Milivoj Petković gave two orders to Ivica Rajić, on 23 and on 26 October 1993, to conduct an investigation into the events in Stupni Do.¹⁰²⁸ However, according to *Witness EA*, on 26 October 1993, Ivica Rajić received a handwritten message¹⁰²⁹ bearing the name Milivoj Petković, saying that the order of 26 October 1993 to conduct an investigation was not to be implemented and that its sole purpose was to make UNPROFOR believe that the HVO was conducting an investigation.¹⁰³⁰ According to *Witness EA*, on the evening of 26 October 1993, Milivoj Petković telephoned Ivica Rajić, confirming the contents of the handwritten message of that same day.¹⁰³¹

481. In its Final Trial Brief, the Petković Defence argues that Milivoj Petković was not the author of the handwritten message of 26 October 1993 and did not dictate it to anyone; that the testimony of *Witness EA* was contradictory because he gave two explanations as to how Ivica Rajić became aware of the handwritten message, saying in one instance that a person called Vinko Lučić told Ivica Rajić that the message was in a safe box and in another instance that he did not remember how Ivica Rajić found out about the message; that Milivoj Petković had never seen the message before the trial; that he did not speak with Ivica Rajić in the evening of 26 October 1993 and,

¹⁰²⁷ Prosecution Pre-Trial Brief, para. 215.6.

¹⁰²⁸ Milivoj Petković, T(F), pp. 49619, 49620, 49622, 49623, 49638 and 49639, private session; P 06022; P 06137. *See also* P 06454, p. 60.

¹⁰²⁹ Witness EA, T(F), pp. 24469, 24758 and 24759, closed session.

¹⁰³⁰ Witness EA, T(F), pp. 24470-24473, 24478, 24479, 24481, 24494-24495, 24758-24759, 24776, 24777, 24852, 24856, 24863, 24977 and 24978, closed session; P 09895.

¹⁰³¹ Witness EA, T(F), pp. 24479 and 24480, closed session.

finally, that the document in question, which does not have a stamp of an archive or an authority, was a fake.¹⁰³²

482. The Chamber also notes that during his testimony before it, *Milivoj Petković* stated that he had never seen the handwritten message, that he had not dictated it to anyone and that he did not talk to Ivica Rajić on the phone on 26 October in the evening.¹⁰³³

483. The Chamber recalls that in the "Order Admitting Evidence Relative to Witness EA", issued confidentially on 7 December 2007, it determined that even though it had not been established that Milivoj Petković himself wrote the handwritten message, *Witness EA* stated that Ivica Rajić discussed it with Milivoj Petković and that, as a result, Ivica Rajić had no doubt about the fact that Petković was the author of the message; that the Chamber consequently found that the handwritten message presented all the sufficient indicia of reliability and probative value to be admitted into evidence, and that the Petković Defence neither appealed nor filed a motion for reconsideration of the Order of 7 December 2007. In view of the foregoing, the Chamber considers, by majority, with Judge Antonetti dissenting, that the document is indeed authentic.

484. Consequently, the Chamber finds, by majority, with Judge Antonetti dissenting, that, in a handwritten message dated 26 October 1993, Milivoj Petković did indeed order Ivica Rajić not to follow the instructions to conduct an investigation that he had given in writing, and that he orally repeated the order that same day.

485. The Chamber also observes that at the end of October 1993, the HR H-B and HVO authorities, namely Dario Kordić, Milivoj Petković, Tihomir Blaškić, Mario Bradara and Mate Boban, received several reports, informing them that many Muslim "civilians" had been killed during the attack on the village of Stupni Do.¹⁰³⁴

486. Concerning the town of Vareš, the Chamber observes that the only report mentioning the events of 23 October 1993 was sent that same day to Milivoj Petković, informing him that the town of Vareš had been "mopped up" and all Muslims of military age placed "under surveillance".¹⁰³⁵

487. The examination of the evidence admitted into the record further reveals that on 28 October 1993, the Travnik Deputy Military Prosecutor, Ivan Kristić, sent a request to the Commander of the *Bobovac* Brigade of the Vareš HVO for information on possible offences committed in the

¹⁰³² Petković Defence Final Trial Brief, paras 487-489.

¹⁰³³ Milivoj Petković, T(F), p. 49636.

¹⁰³⁴ P 06102 under seal; Witness EA, T(F), pp. 24422, 24423, 24425, 24590, 24591 and 24962, closed session; P 06026; P 10330 under seal, para. 24; P 06146; P 06291 under seal.

brigade's zone of responsibility since 23 October 1993, and more specifically, in the municipalities of Vareš and Kakanj.¹⁰³⁶ The Chamber observes that the only response to the request dates from 29 December 1993: in fact, Ivica Marijanović, the Commander of the SIS in the *Ban Josip Jelačić* Brigade, indeed sent a memorandum about Stupni Do to the Travnik Military Prosecutor's Office, attaching reports drafted by the commanders of the *Maturice* and *Apostoli* special units and asking if there were grounds to initiate proceedings and, if so, to send the case back to him.¹⁰³⁷ The Chamber has no evidence as to the action taken following the request of 29 December 1993.

488. On 30 October 1993, Jadranko Prlić assured *Philip Watkins* that the local HVO commanders had been removed from their positions and that an investigation was underway.¹⁰³⁸ Also on 30 October 1993, Mate Boban told the ECMM that only ABiH soldiers had been killed in Stupni Do.¹⁰³⁹

489. On the basis of an order signed by Slobodan Praljak on behalf of Milivoj Petković on 8 November 1993,¹⁰⁴⁰ Ivica Rajić submitted two reports, dated 8 and 15 November 1993, to Milivoj Petković.¹⁰⁴¹ The Chamber takes note of the testimony of *Witness EA*, according to which the reports of 8 and 15 November 1993 signed by Ivica Rajić were in fact submitted to him for signature with the sole purpose of making the international community believe that the HVO was investigating the crimes committed.¹⁰⁴² Thus, according to the report of 8 November 1993, during the operation in Stupni Do, two members of the special units, Franjo Bokulić, a member of the *Apostoli* special unit, and Zoran Filipović, a member of the *Maturice* special unit, violated the orders of their commanders by firing at the civilians in the houses of the village of Stupni Do.¹⁰⁴³ However, *Witness EA* stated that, before he could even enter the village, Franjo Bokulić was hit by a bullet and thus could not have fired at "civilians".¹⁰⁴⁴

490. The Chamber also observes that on 30 November 1993, Ivica Lučić, Chief of the SIS Administration, sent a report on the events in Stupni Do to the Croatian Information and Security

¹⁰³⁵ P 06026, p. 2; Witness EA, T(F), pp. 24422, 24423, 24731, 24732, 24734 and 24963, closed session.

¹⁰³⁶ Witness EA, T(F), pp. 24791, 24792, 24951, 24952 and 24954, closed session; 4D 00500/2D 00574 (identical documents).

¹⁰³⁷ 4D 00499; Philip Watkins, T(F), pp. 19015-19017. However, the Chamber does not have the reports referred to in the memorandum.

¹⁰³⁸ Witness EA, T(F), pp. 24534 and 24537, and T(E), p. 24534, closed session; P 06303 under seal.

¹⁰³⁹ Philip Watkins, T(F), pp. 18893-18894; P 06303 under seal, p. 1.

¹⁰⁴⁰ Slobodan Praljak, T(F), p. 42211; 4D 00834.

¹⁰⁴¹ P 06519; P 06671.

¹⁰⁴² Witness EA, T(F), pp. 24497-24500, 24507-24509, 24716, 24515-24519, 24717, 24772, 24773, 24864, 24948 and 24949, closed session; P 06038; P 06519; P 06671.

¹⁰⁴³ Witness EA, T(F), pp. 24513, 24515 and 24519, closed session; P 06519, p. 8; P 06671, p. 4.

¹⁰⁴⁴ Witness EA, T(F), pp. 24513 and 24515, closed session; P 06519, p. 8.

Service.¹⁰⁴⁵ The report says that 29 people, identified as "members of the ABiH", and a number of Muslim "civilians" were killed during the attack on Stupni Do and that "[t]he incident in Stupni Do [...] projected a negative picture of Croats in the world public opinion".¹⁰⁴⁶

491. The Chamber also notes that in November 1993, Franjo Tuđman, President of Croatia, and Mate Boban, President of the HR H-B, decided to conduct further investigations to establish who was responsible for the events in Stupni Do.¹⁰⁴⁷ On 27 November 1993, Perica Jukić, Minister of Defence of the HR H-B, asked UNPROFOR if it could send him data regarding the acts committed in Stupni Do, especially concerning Dominko Ilijašević, Marinko Ljoljo,¹⁰⁴⁸ Ivica Rajić, Velimir Miličević and Grgo Bakula.¹⁰⁴⁹ However, according to *Witness EA*, two of the five people could not be linked to the events in Stupni Do, which led him to state that the request was made "as a matter of form".¹⁰⁵⁰ *Witness EA* does not explain why, in his view, there was no link between the two people and the events in Stupni Do.

492. Therefore, in view of the evidence and in particular the testimony of *Witness EA*, the Chamber observes that although the HVO authorities, including Jadranko Prlić, on several occasions informed international organisations that investigations into the events, especially in Stupni Do, were underway, the Chamber still has no evidence confirming that the investigations were indeed conducted. Quite the opposite, the evidence shows that the HVO misled the international community, seeking to make it believe that investigations were underway. This is attested to by, among others, the oral order Milivoj Petković gave to Ivica Rajić on 26 October 1993 and the HVO's belated and fruitless cooperation with the Travnik prosecutor.

2. Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić

493. After leaving Vareš on 26 October 1993, Ivica Rajić continued to perform the duties of the commander of the forces of the 2nd Operations Group.¹⁰⁵¹ The Chamber notes in particular that on 29 October 1993, Ivica Rajić sent a situation report to Slobodan Praljak, Milivoj Petković and

¹⁰⁴⁵ Witness EA, T(F), pp. 24809 and 24810, closed session; P 06964.

¹⁰⁴⁶ Witness EA, T(F), pp. 24470-24473, 24478, 24479, 24481, 24494-24495, 24497, 24498, 24758-24759, 24776, 24777, 24809-24810, 24856, 24862, 24863, 24977 and 24978, closed session; P 06964; P 09895; P 06496; 4D 00499; Philip Watkins, T(F), pp. 19015-19017; P 08111; P 08132, p. 2; P 08162; P 08158 under seal, p. 2; 4D 00821.

¹⁰⁴⁷ P 06454, pp. 1 and 112; P 06842; 4D 00506; Nelson Draper, T(F), pp. 16600-16602; Philip Watkins, T(F), pp. 19014-19015.

¹⁰⁴⁸ Exhibit 4D 00506 gives the name Ante Ljoljo. However, during his testimony, Witness EA said that there was a mistake in the document and that the person in question was not Ante Ljoljo, but Marinko Ljoljo, Commander of the *Apostoli* and *Maturice* special units. See Witness EA, T(F), p. 24799, closed session.

¹⁰⁴⁹ 4D 00506.

¹⁰⁵⁰ Witness EA, T(F), pp. 24799 and 24800, closed session; 4D 00506. See also 4D 01624.

¹⁰⁵¹ Witness EA, T(F), pp. 24519-24522, closed session; P 06425; P 06498; P 09968; P 06644.

Bruno Stojić.¹⁰⁵² The Chamber analysed evidence indicating that not only was Ivica Rajić promoted to the rank of active-duty colonel on 2 November 1993 by decree of Mate Boban and at the suggestion of Bruno Stojić,¹⁰⁵³ but that he also remained in charge of the operations involving the *Maturice* and *Apostoli* special units at the beginning of November 1993.¹⁰⁵⁴ Moreover, on 5 November 1993, Tihomir Blaškić, Commander of the Vitez ZP, commended Ivica Rajić for his action in Vareš.¹⁰⁵⁵

494. The examination of the minutes of a meeting of 10 November 1993 shows that Franjo Tuđman was informed that day of Ivica Rajić's responsibility in the events in Stupni Do and ordered Mate Boban and Mate Granić to replace Ivica Rajić as commander of the Kiseljak HVO.¹⁰⁵⁶ Through its public relations advisor, Slobodan Lovrenović, the HVO then issued a public order relieving Ivica Rajić of his duties.¹⁰⁵⁷ However, on that occasion, Ivica Rajić received assurances from Mate Boban that the HVO would find a way to keep him in his post.¹⁰⁵⁸

495. On 30 December 1993, Tihomir Blaškić officially relieved Ivica Rajić of his duties as commander of the Kiseljak Forward Command Post because of a series of apparent weaknesses in his command.¹⁰⁵⁹ At the same time, in a memorandum dated 30 December 1993 and sent to, among others, the HVO Main Staff and the Ministry of Defence,¹⁰⁶⁰ Tihomir Blaškić announced the departure of Ivica Rajić and Colonel Viktor Andrić's assuming responsibility as commander of the Forward Command Post of the Vitez ZP based in Kiseljak.¹⁰⁶¹

496. Ivica Rajić used the assumed name of Viktor Andrić as of 27 December 1993 and, consequently, continued to perform his duties after 30 December 1993 until May 1994.¹⁰⁶²

497. The examination of the evidence admitted into the record shows that Milivoj Petković,¹⁰⁶³ Ante Roso, Tihomir Blaškić, Mate Boban, Perica Jukić and Krešimir Zubak, President of the

¹⁰⁵² P 06219.

¹⁰⁵³ Witness EA, T(F), pp. 24527-24530, closed session; P 10330 under seal, para. 38; P 06328; P 06339; P 06362.

¹⁰⁵⁴ Witness EA, T(F), pp. 24496, 24996 and 24997, and T(E), p. 24996, closed session; P 06425.

¹⁰⁵⁵ Witness EA, T(F), pp. 24529, 24530, closed session; P 09981.

¹⁰⁵⁶ P 06581.

¹⁰⁵⁷ Witness EA, T(F), pp. 24532 and 24819, closed session; P 10255.

¹⁰⁵⁸ Witness EA, T(F), pp. 24531-24533, 24801, 24821, 24976 and 25977, closed session.

¹⁰⁵⁹ Witness EA, T(F), pp. 24544 and 24545, closed session; P 07394; Witness L, T(F), p. 15773, closed session; P 07407; P 06649; P 07160; P 06930, p. 21.

¹⁰⁶⁰ Witness EA, T(F), pp. 24545 and 24546, closed session; P 07401.

¹⁰⁶¹ Witness EA, T(F), p. 24545, closed session; P 10080 under seal, pp. 272, 283 and 284; P 07394; P 07407.

¹⁰⁶² Witness EA, T(F), pp. 24540-24544, 24546, 24563, closed session; P 10080 under seal, pp. 279-284; P 10082 under seal, para. 108; P 08111; P 08132; P 08162; P 10330 under seal, para. 40; P 07348; P 07352; P 07359; Nelson Draper, T(F), pp. 16506, 16509-16511; Witness L, T(F), p. 15775, closed session; P 09882 under seal, paras 37 and 77; P 08121, p. 36; P 09913, p. 8.

¹⁰⁶³ Milivoj Petković, T(F), pp. 50616 and 50617.

Presidential Council of the HR H-B,¹⁰⁶⁴ knew that Viktor Andrić and Ivica Rajić were one and the same person.¹⁰⁶⁵

498. In view of the evidence, the Chamber notes that Ivica Rajić continued to perform his duties under the assumed name of Viktor Andrić and was thus never bothered or punished by the HVO for his responsibility in the events in Stupni Do.

I. Departure of Croats Living in Vareš

499. In paragraph 212 of the Indictment, the Prosecution submits that in the days following the HVO attack on Stupni Do, the Herceg-Bosna/HVO authorities told Bosnian Croats living in Vareš that they had to leave the place because of the risk of being killed by ABiH forces responding to the HVO attack on Stupni Do. Thousands of Bosnian Croats left Vareš and went to Kiseljak.

500. In its Final Trial Brief, the Prosecution further states that by attacking Stupni Do and the town of Vareš, the HVO sought to provoke a response by the ABiH as a way of forcing the Croats from the Municipality of Vareš to move to Herzegovina.¹⁰⁶⁶

501. The Petković Defence, on the contrary, submits that the ABiH attack on the town of Vareš – which began on 3 November 1993 and ended on 5 November 1993 with the capture of the town by the ABiH – was not a reaction to the HVO attack on Stupni Do, but had been planned since August 1993.¹⁰⁶⁷ The Prlić Defence insists that the evacuation of Croats from the Municipality of Vareš was necessary for humanitarian reasons.¹⁰⁶⁸

502. The Chamber recalls that in June 1993, between 10,000 and 15,000 Bosnian Croats arrived in the town of Vareš.¹⁰⁶⁹ The departure of some of the Croats to other territories in Bosnia and Herzegovina or to Croatia was gradually organised for humanitarian reasons linked to the appalling living conditions of the "displaced persons" by the HZ H-B authorities and the Vareš municipal authorities from June 1993 until 21 October 1993.¹⁰⁷⁰

¹⁰⁶⁴ Milivoj Petković, T(F), pp. 49647, 49648, 49651-49652, pp. 49653-49654, private session, and pp. 50616 and 50617; P 07387; P 07386.

¹⁰⁶⁵ Witness EA, T(F), pp. 24549, 24550, 24555-24557, 24559, 24821, 24822, 24824 and 24832, closed session; 4D 00535; 4D 00536; 4D 00537; P 09882 under seal, p. 14, para. 77; P 10080 under seal, pp. 272, 283 and 284; P 10082 under seal, para. 108; P 10327, p. 5; P 07505; P 07658; P 07663.

¹⁰⁶⁶ Prosecution Final Trial Brief, para. 283 *et seq.*

¹⁰⁶⁷ Petković Defence Final Trial Brief, paras 410 and 411.

¹⁰⁶⁸ Prlić Defence Final Trial Brief, para. 222.

¹⁰⁶⁹ See "Geographic and Demographic Situation in the Municipality" in the Chamber's factual findings relating to the Municipality of Vareš.

¹⁰⁷⁰ June 1993: P 02952 under seal; P 03337. July 1993: P 10082 under seal, para. 49; P 10080 under seal, pp. 125 and 126; P 09844 under seal, para. 1; Witness BC, T(F), p. 18370, closed session. August 1993: Philip Watkins, T(F),

503. After 23 October 1993 and the events in Stupni Do, the HVO political authorities called on the Croat population to leave the Municipality of Vareš because of the risk of a response by the ABiH.¹⁰⁷¹ Moreover, ABiH attacks did in fact take place on the front lines in the Municipality of Vareš between 28 October 1993 and 2 November 1993.¹⁰⁷²

504. The Chamber notes that following the attack on the town of Vareš by the ABiH forces, that is, as of 2 November 1993, fresh movements of people took place simultaneously within the municipality, involving either Croats from various places in the municipality who found refuge in the town of Vareš,¹⁰⁷³ or Croats evacuated from the town of Vareš to, *inter alia*, Daštansko, Brugle and Kiseljak.¹⁰⁷⁴

505. On 3 November 1993, reporting the presence of 20,000 "civilians" – the Chamber does not know if they were Croats – in the Municipality of Vareš and ABiH attacks in the area, the HVO requested UNPROFOR assistance to evacuate them.¹⁰⁷⁵

506. The Chamber notes that in some cases the HVO forced the Croats in the municipality to leave and had no compunctions about threatening them with rifles.¹⁰⁷⁶

507. The Chamber also observes that on 4 November 1993, the ABiH surrounded the town of Vareš,¹⁰⁷⁷ which fell into ABiH hands on 5 November 1993.¹⁰⁷⁸

508. Consequently, in view of all the evidence, the Chamber finds that even if the HVO forces exerted pressure on the Croats to leave Vareš, the threat of attacks by the ABiH and the fact that they did happen were sufficient to bring about the departure of Croats from the municipality.

p. 19049; P 04431 under seal, para. 41; P 02952 under seal; P 03337; Witness DE, T(F), pp. 15641 and 15642, closed session; P 04431 under seal, para. 41; P 10367 under seal, para. 79; P 04027 under seal, p. 1; 1D 01266; P 04282. October 1993; Witness DE, T(F), pp. 15642 to 15644, closed session; 1D 00921; 1D 00927; P 10080 under seal, pp. 125 and 126; 1D 00930; 1D 00932; Hakan Birger, T(F), p. 16322, and T(E), pp. 16317 and 16319; 3D 0838.

¹⁰⁷¹ P 02980, p. 21.

¹⁰⁷² P 10082 under seal, paras 86 and 89; P 10080 under seal, pp. 206, 231 and 232; P 02980, pp. 21, 23, 25; 3D 00971; 3D 00984.

¹⁰⁷³ P 10080 under seal, pp. 235, 236 and 242; P 02980, p. 21; P 06293 under seal, p. 3.

¹⁰⁷⁴ Salem Čerenić, T(F), pp. 15892 and 15927; Witness DG, T(F), p. 15997; P 10082 under seal, paras 90-94; P 10080 under seal, pp. 239, 239 and 295-297; 1D 01835.

¹⁰⁷⁵ 3D 00971; 3D 00984.

¹⁰⁷⁶ Salem Čerenić, T(E), pp. 15926, 15927 and 15946; Witness DG, T(F), pp. 15998, 16005, 16006, 16011 and 16012; 4D 00519, pp. 1, 11, 12 and 14.

¹⁰⁷⁷ 4D 00825.

¹⁰⁷⁸ Witness DG, T(F), pp. 16005 and 16006; Witness EA, T(F), pp. 24633 and 24634, closed session; IC 00721.

CHAPTER 5: REVIEW OF THE GENERAL REQUIREMENTS FOR THE APPLICATION OF ARTICLES 2, 3 AND 5 OF THE STATUTE

509. After having analysed the factual elements in relation to each of the municipalities and detention centres in the Indictment, the Chamber will now examine, in light of the evidence it has, whether the general requirements for the application of Articles 2, 3 and 5 of the Statute have been met in the case.

510. The Chamber previously recalled in connection with its analysis of the applicable law that Article 2 of the Statute, relating to grave breaches of the Geneva Conventions of 1949, is applicable when the following requirements are satisfied: there is an armed conflict; there is an armed conflict having an international character or that may be characterised as an occupation;¹⁰⁷⁹ the fact that the persons or objects against whom the grave breaches are directed enjoy the protection of the Geneva Conventions, and there is a nexus between the armed conflict and the crimes alleged.¹⁰⁸⁰

511. Article 3 of the Statute, relating to violations of the laws and customs of war, requires that there be an armed conflict, international or domestic, and a nexus between the crimes alleged and such armed conflict. In addition, it should be recalled that this article is applicable to all persons not taking part in hostilities at the time the crimes are committed.¹⁰⁸¹

512. Lastly, Article 5 of the Statute, relating to crimes against humanity, applies when the crimes were committed during an armed conflict and the said crimes fall within the context of a widespread and systematic attack on a civilian population.¹⁰⁸²

513. In order to determine whether these provisions are applicable, the Chamber will analyse initially whether it is possible to find beyond a reasonable doubt that was an armed conflict, a common requirement for the applicability of Articles 2, 3, and 5 of the Statute (Heading 1). The Chamber will then examine whether the other general requirements for the application of Article 2 of the Statute (Heading 2), then Article 3 of the Statute (Heading 3), and lastly, Article 5 of the Statute (Heading 4) have been met.

¹⁰⁷⁹ The Chamber recalls that the Geneva Conventions apply to situations of occupation, according to Common Article 2 of the Geneva Conventions, and that Article 4 of the Fourth Geneva Convention affords the status of protected persons *inter alia* to those persons who fall into the hands of an occupying power.

¹⁰⁸⁰ See “General Requirements for the Application of Article 2 of the Statute” in the Chamber’s treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹⁰⁸¹ See “General Requirements for the Application of Article 3 of the Statute” in the Chamber’s treatment of the applicable law: Violations of the Laws and Customs of War.

¹⁰⁸² See “General Requirements for the Application of Article 5 of the Statute” in the Chamber’s treatment of the applicable law: Crimes against Humanity.

Heading 1: Existence of an Armed Conflict, a Requirement Common to Articles 2, 3 and 5 of the Statute

514. The Chamber received a substantial amount of evidence pertaining to the existence of an armed conflict throughout BiH. However, mindful of judicial economy, in this case the Chamber will simply take note of the evidence attesting to the existence of an armed conflict between the ABiH and the HVO in the municipalities relevant to the Indictment. For this purpose, the Chamber heard a number of witnesses, local and international, and admitted much documentary evidence that supports a finding beyond a reasonable doubt that an armed conflict took place between the HVO and the ABiH in the Municipality of Prozor in October 1992 and in April and July 1993;¹⁰⁸³ in the Municipality of Gornji Vakuf in January 1993;¹⁰⁸⁴ in the Municipality of Jablanica in April 1993;¹⁰⁸⁵ in the Municipality of Mostar from 9 May 1993¹⁰⁸⁶ until April 1994,¹⁰⁸⁷ in the

¹⁰⁸³ Witness BR, T(F), pp. 8077 and 8083; P 09723, p. 3; P 09990, p. 3; P 09989, p. 3; P 09925, p. 1; P 09926, p. 3; P 00629; P 00633, pp. 1 and 2; Dragan Jurić, T(F), pp. 39438 and 39439; 2D 00798; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3124 and 3125; Farhudin Agić, T(F), pp. 9252-9253; P 09207 under seal, p. 15; P 00653, pp. 1 to 4; P 09731 under seal, p. 3; P 09400, p. 11; P 09196 under seal, p. 11; 4D 01156, pp. 1 and 2; Witness BU, T(F), pp. 8365, 8366, 8379; P 09194, p. 19; P 03206; 5D 04387, p. 3; Davor Marijan, T(F), pp. 35832 and 35833; P 09193, p. 22; P 09922, pp. 1 and 2; Witness CC, T(F), pp. 10353 to 10355, closed session; P 09714 under seal, pp. 3 and 5; 3D 03720, p. 136; 3D 02603.

¹⁰⁸⁴ P 03889, pp. 15. Ray Lane, T(F), p. 23677; 1D 01521; Ray Lane, T(F), p. 23787; P 01226; P 01214; Andrew Williams, T(F), pp. 8478 and 8479; P 01183; P 01226, p. 1; 3D 00496; Farhudin Agić, T(F), p. 9460; P 09797, paras 7, 9 and 10, p. 2; P 10577, p. 1; Muamer Trkić, T(F), p. 9158; P 09724 under seal, pp. 3 and 5; Witness BV, T(F), pp. 8738 and 8739, closed session. See P 01209, p. 1; P 10108, p. 3; P 09201, p. 18; P 10106, pp. 2 and 3; Witness Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22662 and 22664, pp. 24 to 26; Witness Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and 22664, pp. 4 and 26; P 09702, under seal, p. 15.

¹⁰⁸⁵ Witness CB, T(F), pp. 10116 and 10194; Decision of 7 September 2006, Adjudicated Fact no. 26 from the *Naletilić* Judgement, p. 16; P 02627, p. 3; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version of T(F), pp. 12 and 13; P 01915, p. 2; P 02218, pp. 1 and 2; P 02487, pp. 1 and 2; 4D 01565; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6442-6444 and 6487-6488; P 09728, p. 2; IC 00091; P 09727 under seal, p. 2; 4D 01034; Decision of 7 September 2006, Adjudicated Fact no. 27 from the *Naletilić* Judgement, p. 17; Decision of 7 September 2006, Adjudicated Fact no. 33 from the *Naletilić* Judgement, p. 17; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6628; Witness CA, T(F), pp. 10009-10010; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 903 and 904, private session; Witness X, P 09874 under seal, *Naletilić and Martinović* Case, T(F), pp. 3304 and 3305; P 09848; P 09867 under seal, p. 12; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3125; P 10358, para. 25.

¹⁰⁸⁶ Vinko Marić, T(F), pp. 48193-48195, 48200 and 48201; Witness NO, T(F), p. 51187, closed session; Dragan Ćurčić, T(F), p. 45804; 3D 03759, p. 15; Witness CV, T(F), pp. 12532-12535; 4D 00628; 3D 01001, p. 1; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2924 and 2925; Decision of 7 September 2006, Adjudicated Fact no. 81 from the *Naletilić* Judgement, p. 21; P 02803, para. 11; Witness BJ, T(F), pp. 3731 and 3732; P 02237, p. 1; Witness BF, T(F), pp. 25908-25909, closed session; 4D 00915; P 10032, p. 3; Witness GG, P 10020, *Naletilić and Martinović* Case, T(F), pp. 4742 and 4743; Witness DA, T(F), pp. 13143 and 13144, closed session; P 10035, para. 4; Witness Miro Salčin, T(F), p. 14232; P 09834, para. 9; Ratko Pejanović, T(F), pp. 1250-1253; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6071-6072; see also T(E), p. 6069; Witness WW, P 10024, *Naletilić and Martinović* Case, T(F), pp. 7016, 7047 and 7048; Jovan Rajkov, T(F), pp. 12974, 12978, 13037, 13038 and 12896; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5204, 5205, 5231, 5232 and 5234; P 09805 under seal, p. 2; P 09946 under seal, para. 15; Witness CB, T(F), pp. 10131, 10133, 10134; P 02286 under seal, p. 5; Alija Lizde, T(F), p. 17752; see T(E), pp. 17754, 17947 and 17948; Witness AC, P 10222 under seal, *Vinko Martinović and Mladen Naletilić* Case, T(F), pp. 7904 and 7905; Christopher Beese, T(F), pp. 3166 and 3167; 4D 01721, p. 2.

¹⁰⁸⁷ P 09863 under seal, p. 3; Witness DC, T(F), p. 13641, private session; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2937; Witness BD, T(F), pp. 20695 and 20696, closed session; Witness BH, T(F), p. 17512, closed session subject to no-transcript order; P 02622 under seal, p. 2; Antoon van der Grinten, T(F), p. 21013; Grant

Municipalities of Stolac and Čapljina in July 1993,¹⁰⁸⁸ and in the Municipality of Vareš during the month of October 1993.¹⁰⁸⁹

Heading 2: Other General Requirements for the Application of Article 2 of the Statute

515. Article 2 of the Statute requires, beyond the existence of an armed conflict, that such armed conflict (I) exhibit a character that is international or is that of an occupation. Next, it requires that (II) the persons or objects to which the grave breaches are directed be protected under the Geneva Conventions, and that (III) there be a nexus between the armed conflict and the crimes alleged.

I. Existence of an International Armed Conflict or of an Occupation

516. After having assessed whether the Chamber is able to determine beyond a reasonable doubt whether (A) the armed conflict was international in character, the Chamber will then analyse (B) the evidence attesting to whether or not there was a state of occupation.

Finlayson, T(F), pp. 18041 and 18042; P 02782 under seal, p. 3; Larry Forbes, T(F), pp. 21276, 21277, 21287-21289, 21290, 21295, 21335, 21336; 4D 01676; Witness BB, T(F), pp. 17219-17222, 17134, 17136 and 17137, closed session; P 09857, p. 2; T(E), pp. 17133-17136, closed session; Klaus Johann Nissen, T(F), pp. 20445 and 20446; P 01717 under seal, pp. 113 and 114; P 03744 under seal, pp. 7 and 8; P 09834, paras 13, 15 and 16; Philip Watkins, T(F), pp. 18749, 18861 and 18862; P 09946 under seal, paras 62-64; P 03952, p. 2; P 04419, p. 1; P 04423 under seal, pp. 4-5; P 03858, p. 6; Cedric Thornberry, T(F), pp. 26184, 26186 and 26187; P 04468; Witness DA, T(F), p. 13170, closed session; P 04623 under seal, pp. 4-6; 4D 00741; P 09506 under seal, p. 1; Jeremy Bowen, T(F), pp. 12744, 12745 and 12748; P 04673 under seal; P 04785, p. 1; Miro Salčin, T(F), pp. 14276 and 14277; Miro Salčin, T(F), pp. 14220 and 14221; P 04813 under seal, p. 5; P 04859, pp. 1 and 2; P 04870 under seal, p. 5; P 04905 under seal, p. 4; P 04931 under seal, pp. 5 and 6; Edward Vulliamy, T(F), p. 1595; P 05009, p. 2; P 05085, p. 2; P 05234, p. 1; P 05263, pp. 4 and 5; P 09901 under seal, p. 1; P 09902, p. 1; Witness BD, T(F), p. 20754, closed session; P 05285, p. 1; 3D 00736; P 05316 under seal, pp. 2-4 and Larry Forbes, T(F), pp. 21420 and 21421, private session; P 05369 under seal, pp. 4 and 5; P 10039, paras 33 and 34; P 05428, p. 4 and 5; P 05416 under seal, p. 2; P 05475 under seal, p. 1; P 09861, p. 3; P 09862, pp. 2 and 3; P 09834, para. 16; P 10287 under seal, paras 9 and 78; P 05899 under seal, p. 1 (Witness DW, p. 23098); Grant Finlayson, T(F), p. 18062; P 05680 under seal, p. 1; P 05857 under seal, p. 2; P 05950 under seal, p. 5; Miro Salčin, T(F), pp. 14111, 14171, 14172, 14207 and 14211; IC 00419; Philip Watkins, T(F), pp. 18749 and 18861; 4D 00754; P 10047, paras 24, 33-52; P 07706 under seal, p. 2, Point 2 B; P 10047, para. 38; P 07771 under seal, pp. 2 and 3; P 07904, p. 1; Witness CY, T(F), pp. 13051 and 13052; 2D 03059; Božo Pavlović, T(F), pp. 46930-46932; P 04468; P 09866 under seal; P 10036, p. 2, para. 3; Decision of 7 September 2006, Adjudicated Facts nos 189 and 190, p. 30 from the *Naletilić* Judgement, p. 30; Decision of 14 March 2006, Adjudicated Fact no. 300 from the *Naletilić* Judgement, p. 16.

¹⁰⁸⁸ P 09943, paras 6-8; P 10147, p. 4; Witness CD, T(F), pp. 10537 and 10539, private session; Witness DD, T(F), p. 14515, closed session; P 09753 under seal, p. 2; P 09946 under seal, paras 36 and 37; P 08648; Witness CG, T(F), pp. 10833 and 10834; Ivan Beneta, T(F), pp. 46615-46620; P 10145, p. 5; 2D 00276; Sejfo Kajmović, T(F), p. 11684; IC 00178; Hasan Hasić, T(F), pp. 10725-10726 and T(E), pp. 10725-10727; Dragan Ćurčić, T(F), pp. 45895 and 45896; P 03063; P 03546.

¹⁰⁸⁹ P 10090, paras 37 and 40; P 10015, pp. 8 and 9; P 09913 under seal, p. 2; P 10072, under seal, para. 6; Ferida Likić, T(F), pp. 16207 and 16208; Nelson Draper, T(F), p. 16469; P 07838, para. 6; Kemal Likić, T(F), pp. 26376 and 26418; P 10102, para. 9; P 09883, p. 5; P 07917, pp. 6 and 7; P 06182; P 06131; P 06575, p. 9; P 06978 under seal, pp. 10-13.

A. Existence of an Armed Conflict That Was International in Character

517. Having found that an armed conflict existed between the HVO and the ABiH in almost all the municipalities relevant to the Indictment, the Chamber must, in connection with Article 2 of the Statute, determine whether the armed conflict was international in character.

518. The criteria attesting to the international character of the armed conflict have been treated in great depth in the sections pertaining to the applicable law.¹⁰⁹⁰ The Chamber, however, would recall that an armed conflict breaking out in the territory of a single State, which is internal at first impression, may nevertheless be considered international if the troops of another State intervene in the said conflict or if certain actors in the internal armed conflict act on behalf of that other State.¹⁰⁹¹ This intervention must be established on the facts in order to find that there was an international armed conflict. The Chamber recalls that to determine whether the conflict exhibits an international character, it must be considered in its entirety, and it is not necessary to prove that troops belonging to a foreign army were present in each of the locales where crimes are being alleged.¹⁰⁹²

519. Prior to analysing in detail the evidence relating to whether or not the conflict was international in character, the Chamber deems it necessary, as an initial matter, to respond to some of the arguments raised by the Parties.

520. Accordingly, in its Final Trial Brief, the Prosecution submits that the armed conflict between the Croats and Muslims of BiH was international in nature inasmuch as: (1) the HV participated directly in the conflict alongside the HVO; (2) Croatia exercised broad control over the authorities and the armed forces of the HZ(R) H-B; and (3) the Accused Praljak, who wielded *de jure* and *de facto* authority over the armed forces of HZ H-B, was actually an agent of Croatia.¹⁰⁹³

521. In its closing arguments, the Praljak Defence for its part argued that the fact that Croatia had always supported RBiH independence and co-operated with its armed forces to defend that State, would *a contrario* serve to show that the armed conflict between the HZ (R) H-B and the RBiH could not be international in character.¹⁰⁹⁴ The Praljak Defence submits moreover that the co-operation between Croatia and the authorities of the HZ(R) H-B as well as the presence of HV

¹⁰⁹⁰ See "International Armed Conflict" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹⁰⁹¹ *Tadić* Appeals Judgement, para. 84; *Blaškić* Judgement, para. 76.

¹⁰⁹² See "International Armed Conflict" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹⁰⁹³ Prosecution Final Trial Brief, pp. 27 and 28.

¹⁰⁹⁴ Closing Arguments of the Praljak Defence, T(F), pp. 52411-52416 and 52425-52429.

troops in BiH, could be explained by the fact that Croatia had to defend the “southern front” in order to defend Croatian territory against Serbian attacks launched from BiH.¹⁰⁹⁵ The Praljak Defence submits that the Accused Praljak acted in the armed conflict as a volunteer, not as an agent of Croatia.¹⁰⁹⁶

522. The Chamber finds that, contrary to the Prosecution’s argument, knowing whether the Accused Praljak was an agent of Croatia is not decisive in determining the international character of the conflict in the instant case.

523. The Chamber had, in fact, already found that there was a conflict between the HVO and the ABiH. That conflict was therefore fundamentally internal, inasmuch as it took place between two entities of the RBiH. In determining whether this conflict, internal as of first impression, possesses the qualification of an international armed conflict, it is necessary to prove either (1) the direct involvement of armed troops from Croatia in BiH alongside the HVO, or (2) that the HVO was either an organised hierarchically structured group over which Croatia wielded overall control, or was not an organised group, or was a group of isolated individuals, and that this group or these individuals acted as instruments of Croatia or complicitly with the Croatian authorities.

524. Without entering into the issue of the HVO’s direct involvement at this stage, as this will be examined later, the Chamber is satisfied beyond a reasonable doubt that the HVO – in this case and in light of both its structure and operations as described above – belonged to the category of organized, hierarchically structured groups. It is therefore not necessary, for purposes of ascertaining the international character of the conflict, to know whether the Accused Praljak was a Croatian agent or not. Nonetheless, the acts of the HVO can be attributed to Croatia only if it is established beyond a reasonable doubt that Croatia wielded overall control over the authorities/armed forces of the HZ (R) H-B/HVO, a point the Chamber will review later. Knowing whether Slobodan Praljak was an agent of Croatia, at the time of the events, would thus constitute merely an indication of such overall control but not proof *per se* of the conflict’s international character. For this reason, the Chamber will not examine the Prosecution’s argument on this point any further.

525. As concerns the argument of the Praljak Defence whereby the armed conflict was not international because Croatia had always supported RBiH independence and co-operated with its armed forces to defend that State, the Chamber would recall that in international humanitarian law, determination of the international character of an armed conflict is purely an issue of fact. The

¹⁰⁹⁵ Closing Arguments of the Praljak Defence, T(F), pp. 52419 and 52420.

possible underlying motives of the participants in the conflict or the lawfulness of their participation have no relevance. In this respect, it matters little, for example, that Croatia may have participated in the conflict in BiH, acting against its will, that the soldiers in the HV may have acted in BiH as volunteers, or that the HV may have supported the ABiH in the conflict pitting it against Serbian forces from BiH. From the moment Croatia intervened directly in the conflict against the ABiH on the side of the HVO, or exercised overall control over the HVO, the conflict became international.

526. Therefore, at this stage, the Chamber will simply determine whether, following the criteria from the case-law, Croatia's intervention in the conflict between the HVO and the ABiH was such that it transformed the conflict into an international conflict. It will therefore not review the evidence here in relation to Croatian logistical and humanitarian support for the RBiH, or to the RBiH government's recognition of the legal status of the HVO as an integral part of the ABiH, the support of the Croatian authorities for the RBiH's referendum for independence, etc. By contrast, such evidence may in any case be taken into consideration in determining whether there was a JCE.

527. To determine whether the armed conflict was international in character, the Chamber will now analyse the evidence in relation to (1) the direct involvement of HV troops alongside the HVO in the conflict with the ABiH, and (2) the overall control Croatia wielded over the HVO. This analysis will enable the Chamber to make findings concerning (3) the international character of the conflict.

1. Evidence Regarding the Direct Intervention by HV Troops alongside the HVO in the Conflict with the ABiH

528. The Chamber heard much testimony and analysed substantial documentary evidence indicating that there were HV troops present within the geographic and temporal framework of the Indictment.

¹⁰⁹⁶ Closing Arguments of the Praljak Defence, T(F), p. 52421.

529. The evidence indicates that Croatia, under pressure from the international community, attempted to conceal the presence of the HV in BiH – or attempted to justify it, particularly when it alleged that the HV troops present in this territory were volunteers.¹⁰⁹⁷ However, some evidence appears to undermine the argument that HV troops deployed in HZ H-B territory were volunteers. According to a report by Ivan Kapular, the commander of the military district of Osijek, dated 23 July 1993, some parents of HV soldiers demonstrated against the deployment of their children on the “southern front”¹⁰⁹⁸ and, according to an order from the commanding officer of the 5th HV Guards Brigade, Ivan Kapular, 26 soldiers of the HV 4th Motorized Brigade were punished with disciplinary measures for their refusal to go to the “southern front” on 22 October and 11 November 1993.¹⁰⁹⁹ The “southern front” according to the evidence in the case file, crossed through a portion of the HZ(R) H-B.¹¹⁰⁰ Moreover, the evidence analysed below attests to the fact that Croatia paid the salaries of the HV personnel deployed in BiH. For this reason, knowing whether some of the HV combatants were deployed to BiH on a volunteer basis matters little for purposes of determining the international character of the conflict.

530. Moreover, many of the exhibits coming from international actors,¹¹⁰¹ and from local witnesses, as well as documents from local authorities¹¹⁰² note that there were HV troops on the “southern front”, in BiH, at all times relevant to the Indictment.

531. To be more precise, the Chamber is satisfied by majority, with Judge Antonetti dissenting, that the HV was present in the municipalities relevant to the Indictment during those times when the armed conflict between the ABiH and the HVO was taking place.

¹⁰⁹⁷ P 00798; Ivan Beneta, T(F), pp. 46660, 46689 and 46709, 46673-46676 and 46718; P 00153; Ivan Beneta, T(F), pp. 46558 and 46674; 4D 00701; Philip Watkins, T(F), 18810; P 07535; P 07772; P 02738; Decision of 7 September 2006, Adjudicated Fact no. 30 from the *Blaškić* Judgement, p. 34.

¹⁰⁹⁸ P 03667.

¹⁰⁹⁹ P 11033, pp. 1 and 2.

¹¹⁰⁰ Ivan Beneta; T(F), p. 46672; Milivoj Petković, T(F), p. 50527; P 01332; P 00891; P 02176; P 01606, p. 2; P 06157.

¹¹⁰¹ P 00854, pp. 3 and 4; P 01187, para. 32; P 07587; P 00785; Witness DZ, T(F), p. 26541, closed session; P 02738; P 03990, p. 4; P 07959, pp. 1 and 2; P 07887, pp. 7 and 8; Peter Galbraith, T(F), pp. 6483 and 6484; P 07789; P 00205, p. 2, paras 4 and 5; P 02254, p. 2; Andrew Pringle, T(F), p. 24199.

¹¹⁰² P 06157; P 02711, p. 3; P 05216; P 06797; P 04295, p. 1 and p. 2, paras 5 and 6; Ivan Beneta, T(F), pp. 46559 and 46560; P 07365; P 08107; P 01662; P 02176; P 02627, para. 2; Witness Ole Brix-Andersen, P 10356, *Kordić and Cerkez* Case, T(F), pp. 10753-10755 and 10779-10781; P 02787, p. 5; P 02738; P 02647; 2D 01239; 2D 01240; P 01657; P 02871; P 04295, p. 2; P 00361; Dragan Ćurčić, T(F), pp. 45954-45957; P 03818; P 07485, pp. 7 and 8; P 10290; P 08163; P 08222; Radmilo Jasak, T(F), p. 48860; P 02760, p. 2.

532. As for Prozor, the Chamber received the written statement of *Witness DR*¹¹⁰³ wherein he says he learned through soldiers in the field that the troops who attacked the town of Prozor on 23 October 1992 were from Split, Grude and Livno, and that they belonged to a mixed unit of HVO and HV, despite all of them wearing HVO insignia.¹¹⁰⁴ This information is corroborated by several exhibits stating that, on 23 October 1992, the HVO and the HV took over the town of Prozor.¹¹⁰⁵

533. The Chamber likewise heard witnesses and admitted documents originating from international organizations, stating that there were HV troops in the Prozor area on several dates between November 1992 and January 1994.¹¹⁰⁶

534. As regards the Municipality of Gornji Vakuf, some evidence indicates HV personnel were in this region in January 1993.¹¹⁰⁷

535. Likewise, various exhibits indicate that soldiers from the HV participated alongside the HVO in the attack on Sovići on 17 April 1993.¹¹⁰⁸ HV troops were spotted in that sector until May 1993.¹¹⁰⁹

536. Insofar as Mostar is concerned, an UNPROFOR report dated 10 May 1993 admittedly shows that during a meeting with Bo Pellnäs¹¹¹⁰ and General Wahlgren,¹¹¹¹ M. Radić, the Chief of Cabinet for President Tuđman, said that the HV was not present in Mostar and that these might have been people using the HV's uniforms illegally.¹¹¹² Nonetheless, the evidence received by the Chamber from local witnesses, as well as the documents from the authorities and armed forces of the HZ(R) H-B and the RBiH, note that the HV was present in Mostar from May 1993 until March 1994.¹¹¹³ In addition, the statements and documents from representatives of the international

¹¹⁰³ P 09204 under seal, p. 18.

¹¹⁰⁴ P 09204 under seal, p. 21.

¹¹⁰⁵ Omer Hujdur, T(F), pp. 3510-3512; P 01542; p. 1; P 01656; p. 1; P 09989, p. 3, P 09925, p. 1, and P 09926, p. 3; P 09400.

¹¹⁰⁶ Witness *Alistair Rule*, P 09803, *Kordić and Čerkez Case*, T(F), pp. 5390-5392; P 00917, p. 2; Christopher Beese, T(F), p. 3222; Philip Watkins, T(F), pp. 18848-18851; P 03771 under seal, p. 3, para. 4(f); P 06448 under seal, p. 1; P 06913, p. 3; Philip Watkins, T(F), pp. 18852-18855; P 07625 under seal, p. 4; P 07652 under seal, p. 3.

¹¹⁰⁷ Witness *Nicholas Short*, P 09804, *Blaškić Case*, T(F), pp. 22646 and 22647; P 01299, p. 4; P 09702, under seal, pp. 15 and 16; P 01188; P 01425, p. 1.

¹¹⁰⁸ P 09726, p. 2; 2D 00285, p. 1; Witness D, P 09870 under seal, *Naletilić and Martinović Case*, p. 906; P 02620; Christopher Beese, T(F), pp. 3223 and 3224.

¹¹⁰⁹ Witness X, P 09874, under seal, *Naletilić and Martinović Case*, T(F), pp. 3320 and 3321; P 02237, p. 3; Witness BF, T(F), p. 25799, closed session; P 02327, p. 4.

¹¹¹⁰ Chief of UNOM from November 1992 to January 1995; Bo Pellnäs, T(F), p. 19463.

¹¹¹¹ UNPROFOR Commander; Bo Pellnäs, T(F), pp. 19472 and 19473.

¹¹¹² P 10008, p. 2.

¹¹¹³ P 06037, p. 1; Ivan Beneta, T(F), pp. 46611, 46612, 46663, 46664, 46761 and 46691-46696; P 03466, p. 2; Witness C, T(F), pp. 22333-22335, closed session; 2D 00934; P 04594, p. 2; Salko Osmić, P 09876 under seal, *Naletilić and Martinović case*, T(F), pp. 3144 and 3145; P 10208, paras 1, 13 and 16; P 09454; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5938-5941 and 5947; P 10137, para. 64; 4D 00786, p. 1; P 09946 under seal,

community on the ground corroborate the fact that the HV was present in Mostar at all times relevant to the Indictment.¹¹¹⁴

537. Moreover, the Chamber recalls that it admitted two HVO documents indicating that the authorities from the HZ(R) H-B attempted to conceal the HV's presence in Mostar, ordering that the personnel of the aforementioned army remove HV insignia from their uniforms.¹¹¹⁵

538. Despite denials from the political leaders of Croatia and the HZ(R) H-B concerning the presence of HV troops in Mostar, the Chamber observes that members of the ECMM and UNPROFOR confirmed the presence and direct involvement of HV troops in BiH generally, and in the Mostar region in particular, throughout 1993.¹¹¹⁶

539. As concerns the Heliodrom, admittedly, *Josip Praljak*¹¹¹⁷ stated that he never saw units belonging to the HV around the Heliodrom.¹¹¹⁸ However, the Chamber has admitted sufficient evidence to the contrary. The Chamber received numerous eyewitness accounts from persons detained in the Heliodrom who saw the "Gromovi" and "Tigrovi" brigades of the HV based at the Heliodrom on various dates ranging from May to December 1993.¹¹¹⁹ Other evidence likewise indicates that members of the HV were present inside the detention camp between August 1993 and January 1994, although these exhibits do not specify the brigades to which these persons belonged.¹¹²⁰

540. Along the same lines, several witnesses and international documents attest that HV troops were present in Ljubuški between May and October 1993.¹¹²¹

para. 16; P 07559; P 04679, pp. 4 and 5, P 07884; P 08046, p. 1; P 07719, pp. 1-13; P 05174, p. 2; P 04979; P 00399; P 01606, p. 2; P 07742; P 03752.

¹¹¹⁴ P 07905 under seal; P 07929; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), p. 5251; Ray Lane, T(F), pp. 23694 and 23695 and 23794; P 10008, p. 1; P 02254, p. 2; Antoon van der Grinten, T(F), p. 21059; P 02941 under seal, p. 3; P 03705 under seal, p. 8 and P03724, under seal, p. 4; P 07614 under seal, p. 2, para. 10; P 07921, pp. 8 and 9; P 07887, p. 7; P 07915, p. 1; P 07762; P 07889; P 07893; P 07678, p. 4; P 07904, p. 1. *See also* P 07959, p. 1; Jeremy Bowen, T(F), p. 12777.

¹¹¹⁵ P 07742; P 03752.

¹¹¹⁶ Decision of 7 September 2006, Adjudicated Fact no. 211 from the *Naletilić* Judgement, p. 31.

¹¹¹⁷ *De facto* deputy director of the Heliodrom from 21 September 1992 to 10 December 1993 and co-warden of the Heliodrom from 10 December 1993 to 1 July 1994.

¹¹¹⁸ Josip Praljak, T(F), p. 14681.

¹¹¹⁹ Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2958; P 09807 under seal, pp. 5-9; Witness CW, T(F), p. 12674, closed session, and 12689-12692; P 09806 under seal; P 10037, para. 40 and diagram pp. 9-11; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4829; Witness II, P 10218 under seal, *Naletilić and Martinović* case, T(F), p. 4956.

¹¹²⁰ P 09806 under seal, p. 2; P 09807 under seal, pp. 6-7 and 9; P 10287 under seal, paras 99 and 100; Witness DW, T(F), p. 23087; P 03949.

¹¹²¹ P 03587 under seal, p. 8; P 03771 under seal, p. 4, para. 6(a)(2); Philip Watkins, T(F), pp. 18848-18851; P 10287 under seal, para. 96; P 02360.

541. As concerns the Municipalities of Stolac and Čapljina, the Chamber learned, particularly through a number of testimonies, that around May and June 1992, once the Serbs had left the region, HVO and HV units appeared in the Stolac and Čapljina sectors.¹¹²² It also received the testimony of *Witness CR*,¹¹²³ who stated that the HVO, the HOS and the HV occupied the positions abandoned by Serbian forces in Stolac between 10 and 20 July 1992.¹¹²⁴ In view of this evidence, the Chamber considers that the HV was therefore present in the Municipalities of Stolac and Čapljina in the summer of 1992. In addition, there is much evidence to indicate that troops from the HV were present in the Čapljina sector from the summer of 1992 until July 1993,¹¹²⁵ and in the Stolac sector until the summer of 1992.¹¹²⁶

542. However, regarding the Municipality of Vareš, it appears from the statement by *Witness J*¹¹²⁷ that between September 1992 and late October 1993, the *Bobovac* Brigade of the Vareš HVO did not have any HV soldiers in its ranks.¹¹²⁸

543. After viewing this evidence, a majority of the Chamber is satisfied beyond a reasonable doubt, with Judge Antonetti dissenting, that the HV was directly involved alongside the HVO in the conflict between the HVO and the ABiH in most of the camps and municipalities to which the Indictment is directed and at all the relevant times.

544. Such direct involvement supports a finding beyond all reasonable doubt that the conflict pitting the ABiH and the HVO against one another did indeed have the character of an international armed conflict.¹¹²⁹

2. Evidence Regarding the Indirect Intervention and Overall Control by Croatia

545. The Chamber has just found that the evidence enables it to establish beyond a reasonable doubt that the HV and thus Croatia intervened directly in the conflict between the ABiH and the HVO and that this intervention gave an international character to the armed conflict. It would

¹¹²² P 10138, para. 7; IC 01097; Witness CU, T(F), p. 12212, closed session; P 09946 under seal, paras 10 and 11.

¹¹²³ Member of the SDA in Stolac; Witness CR, T(F), p. 11820, closed session.

¹¹²⁴ Witness CR, T(F), p. 11828.

¹¹²⁵ P 02627; Christopher Beese, T(F), pp. 3223 and 3224; P 10125, p. 4; P 10129 under seal, para. 12; P 00742; P 10094, paras 4 and 5; 4D 01406.

¹¹²⁶ Ivan Beneta, T(F), pp. 46582; IC 01098; IC 01099; 4D 00475, p. 3, para. 3; P 10125, p. 4; P 10129 under seal, paras 12 and 13; Decision of 7 September 2006, Adjudicated Fact no. 206 (*Naletilić* Judgement, p. 31). The Chamber notes that although the evidence does not mention armed clashes between the ABiH and the HVO/HV in the Stolac and Čapljina zone from July 1993, several pieces of evidence from international organisations state that there were troops in Stolac after July 1993 and continuing into March 1994. Grant Finlayson, T(F), pp. 18160 and 18161; P 07622 under seal, p. 3; P 10287 under seal, paras 99, 100, 103, 104, 106, 108; P 07921, p. 9.

¹¹²⁷ Witness J 1993; P 10082 under seal, paras 23, 86 and 87.

¹¹²⁸ P 10082 under seal, para. 46.

¹¹²⁹ Judge Antonetti discusses this issue in his partially dissenting opinion annexed to this Judgement.

therefore not be necessary for the Chamber to examine this issue in any greater detail, and particularly, to rule as to whether Croatia wielded overall control over the armed troops of the HZ(R) H-B/HVO for it to find that the conflict was international in character. Nevertheless, given the volume of evidence submitted by the parties on this point and the controversies pitting them against one another and mindful of the need for thoroughness, the Chamber will present its findings in this regard. The Chamber admitted evidence supporting a finding by the majority, with Judge Antonetti dissenting, that Croatia did indeed wield overall control over the HVO. This control manifested itself in several ways:

a) Officers from the HV Were Sent by Zagreb to Join the Ranks of the HVO

546. The Chamber received evidence, most of it from the HVO, pointing to the presence of HV officers within the structure of the HVO.¹¹³⁰ It points *inter alia* to the testimony of *Peter Galbraith*,¹¹³¹ who said that Croatia appointed the generals and the high command of the HVO, and also removed them from office.¹¹³²

547. More specifically, the evidence indicates that the persons who held the positions of highest responsibility within the HVO, such as Milivoj Petković, Slobodan Praljak and Tarko Tole – all of whom served as Chief of the Main Staff at various times – and Ivan Kapular, Assistant Chief of the Main Staff, were at one and the same time officers in the HV.¹¹³³

548. Along the same lines, the Chamber notes that other high-ranking HVO officers were also members of the HV. For instance, Tjeljko Šiljeg, commanding officer of the North-West OZ of the HVO was a colonel in the HV.¹¹³⁴ Vladimir Primorac, who belonged to the 145th Brigade of the HV, held the office of deputy commander of the 3rd Military Police Battalion of the HVO,¹¹³⁵ and Nečeljko Obradović, commanding officer of the 1st *Knez Domagoj* Brigade of the HVO on 21 January 1993, was assigned to the 116th Brigade of the HV on that same date.¹¹³⁶ Stanko Sopta, a

¹¹³⁰ P 00813; P 00332; P 00891; P 05467; P 00567; P 01855; P 01845; P 01850; P 06037, p. 1; P 03818; Witness CU, T(F), p. 12250; Andrew Pringle, T(F), pp. 24102-24105; Bruno Pinjuh, T(F), pp. 37299 and 37300; P 01683, p. 2; P 08705; P 00549.

¹¹³¹ Ambassador of the United States to the Republic of Croatia from 24 June 1993 to 3 January 1998; Peter Galbraith, T(F), p. 6424.

¹¹³² Peter Galbraith, T(F), pp. 6467 and 6468.

¹¹³³ Witness EA, T(F), p. 24313, closed session; P 10330 under seal, para. 4; Bruno Pinjuh, T(F), pp. 37344-37353; P 10336; P 01889; P 02604; P 03957.

¹¹³⁴ P 07836; P 00734.

¹¹³⁵ P 00927.

¹¹³⁶ P 01242.

colonel in the HV, held the posts of deputy commander for the Convicts Battalion of the HVO and commander of the 3rd Brigade of the HVO.¹¹³⁷

b) The HV and the HVO Jointly Directed Military Operations

549. The Chamber holds by majority, with Judge Antonetti dissenting, that the evidence demonstrates that the HV and the HVO jointly directed the operations in BiH. Therefore, according to *Ciril Ribičić*,¹¹³⁸ the HZ H-B coordinated its military activities with Croatia.¹¹³⁹

550. Moreover, some evidence also indicates that commanding officers of the HV issued orders to the units of the HVO for certain military operations.¹¹⁴⁰

551. The Chamber likewise notes that according to *Marijan Biškić*,¹¹⁴¹ between November 1993 and early January 1994, Croatia's Minister of Defence, Mr Gojko Šušak, visited the territory of the HR H-B four to five times to participate in unofficial meetings relating to the prevailing situation in the territory of the HR-HB with Marijan Biškić, Mate Boban, Valentin Ćorić, General Roso, Perica Jukić, the Minister of Defence, as well as the Minister's deputies and officers from the HVO Main Staff.¹¹⁴² However, *Marijan Biškić* specified that Gojko Šušak, who came from Široki Brijeg,¹¹⁴³ participated in these meetings, not as Croatian Defence Minister, but as an individual affected by the situation and wishing to become involved.¹¹⁴⁴

552. The Chamber considers that *Marijan Biškić*'s argument that the Croatian Defence Minister's interest was strictly personal in nature is improbable and conflicts with evidence attesting to the fact that representatives of the Croatian and/or HV authorities met with representatives of the HVO for the purpose of planning military operations.¹¹⁴⁵ The Chamber thus finds that Gojko Šušak also participated in meetings with the leaders of the HZ(R) H-B in his capacity as Croatia's Minister of Defence.

¹¹³⁷ P 05576.

¹¹³⁸ Witness Ciril Ribičić appeared before the Tribunal as a constitutional expert in the *Kordić and Čerkez* case; "Decision on the Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *bis* of the Rules", 8 December 2006, para. 21.

¹¹³⁹ P 08973, p. 25; Ciril Ribičić, T(F), p. 25451; see also Decision of 7 September 2006, Adjudicated Fact no. 8 (*Naletilić* Judgement, p. 15).

¹¹⁴⁰ P 03048, p. 3; Ivan Beneta, T(F), pp. 46632, 46634, 46639 and 46656; P 07055.

¹¹⁴¹ Officially appointed Deputy Minister in the HR H-B Ministry of Defence for Security and the HVO Military Police by Jadranko Prlić on 1 December 1993; Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, Art. 4; P 06994; P 06998, p. 1; Marijan Biškić, T(F), p. 15073.

¹¹⁴² Marijan Biškić, T(F), pp. 15073 and 15074.

¹¹⁴³ Marijan Biškić, T(F), pp. 15340.

¹¹⁴⁴ Marijan Biškić, T(F), pp. 15073.

¹¹⁴⁵ P 06485, pp. 10-13, 16-24, 29-31, 35 and 36; Marijan Biškić, T(F), pp. 15031, 15032, 15218 and 15219; P 08973, p. 25; Ciril Ribičić, T(F), p. 25451; P 04191.

c) The HVO Dispatched Reports Concerning Its Activities to the Croatian Authorities

553. Several pieces of evidence suggest that the HVO prepared reports for the Croatian authorities and/or for the HV concerning its activities,¹¹⁴⁶ and that the members of the HV present in BiH likewise prepared reports for the HVO.¹¹⁴⁷

d) There Was Logistical Support From Croatia

554. The evidence further confirms that Croatia provided logistical and financial support in the armed conflict in BiH, indicated by (1) financial support, dispatching of arms and materiel, and (2) assistance in the form of training and expertise.

i. Financial Support, Dispatching of Arms and Materiel

555. Evidence exists to indicate that the salaries of some HVO soldiers were paid by Croatia.¹¹⁴⁸ Thus, for example, Marijan Biškić's salary was paid in Croatia by the Croatian government; in fact he never received any emoluments from the government of the RBiH.¹¹⁴⁹

556. The Chamber notes that the Croatian Ministry of Defence likewise supplied arms and materiel and transferred funds to the HVO.¹¹⁵⁰

¹¹⁴⁶ P 07135, p. 04061; P03242; Josip Manolić, T(F), pp. 4434, 4435 and 4646.

¹¹⁴⁷ P 01438; P 01442.

¹¹⁴⁸ P 10290; Miroslav Rupčić, T(F), pp. 23367-23370; P 10291; Miroslav Rupčić, T(F), pp. 23374-23375; Peter Galbraith, T(F), pp. 6467, 6468 and 6590; P 10143, p. 4; Miroslav Rupčić, T(F), pp. 23383 and 23385; P 07173; P 10135 under seal, para. 24.

¹¹⁴⁹ Marijan Biškić, T(F), pp. 15043 and 15044. *Marijan Biškić* was officially appointed Deputy Minister in the HR H-B Ministry of Defence for Security and the HVO Military Police by Jadranko Prlić on 1 December 1993.

¹¹⁵⁰ P 06009; P 00678; 2D 01474; P 03722; P 03258; P 02115; P 02803, p. 5; P 02875; P 02975; P 03952, p. 2; Ivan Beneta, T(F), pp. 46703 and 46704; P 04295, p. 1; P 04876; P 05542; Decision of 7 September 2006, Adjudicated Fact no. 217 from the *Naletilić* Judgement, p. 32; Decision of 7 September 2006, Adjudicated Fact no. 37 (*Blaškić* Judgement, p. 35); P 10291; Josip Manolić, T(F), pp. 4350, 4357, 4358, 4359 and 4375; P09649, p. 6; P 04081; Miroslav Rupčić, T(F), p. 23379, 23380, 23383 and 23385; P 07173; P 03989; P 06673; P 05041; P 08973, p. 25; Ciril Ribičić, T(F), p. 25451.

557. The Chamber also heard the testimony of *Miroslav Rupčić*¹¹⁵¹ who said that the Croatian Ministry of Defence simply served as a conduit for money sent by Croats abroad to Bosnia-Herzegovina for the purpose of helping that country.¹¹⁵² However, he then proceeded to explain that the donations sent by Croats abroad to help Bosnia-Herzegovina were deposited in bank accounts opened by the Croatian State in foreign banks.¹¹⁵³ This money was then transferred to the Ministry of Finance of Croatia.¹¹⁵⁴ The HVO/HZ H-B received, in his estimation, 1,400,000 German Marks in 1992, and 4,500,000 German Marks in 1993 from the Croatian Ministry of Defence; the HVO was thus formally indebted to Croatia for this amount.¹¹⁵⁵

558. The Chamber notes that *Miroslav Rupčić* claims that Croatia's Ministry of Defence merely served as a go-between between the private donors and the HVO/HZ H-B, whereas he goes on to state that the funds transferred by these donors were initially paid into accounts opened by the Croatian government and then transferred to Croatia's Ministry of Finance. The Chamber considers this information contradictory and inconsistent, and consequently assigns low probative value to his testimony concerning this point.

ii. Assistance in the Form of Training and Expertise

559. At all times relevant to the Indictment, the HV Military Police assisted the HVO Military Police by providing training and helping it to structure its work.¹¹⁵⁶ The Croatian MUP likewise created training programmes intended for the HVO police.¹¹⁵⁷

e) The Political Aspects of the Overall Control Croatia Wielded Over the HVO of the HZ(R) H-B

560. The overall control wielded by Croatia over the HVO and the authorities of HZ(R) H-B had political aspects as well, and was wielded through Croatia's indirect control and influence over the HVO and the HZ(R) H-B.

¹¹⁵¹ HVO officer assigned to the finance department of the Grude logistics centre between August 1992 and 1996; *Miroslav Rupčić*, T(F), pp. 23316, 23322 and 23324.

¹¹⁵² *Miroslav Rupčić*, T(F), p. 23578.

¹¹⁵³ *Miroslav Rupčić*, T(F), p. 23579; 2D 00534.

¹¹⁵⁴ 2D 00533; *Miroslav Rupčić*, T(F), pp. 23579 and 23580.

¹¹⁵⁵ *Miroslav Rupčić*, T(F), p. 23380. For the year 1993, see P 08118: the report details budget and expenses of the logistics section for the year 1993 and *Miroslav Rupčić*, T(F), pp. 23572 to 23578.

¹¹⁵⁶ *Marijan Biškić*, T(F), pp. 15029 and 15067; 5D 05109, para. 3; P 07169, pp. 11 and 24.

¹¹⁵⁷ 5D 05109, para. 6.

561. The Chamber notes that the evidence indicates that the international community frequently requested the Croatian leadership, particularly President Tuđman, to use their influence with the leaders of the HZ(R) H-B to bring about the end of hostilities between the HVO and the ABiH, and did this from May 1992 up until the Washington Agreement.¹¹⁵⁸

562. The Chamber likewise heard the testimony of *Peter Galbraith*, who on several occasions personally requested that President Tuđman and Mate Granić intervene to ensure access to the HVO detention camps for international organizations and to ensure freedom of movement for humanitarian convoys in BiH, as well as to bring the atrocities committed by the HVO to an end.¹¹⁵⁹

563. In the same vein, the Security Council and the General Assembly of the United Nations also asked the Croatian leadership to exert their full influence over the leaders of the HZ(R) H-B to bring the violations of international law in BiH to an end.¹¹⁶⁰ Furthermore, much evidence indicates that Croatia's leaders did in fact approach the leaders of the HZ(R) H-B, subsequent to this pressure, asking them to meet the demands of the international community.¹¹⁶¹

564. By way of example, on 10 November 1993, Franjo Tuđman said to Mate Boban and to Jadranko Prlić that the events at Stupni Do had a very negative affect on Croatia's image in the international community and asked Mate Boban to replace Ivica Rajić, HVO commanding officer in Vareš, and transfer him to Gornji Vakuf.¹¹⁶² Moreover, *Peter Galbraith* stated that Franjo Tuđman relieved Mate Boban of his functions on 4 January 1994, at the request of the United States.¹¹⁶³ *Milivoj Petković's* testimony corroborates this information.¹¹⁶⁴

¹¹⁵⁸ P 09605; Christopher Beese, T(F), pp. 3167 and 3168; Peter Galbraith, T(F), pp. 6468, 6695 and 6696. P 02462, p. 1; Witness Ole Brix-Andersen, P 10356, *Kordić and Čerkez* Case, T(F), pp. 10745, 10752, 10772; Philip Watkins, T(F), pp. 18838 and 18839; P 07405 under seal, p. 1; P 08167, p. 3; Witness DZ, T(F), pp. 26646, 26647, 26726 and 26727, closed session; P 05422, p. 1; 1D 01048, pp. 1 and 2; Witness BB, T(F), p. 17276, closed session.

¹¹⁵⁹ Peter Galbraith, T(F), pp. 6441, 6468, 6479-6481, 6490, 6500, 6507, 6522-6523, 6528, 6529, 6695 and 6696; P 09501 under seal, pp. 1-4; Peter Galbraith, T(F), p. 6472; P 09505; Peter Galbraith, T(F), p. 6499; P 09506 under seal, p. 1; P 09507 under seal, pp. 1 and 2; P 06251, p. 10.

¹¹⁶⁰ P 05047; P 07268, para. 11; P 09506 under seal, p. 1; Peter Galbraith, T(F), pp. 6501 and 6502.

¹¹⁶¹ P 09604; Christopher Beese, T(F), p. 3169; P 09697; P 09500 under seal; P 03673; Witness DZ, closed session, T(F), pp. 26589-26591; P 10367 under seal, paras 83 and 98; P 04027 under seal, p. 2; P 09508 under seal, p. 1; P 05221, p. 3; P 05391; 1D 01585; Marijan Biškić, T(F), p. 15076.

¹¹⁶² P 06581, pp. 8-13 and 15.

¹¹⁶³ Peter Galbraith, T(F), pp. 6524-6526 and p. 6532; T(E), pp. 6525-6527. See also P 07475, p. 11.

¹¹⁶⁴ Milivoj Petković, T(F), pp. 49930, 49931, 49934 and 49936; Boban's departure was also mentioned by Franjo Tuđman at a meeting of the Presidency on 6 January 1994, P 07485, pp. 5-7.

565. The evidence also indicates that the Croatian leaders, specifically Gojko Šušak, Mate Granić and Franjo Tuđman, decisively influenced decisions taken in relation to the political structure of the HR H-B and the appointment of its most senior officials.¹¹⁶⁵ Thus, for example, at a meeting in Zagreb on 10 November 1993, Mate Boban and Jadranko Prlić agreed with Mate Granić and Franjo Tuđman concerning the persons who would be appointed to head certain ministries in the HR H-B.¹¹⁶⁶

566. Furthermore, the evidence shows that Franjo Tuđman presented himself as the representative of the BiH Croats in the peace talks held under the auspices of the international community and that he took decisions on their behalf.¹¹⁶⁷ Facing international pressure, Franjo Tuđman did, moreover, finally accept the American proposal leading to the Washington Agreement of 1 March 1994.¹¹⁶⁸

567. In view of all this evidence, the Chamber is satisfied beyond a reasonable doubt by majority, with Judge Antonetti dissenting, that the authorities of Croatia and the HV wielded overall control of the HVO in the period relevant to the Indictment.

3. Overall Finding Concerning the International Nature of the Conflict

568. With regard to all the evidence analysed, the Chamber by majority, with Judge Antonetti dissenting, is satisfied beyond a reasonable doubt that the armed conflict was international in nature due both to the direct involvement of the HV in the conflict pitting the HVO and the ABiH against one another and to the overall control wielded by the HV and by Croatia over the HVO.

B. Existence of a State of Occupation

569. The Chamber will now analyse whether, as the Indictment alleges, a state of occupation existed in the municipalities relevant to the Indictment .

570. As it previously recalled, the Chamber will adhere to the following criteria to determine whether there was an occupation:¹¹⁶⁹ (1) the occupying power must be able to substitute its own authority for that of the occupied power, which has become incapable of operating publicly; (2) the

¹¹⁶⁵ P 06454, pp. 89-113; P 06581, pp. 1-23 of translation 1D57-0070; Marijan Biškić, T(F), pp. 15072 and 15080; P 07234; P 07064, p. 3; Peter Galbraith, T(F), p. 6469.

¹¹⁶⁶ P 06581, pp. 1-23 of translation 1D57-0070.

¹¹⁶⁷ P 02441, pp. 3 and 6; Witness Ole Brix-Andersen, P 10356, *Kordić and Cerkez* Case, T(E), p. 1076; P 02462, p. 1; P03112, pp. 17 and 18; Josip Manolić, T(F), p. 4422; P 05997, p. 15 of the English version; P 06454, pp. 3 and 4.

¹¹⁶⁸ Peter Galbraith, T(F), pp. 6522, 6523 and 6525; Josip Manolić, T(F), pp. 4370-4371; P 09673, p. 3 of the English version.

¹¹⁶⁹ See "State of Occupation" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions.

enemy forces have surrendered, were defeated or withdrew. In this respect, the Chamber recalls that combat zones are not considered occupied territory whereas sporadic local resistance, even where successful, does not call into question the status of an occupied territory; (3) the occupying power has sufficient forces on site to impose its authority or is able to send them within a reasonable time period; (4) a provisional government has been established in the territory; and (5) the occupying power has issued orders to the civilian population and has had them carried out. As such, in order to make a finding as to whether a state of occupation existed in any given place, the Chamber will study the situation in its entirety. It is therefore not necessary to prove that each criterion has been met for there to be an occupation.¹¹⁷⁰

571. Prior to analysing in detail the evidence it has, the Chamber would first recall the arguments raised by the Prosecution in this respect.

572. The Prosecution recalls that crimes directed against civilians and civilian property in an occupied territory may constitute a grave breach of the Geneva Conventions under Article 2 of the Statute. The Prosecution also alleges that the commander of an occupied zone has a duty to protect the civilian population and the civilian property of the said zone and may be held responsible for aiding and abetting the commission of crimes against such persons and property by omission.¹¹⁷¹ Thus, according to the Prosecution, the Accused Praljak and Petković, in their respective capacities as Commander and Chief of the HVO Main Staff, having breached their duty to protect, are responsible for aiding and abetting by omission the crimes committed against property and protected persons in occupied territory.¹¹⁷² Finally, the Prosecution raises the point that, under the case-law of the Tribunal, the displacement of civilians from occupied territory is sufficient to amount to deportation.¹¹⁷³

573. The Chamber notes, first of all, that it cannot embrace the Prosecution's argument whereby a commander in an occupied territory may, solely due to his failure to discharge his duty to protect the civilian population and civilian property in this territory, be held responsible for aiding and abetting by omission the crimes that were committed against this population or this property. Holding the post of commander of the occupying power may in fact constitute proof of the commander's duty to act. However, the Prosecution will be required to prove every other element of this mode of responsibility as prescribed by the Tribunal's case-law. Accordingly, the Prosecution must also prove that the commanding officer had the capacity to act, that he knew that

¹¹⁷⁰ See "State of Occupation" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹¹⁷¹ Prosecution Final Trial Brief, para. 86.

¹¹⁷² Prosecution Final Trial Brief, para. 324.

his omission would contribute to the crime being carried out by the direct perpetrator, that he was aware of the core elements of the crime ultimately committed, and that his failure to act had significant bearing on the commission of the crime.¹¹⁷⁴

574. The Prosecution then recalls, quite rightly here, that the civilian population and civilian property in occupied territory are protected, and may therefore be the subject of grave breaches of the Geneva Conventions pursuant to Article 2 of the Statute.

575. It is, however, necessary to establish the existence of an occupation when crimes are alleged under Article 2 of the Statute in places and dates for which the Chamber has been unable to establish the existence of a conflict between the ABiH and the HVO.¹¹⁷⁵ The Chamber will therefore analyse the evidence regarding a possible state of occupation in the municipalities where the Prosecution alleges the destruction of property under Count 19 and the appropriation of property under Count 22.

576. Moreover, as the Prosecution rightly recalls, the crime of deportation can occur the moment a person is transferred by force outside of an occupied territory.¹¹⁷⁶ As a consequence, it is therefore necessary for the Chamber to determine whether there was a state of occupation in those places where deportation is alleged, even though the Chamber has evidence for the date of the deportations to confirm that there was a conflict between the HVO and the ABiH. In this regard, the Chamber recalls that the crime of unlawful deportation of a civilian as a grave breach of the Geneva Conventions as well as the crime of deportation as a crime against humanity¹¹⁷⁷ are alleged in the Indictment for the detention centres, the Municipality of Prozor,¹¹⁷⁸ West Mostar,¹¹⁷⁹ Ljubuški,¹¹⁸⁰ and the Municipality of Čapljina.¹¹⁸¹

¹¹⁷³ Prosecution Final Trial Brief, para. 86.

¹¹⁷⁴ See “Accomplice Modes of Participation: Aiding and Abetting” in the Chamber’s treatment of the applicable law: Modes of Responsibility Contemplated Under Article 7(1) of the Statute.

¹¹⁷⁵ The Chamber recalls that the occupation by the HVO can be established, inasmuch as Croatia/the HV wielded overall control over the HVO. See “The Occupying Power” in the Chamber’s treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹¹⁷⁶ See “Deportation and Forcible Transfer” in the Chamber’s treatment of the crimes against humanity and “Deportation and the Unlawful Transfer of Civilians” in the Chamber’s treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹¹⁷⁷ The Chamber recalls in this respect that the factors which constitute deportation within the meaning of Articles 2 and 5 of the Statute are identical, except that to be characterised as a grave breach of the Geneva Conventions, the deportation must be committed against persons protected by the Geneva Conventions.

¹¹⁷⁸ Indictment, para. 59.

¹¹⁷⁹ Indictment, paras 100 and 105.

¹¹⁸⁰ Indictment, para. 150.

¹¹⁸¹ Indictment, paras 175, 182, 183 and 185.

1. Analysis of the Evidence

577. The Chamber will now analyse the evidence it has in order to establish whether the Municipality of Prozor, West Mostar, and the municipalities of Ljubuški, Stolac, and Čapljina were occupied by the HVO on the dates alleged in the Indictment.

578. Concerning the Municipality of Prozor, the evidence shows that after attacking the town of Prozor on 23 October 1992, the HVO, acting through the Military Police, was in control of the town as of 24 October 1992.¹¹⁸² A great deal of property was subsequently damaged, destroyed or stolen by members of the HVO between 24 and 30 October 1992.¹¹⁸³ Moreover, on 17 April 1993, the HVO destroyed several houses in the village of Parcani once it had assumed control.¹¹⁸⁴ Finally, the evidence shows that the HVO proceeded to carry out mass arrests of Muslims in the Municipality in August 1993, without encountering any resistance whatsoever on the part of the ABiH.¹¹⁸⁵ The Chamber likewise has evidence concerning the ongoing presence of the HVO in the Municipality of Prozor and its control over the population in December 1993, particularly in Prozor in the village of Duge.¹¹⁸⁶ The Chamber therefore finds that the HVO had a sufficient military presence in Prozor Municipality to be able to issue orders to the local population and to have them carried out. Based on this fact, the Chamber finds that the HVO occupied the town of Prozor from 24 to 30 October 1992 and the village of Parcani for at least the days that followed the attack of 17 April 1993. In addition, the HVO occupied the Municipality of Prozor from August to December 1993.

579. The crime of appropriation of property not justified by military necessity and carried out unlawfully and wantonly is alleged in respect of the Municipality of Gornji Vakuf in paragraphs 66 to 68 of the Indictment. The evidence indicates that once they assumed control over the villages of Duša, Hrasnica, Tdrimci and Uzričje on 18 January 1993, the HVO arrested and removed the Muslim population of these villages, destroying or stealing property that belonged to the Muslim population there.¹¹⁸⁷ The Chamber considers that the evidence indicates that the military presence of the HVO in these villages was strong enough to enable the HVO to give orders to the population

¹¹⁸² See “Capture of Prozor Town” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹¹⁸³ See “Damage to Property and Houses, Fires and Thefts Following the Capture of Prozor Town” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹¹⁸⁴ See “Attack on the Village of Parcani on 17 April 1993 and Burning of Homes” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹¹⁸⁵ P 10030, p. 8; Rudy Gerritsen, T(F), pp. 19221-19223 and 19372; P 09619; P 04177, p. 2; Witness BR, T(F), pp. 8112 and 8113, private session; Peter Hauenstein, T(F), pp. 7569, 7570, 7624 and 7625.

¹¹⁸⁶ P 06569, p. 2; P 09700 under seal, p. 3; P 09717 under seal, p. 6; P 07174, p. 1; P 07212; Peter Hauenstein, T(F), pp. 7571, 7572 and 7653.

¹¹⁸⁷ See “Attack on Several Villages of the Municipality of Gornji Vakuf and the Alleged Crimes Resulting from this Attack” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

and to have them carried out. The Chamber therefore finds that the HVO occupied the villages of Duša, Hrasnica, Țdrimci and Uzričje after 18 January 1993.

580. The crime of appropriation of property not justified by military necessity and carried out unlawfully and wantonly is alleged with respect to the Municipality of Jablanica in paragraphs 82 to 85 of the Indictment. The evidence indicates that once the HVO assumed control over the villages of Sovići and Doljani, they arrested and removed the Muslim population of these villages, destroying or stealing property that belonged to the Muslims there.¹¹⁸⁸ The Chamber considers that this evidence shows that the HVO military presence was sufficiently strong in these villages to enable it to give orders to the population and to have them carried out. The Chamber therefore finds that the HVO occupied the villages of Sovići and Doljani after 17 April 1993.

581. The crimes of deportation and unlawful deportation of a civilian and of appropriation of property not justified by military necessity and carried out unlawfully and wantonly are alleged with respect to West Mostar in paragraphs 100, 105 and 107 of the Indictment and concern the period from May 1993 to April 1994. The Chamber notes, moreover, that although the crimes of deportation and unlawful deportation of a civilian are also alleged paragraph 93 of the Indictment, the description of the facts as they are presented in that paragraph does not describe transfers of the population from Mostar.

582. The Chamber consequently considers that the crimes of deportation and unlawful deportation of a civilian are not alleged in paragraph 93 of the Indictment.

583. The evidence indicates that beginning in May 1993, the HVO removed the Muslim population of West Mostar¹¹⁸⁹ and stole property belonging to the Muslims.¹¹⁹⁰ The removal of the Muslim population of the HVO-controlled zone in Mostar continued apace during the month of June 1993 and until February 1994.¹¹⁹¹ The Chamber finds that this fact proves that the HVO was present militarily to the extent needed to impose its authority and was capable of giving orders to

¹¹⁸⁸ See “Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993” and “Alleged Criminal Events Subsequent to the Attack on the Villages of Sovići and Doljani and to the Arrests” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹¹⁸⁹ P 02884, p. 3; P 10038, p. 4; P 10035; para. 18; P 10367 under seal, para. 51; Witness DZ, closed session, T(F), p. 26471; Witness BB, T(F), pp. 17185, 17186, 17189, 17190 and 17213, closed session; P 09677 under seal, paras 5 and 6; P 02564 under seal, p. 7; 1D 00527, para. 9; P 02557 under seal, p. 1; P 09712 under seal, paras 23 and 36; P 02458, para. 27; P 02290.

¹¹⁹⁰ See “Crimes Allegedly Committed in June 1993”, “Acts of Rape, Sexual Assault, Theft, Threats and Intimidation Committed Against Muslims During the Eviction Operations in West Mostar in July and August 1993”, and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹¹⁹¹ See “Crimes Alleged in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims During the Eviction Operations in West Mostar in July and August 1993”, and “Crimes Alleged from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar.

the inhabitants of West Mostar and having them carried out at all times relevant to the Indictment. From this fact the Chamber finds that West Mostar was indeed occupied by the HVO from May 1993 until February 1994.

584. Concerning the Municipality of Ljubuški, paragraph 150 of the Indictment specifically alleges deportations of Muslim inhabitants of the Municipality of Ljubuški from 16 to 28 August 1993. The evidence shows that in August 1993, the HVO conducted mass arrests of the Muslim inhabitants of the municipality without encountering the least resistance from the ABiH.¹¹⁹² The Chamber considers that this evidence indicates that the HVO had a strong enough military presence throughout the Municipality of Ljubuški to enable it to give orders to the population and to have them carried out. The Chamber finds that the Municipality of Ljubuški was indeed occupied by the HVO in August 1993.

585. Concerning the Municipality of Stolac, paragraphs 159, 162, 164, 165, 166, 167 and 168 of the Indictment recount the destruction of civilian and religious objects, appropriation of property and deportation of the Muslim population in several locations in the Municipality in July and August 1993. The evidence shows that in August 1993, the HVO conducted mass arrests and transfers of the Muslim inhabitants of the Municipality of Stolac¹¹⁹³ and also destroyed and plundered the property of the Muslims in the municipality.¹¹⁹⁴ This evidence establishes that the HVO had a sufficient military presence in the municipality to enable it to give orders to the local population and to have them carried out. The Chamber thus finds that in July and August 1993 the HVO occupied the Municipality of Stolac.

586. The crimes of deportation and unlawful deportation of a civilian are alleged, insofar as concerns Čapljina Municipality, in paragraphs 175, 182, 183, and 185 of the Indictment, and concern the months of July through September 1993. The crimes of extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly are alleged in paragraphs 175, 177, 179, 180, and 182.

587. The evidence shows that in July 1993, the HVO conducted a campaign of mass arrests of Muslim men of military age throughout the Municipality of Čapljina, without encountering the least

¹¹⁹² P 09847 under seal, p. 2; P 09845 under seal; P 05091, para 17; 1D 01675, paras 1-7; P 04225; P 02108 under seal, p. 37; P 04214 under seal, p. 5; P 10328, pp. 19 and 20.

¹¹⁹³ P 04000 under seal, p. 3; Witness BI, T(F), pp. 2401, 2403, 2426 and 2427; P 09946 under seal, paras 46, 48 and 49; P09947, p. 6; Witness CL, T(F), pp. 11067, 11068, private session, and 11069; P 09583; Witness CL, T(F), p. 11075, private session; Fahrudin Rizvanbegović, T(F), pp. 2202 and 2203; P 09750 under seal, p. 4; Witness CE, T(F), pp. 10598 and 10599, private session; P 09751 under seal, p. 4; P 09944, para. 5.

resistance on the part of the ABiH.¹¹⁹⁵ Over the course of this campaign, the HVO also destroyed or stole property belonging to the Muslims of the municipality.¹¹⁹⁶ Between July and September 1993, the HVO forcibly removed the Muslim population of the said municipality.¹¹⁹⁷ The Chamber considers that these facts prove that the HVO had a sufficient military presence throughout the Municipality of Čapljina to enable it to give orders to the population and to have them carried out. The HVO thus occupied the entire Municipality of Čapljina from July through September 1993.

588. The crimes of appropriation of property not justified by military necessity and carried out unlawfully and wantonly are alleged with respect to the Municipality of Vareš in paragraphs 211 and 213 of the Indictment. The evidence indicates that after assuming control over the town of Vareš and of the village of Stupni Do on 23 October 1993, the HVO arrested the Muslim population of Vareš, stole property belonging to the Muslims of Vareš and completely destroyed the village of Stupni Do.¹¹⁹⁸ The Chamber considers that this evidence indicates that the HVO had a sufficient military presence in the town of Vareš and in the village of Stupni Do to enable it to issue orders and to have them carried out. The Chamber therefore finds that the HVO occupied the town of Vareš and the village of Stupni Do after 23 October 1993.

¹¹⁹⁴ See “Arrest of Women, Children and Elderly Persons; Removal of the Population; Thefts of Property and Damage to Property in Stolac Municipality in July and August 1993” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹¹⁹⁵ P 06697, paras 57 and 58; P 10009 under seal, paras 1 and 2; Witness BC, T(F), p. 18339, closed session; P 03075, p. 2; Witness CM, T(F), pp. 11100 and 11101; P 03057, p. 3; P 09931, p. 3; P 03019, p. 2; Witness C, T(F), p. 22429, closed session; P 09937, para. 13; P 09755 under seal, p. 4; P 10125, p. 4; P 10131 under seal, para. 21; P 09935, p. 3; P 03170, p. 2; P 10137, paras 5-7 and 10; P 10138, paras 16 to 18; P 03121, p. 2; P 03170, pp. 2 and 3; Witness DD, T(F), p. 14429, closed session; P 09933 under seal, p. 3; P 03175 under seal, p. 1; Klaus Johann Nissen, T(F), p. 20459; P 03362 under seal, p. 3; Klaus Johann Nissen, T(F), p. 20526; P 09843 under seal, p. 2, para. 1; Witness BC, T(F), pp. 18348 and 18349, closed session; Witness BC, T(F), pp. 18348 and 18349, closed session; P 09712, under seal, paras 44 and 45; Witness CM, T(F), p. 11104, private session; P 09681 under seal; P 09768 under seal, pp. 3 and 4; P 03222; P 09799 under seal, p. 3; Hasan Hasić, T(F), pp. 10716-10718; Witness CI, T(F), pp. 10899 and 10900; P 09798, p. 2; P 03369 under seal, p. 1; Antoon van der Grinten, T(F), pp. 21087-21089; Sejfo Kajmović, T(F), pp. 11699, 11701 and 11702; P 09754, under seal, p. 3 ; P 03952, p. 2; P 04000 under seal; P 03187, p. 1; P 03326, p. 1; P 03666, p. 1; P 03230, p. 1; P 03307, p. 1.

¹¹⁹⁶ See “Eviction of Women, Children and Elderly People, Their Transfer and Subsequent Crimes Alleged in the Municipality of Čapljina from July to September 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹¹⁹⁷ P 03142, p. 1; P 06697, para. 54; P 09843 under seal, p. 2, para. 2; Witness C, T(F), p. 22365, closed session; P 10217 under seal, para. 144; P 10208, para. 2; P 09798, pp. 2, 3 and 5; P 09931, pp. 3, 5 and 6; P 09933 under seal, pp. 3 and 4; P 10145, p. 5; P 09935, pp. 5 and 6; P 09770 under seal, p. 8; P 03063; Witness CG, T(F), pp. 10799 and 10800; Sejfo Kajmović, T(F), pp. 11698, 11699 and 11702; P 03962; Witness BC, T(F), p. 18389, closed session; P 10133 under seal, p. 5, paras 46 and 47; P 09799 under seal, p. 3; Witness CK, T(F), pp. 11007 and 11008; Martin Raguţ, T(F), p. 31463. See also P 09851 under seal, pp. 8-10.

¹¹⁹⁸ See “Arrest of Muslim men in Vareš on 23 October 1993 and Their Detention”, “Thefts and Sexual Assaults against the Muslim Population of Vareš”, and “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” in the Chamber’s factual findings with regard to the Municipality of Vareš.

2. General Finding as to the Existence of a State of Occupation

589. In light of all the evidence, the Chamber is able to affirm beyond a reasonable doubt that the town of Prozor was occupied by the HVO from 24 to 30 October 1992 and that the village of Parcani was occupied at least during the days following the attack of 17 April 1993. More broadly, the Chamber considers that the Municipality of Prozor was occupied by the HVO from August to December 1993. The Chamber considers, moreover, that the villages of Duša, Hrasnica, Țdrimci and Uzriêje in the Municipality of Gornji Vakuf were occupied by the HVO after 18 January 1993; that the villages of Soviçi and Doljani in the Municipality of Jablanica were occupied by the HVO after 17 April 1993; that West Mostar was occupied by the HVO from May 1993 to February 1994; that the Municipality of Ljubuški was occupied by the HVO in August 1993; that the Municipality of Stolac was occupied by the HVO in July and August 1993; that the Municipality of Ćapljina was occupied by the HVO from July to September 1993; and that the town of Vareš and the village of Stupni Do in the Municipality of Vareš were occupied by the HVO after 23 October 1993.

II. Protected Status of the Property and Persons Victims of the Crimes Alleged

590. The status of the victims and property will be determined in the legal findings in light of the evidence relating to the events which took place in the municipalities and the detention facilities relevant to the Indictment. However, throughout the trial, on numerous occasions, the parties debated two matters of principle relating (A) to the status of the Muslim members of the HVO and (B) to the status of the Muslim men of military age. (C) The evidence allowing a determination as to whether the persons and property in each detention facility and municipality were protected will then be assessed.

A. Status of the Muslim Members of the HVO Detained by the HVO

591. The parties engaged in much debate over the status of the Muslim members of the HVO throughout the trial, in their final trial briefs, and during closing arguments.

592. Several of the Defence teams allege that the Muslim soldiers in the HVO, who were detained by the HVO, are not protected persons within the meaning of the applicable Geneva Conventions, and that, consequently, Article 2 of the Statute does not apply to them.

593. The Ćorić Defence does not dispute the case-law that assists in pinpointing the allegiance of a party to the conflict, which is the decisive criterion for ascertaining the status of protected

persons under the Fourth Geneva Convention.¹¹⁹⁹ However, the Ćorić Defence does argue that the HVO Muslims, due to their membership in the HVO, owed allegiance to the authorities of the HZ H-B. For this reason, when detained by those same authorities in the HVO, they had not fallen into enemy hands, and were therefore not protected by the Geneva Conventions.¹²⁰⁰

594. The Praljak, Petković and Ćorić Defence teams contend that the Muslim soldiers of the HVO, placed in isolation by the HVO on 30 June 1993, did not forfeit their status as HVO soldiers.¹²⁰¹ These Defence teams recall that the law of armed conflict does not criminalise acts of violence committed between members of the same armed forces, arguing that any crimes committed in such a context arise under the domestic law applicable to the said armed forces.¹²⁰²

595. The Petković Defence, moreover, submits that the HVO set apart the Muslim HVO soldiers placed in isolation from the prisoners of war.¹²⁰³ The Ćorić Defence argues, more specifically, that the detention of the Muslim HVO soldiers was justified by security considerations and lay solely within the remit of the HVO.¹²⁰⁴ In this respect, the Ćorić Defence submitted in particular that on or about 30 June 1993, Valentin Ćorić was informed that the Muslim members of the HVO and various Muslims fit for combat had been placed in detention by the military commanders of the HVO on preventive grounds.¹²⁰⁵ *In fine*, the Petković Defence considers that the Tribunal lacks jurisdiction to adjudicate the crimes allegedly committed against the Muslim HVO soldiers and that the detention of Muslim HVO soldiers constitutes neither an unlawful action nor a discriminatory measure nor an act of persecution within the meaning of Article 2 of the Statute and that their transfer itself to a third country cannot constitute a crime of deportation within the meaning of Article 2 of the Statute.¹²⁰⁶

596. In its Final Trial Brief, the Prosecution addresses the theoretical issue of the status of the Muslims from the HVO who were detained by the HVO on 30 June 1993.¹²⁰⁷ The Prosecution argues that should the Chamber find that these men are neither civilians nor prisoners of war, they ought to be afforded the protective regime applicable to prisoners in customary international law under Article 75 of Additional Protocol I and under Common Article 3 of the Geneva

¹¹⁹⁹ Ćorić Defence Final Trial Brief, paras 352 and 355-358.

¹²⁰⁰ Ćorić Defence Final Trial Brief, paras 352-354, 359 and 360.

¹²⁰¹ Praljak Defence Final Trial Brief, paras 85 and 96; Petković Defence Final Trial Brief, paras 255-257; Ćorić Defence Final Trial Brief, paras 352-360; Closing Arguments by the Petković Defence, T(F), pp. 52545, 52549 and 52550.

¹²⁰² Praljak Defence Final Trial Brief, paras 85 and 96; Petković Defence Final Trial Brief, paras 258-260; Ćorić Defence Final Trial Brief, paras 361-368; Closing Arguments by the Petković Defence, T(F), pp. 52550 and 52558.

¹²⁰³ Prosecution Final Trial Brief, para. 257.

¹²⁰⁴ Ćorić Defence Final Trial Brief, para. 372.

¹²⁰⁵ Closing Arguments by the Ćorić Defence, T(F), pp. 52723-52725.

¹²⁰⁶ Closing Arguments by the Petković Defence, T(F), pp. 52558 and 52559.

Conventions.¹²⁰⁸ The Prosecution contends, more specifically, that the HVO Muslims detained by the HVO on grounds of their ethnicity and because they constituted a threat to security were persons *hors de combat* by virtue of their confinement and therefore may qualify for the protective regime under Common Article 3 of the Conventions.¹²⁰⁹ In response to the arguments developed by the Petković Defence in its Reply, citing Article 72 of Additional Protocol I and the Commentary to Article 75, the Prosecution contends in its Reply that Article 75 of Additional Protocol I does not apply to civilians exclusively.¹²¹⁰ In its Rejoinder, the Petković Defence asserts that the Prosecution fails to set forth a basis under customary international law supporting its argument and states once more that the case-law of the Special Court for Sierra Leone, as well as legal doctrine, favour its position that the Muslim HVO soldiers retained their status as HVO soldiers after being placed in isolation.¹²¹¹

597. In the event that the Chamber does ultimately find that the HVO Muslims were civilians of a different nationality from the Bosnian Croats, the Čorić Defence contends that their detention was justified by certain security considerations and permitted under Article 5 of the Fourth Geneva Convention.¹²¹² In this respect, the Čorić Defence contends that, according to case-law and the Commentaries to the Fourth Geneva Convention, it falls to the State that ordered these detentions to determine what constitutes a threat to security, arguing that the detention of men of military age likely to join enemy armed forces is justified insofar as such persons constitute a threat to the security of the State.¹²¹³

598. The Chamber first notes that the Čorić Defence is simultaneously addressing the issue of the status of the HVO Muslims and the issue of the Muslim men of military age who were placed in isolation by the HVO but does not set out the reasons for analysing the status of these two groups in combination.

599. The Chamber considers the argument submitted by the Čorić Defence whereby the HVO had the right to isolate all the HVO Muslims for security reasons erroneous. Quite to the contrary, the internment or the assignment to home confinement of civilians can result only from individual

¹²⁰⁷ Prosecution Final Trial Brief, paras 144-148.

¹²⁰⁸ Prosecution Final Trial Brief, paras 144-147 and 149; Prosecution Reply, T(F), p. 52822.

¹²⁰⁹ Prosecution Final Trial Brief, paras 144-149.

¹²¹⁰ Prosecution Reply, T(F), pp. 52822 and 52823.

¹²¹¹ Petković Defence Sur-Reply, T(F), pp. 52931-52933.

¹²¹² Čorić Defence Final Trial Brief, paras 373-375; Closing Arguments by the Čorić Defence, T(F), pp. 52723-52725.

¹²¹³ Čorić Defence Final Trial Brief, paras 373-375.

measures that must be determined on a case by case basis and cannot in any case be decided generally in respect of an entire segment of the population.¹²¹⁴

600. The Chamber recalls that the issue of knowing which legal regime applies to the HVO Muslims arises from the moment they were detained by the HVO. It is therefore necessary to determine whether these persons are thus protected by the Third or the Fourth Geneva Convention.

601. Initially, the Chamber will assess whether the HVO Muslims detained by the HVO may be characterised as prisoners of war protected by the Third Geneva Convention.

602. Article 4 of the said Convention defines prisoners of war as being “[...] persons belonging to one of the following categories who have fallen into the power of the enemy: (1) [m]embers of the armed forces of a Party to the conflict [...]”.

603. The Muslim members of the HVO clearly belong to the armed forces of a Party to the conflict: the HVO. This observation does not lead to the finding that this prong of the conventional definition of “prisoner of war” has been met. An teleological interpretation seeking to establish the objective of the Third Convention unambiguously leads to the conclusion that only those persons belonging to the armed forces of a Party *other than* the detaining Party are concerned. The fact that the HVO in this particular instance detained its own soldiers weighs against the notion that these detainees could be characterised as prisoners of war.

604. The Chamber considers, moreover, that the HVO Muslims who were detained by the HVO cannot be considered to “have fallen into the power of the enemy” within the meaning of the Third Geneva Convention. The Commentary to Article 4 reminds us that “the term „enemy“ covers any adversary in the midst of an „armed conflict“ arising between two or more High Contracting Parties [...]”. The Chamber deduces therefrom that a member of the armed forces may not be considered a prisoner of war unless he is captured by that party to the conflict against which the armed forces to which he belongs are fighting. The Chamber recalls moreover that the purpose of the protection afforded to prisoners of war is to allow belligerents to place members of the enemy armed forces *hors de combat* while the conflict is ongoing.¹²¹⁵ Thus, members of the armed forces of a party to the conflict may not be considered prisoners of war when they are placed into detention by their own armed forces.

¹²¹⁴ See “Imprisonment” in the Chamber’s treatment of the applicable law: Crimes against Humanity.

¹²¹⁵ See in this respect “The Handbook of Humanitarian Law in Armed Conflicts”, Dieter Fleco, Oxford Press, Oxford, 1995, p. 321.

605. The Chamber finds by majority, with Judge Antonetti dissenting, that the HVO Muslims who were detained by the HVO cannot be characterised as prisoners of war and are therefore not protected by the Third Geneva Convention.

606. The Chamber will now examine whether the HVO Muslims are protected by the Fourth Geneva Convention.

607. Article 4 of the said Convention provides that “persons protected [by the Convention ...] are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.” The Convention excludes from its ambit those persons protected by the other Geneva Conventions. In this instance, the Chamber correctly established that the HVO Muslims were not protected by the Third Geneva Convention. Nor are they protected by the First Geneva Convention relative to the Wounded and Sick in Armed Forces in the Field nor by the Second Geneva Convention relative to the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

608. To ascertain whether the Fourth Convention applies, it is necessary to establish whether the HVO Muslims had fallen into the hands of a party to the conflict of which they were not nationals. The Appeals Chamber clearly established that the criterion applicable to determine the status of protected persons is not nationality but allegiance. In the context of the conflicts in the former Yugoslavia, such allegiance may result from ethnic loyalties.¹²¹⁶ Thus, it is proper, in light of the evidence available to the Chamber, to determine the party to which the HVO Muslims detained by the HVO owed their allegiance.

609. As the Ćorić Defence itself points out, the HVO Muslims were perceived, starting in 1993, to constitute a threat to the security of the HVO.¹²¹⁷ From the time of the ABiH attack on “North Camp” on 30 June 1993, in which HVO Muslims participated, the HVO authorities considered that, generally, the Muslim HVO members constituted a threat to the security of the HVO and ordered that they be disarmed and detained *en masse*.¹²¹⁸ The Ćorić Defence nevertheless considers that

¹²¹⁶ *Tadić* Appeals Judgement, para. 166.

¹²¹⁷ Ćorić Defence Final Trial Brief, para. 373.

¹²¹⁸ Fahrudin Rizvanbegović, T(F), p. 2206; P 09755 under seal, pp. 3 and 4; Witness CD, T(F), pp. 10530, 10531 and 10532, private session; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5935 and 5936; 5D 05110 under seal, para. 12; Zvonko Vidović, T(F), pp. 51518-51520 and 51621; P 10032, p. 6, para. 18; Marijan Biškić, T(F), p. 15092; P 10133 under seal, paras 36, 79 and 80; 3D 03759, p. 11; P 03019; P 03546; Witness C, T(F), pp. 22333, 22334, 22463, closed session; P 03019, p. 2; Božo Pavlović, (T)F, pp. 46855, 46856, 46860, 46911, 46912, 46919 and 46920, private session; Milivoj Petković, T(F), pp. 49574-49580; P 03019; Milan Gorjanc, T(F), p. 46315, private session; 4D 01731, para. 138; Slobodan Praljak, T(F), p. 44274. See also P 03121; Slobodan Praljak T(F), pp. 44272 and 44273.

these acts do not fall within the jurisdiction of the Tribunal because the HVO Muslims had sworn allegiance to the HVO.¹²¹⁹ *Milivoj Petković* stated that, pursuant to orders received from Mate Boban, the President of the HZ H-B and Supreme Commander of the HVO, during their meeting on 30 June 1993, he issued an order that same day to the commanding officer of the South-East OZ on disarming and “isolating” the Muslim HVO soldiers, as well on “isolating” Muslims fit for combat in light of the threat they posed to the security of the HVO units.¹²²⁰ *Milan Gorjanc* stated that, from a military perspective, it was reasonable for the HVO armed forces to view the Muslim soldiers within their units as a threat.¹²²¹

610. The Chamber therefore considers that from at least 30 June 1993, the HVO Muslims were perceived by the HVO as loyal to the ABiH.

611. The Chamber consequently finds that the HVO Muslims, detained by the HVO from 30 June 1993 onwards, had indeed fallen into the hands of the enemy power and were thus persons protected within the meaning of Article 4 of the Fourth Geneva Convention.

B. Status of the Muslim Men Between Ages 16 and 60 Detained by the HVO

612. In its Final Trial Brief, the Petković Defence argues that the Muslim men aged between 16 and 60 who were detained by the HVO on 30 June 1993 were reservists who were part of the ABiH as non-combatant members pursuant to legislation in effect in the RBiH at the time of the events and to the RBiH Presidency’s order for general mobilisation on 20 June 1992, and that they were thus afforded the protection applicable to prisoners of war.¹²²² Moreover, the Petković Defence, relying upon the *Kordić* Appeals Judgement, contends that it falls to the Prosecution to establish the status of the men of military age beyond all reasonable doubt and that in the absence of proof to the contrary, no presumption of civilian status exists when this status constitutes an element of the crime.¹²²³

613. In view of the evidence admitted into the record, the Petković Defence asserts that the RBiH political and military authorities treated the Muslim men of military age as members of the ABiH and that the HVO considered them reservists. Therefore, the Petković Defence alleges that these

¹²¹⁹ Ćorić Defence Final Trial Brief, paras 352-360.

¹²²⁰ Milivoj Petković, T(F), pp. 49574-49580; P 03019.

¹²²¹ 4D 01731, para. 138. See also Milan Gorjanc, T(F), pp. 46118, 46119, 46126 and 46132.

¹²²² Petković Defence Final Trial Brief, paras 261-273; Closing Arguments by the Petković Defence T(F), pp. 52550-52557; Rejoinder of the Petković Defence, T(F), pp. 52929 and 52930.

¹²²³ Petković Defence Final Trial Brief, para. 274; Closing Arguments by the Petković Defence, T(F), pp. 52551, 52552 and 52558.

Muslim men were considered prisoners of war and that there were no civilians among the Muslim population of BiH, apart from the women, children and the old men.¹²²⁴

614. The Petković Defence thus contends that detaining these prisoners of war was legal and justified on ground that they posed a security risk to the HVO and for the Croatian population in the territories controlled by the HVO. Thus, detention of this sort did not constitute an unlawful act, a discriminatory measure, or an act of persecution within the meaning of Article 2 of the Statute. Moreover, according to the Petković Defence, their transfer to a third country cannot constitute a crime of deportation within the meaning of Article 2.¹²²⁵

615. In its Reply, the Prosecution does not dispute its burden to prove that the Muslim men of military age isolated by the HVO were civilians, but rejects the Defence's argument that the Muslim men of military age would automatically lose their civilian status.¹²²⁶ The Prosecution further asserts that the status of non-combatant member of the armed forces which the Petković Defence attributes to these men applies only to individuals who were not assigned a combat mission. This status would not apply to reservists not mobilised for active duty simply because they were of military age, as they would in such case retain their civilian status.¹²²⁷ In its rejoinder the Petković Defence repeats that, until proof to the contrary is adduced, the Muslim men fit for combat are not civilians, arguing that the Prosecution did not produce evidence of their civilian status.¹²²⁸

616. The Chamber recalls that Article 4 (1) of the Third Geneva Convention includes members of the armed forces among those persons who become prisoners of war when they fall into enemy hands. Article 43 of Additional Protocol I defines the term "armed forces" by specifying that they consist of "all organised armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates [...]". The article goes on to state that the "members of the armed forces of a Party to a conflict (other than the medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities".

617. Furthermore, according to the Commentary to Article 43 of Additional Protocol I, a civilian who is incorporated in an armed organisation as defined hereinafter, becomes a combatant

¹²²⁴ Petković Defence Final Trial Brief, paras 275-280, referring to the *Kordić* Appeals Judgement, paras 606, 609, 615 and 623.

¹²²⁵ Petković Defence Final Trial Brief, paras 281-284; Closing Arguments by the Petković Defence, T(F), p. 52559.

¹²²⁶ Reply by the Prosecution, T(F), pp. 52819 and 52820.

¹²²⁷ Reply by the Prosecution, T(F), pp. 52820-52822.

¹²²⁸ Rejoinder of the Petković Defence, T(F), p. 52928.

throughout the hostilities until he is permanently demobilised by the responsible commanding officer referred to in Article 43.¹²²⁹

618. The Chamber considers by majority, with Judge Antonetti dissenting, that the Muslim men of military age, even if they are part of the reserves of the armed forces of the RBiH under national law, do not fit the definition of members of armed forces within the meaning of the applicable international humanitarian law.

619. In the view of the majority of the Chamber, with Judge Antonetti dissenting, a reservist becomes a member of the armed forces within the meaning of international humanitarian law once he has been mobilised and has taken up active duty, that is, once he has been incorporated into an organised structure and placed under a command accountable for the conduct of its subordinates. It is only then that a member of the reserves acquires the status of combatant and becomes a prisoner of war if he falls into the hands of the opposing party during an international armed conflict. Such a person thus retains the status of combatant from the instant he is mobilised and enters into active duty until such time as he is permanently demobilised. Outside this temporal framework, a member of the reserves is a civilian and cannot in any event be considered a prisoner of war if put in detention by the opposing party during a conflict.

620. For this reason, a party to an international conflict cannot justify the detention of a group of men solely on the ground that they are of military age and that national law obliges the general mobilisation of the men in this age group in the event of war. Such a party must verify whether the person has actually entered into active duty.

621. However, even though the status of combatant cannot be presumed on the ground that men are of military age at the time of their detention, it is the Prosecution that carries the burden of proving civilian status when seeking to have the regime of crimes against humanity or that of the Fourth Geneva Convention applied to the crimes committed against these persons. Where the evidence, after it has been assessed for each crime alleged, does not prove beyond all reasonable doubt that the persons involved are civilians, the Chamber is bound to find *in dubio pro reo* that such persons are combatants.

¹²²⁹ Commentary to Article 43 of Additional Protocol I, p. 1677.

C. Protected Status of Property and Persons in the Detention Centres and the Municipalities
Relevant to the Indictment

622. The Chamber will analyse the protected status of the persons and property in the municipalities and the detention centres relevant to the Indictment in the legal findings pertaining to each of the municipalities and each of the detention centres covered.

III. Nexus Between the Alleged Crimes and the Armed Conflict/Occupation

623. The Chamber recalled in the part devoted to the grave breaches of the Geneva Conventions that it was not necessary to prove that fighting took place at the same sites where the alleged crimes were committed but rather to establish that the said alleged crimes were directly connected with the hostilities taking place in other parts of the territory.¹²³⁰

624. All the acts charged as crimes pursuant to Article 2 of the Statute and found by the Chamber to have been committed by members of the HVO, were perpetrated on or in proximity to a territory where an armed conflict between the HVO and the ABiH was taking place that was international in character or that was located in an occupied area. Moreover, all these acts were committed by one of the armed forces in the conflict, in this case, the HVO. For this reason, no doubt remains that these actions were closely linked to an international armed conflict or a state of occupation. Therefore, the Chamber holds by majority, that the requirement in respect of the nexus between the crimes alleged and the armed conflict/occupation has been satisfied for all the acts alleged to be grave breaches of the Geneva Conventions and were found by the Chamber to have been committed by members of the HVO.

Heading 3: Other General Requirements for the Application of Article 3 of the Statute: the Nexus Between the Alleged Crimes and the Armed Conflict

625. As previously recalled, the existence of an armed conflict, whether internal or international, is a necessary requirement for Article 3 of the Statute to apply.

626. As was mentioned regarding whether Article 2 of the Statute is applicable, it is necessary, prior to establishing a nexus between the alleged crimes and the armed conflict, to determine (I) whether there is evidence to confirm an occupation in those periods and in those places for which the Chamber lacks evidence of an armed conflict. Once the Chamber has made its findings on this

¹²³⁰ See “Existence of a Nexus Between the Armed Conflict and the Alleged Crimes” in the Chamber’s treatment of the applicable law: Grave Breaches of the Geneva Conventions.

point, it will be able to analyse, in light of all the evidence collected in the municipalities and the detention camps, whether (II) there was indeed a nexus between the armed conflict and the alleged crimes.

I. Existence of a State of Occupation for the Crimes Alleged Under Article 3 of the Statute

627. As in its treatment of the general requirements for the application of Article 2, the Chamber must establish the existence of an occupation when crimes are alleged under Article 3 of the Statute in places and on dates for which the Chamber has been unable to establish the existence of a conflict between the ABiH and the HVO.

628. Insofar as the Municipality of Ljubuški is concerned, the Chamber previously found that this Municipality was occupied in August 1993. Nevertheless, the Chamber points out that the destruction of the mosque of Gradska in September 1993 is likewise alleged as a violation of the laws and customs of war.¹²³¹ The Chamber, however, does not have evidence enabling it to establish whether there was a state of occupation in the Municipality of Ljubuški in September 1993.

II. Existence of a Nexus Between the Alleged Crimes and the Armed Conflict/Occupation

629. Every one of the acts charged as crimes pursuant to Article 3 of the Statute and found by the Chamber to have been committed by members of the HVO was perpetrated on or in proximity to a territory where an armed conflict between the HVO and the ABiH was taking place that was international in character or that was located in an occupied area. Moreover, all these acts were committed by one of the armed forces in the conflict, in this case the HVO. For this reason, there is no doubt that these acts were closely linked to an international armed conflict or to a state of occupation. Therefore, the Chamber finds by majority, with Judge Antonetti dissenting, that the requirement in respect of the nexus between the alleged crimes and the armed conflict/occupation has been satisfied for all the acts alleged as violations of the laws or customs of war and found by the Chamber to have been committed by members of the HVO.

¹²³¹ Indictment, para. 152.

Heading 4: Other General Requirements for the Application of Article 5 of the Statute: Widespread or Systematic Attack Directed Against a Civilian Population

630. The Prosecution alleges in paragraph 234 of the Indictment that all the acts, omissions, conduct and events charged against the Accused as crimes against humanity occurred in connection with a widespread and systematic attack directed by the Herceg-Bosna/HVO authorities and forces against the Muslim civilian population of BiH.

631. Contending that civilians alone may be victims of crimes against humanity, the Praljak Defence underscores that the detainees in the HVO detention facilities were all men “fit for combat” and could not therefore be victims of crimes against humanity.¹²³² They further claim that there were no attacks against the civilian population of Prozor Municipality in October 1992.¹²³³ The Praljak Defence further submits that the Prosecution failed to establish even a minimal nexus between the crimes and a widespread and systematic attack on a civilian population.¹²³⁴

632. Deeming the crimes allegedly committed in October 1992 and in April 1993 in the Municipality of Prozor and those allegedly committed in the Municipality of Gornji Vakuf in January 1993 to be isolated, rare occurrences, the Petković Defence contends that the “skirmishes” alleged to have occurred at these places during this time cannot be considered a widespread and systematic attack on a civilian population.¹²³⁵ The Petković Defence likewise asserts that it has not been established that the other crimes occurred in connection with a widespread and systematic attack.¹²³⁶ The Petković Defence concedes that prisoners of war may be victims of crimes against humanity but only when the actions directed against them form part of a widespread or systematic attack on a civilian population.¹²³⁷

633. The Ćorić Defence, for its part, submits that, inasmuch as civilians alone may be victims of crimes against humanity, the Muslim members of the HVO could not, as soldiers, claim the protection afforded by this category of crimes.¹²³⁸ Alternatively, it asserts that, in any event, the acts allegedly committed against these Muslims did not form part of a widespread and systematic attack

¹²³² Praljak Defence Final Trial Brief, para. 85.

¹²³³ Praljak Defence Final Trial Brief, paras 163 and 179.

¹²³⁴ Praljak Defence Final Trial Brief, para. 575.

¹²³⁵ Petković Defence Final Trial Brief, paras 118, 154 (i) and 217. *See also* the Preliminary Statement by the Petković Defence, T(F), p. 45999.

¹²³⁶ Petković Defence Final Trial Brief, paras 154 (ii) and (iii).

¹²³⁷ Closing arguments by the Petković Defence, T(F), p. 52551.

¹²³⁸ Ćorić Defence Final Trial Brief, paras 369-371.

directed against a civilian population because those people were kept in detention for reasons that cannot be tied to such an attack.¹²³⁹

634. The Chamber recalls, as an initial matter, that it has already indicated, in the part pertaining to crimes against humanity, that the individual victims of the underlying crimes need not be civilians themselves, provided that the population against which the attack has been launched was civilian in character and that the underlying crimes formed part of that attack.¹²⁴⁰ The Chamber has likewise previously determined that the Muslim men did not have the status of combatants solely because they were of military age. In fact, they become combatants only once they are mobilised and have entered into active service by being incorporated into an organised structure and placed under a command accountable for the conduct of its subordinates.¹²⁴¹

635. In order to determine whether the general requirements for the application of Article 5 of the Statute have been satisfied, the Chamber will review the evidence pertaining to: (I) the existence of an attack; (II) the widespread or systematic nature of that attack; (III) the civilian character of the population against which the attack was directed; (IV) the nexus between the acts charged and the attack; (V) the state of mind of the direct perpetrators of these acts; and (VI) the nexus between the attack and the armed conflict. The Chamber (VII) will then present its finding.

I. Existence of an Attack

636. From May 1992 – the date of the earliest decisions by the Municipal HVO and the HVO of the HZ-HB to disadvantage the Muslims of Mostar¹²⁴² – until April 1994 – the date of the last releases from the Heliudrom¹²⁴³ – members of the HVO committed numerous acts of violence, such as preventing access to humanitarian aid, homicides, thefts, evictions, and mass arrests, in every one of the municipalities relevant to the Indictment.¹²⁴⁴

637. As a consequence, the Chamber finds that the HVO conducted an attack in all municipalities relevant to the Indictment, from May 1992 to April 1994.

¹²³⁹ Ćorić Defence Final Trial Brief, paras 376-378.

¹²⁴⁰ See “General Requirements for the Application of Article 5 of the Statute” in the Chamber’s treatment of the applicable law: Crimes against Humanity.

¹²⁴¹ See “The Status of the Muslim Men Between Ages 16 and 60 Detained by the HVO” in the Chamber’s review of the general requirements for the application of Articles 2, 3 and 5 of the Statute.

¹²⁴² See “Takeover of Political Control and the “Croatisation” of the Municipality by the HVO” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁴³ See “Detainee Exchanges with the ABiH and the Final Releases” in the Chamber’s factual findings with regard to the Heliudrom.

¹²⁴⁴ The Chamber also recalls that in the part pertaining to the applicable law, it specifically mentioned that term “attack” is not limited to the use of armed force and that it presumes a type of conduct involving acts of violence.

II. Widespread or Systematic Nature of this Attack

638. The factual findings show that from May 1992 through May 1993, the HVO authorities engaged in policies in Mostar which aimed specifically to (1) hinder access to humanitarian aid for Muslim “refugees”, (2) make the work of the fire fighters in East Mostar much more difficult than that of the fire fighters in West Mostar, even going so far as to abolish them on 3 May 1993, and (3) seize political power in the Municipality by excluding Muslims from the organs of politics by raising the Croatian flag on public buildings and by introducing the Croatian dinar in the municipality in place of the official currency of BiH.¹²⁴⁵

639. Commencing in May 1992, the HVO established checkpoints along the road from Prozor going in the direction of Herzegovina and Croatia,¹²⁴⁶ and in October 1992 and again in April and July 1993,¹²⁴⁷ launched attacks against several localities in the Municipality. In January 1993, the HVO also launched an attack in the Municipality of Gornji Vakuf.¹²⁴⁸ Next, in both of these municipalities, they set fire to homes belonging to Muslims,¹²⁴⁹ killed Muslims who were not members of any armed force,¹²⁵⁰ detained the inhabitants,¹²⁵¹ and moved the population towards territories under ABiH control.¹²⁵²

¹²⁴⁵ See “Takeover of Political Control and the “Croatisation” of the Municipality by the HVO” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁴⁶ See “Events Preceding the Attack on 23 and 24 October 1992 in the Town of Prozor” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹²⁴⁷ See “Sequence of the Alleged Criminal Events” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹²⁴⁸ See “Attacks on 18 January 1993 in the Municipality of Gornji Vakuf” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁴⁹ See “Sequence of the Alleged Criminal Events” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Attacks on 18 January 1993 in the Municipality of Gornji Vakuf” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁵⁰ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Inhabitants”, “Attack on the Village of Tošćanica on 19 April 1993, the Burning of Houses and the Deaths of Three Residents” and “Death of Six Muslims in the Region of Prajine and Tolavac” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Attack on the Village of Duša” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁵¹ See “Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992” and “Arrests, Confinement and Removal of Muslim Men, Women, Children and Elderly People Between Spring 1993 and Year’s End” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Alleged Criminal Events Following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁵² See “Arrests, Confinement and Removal of Muslim Men, Women, Children and Elderly People Between Spring 1993 and Year’s End” in the Chamber’s factual findings with regard to the Municipality of Prozor; “The Alleged Criminal Events Following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

640. In April 1993, subsequent to the offensive conducted against the villages of Sovići and Doljani in Jablanica Municipality, the HVO arrested and detained Muslim men of military age.¹²⁵³ They likewise arrested several women, children and elderly people.¹²⁵⁴ The Muslims were held at the Fish Farm, at Sovići School or in the houses of the hamlet of Junuzovići,¹²⁵⁵ then moved to Ljubuški Prison on 18 April 1993,¹²⁵⁶ or to Gornji Vakuf in early May 1993.¹²⁵⁷ In April 1993 also, members of the HVO took Muslim men from the Municipality of Čapljina, some of whom did not belong to the ABiH, away to Grabovina Barracks and Dretelj Prison.¹²⁵⁸

641. In May 1993, subsequent to the assault launched on 9 May 1993 on the town of Mostar in Mostar Municipality, the HVO drove the Muslims of West Mostar from their homes, either (1) by forcing them to go to East Mostar,¹²⁵⁹ or (2) by holding them at the Heliodrom for several days prior to releasing them and allowing them to return to their residences,¹²⁶⁰ or even (3) by holding them in detention facilities at Mostar.¹²⁶¹ During the month of June 1993, and more specifically in the middle of that month, the HVO continued to drive Muslims out of West Mostar, forcing them to cross the front line to East Mostar.¹²⁶²

642. From June 1993 to April 1994, the HVO besieged East Mostar, subjecting it to prolonged military attack comprised of intensive, continuous heavy shelling and rifle fire, including sniper fire, in a tight, densely populated area, with the result that many inhabitants of East Mostar were

¹²⁵³ See “Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993” and “Alleged Criminal Events Subsequent to the Attack on the Villages of Sovići and Doljani and to the Arrests” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹²⁵⁴ See “Arrests of Men, Women, Children and Elderly in Sovići and Doljani from 17 to 23 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹²⁵⁵ See “Alleged Criminal Events Subsequent to the Attack on the Villages of Sovići and Doljani and to the Arrests” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹²⁵⁶ See “Treatment of Muslim Men While Being Moved from the Sovići School to Ljubuški Prison on 18 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani); “Arrival and Relocation of the Detainees of Ljubuški Prison” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there.

¹²⁵⁷ See “Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹²⁵⁸ See “Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹²⁵⁹ See “Muslims from West Mostar Driven from their Homes, Placed in Detention or Expelled to East Mostar in the Second Half of May 1993” and “Removal of 300 Muslims to East Mostar at the End of May 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁶⁰ See “Round-up of Muslims from West Mostar, Their Placement in Detention in Various Locations and the Departure of Some of Them to ABiH Controlled Areas or Other Countries in the First Half of May 1993” and “Muslims from West Mostar Expelled from their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar. See also “Arrivals of Detainees following Waves of Muslim Arrests on 9 and 10 May 1993” and “Arrival of Detainees following the Waves of Arrest in the Second Half of May 1993” in the Chamber’s factual findings with regard to the Heliodrom.

¹²⁶¹ See “The Tobacco Institute”, “The Mechanical Engineering Faculty” and “The MUP Building” in the Chamber’s factual findings with regard to the Municipality of Mostar.

wounded or killed.¹²⁶³ During this time, the population could not leave the eastern part of Mostar as it wished, was forced to live in extremely harsh conditions deprived of food, water, electricity and appropriate medical care; the HVO rendered the passage of humanitarian aid difficult, even blocking it altogether on occasion, and deliberately targeted members of international organisations, killing and injuring several of them.¹²⁶⁴ Moreover, the HVO destroyed the Old Bridge and also destroyed or heavily damaged ten mosques in East Mostar.¹²⁶⁵

643. Commencing in late June 1993, after the ABiH attack on the HVO *Tihomir Mišić* Barracks on 30 June 1993, the HVO arrested and detained many Muslims from the municipalities of Mostar,¹²⁶⁶ Stolac,¹²⁶⁷ Čapljina,¹²⁶⁸ Ljubuški,¹²⁶⁹ and Prozor.¹²⁷⁰ The HVO then sent them either to territories under ABiH control or to third countries¹²⁷¹ or even moved them to other HVO detention centres, including Ljubuški Prison,¹²⁷² the Heliodrom,¹²⁷³ Gabela Prison,¹²⁷⁴ and Dretelj Prison.¹²⁷⁵ In these detention facilities, the HVO physically abused the Muslims and subjected them to conditions of detention that were frequently very harsh, resulting in the deaths of several detainees.¹²⁷⁶ As a result of these conditions of detention and of the physical abuse they suffered, many Muslim detainees agreed to leave for territories under ABiH control or for another country.¹²⁷⁷ The last detainees were released in April 1994.¹²⁷⁸

¹²⁶² See “Crimes Allegedly Committed in June 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁶³ See “Shelling and Artillery Fire Targeting East Mostar”, “Sniping Attacks on the Population of East Mostar”, and “The Chamber’s Findings on the Existence of a Siege in East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁶⁴ See “Living Conditions for the Population in East Mostar”, “The Targeting of Members of International Organisations”, and “The Chamber’s Findings on the Existence of a Siege in East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁶⁵ See “The Alleged Destruction of the Old Bridge”, “The Alleged Destruction of Institutions Dedicated to Religion Property in East Mostar”, and “The Chamber’s Findings on the Existence of a Siege in East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹²⁶⁶ See “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” and “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar. The Chamber notes that subsequent to the attack on 30 June 1993, and the mass arrests of Muslim men in Mostar, and likewise from mid-July 1993 and in August 1993, the HVO drove out many Muslim families from West Mostar to East Mostar (see “Eviction and Transfer of Muslims to East Mostar or Other Countries from mid-July to August 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar).

¹²⁶⁷ See “Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993” and “Arrests of Women, Children and Elderly Persons; Removal of the Population; Thefts of Property and Damage to Property in Stolac Municipality in July and August 1993” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹²⁶⁸ See “Arrest and Incarceration of Muslim Men of Military Age in the Municipality of Čapljina in July 1993”, “Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes in the Municipality of Čapljina” and “Incarceration of Muslims and their Removal to ABiH-Controlled Territories or Third Countries between July and October 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹²⁶⁹ See “Arrests of Muslims in Ljubuški Municipality in August 1993” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there.

¹²⁷⁰ See “Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993”, “Detention of Muslim Men in Various Detention Facilities in the Municipality of Prozor From Spring 1993 Through the End of 1993” and “Arrests, Detention and Removal of Women, Children and Elderly from Prozor Municipality in July and August

644. In October 1993, following the ABiH attack on the village of Kopjari in the Municipality of Vareš, the HVO proceeded to arrest and then detain Muslim men from the town of Vareš at various

1993” in the Chamber’s factual findings with regard to the Municipality of Prozor. The Chamber has likewise found that the HVO mounted attacks on certain villages in the Municipality of Prozor after July 1993 (*see* “Attack by the HVO on about a Dozen Villages in Prozor Municipality from June to mid-August 1993, Damage to Property and Mosques and the Death of Six Muslims” in the Chamber’s factual findings with regard to the Municipality of Prozor).

¹²⁷¹ For the Municipality of Stolac, *see* for example “Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda”, “Waves of Removals of Arrested and/or Detained Women, Children and Elderly to Territories Under ABiH Control” and “Removal of the Sick from Koštana Hospital to Territories Under ABiH Control” in the Chamber’s factual findings with regard to the Municipality of Stolac. For the Municipality of Prozor, *see*: “Removal in Late August 1993 of Women, Children and Elderly Held in Podgrađe, Lapsunj and Duge to Kučani” in the Chamber’s factual findings with regard to the Municipality of Prozor. For the Municipality of Mostar, *see*: “Crimes Alleged from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar. For the Municipality of Čapljina, *see* for example: “Evictions and Removal of Women, Children and Elderly People from the Village of Počitelj”, “Events that Took Place in August and September 1993 in the Town of Čapljina”, “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹²⁷² *See* for example: “Arrivals, Transfers and Releases of Detainees at the Prozor Secondary School” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Arrival and Relocation of Detainees of Ljubuški Prison” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there.

¹²⁷³ *See* for example: “Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, then to Other Territories” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar; “Arrests of Muslims in Ljubuški Municipality in August 1993” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there; “Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina. *See also* “Arrivals of Detainees Following the Waves of Arrest after 30 June 1993” in the Chamber’s factual findings with regard to the Heliodrom. Concerning the Vojno Detention Centre, the Chamber recalls that the only evidence it has available indicated that the persons detained there came from the Heliodrom: “Description of the Vojno Detention Centre” in the Chamber’s factual findings with regard to the Vojno Detention Centre.

¹²⁷⁴ *See* for example “Incarceration of the Muslim Men in Koštana Hospital and their Departure to other HVO Detention Facilities” in the Chamber’s factual findings with regard to the Municipality of Stolac; “Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, then to Other Territories” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina; “Arrival of Detainees at Gabela Prison” in the Chamber’s factual findings with regard to Gabela Prison.

¹²⁷⁵ *See* for example “Incarceration of the Muslim Men in Koštana Hospital and their Departure to Other HVO Detention Facilities” in the Chamber’s factual findings with regard to the Municipality of Stolac, “Arrivals, Transfers and Releases of Detainees from the Prozor Secondary School” in the Chamber’s factual findings with regard to the Municipality of Prozor; “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar; “Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina; “Arrival of Detainees at Dretelj Prison” in the Chamber’s factual findings with regard to Dretelj Prison.

¹²⁷⁶ *See* “Detention Conditions and the Death of a Detainee” in the Chamber’s factual findings with regard to Dretelj Prison; “Conditions of Confinement at Gabela Prison” and “Treatment of Detainees and the Death of Several Detainees” in the Chamber’s factual findings with regard to Gabela Prison; “Work Performed by the Detainees from Ljubuški Prison” and “Treatment of Detainees at Ljubuški Prison” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there; “Conditions of Confinement” in the Chamber’s factual findings with regard to the Heliodrom.

¹²⁷⁷ *See* for example “Crimes Alleged in West Mostar in July and August 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar; “Organisation of the Departure of the Muslims from Ljubuški Municipality” in the Chamber’s factual findings with regard to the Municipality of Ljubuški and the detention centres there; “Departures of Detainees to Third Countries” in the Chamber’s factual findings with regard to Gabela Prison; “Departure of Detainees from Dretelj Prison to the Croatian Islands” in the Chamber’s factual findings with regard to Dretelj Prison; “Organisation of Departure of Detainees from the Heliodrom to Third Countries or to ABiH-Held Territory” in the Chamber’s factual findings with regard to the Heliodrom.

¹²⁷⁸ *See* “Detainee Exchanges with the ABiH and Final Releases” in the Chamber’s factual findings with regard to the Heliodrom.

sites.¹²⁷⁹ The men were released in early November 1993, as the HVO was leaving.¹²⁸⁰ The HVO likewise destroyed all the houses and adjacent buildings in the Muslim-majority village of Stupni Do during the attack on this village on 23 October 1993.¹²⁸¹

645. The Chamber notes that in all the municipalities the evictions were accompanied in many instances by episodes of violence directed against Muslims, some of whom were killed¹²⁸² and whose houses were burned to the ground;¹²⁸³ Muslim institutions dedicated to religion were destroyed,¹²⁸⁴ and other property belonging to Muslims was stolen or confiscated.¹²⁸⁵

¹²⁷⁹ See “Arrest of Muslim Men in Vareš on 23 October 1993 and their Detention” in the Chamber’s factual findings with regard to the Municipality of Vareš.

¹²⁸⁰ See “Release of Detainees” in the Chamber’s factual findings with regard to the Municipality of Vareš.

¹²⁸¹ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” in the Chamber’s factual findings with regard to the Municipality of Vareš.

¹²⁸² For the Municipality of Mostar, see for example, “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993”, “Attack on 24 August 1993 in the Vicinity of Mostar and Crimes Alleged to Have Been Committed Following the Attack”, “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar. For the Municipality of Stolac, see for example “Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda”, “Deaths and Severe Beatings of Detainees at Koštana Hospital” in the Chamber’s factual findings with regard to the Municipality of Stolac. For the Municipality of Prozor, see for example “Death of Six Muslims in the Region of Prajine and Tolovac”, and “Treatment of the Women, Children and Elderly at Podgrađe, Lapsunj and Duge” in the Chamber’s factual findings with regard to the Municipality of Prozor. For the Municipality of Čapljina, see “Disappearance of 12 Muslim Men from Bivolje Brdo on 16 July 1993”, “Death of Two Young Women in the Village of Domanovići”, and “Death of an 83-year-old Man in the Village of Bivolje Brdo” in the Chamber’s factual findings with regard to the Municipality of Čapljina. For the Municipality of Vareš, see “Thefts and Sexual Abuse of the Muslim Population of Vareš”, and “Death of Villagers in and around Kemal Likić’s House” in the Chamber’s findings with regard to the Municipality of Vareš.

¹²⁸³ For the Municipality of Jablanica, see for example “Destruction and Burning of Houses and Buildings Dedicated to Religion in the Villages of Sovići and Doljani” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). For the Municipality of Stolac, see for example, “Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići” in the Chamber’s factual findings with regard to the Municipality of Stolac. For the Municipality of Čapljina, see “Destruction of Muslim Houses in the Village of Bivolje Brdo”, and “Destruction of Muslim Houses on 16 July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹²⁸⁴ For the Municipality of Jablanica, see for example, “Destruction of Two Buildings Devoted to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). For the Municipality of Mostar, see for example “Destruction of Two Mosques in West Mostar around 9 and 11 May 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar. For the Municipality of Stolac, see for example “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber’s factual findings with regard to the Municipality of Stolac. For the Municipality of Čapljina, see “Destruction of the Mosque in the Village of Lokve on 14 July 1993” and “Destruction of the Mosque of Višići on or about 14 July 1993” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

¹²⁸⁵ For the Municipality of Jablanica, see for example, “Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1994” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). For the Municipality of Mostar, see for example “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims During the Eviction Operations in West Mostar in July and August 1993”, “Allegations of Thefts of Property Belonging to Muslims in the Village of Raštani” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar. For the Municipality of Stolac, see for example “Theft of Property Belonging to the Muslims of the Village of Pješivac Greda” and “Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići” in the Chamber’s factual findings with regard to the

646. The Chamber considers that all the acts described above constituted a widespread attack inasmuch as they were committed extensively – the acts were committed on the territory of eight BiH municipalities over a period of two years, from May 1992 until April 1994 – and resulted in thousands of victims. Moreover, these acts of violence were similar in every one of the municipalities concerned and were carried on in an organised fashion by the military and political forces of the HVO. For this reason, the Chamber finds that the attack was also systematic in nature.

III. Civilian Character of the Population

647. As the Chamber has just observed, the acts charged as crimes against humanity that were committed between May 1992 and April 1994 in the municipalities relevant to the Indictment caused several thousand victims. Thus, even though the entire civilian Muslim population of HZ(R) H-B was not directly victimised, the Chamber is satisfied that the attack was directed against a “population” and not against a limited number of individuals randomly chosen.

648. As for the “civilian” character of this population, the Chamber recalls that during the assaults launched on the towns and villages of the municipalities relevant to the Indictment, the HVO set fire to houses belonging to Muslims, took their belongings and destroyed many institutions dedicated to religion. In addition, the arrests by the HVO of both Muslim men of military age – regardless of whether they were members of the armed forces – and women, children and elderly people. For this reason, the Chamber has no doubt that the population targeted by the attack was civilian.

IV. Nexus Between the Acts Charged and the Attack

649. The attack mounted by the military and political forces of the HVO on the Muslim population of the municipalities relevant to the Indictment included, in particular, restrictions of the humanitarian aid intended for Muslims, the destruction of their houses, mass arrests, abuses committed against the detainees, poor conditions in the detention facilities, and the removals of the population resulting in the eviction of thousands of Muslims from their localities of origin. The acts

Municipality of Stolac. For the Municipality of Prozor, *see* for example, “Treatment of the Muslims Collected in Podgraĉe, Thefts, Forced Sexual Relations and Sexual Attacks”, “Treatment of the Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks” and “Treatment of the Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks” in the Chamber’s factual findings with regard to the Municipality of Prozor. For the Municipality of Ćapljina, *see* “Thefts of Muslim Property in or around the Village of Bivolje Brdo” and “Conditions of Confinement at the Silos” in the Chamber’s factual findings with regard to the Municipality of Ćapljina. For the Municipality of Vareš, *see* “Thefts and the Sexual Abuse of the Muslim Population of Vareš” in the Chamber’s factual findings with regard to the Municipality of Vareš.

committed against the Muslims by the armed and political forces of the HVO were in fact the means used to implement this attack, and therefore, they constituted an essential component thereof.

650. The Chamber notes, moreover, that contrary to what is argued by the Petković and Ćorić Defence teams, the HVO physically abused the detainees and subjected all of them to the same conditions of confinement, regardless of whether they were members of the HVO, the ABiH, or no armed force. For this reason, the Chamber finds that the acts committed against the Muslims, whether members of the HVO or the ABiH, who were held in the detention facilities likewise formed part of the widespread and systematic attack on the Muslim civilian population.

V. State of Mind of the Direct Perpetrators

651. The acts constituting the widespread and systematic attack on the Muslim civilian population of HZ H-B were committed by the armed and political forces of the HVO. Due to the fact that they belonged to the HVO, there is no doubt whatsoever that the perpetrators of these acts had knowledge of the attack and were aware that their acts were part of this attack.

VI. Nexus Between the Attack and the Armed Conflict

652. As the Chamber determined above, an armed conflict and/or an occupation took place between October 1992 and April 1994 in the municipalities relevant to the Indictment. The widespread and systematic attack itself commenced in May 1992, that is, several months prior to the outbreak of the armed conflict, and continued until April 1994.

653. Inasmuch as the acts committed between May and September 1992 did not occur during an armed conflict, the prerequisite for the exercise of the Tribunal's jurisdiction to adjudicate crimes committed during that time has not been satisfied. Consequently, the Chamber cannot adjudicate the crimes against humanity alleged to have been committed during this time.

VII. Conclusion

654. In light of the foregoing, the Chamber finds that the crimes alleged in the Indictment that were committed during the period October 1992 to April 1994 satisfy the general requirements for the application of Article 5 of the Statute.

CHAPTER 6: LEGAL FINDINGS OF THE CHAMBER

Heading 1: Murder (Count 2)

I. Municipality of Prozor

655. The Chamber established that on 24 October 1992, Selmo Polić, an elderly man, and Ema Hodžić, who lived in a remote house in the village of Paljike, were killed by HVO soldiers.¹²⁸⁶ The Chamber notes that shots were fired when the HVO soldiers broke down the door of the house. However, the evidence did not establish the source of the shots. As such, the Chamber cannot exclude the possibility that the two villagers were taking part in hostilities and is therefore unable to find that the two villagers were civilian victims of the crime of murder, recognised by Article 5 of the Statute.

656. The Chamber established that Ramo Vila, aged about 90, and Ahmet Husrep, aged about 70, were shot and killed by members of the HVO Military Police on 19 April 1993 during the attack on the village of Tošćanica.¹²⁸⁷ In view of their age, the fact that they were shot and killed after the members of the Military Police had entered the village, and the absence of any evidence indicating that they were taking part in hostilities, the Chamber finds that the members of the Military Police clearly intended to cause the deaths of the two persons, thereby committing the crime of murder against each of them, a crime recognised by Article 5 of the Statute.

657. The Chamber also established that Ibro Piralić was shot and killed by members of the HVO Military Police on 19 April 1993 during the attack on the village of Tošćanica.¹²⁸⁸ The Chamber recalls that there were about thirty armed men in the village at the time of the attack who were resisting the HVO and that Ibro Piralić, who was about forty years old, was himself armed at the time of his death.¹²⁸⁹ In view of this evidence, the Chamber cannot find that Ibro Piralić – who was taking part in the hostilities at the time of his death – was the victim of murder, a crime recognised by Article 5 of the Statute.

658. The Chamber established that on 19 July 1993 in the village of Prajine, HVO soldiers, including members of the *Kinder Vod*, killed an old, sick man and beat up and then shot dead an 80-

¹²⁸⁶ See "Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁸⁷ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁸⁸ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

year-old, disabled man and another man they had captured.¹²⁹⁰ In view of the circumstances of the deaths of these three Muslims from Prajine, the Chamber is satisfied that by shooting at them, HVO soldiers, including members of the *Kinder Vod* among whom was Nikola Marić, called Nidžo, also known as "Kobra", intended to cause their deaths, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

659. The Chamber also established that on 19 July 1993 on Mount Tolovac, HVO soldiers captured a group of Muslim men, women and children hiding in a stable and killed Bajro Munikoza, Saha Munikoza and Šaban Hodžić.¹²⁹¹ The Chamber recalls that the HVO soldiers firstly entered the stable and ordered all its occupants, under threat of death, to get out; that they then separated Bajro Munikoza from the rest of the group, beat him with their rifle butts and shot at him; that they then took Saha Munikoza away who was never seen alive again and whose blood-stained body was found on the roadside, and that finally, with two rounds of fire, they shot and killed Šaban Hodžić,¹²⁹² a physically-disabled Muslim. The Chamber is satisfied that in so doing, the members of the HVO intended to cause their deaths.

660. In view of the above, the Chamber finds that HVO soldiers caused the deaths of Bajro Munikoza, Šaban Hodžić and Saha Munikoza, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

661. The Chamber established that on 31 July 1993, HVO soldiers took about 50 detainees from the Prozor Secondary School to the front line at Crni Vrh, tied them up to one another with telephone cables and then shot them in the back.¹²⁹³ The Chamber established that 11 of the 50 detainees were indeed shot and killed by HVO soldiers at Crni Vrh on 31 July 1993. The individuals concerned were Samir Hadžić, Bećir Kmetaš, Ismet Pilav, Huso (Husein) Pilav, Hazim Pilav, Omer Pilav, Ismet Berić, Smajo Ruvić, Edin Šabić, Emir Šabić and Zajko Ugarak.¹²⁹⁴ The Chamber is satisfied that by shooting the detainees in the back, the HVO soldiers intended to cause the deaths of these 11 detainees, thereby committing the crime of murder against each of them, a crime recognised by Article 5 of the Statute.

¹²⁸⁹ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁹⁰ See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁹¹ See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁹² See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁹³ See "50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

662. However, the Chamber recalls that it was unable to establish with certainty that the other 10 detainees, Džifer Agić, Zijad Grić, Ramiz Letica, Rasim Letica, Ibro Munikoza, Enver Osmić, Muharem Pračić, Selim Purgić, Mujo Šabić and Abdulah Trtić, who all died, were shot and killed by the HVO at Crni Vrh on 31 July 1993. Consequently, the Chamber is unable to find that these 10 detainees were victims of the crime of murder, recognised by Article 5 of the Statute.

II. Municipality of Gornji Vakuf

663. The Chamber established that during the attack on the village of Duša on 18 January 1993, one of the shells fired by the HVO hit the house of Enver Šljivo, causing the deaths of Mirsada Behlo (an 11-year-old child), Muamer Zulum (a 12-year-old child), Mirsad Behlo (a three-year-old child), Sabaha Behlo (a 31-year-old woman), Rasiha Behlo (a 20-year-old woman), Fatka Gudić (a 44-year-old woman) and Salih Čeho (a 65-year-old man), who were hiding there and not taking part in combat activities.¹²⁹⁵ The Chamber noted that, during the attack, armed Muslim men tried to defend the village of Duša.¹²⁹⁶ However, the HVO attacked the village by using weapons – more specifically, shells – the nature of which is such that it is impossible to distinguish military from civilian targets. Moreover, the HVO forces made no effort to allow the civilian population of Duša to flee before the attack.¹²⁹⁷ Consequently, the Chamber holds that the shelling of Duša was an indiscriminate attack. In view of the above, the Chamber is satisfied that by firing several shells at the village and in particular at Enver Šljivo's house, the HVO intended to cause serious bodily harm to the civilians who had taken refuge there, harm that it could reasonably have foreseen could cause their deaths, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

664. With regard to the town of Gornji Vakuf and the villages of Hrasnica, Uzričje and Tdrimci, the Chamber recalls that it was unable to establish that Muslim inhabitants died during the attacks on these places by the HVO on 18 January 1993.¹²⁹⁸ The Chamber is therefore unable to find that the Muslim inhabitants of these places were murdered on 18 January 1993.

¹²⁹⁴ See "50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹²⁹⁵ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁹⁶ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁹⁷ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹²⁹⁸ See "Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack", "Attack on the Village of Hrasnica" and "Attack on the Village of Tdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

III. Municipality of Jablanica (Sovići and Doljani)

665. The Chamber noted that four ABiH Muslim soldiers, Ismet Ćilić, Salem Škampo, Hasan Radoš and Ekrem Tašić, being held at the Sovići School, were picked out by HVO soldiers and then shot and killed on 20 or 21 April 1993.¹²⁹⁹ The Chamber is satisfied that by calling them out by name, ordering them to leave the school and then shooting them, the HVO soldiers intended to cause their deaths.

666. The Chamber therefore finds that on 20 or 21 April 1993, HVO soldiers caused the deaths of Ismet Ćilić, Salem Škampo, Hasan Radoš and Ekrem Tašić, who were being held at the Sovići School, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

667. However, the Chamber established that it had no evidence concerning the deaths of Muslim men held at the Fish Farm between 18 and 23 April 1993.¹³⁰⁰ Consequently, the Chamber is unable to find that they were murdered.

IV. Municipality of Mostar

668. The Chamber established that on the night of 10-11 May 1993, during brutal beatings, HVO soldiers killed ten members of the ABiH: Alija Ćamo, Senad Ćehić, Dževad Ćolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić, while they were being held by the HVO at the Mechanical Engineering Faculty following the 9 May attack on Mostar.¹³⁰¹ Since the HVO soldiers came around several times to beat the detainees, since they were extremely violent to them and since they shot at some of them – killing three detainees on the spot – the Chamber is satisfied that these HVO soldiers intended to cause the deaths of the ten Muslim men. The Chamber finds that between 10 and 11 May 1993, HVO soldiers caused the deaths of Alija Ćamo, Senad Ćehić, Dževad Ćolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić, while they were being held by the HVO at the Mechanical Engineering Faculty, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

¹²⁹⁹ See "Death of Muslim Men Held at Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁰⁰ See "Death of Some Muslim Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁰¹ See "Fate of the 12 ABiH Soldiers" in the Chamber's factual findings with regard to the Municipality of Mostar.

669. The Chamber also established that Adem Hebibović and Azim Mašić, two Muslim men arrested by the HVO Military Police on 6 July 1993 and then transferred to the Department for Criminal Investigations of the Military Police and held at the Mechanical Engineering Faculty, died as a result of severe beatings during interrogations between 8 and 11 July 1993 at the hands of HVO soldiers.¹³⁰² The Chamber is satisfied that the HVO soldiers beat the detainees with the intention of causing them serious bodily harm and that they could reasonably have foreseen that such beatings could cause their deaths. The Chamber therefore finds that HVO soldiers caused the deaths of Adem Hebibović and Azim Mašić between 8 and 11 July 1993, thereby committing the crime of murder against both of these persons, a crime recognised by Article 5 of the Statute.

670. The Chamber moreover established that the HVO military policemen present in Buna on 14 July 1993 arrested and beat a Muslim boy and his grandfather at the Buna Military Police station and then took them to a roadside and shot them, killing the grandfather and seriously wounding the young boy who was left at the site.¹³⁰³ The Chamber finds that on 14 July 1993, members of the HVO Military Police shot two Muslim civilians with the intention of causing their deaths and did kill one of them, thereby committing the crime of murder against the grandfather, a crime recognised by Article 5 of the Statute.

671. The Chamber also noted that on 24 August 1993 near a house in the village of Raštani, four Muslim men, Ismet Ćišić, Murat Dedić, Šaban Dumpor and Mirsad Ťuškić, the last-mentioned a member of the ABiH, were killed by HVO soldiers after having surrendered.¹³⁰⁴ The Chamber finds that on 24 August 1993, the HVO soldiers shot and killed Ismet Ćišić, Murat Dedić, Šaban Dumpor and Mirsad Ťuškić, who had just surrendered, with the intention of causing their death, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

672. Lastly, as the Chamber established by a majority, with Judge Antonetti dissenting, from June 1993 to March 1994, HVO snipers targeted the Muslim inhabitants of East Mostar, including women, children, elderly people and firemen living in East Mostar while they were going about their daily business, such as fetching water, which had no links to combat operations.¹³⁰⁵ The Chamber noted by a majority, with Judge Antonetti dissenting, that the inhabitants of Mostar died

¹³⁰² See "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰³ See "Crimes Allegedly Committed in Buna around 14 July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰⁴ See "Death of Four Muslim Men during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰⁵ See "Campaign of Sniping Affecting the Entire Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

as a result of the shooting.¹³⁰⁶ In particular, it established by a majority, with Judge Antonetti dissenting, that on 6 June 1993, an HVO sniper targeted Arzemina Alihodžić, a 41-year-old woman who was on the terrace of her home in the Tekija neighbourhood of East Mostar shooting her in the head;¹³⁰⁷ that on 2 February 1994, a sniper aimed at and shot dead Orhan Beriša, an eight-year-old boy playing in front of an apartment building in the Tekija neighbourhood¹³⁰⁸ and that on 1 March 1994, Uzeir Jugo, a fireman, was killed by an HVO sniper while he was repairing a fire truck parked in a street in East Mostar.¹³⁰⁹

673. The Chamber finds by a majority, with Judge Antonetti dissenting, that between June 1993 and March 1994, HVO soldiers targeted and fired at Muslim civilians living in East Mostar with the intention of causing their deaths, thereby committing the crime of murder against these persons, a crime recognised by Article 5 of the Statute.

V. The Heliodrom

674. The Chamber established that several Heliodrom detainees, including Semir Berić, Adis Brković, Semir Čehajić, Emir Čolić, Ašim Drljević, Ibrahim Filandra, Saša Grabovac, Zahid Hadžić, Azim Karadžuz, Zuka Hajrović, Huso Ljević, Sakib Malahasić, Ramiz Mehmedović, Vedin Mezetović, Muhamed Muminagić, Mehmed Muminagić, Neđad Nožić, Semir Perić, Enver Puzić, Remza Sabljčić, Avdo Selimanović, Ahmet Hajrić, Nesib Halilović, Salem Hurseinović, Elmir Jazvin, Irfan Torle and Mehmed Tumbić, were killed between May 1993 and March 1994 while they were working in Mostar on the front line between the HVO and the ABiH.¹³¹⁰

675. The Chamber notes that for ten months detainees were regularly used for labour on the front line while fighting was ongoing.¹³¹¹ During such labour, the detainees were exposed to both ABiH and HVO firing.¹³¹² They were regularly wounded and killed without any measures being taken to ensure their safety. The members of the Military Police who had the power to assign the detainees to the various units seeking them for labour¹³¹³ and members of the *Vinko Škrobo* ATG, the KB, the

¹³⁰⁶ See "Campaign of Sniping Affecting the Entire Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰⁷ See "Sniping Incident no. 3" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰⁸ See "Sniping Incident no. 13" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁰⁹ See "Sniping Incident no. 14" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³¹⁰ See "Detainees Killed or Wounded During Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹¹ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹² See "Detainees Killed or Wounded During Forced Labour" and "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹³ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

2nd Battalion of the 2nd HVO Brigade and the 3rd and 4th battalions of the 3rd HVO Brigade who made use of the detainees¹³¹⁴ were aware of the conditions under which the work was being done and yet continued to expose the detainees to fire for several months. Consequently, the Chamber is satisfied that these members of the HVO intended to cause serious bodily harm to the detainees and must have reasonably foreseen that such harm could result in the deaths of some of them.

676. In light of the above, the Chamber finds that, between May 1993 and March 1994, members of the HVO caused the deaths of several detainees, among whom were Semir Berić, Adis Brković, Semir Ćehajić, Emir Ćolić, Ašim Drljević, Ibrahim Filandra, Saša Grabovac, Zahid Hadžić, Azim Karadžuz, Zuka Hajrović, Huso Ljević, Sakib Malahasić, Ramiz Mehmedović, Veledin Mezetović, Muhamed Muminagić, Mehmed Muminagić, Nedžad Nožić, Semir Perić, Enver Puzić, Remza Sabljčić, Avdo Selimanović, Ahmet Hajrić, Nesib Halilović, Salem Hurseinović, Elmir Jazvin, Irfan Torle and Mehmed Tumbić, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

677. The Chamber also established that Salim Kadušak, Mustafa Tašić, Šefik Tašić and Ismet Ćilić, all four members of the ABiH and held at the Heliodrom, were killed on 17 September 1993 while being used as "human shields" by the *Vinko Škrobo* ATG¹³¹⁵ on the Mostar front line.

678. The Chamber notes that by forcing the detainees to position themselves in front of or among the HVO troops to protect them from ABiH attacks,¹³¹⁶ the members of the *Vinko Škrobo* ATG who had requisitioned several Heliodrom detainees that same morning of 17 September 1993¹³¹⁷ and provided some of them with HVO uniforms and wooden rifles¹³¹⁸ deliberately took the risk that detainees would be killed. Consequently, the Chamber is satisfied that the members of the *Vinko Škrobo* ATG intended to cause serious bodily harm to the detainees and must have reasonably foreseen that such harm could result in the deaths of some of them.

679. In light of the above, the Chamber finds that on 17 September 1993, members of the *Vinko Škrobo* ATG, including its commander Vinko Martinović, caused the deaths of Salim Kadušak, Mustafa Tašić, Šefik Tašić and Ismet Ćilić, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

¹³¹⁴ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹⁵ See "Heliodrom Detainees Killed While Being Used as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹⁶ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹⁷ See "Heliodrom Detainees Wounded While Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliodrom.

VI. Vojno Detention Centre

680. The Chamber established that on 5 December 1993, while he was being held at the Vojno Detention Centre, Mustafa Kahvić was shot and killed by Mario Mihalj, a soldier of the 2nd HVO Brigade responsible for the detention centre.¹³¹⁹ The Chamber is satisfied that by firing four or five shots at Mustafa Kahvić,¹³²⁰ Mario Mihalj intended to kill him, thereby committing the crime of murder, a crime recognised by Article 5 of the Statute.

681. The Chamber established that several men held by the HVO at the Vojno Detention Centre, including Mensud Dedajić, Salim Alilović, Hamdija Tabaković, Džemal Sabitović, Kemal Zuhrić and Salman Mensur, were killed between 2 September 1993 and 31 January 1994 while working on the front lines in the Vojno area under the guard of HVO soldiers while fighting was ongoing between the ABiH and the HVO.¹³²¹

682. The Chamber notes that for almost five months, the HVO soldiers regularly used detainees from the Vojno Detention Centre to work on the front lines. During the work, the detainees were exposed to ABiH firing and were regularly wounded and killed without the HVO soldiers taking any measures to ensure their safety.¹³²² The Chamber is therefore satisfied that the HVO soldiers, who were aware of the conditions under which the work was being done and who continued to expose the detainees to firing for almost five months, intended to cause them serious bodily harm and must have reasonably foreseen that such harm could result in the deaths of some of them.

683. In light of the above, the Chamber finds that between 2 September 1993 and 31 January 1994, the HVO soldiers caused the deaths of several detainees, including Mensud Dedajić, Salim Alilović, Hamdija Tabaković, Džemal Sabitović, Kemal Zuhrić and Salman Mensur, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

¹³¹⁸ See "Heliodrom Detainees Wounded While Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliodrom.

¹³¹⁹ See "Authorities Responsible for Operation of the Vojno Detention Centre" and "Death of Detainees While in Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³²⁰ See "Death of Detainees While in Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³²¹ See "Types and Locations of Labour in the Vojno-Bijelo Polje Area" and "Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³²² See "Detainees from the Heliodrom and the Vojno Detention Centre Injured While Working" and "Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre.

VII. Municipality of Stolac

684. The Chamber established that on 13 July 1993, as part of an operation to expel the Muslims from the village of Pješivac Greda, an HVO soldier by the name of Dragan Bonojza killed Sanida Kaplan, a Muslim girl aged 17, by opening fire in her direction while she was leaving the Kaplan family home and asking him: "You've taken away the men, but why do you want to take us?"¹³²³ The Chamber finds that on 13 July 1993, an HVO soldier shot at Sanida Kaplan, who was not taking part in combat activity at the time of her death, with the intention of killing her, thereby committing the crime of murder, a crime recognised by Article 5 of the Statute.

685. The Chamber also established that at the Koštana Hospital, members of the Military Police and HVO soldiers beat and caused the deaths of several Muslim men being held there. Accordingly, on 3 August 1993, members of the Military Police beat and killed Vejsil Đulić and Salem Đulić. HVO soldiers also beat Salko Kaplan during his detention in August 1993; he died from his wounds shortly thereafter once he had been transferred to Dretelj Prison. On 25 September 1993, members of the Military Police beat Ibro Razić and Suad Obradović who died of their wounds the next day (Ibro Razić died after being transferred to Gabela Prison).¹³²⁴

686. The Chamber is satisfied that the military policemen and soldiers of the HVO beat these detainees with the intention of causing them serious bodily harm. The Chamber is also satisfied that they must have reasonably foreseen that such beatings could cause the deaths of these detainees. The Chamber therefore finds that the Military Police caused the deaths of Vejsil Đulić and Salem Đulić on 3 August 1993 and the deaths of Ibro Razić and Suad Obradović on 26 September 1993 as a result of the beatings they suffered the day before, and that in August 1993, HVO soldiers caused the death of Salko Kaplan, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

VIII. Municipality of Čapljina

687. The Chamber established by a majority, with Judge Antonetti dissenting, that around 13 July 1993 during HVO operations to expel Muslim women, children and elderly people from the village of Domanovići,¹³²⁵ one or more snipers of the HVO shot and killed two young Muslim

¹³²³ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹³²⁴ See "Deaths of Detainees at the Koštana Hospital" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹³²⁵ See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

women aged 17 and 23, Dženita and Sanela Hasić, who were walking down the main road in the village of Domanovići. There was no fighting in the village on that day between the HVO and the ABiH.¹³²⁶ The Chamber is satisfied that by aiming and opening fire which fatally wounded the first young woman and, once she had been hit, by firing several other shots at the second young woman's leg and head, killing her immediately, the HVO sniper(s) intended to kill them.

688. The Chamber finds by a majority, with Judge Antonetti dissenting, that around 13 July 1993 in the village of Domanovići, one or more HVO soldiers caused the deaths of Dženita and Sanela Hasić, two young Muslim women, thereby committing the crime of murder against each of them, a crime recognised by Article 5 of the Statute.

689. The Chamber also established that on 14 July 1993, during HVO operations to expel women, children and elderly people from the village of Bivolje Brdo between 13 and 16 July 1993,¹³²⁷ a disabled man aged 83 was shot and killed by members of the HVO.¹³²⁸ In this connection, the Chamber noted that the members of the HVO entered the old man's house, called him by his surname, "provoked" him about his son and then opened fire on him.¹³²⁹ The Chamber is satisfied that by calling the old man by name after entering his house, provoking him and then opening fire on him, the HVO members intended to kill him.

690. The Chamber therefore finds that members of the HVO caused the death of an old, disabled man in the village of Bivolje Brdo on 14 July 1993, thereby committing the crime of murder against him, a crime recognised by Article 5 of the Statute.

691. The Chamber also established that around 16 July 1993, during operations carried out by members of the HVO between 13 and 16 July 1993 to evict the Muslim inhabitants from the village of Bivolje Brdo,¹³³⁰ members of the HVO – some of whom were soldiers belonging to the 1st *Knez Domagoj* Brigade while others were military policemen belonging to the 3rd Company of the 5th Battalion of the Military Police – arrested 12 Muslim men from the village of Bivolje Brdo - Nijaz Ćiber, aged 61, Halil Šoš, Mustafa Đonko, Safet Đonko, Mustafa Torlo, Ahmet Torlo, Ibro Trbonja, aged 72, Bećir Trbonja, aged 71, Hilmo Mrgan, aged 62, Bećir Mrgan, Džemal Elezović,

¹³²⁶ See "Death of Two Young Women in the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³²⁷ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³²⁸ See "Death of an 83-Year-Old Man in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³²⁹ See "Death of an 83-Year-Old Man in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³³⁰ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

aged 62, and Ibro Rahimić, aged 85 – and then killed them savagely before burning and burying their bodies near the old bauxite mine of Bivolje Brdo.¹³³¹ The Chamber is satisfied that by killing the 12 men, burning their corpses and burying the remains near the old bauxite mine of Bivolje Brdo, the members of the HVO intended to kill them.

692. The Chamber finds that members of the HVO, including some who were soldiers belonging to the 1st *Knez Domagoj* Brigade and others who were military policemen belonging to the 3rd Company of the 5th Battalion of the Military Police, caused the deaths of 12 Muslim men in the village of Bivolje Brdo around 16 July 1993, thereby committing the crime of murder against each of them, a crime recognised by Article 5 of the Statute.

IX. Dretelj Prison

693. The Chamber established that six Muslim detainees died while being held at Dretelj Prison.¹³³²

694. The Chamber thus noted that in mid-July 1993, a Muslim by the name of Plavuškić died of dehydration when the HVO soldiers deprived the detainees of food and water on orders from Nećđjko Obradović, Commander of the 1st *Knez Domagoj* Brigade.¹³³³ The Chamber is satisfied that by depriving the detainees of food and water and keeping them locked up in hangars in mid-July when the heat was suffocating, the members of the HVO intended to cause the detainees serious bodily harm which they must have reasonably foreseen could cause their deaths, and thus the death of Plavuškić.

695. Lastly, the Chamber established that in mid-July 1993, three detainees, including Hasan Duvnjak, died as a result of shots fired by HVO military policemen at the sheet metal hangars in which they were confined.¹³³⁴ The Chamber is satisfied that by firing their weapons at the sheet metal hangars in which the detainees were confined, the HVO military policemen intended to cause the deaths of some of the detainees or at least cause them serious bodily harm, which they must have reasonably foreseen could cause the deaths of some of the detainees.

¹³³¹ See "Disappearance of 12 Muslim Men from Bivolje Brdo on 16 July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³³² See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" and "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹³³³ See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" in the Chamber's factual findings with regard to Dretelj Prison.

¹³³⁴ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

696. The Chamber also established that Omer Kohnić and Emir Repak died in August 1993 as a result of beatings by members of the HVO and by other detainees on orders from military policemen.¹³³⁵ The Chamber is satisfied that members of the HVO, including military policemen, inflicted these beatings – or ordered them to be inflicted – with the intention of causing serious bodily harm to the detainees which they must have reasonably foreseen could cause their deaths. In light of the evidence, the Chamber finds that, between mid-July and August 1993, members of the HVO, including military policemen, caused the deaths of six Muslim detainees from Dretelj Prison: Plavuškić, Omer Kohnić, Emir Repak, Hasan Duvnjak and two other detainees whose identity the Chamber does not know, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

X. Gabela Prison

697. The Chamber already established that on 19 or 29 August 1993, one or more members of the HVO shot and killed Hifzija Dizdar while he was being held at Gabela Prison.¹³³⁶ In light of the evidence, the Chamber finds that by shooting him, the member(s) of the HVO intended to kill him or at least to cause him serious bodily harm, which he/they must have reasonably foreseen could cause his death, thereby committing the crime of murder, recognised by Article 5 of the Statute.

698. Moreover, the Chamber established that between 2 October and 11 December 1993, Boško Previšić, warden of Gabela Prison and member of the 1st *Knez Domagoj* Brigade, killed Mustafa Obradović while the latter was being held at Gabela Prison, by shooting him with a firearm.¹³³⁷ The Chamber finds that Boško Previšić shot Mustafa Obradović with the intention of killing him, thereby committing the crime of murder, recognised by Article 5 of the Statute.

XI. Municipality of Vareš

699. The Chamber established that during and after the attack on the village of Stupni Do on 23 October 1993, 36 people, Muslim residents of the village of Stupni Do, were killed by members of the *Maturice* and/or *Apostoli* special units.¹³³⁸ Of the victims, 28 were either Muslims not belonging to any armed force and therefore civilians or fighters in the hands of the enemy after being arrested and disarmed. The Chamber noted that the 28 people were killed with bladed instruments or shot at

¹³³⁵ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹³³⁶ See "Death of Several Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹³³⁷ See "Death of Several Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹³³⁸ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

from very close range or burned alive in torched houses of the village.¹³³⁹ These persons were: Merima Likić, Mebrura Likić, Vahidin Likić, Lejla Likić, Indira Zutić, Hatidža Likić, Nevzeta Likić, Medina Likić, Suhra Likić, Edin Mahmutović, Rifet Likić, Rašida Likić, Mehmed Likić, Salih Likić, Ibrahim Likić, Dževha Likić, Šerifa Likić, Šerifa Lulić, Nazif Likić, Ramiz Likić, Alija Likić, Enis Likić, Minheta Likić, Refika Likić, Sabina Likić, Vernest Likić, Zahida Likić and Munira Likić.¹³⁴⁰ The Chamber is satisfied that the members of the *Maturice* and/or *Apostoli* special units intended to kill the 28 Muslim residents of the village of Stupni Do.

700. The Chamber therefore finds that during the attack on the village of Stupni Do on 23 October 1993, the members of the *Maturice* and/or *Apostoli* special units killed 28 people, Muslim residents of the village of Stupni Do, thereby committing the crime of murder against each of these persons, a crime recognised by Article 5 of the Statute.

701. However, the Chamber was unable to establish whether Adis Likić and Samir Likić or Rahić, who belonged to the village guard and/or were members of the ABiH,¹³⁴¹ were killed by the members of the *Maturice* and/or *Apostoli* special units once they had been captured by the HVO or during combat. Under these circumstances, the Chamber is unable to find that they were victims of murder, a crime recognised by Article 5 of the Statute.

702. The Chamber was also unable to determine whether Abdulah Likić and Avdan Likić belonged to the village guards and/or the ABiH¹³⁴² and if so, whether they were killed after being captured by the HVO. Under these circumstances, the Chamber is unable to find that they were victims of murder, a crime recognised by Article 5 of the Statute.

703. Finally, the Chamber noted that Zejnil Mahmutović, a member of the ABiH, was killed by HVO soldiers while on guard north of the village of Stijenčica on the road between the hamlet of Prica Do and Stupni Do.¹³⁴³ It also noted that the bodies of Salko Likić, Muamer Likić and Šefko Likić, members of the ABiH, were found in the trenches on Bogoš hill.¹³⁴⁴ The Chamber finds that

¹³³⁹ See "Death of Villagers in and around Kemal Likić's House", "Death of Villagers in Front of Zejnil Mahmutović's House" and "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁴⁰ See "Death of Villagers in and around Kemal Likić's House" and "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁴¹ See "Death of Villagers in and around Kemal Likić's House" and "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁴² See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁴³ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁴⁴ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

the four men died while they were taking part in combat and were not victims of murder, a crime recognised by Article 5 of the Statute.

Heading 2: Wilful Killing (Count 3)

I. Municipality of Prozor

704. The Chamber established that on 24 October 1992, Selmo Polić, an elderly man, and Ema Hodžić, who lived in a remote house in the village of Paljike, were killed by HVO soldiers.¹³⁴⁵ The Chamber notes that shots were fired when the HVO soldiers broke down the door of the house. However, the evidence did not establish the source of the shots. As such, the Chamber cannot exclude the possibility that the two villagers were taking part in the hostilities. Consequently, the Chamber is unable to find that the two villagers were victims of the crime of wilful killing, a crime recognised by Article 2 of the Statute.

705. The Chamber established that Ramo Vila, aged about 90, and Ahmet Husrep, aged about 70, were shot and killed by members of the HVO Military Police on 19 April 1993 during the attack on the village of Tošćanica.¹³⁴⁶ In view of their age, the fact that they were shot and killed after members of the Military Police entered the village and the lack of any evidence that they belonged to the ABiH or were armed and defending the village, the Chamber finds that these two people were civilians not taking part in the hostilities. Once the HVO entered the village, these unarmed civilians found themselves in the hands of the enemy forces and were consequently protected by the Geneva Conventions. In view of the circumstances surrounding the death of these two Muslim men, the Chamber is satisfied that the members of the Military Police intended to cause their deaths, thereby committing the crime of wilful killing against each of them, a crime recognised by Article 2 of the Statute.

706. The Chamber also established that Ibro Piralić was shot and killed by members of the HVO Military Police on 19 April 1993 during the attack on the village of Tošćanica.¹³⁴⁷ The Chamber recalls that Ibro Piralić, about 40 years old, was armed and that there were about 30 armed men in the village resisting the HVO at the time of the attack.¹³⁴⁸ In view of this evidence, the Chamber

¹³⁴⁵ See "Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁴⁶ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁴⁷ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁴⁸ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

holds that, insofar as he was taking part in the hostilities at the time of his death, Ibro Piralić was not protected by the Geneva Conventions. The Chamber is therefore not in a position to find that Ibro Piralić was a victim of wilful killing, a crime recognised by Article 2 of the Statute.

707. The Chamber established that on 19 July 1993, HVO soldiers, including members of the *Kinder Vod*, shot and killed an old, sick man in the village of Prajine, and that they beat and then shot and killed an 80-year-old, disabled man and another man they had captured.¹³⁴⁹ In view of the age and/or health of two of these men and the fact that the other man had already been captured, the Chamber finds that these three men were not taking part in the hostilities. Moreover, insofar as the HVO had entered the village and beaten up two of them before killing them, the Chamber holds that the three men were in the hands of the enemy forces. The Chamber considers that the three men had therefore fallen into the hands of the enemy and were protected by the Geneva Conventions. The Chamber considers that by shooting at them, the HVO soldiers, including members of the *Kinder Vod* among whom was Nikola Marić, called Nidžo, also known as the "Kobra", intended to cause their deaths, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

708. The Chamber also established that on Mount Tolovac on 19 July 1993, HVO soldiers captured a group of Muslim men, women and children hiding in a stable and killed Bajro Munikoza, Saha Munikoza and Šaban Hodžić.¹³⁵⁰ The Chamber recalls that the HVO soldiers first entered the stable and then ordered all its occupants, under threat of death, to get out; that they then separated Bajro Munikoza from the rest of the group, beat him with their rifle butts and shot at him; that they then took away Saha Munikoza who was never seen alive again and whose blood-stained body was found on the roadside, and that finally, with two rounds of fire, they shot and killed Šaban Hodžić,¹³⁵¹ a physically-disabled Muslim. The Chamber finds that these Muslims who, having been captured, had fallen into the hands of the enemy, were protected by the Geneva Conventions. The Chamber is satisfied that the brutality of their acts shows that the members of the HVO intended to cause the death of the three people. In view of the above, the Chamber finds that HVO soldiers caused the deaths of Bajro Munikoza, Šaban Hodžić and Saha Munikoza, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

¹³⁴⁹ See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁵⁰ See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁵¹ See "Death of Six Muslims in the Region of Prajine and Tolovac" in the Chamber's factual findings with regard to the Municipality of Prozor.

709. The Chamber established that on 31 July 1993, HVO soldiers took about 50 detainees from the Prozor Secondary School – who were civilian detainees or prisoners of war and therefore protected by the Geneva Conventions – to the front line at Crni Vrh, tied them up to one another with telephone cables and then shot them in the back.¹³⁵² The Chamber established that 11 of the 50 detainees were indeed shot and killed by HVO soldiers at Crni Vrh on 31 July 1993. The individuals concerned were: Samir Hadžić, Bećir Kmetaš, Ismet Pilav, Huso (Husein) Pilav, Hazim Pilav, Omer Pilav, Ismet Berić, Smajo Ruvić, Edin Šabić, Emir Šabić, and Zajko Ugarak.¹³⁵³ The Chamber is satisfied that by shooting the detainees in the back, the HVO soldiers intended to cause the deaths of the 11 detainees, thereby committing the crime of wilful killing against each of them, a crime recognised by Article 2 of the Statute.

710. However, the Chamber recalls that it was not able to establish with certainty that ten other detainees, Džifer Agić, Zijad Grić, Ramiz Letica, Rasim Letica, Ibro Munikoza, Enver Osmić, Muharem Pračić, Selim Purgić, Mujo Šabić and Abdulah Trtić, who all died, were shot and killed by the HVO at Crni Vrh on 31 July 1993. Consequently, the Chamber is unable to find that these ten detainees were victims of the crime of wilful killing, a crime recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

711. The Chamber established that during the attack on the village of Duša on 18 January 1993, one of the shells fired by the HVO hit the house of Enver Šljivo, causing the deaths of Mirsada Behlo (an 11-year-old child), Muamer Zulum (a 12-year-old child), Mirsad Behlo (a three-year-old child), Sabaha Behlo (a 31-year-old woman), Rasiha Behlo (a 20-year-old woman), Fatka Gudić (a 44-year-old woman) and Salih Čeho (a 65-year-old man), who were hiding there and not taking part in combat activities.¹³⁵⁴ The Chamber noted that, during the attack, armed Muslim men tried to defend the village of Duša.¹³⁵⁵ However, the HVO attacked the village by using weapons – more specifically, shells – the nature of which is such that it makes it impossible to distinguish military from civilian targets. Moreover, the HVO forces made no effort to allow the civilian population of

¹³⁵² See "50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁵³ See "50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³⁵⁴ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁵⁵ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

Duša to flee before the attack.¹³⁵⁶ Consequently, the Chamber holds that the shelling of Duša was an indiscriminate attack. In view of the above, the Chamber is satisfied that by firing several shells at the village and in particular at Enver Šljivo's house, the HVO intended to cause serious bodily harm to the civilians who had taken refuge there, harm that it could reasonably have foreseen could cause their deaths, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

712. With regard to the town of Gornji Vakuf and the villages of Hrasnica, Uzričje and Tdrimci, the Chamber recalls that it was unable to establish that Muslim inhabitants died during the attacks on these places by the HVO on 18 January 1993.¹³⁵⁷ The Chamber is therefore unable to find that the Muslim inhabitants of these places were the victims of wilful killing on 18 January 1993.

III. Municipality of Jablanica (Sovići and Doljani)

713. As an initial matter, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Jablanica were either prisoners of war or civilians and were thus protected by the Geneva Conventions.

714. The Chamber noted that four Muslim ABiH soldiers - Ismet Ćilić, Salem Škampo, Hasan Radoš and Ekrem Tašić, who were being held at the Sovići School - were picked out by HVO soldiers and then shot and killed on 20 or 21 April 1993.¹³⁵⁸ The Chamber is satisfied that by calling them out by name, ordering them to leave the school and then shooting them, the HVO soldiers intended to cause their deaths.

715. The Chamber therefore finds that HVO soldiers caused the deaths of Ismet Ćilić, Salem Škampo, Hasan Radoš and Ekrem Tašić, who were being held at the Sovići School, on 20 or 21 April 1993, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

¹³⁵⁶ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁵⁷ See "Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack", "Attack on the Village of Hrasnica" and "Attack on the Village of Tdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁵⁸ See "Death of Muslim Men Held at Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

716. However, the Chamber established that it had no evidence concerning the deaths of Muslim men held at the Fish Farm between 18 and 23 April 1993.¹³⁵⁹ Consequently, the Chamber is unable to find that they were the victims of wilful killing.

IV. Municipality of Mostar

717. The Chamber established that on the night of 10-11 May 1993, during brutal beatings, HVO soldiers killed ten members of the armed forces of the ABiH: Alija Ćamo, Senad Ćehić, Dževad Ćolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić while they were being held by the HVO and were thus prisoners of war at the Mechanical Engineering Faculty following the 9 May 1993 attack on Mostar.¹³⁶⁰ Insofar as the HVO soldiers came around several times to beat the detainees, were extremely violent to them and shot at some of them – killing three on the spot – the Chamber is satisfied that the HVO soldiers intended to cause the deaths of the ten Muslim men. The Chamber therefore finds that between 10 and 11 May 1993, the HVO soldiers caused the deaths of Alija Ćamo, Senad Ćehić, Dževad Ćolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić, while they were being held as prisoners of war by the HVO at the Mechanical Engineering Faculty and were therefore protected by the Geneva Conventions, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

718. The Chamber also established that Adem Hebibović and Azim Mašić, two Muslim men arrested by the HVO Military Police on 6 July 1993 and thus in the hands of the enemy, and then held at the Mechanical Engineering Faculty, died as a result of severe beatings during interrogations between 8 and 11 July 1993 by HVO soldiers.¹³⁶¹ The Chamber is satisfied that the HVO soldiers beat these detainees with the intention of causing them serious bodily harm and that they could reasonably have foreseen that those beatings could cause their deaths. The Chamber therefore finds that HVO soldiers caused the deaths of Adem Hebibović and Azim Mašić between 8 and 11 July 1993 while they were being held by the HVO and were therefore protected by the Geneva Conventions, thereby committing the crime of wilful killing against both these persons, a crime recognised by Article 2 of the Statute.

¹³⁵⁹ See "Death of Some Muslim Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁶⁰ See "Fate of the 12 ABiH Soldiers" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶¹ See "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

719. The Chamber also established that on 14 July 1993, the HVO military policemen in Buna arrested and beat a Muslim boy and his grandfather, who had fallen into the hands of the enemy, at the Military Police station in Buna. The Chamber also established that the military policemen then took them to a roadside and shot them, killing the grandfather and seriously wounding the young boy who was left at the site.¹³⁶² The Chamber finds that on 14 July 1993, members of the HVO Military Police shot two Muslims with the intention of killing them, and indeed did kill one of them there, thereby committing the crime of wilful killing against the grandfather, a crime recognised by Article 2 of the Statute.

720. The Chamber also established that on 24 August 1993 near a house in the village of Raštani, four Muslim men, Ismet Ćišić, Murat Dedić, Šaban Dumpor and Mirsad Tuškić, the last-mentioned a member of the ABiH, were killed by HVO soldiers after having surrendered and thus having fallen into the hands of the enemy.¹³⁶³ The Chamber therefore finds that on 24 August 1993, the HVO soldiers shot and killed Ismet Ćišić, Murat Dedić, Šaban Dumpor and Mirsad Tuškić and did so with the intention of killing them, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

721. Finally, as the Chamber established by a majority, with Judge Antonetti dissenting, from June 1993 to March 1994, HVO snipers targeted the Muslim inhabitants of East Mostar, including women, children, elderly people and firemen living in East Mostar while they were going about their daily business, such as fetching water, which had no links to combat operations.¹³⁶⁴ The Chamber noted by a majority, with Judge Antonetti dissenting, that inhabitants of Mostar died as a result of the shooting.¹³⁶⁵ In particular, it established by a majority, with Judge Antonetti dissenting, that on 6 June 1993, an HVO sniper targeted a 41-year-old woman by the name of Arzemia Alihodžić - who was not part of any armed force, was therefore a civilian and was on the terrace of her home in the Tekija neighbourhood of East Mostar - shot her in the head and killed her;¹³⁶⁶ that on 2 February 1994, a sniper aimed at and shot dead Orhan Beriša, an eight-year-old boy playing in front of an apartment building in the Tekija neighbourhood¹³⁶⁷ and that on 1 March 1994, Uzeir

¹³⁶² See "Crimes Allegedly Committed in Buna around 14 July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶³ See "Death of Four Muslim Men during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶⁴ See "Campaign of Sniping Affecting the Entire the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶⁵ See "Campaign of Sniping Affecting the Entire Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶⁶ See "Sniping Incident no. 3" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶⁷ See "Sniping Incident no. 13" in the Chamber's factual findings with regard to the Municipality of Mostar.

Jugo, a fireman, who was not part of any armed force and was therefore a civilian, was killed by an HVO sniper while he was repairing a fire truck parked in a street in East Mostar.¹³⁶⁸

722. The Chamber finds that between June 1993 and March 1994, HVO soldiers targeted and fired at Muslim civilians living in East Mostar with the intention of killing them, thereby committing the crime of wilful killing, a crime recognised by Article 2 of the Statute.

V. The Heliodrom

723. As an initial matter, the Chamber notes that the Muslims imprisoned at the Heliodrom were either prisoners of war or civilians and were thus protected by the Geneva Conventions.

724. The Chamber established that several Heliodrom detainees, including Semir Berić, Adis Brković, Semir Ćehajić, Emir Ćolić, Ašim Drljević, Ibrahim Filandra, Saša Grabovac, Zahid Hadžić, Azim Karadžuz, Zuka Hajrović, Huso Ljević, Sakib Malahasić, Ramiz Mehmedović, Veleđin Mezetović, Muhamed Muminagić, Mehmed Muminagić, Nedžad Nožić, Semir Perić, Enver Puzić, Remza Sabljčić, Avdo Selimanović, Ahmet Hajrić, Nesib Halilović, Salem Hurseinović, Elmir Jazvin, Irfan Torle and Mehmed Tumbić, were killed between May 1993 and March 1994 while working in Mostar on the front line between the HVO and the ABiH.¹³⁶⁹

725. The Chamber notes that detainees were regularly used for ten months for labour on the front line while fighting was ongoing.¹³⁷⁰ While performing this labour, the detainees were exposed to both ABiH and HVO firing.¹³⁷¹ They were regularly wounded and killed without any measures being taken to ensure their safety. The members of the Military Police who had the power to assign the detainees to the various units seeking them for labour,¹³⁷² as well as members of Vinko Martinović's ATG, the KB, the 2nd Battalion of the 2nd HVO Brigade and the 3rd and 4th battalions of the 3rd HVO Brigade who made use of the detainees,¹³⁷³ were aware of the conditions under which the work was carried out yet continued to expose the detainees to fire for several months. Consequently, the Chamber is satisfied that the members of the HVO intended to cause serious bodily harm to the detainees that they must have reasonably foreseen could result in the deaths of some of them.

¹³⁶⁸ See "Sniping Incident no. 14" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁶⁹ See "Detainees Killed or Wounded During Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

¹³⁷⁰ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³⁷¹ See "Detainees Killed or Wounded During Forced Labour" and "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³⁷² See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹³⁷³ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

726. In light of the above, the Chamber finds that between May 1993 and March 1994 members of the HVO caused the deaths of several detainees, among them Semir BeriĆ, Adis Brković, Semir Ćehajić, Emir Ćolić, Ašim Drljević, Ibrahim Filandra, Saša Grabovac, Zahid Hadžić, Azim Karadžuz, Zuka Hajrović, Huso Ljević, Sakib Malahasić, Ramiz Mehmedović, Veledin Mezetović, Muhamed Muminagić, Mehmed Muminagić, Nedžad Noćić, Semir Perić, Enver Puzić, Remza Sabljčić, Avdo Selimanović, Ahmet Hajrić, Nesib Halilović, Salem Hurseinović, Elmir Jazvin, Irfan Torle and Mehmed Tumbić, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

727. The Chamber also established that Salim Kadušak, Mustafa Tašić, Šefik Tašić and Ismet Ćilić, all four members of the ABiH and held at the Heliiodrom, were killed on 17 September 1993 while being used as "human shields" by the *Vinko Škrobo* ATG on the Mostar front line.¹³⁷⁴

728. The Chamber notes that by forcing the detainees to position themselves in front of or among HVO troops to protect them from ABiH attacks,¹³⁷⁵ the members of the *Vinko Škrobo* ATG who had requisitioned several Heliiodrom detainees that same morning of 17 September 1993¹³⁷⁶ and provided some with HVO uniforms and wooden rifles¹³⁷⁷ deliberately took the risk that the detainees would be killed. Consequently, the Chamber is satisfied that the members of the *Vinko Škrobo* ATG intended to cause serious bodily harm to the detainees that they must have foreseen could result in the deaths of some of them.

729. In light of the above, the Chamber finds that on 17 September 1993, members of the *Vinko Škrobo* ATG, including its commander Vinko Martinović, caused the deaths of Salim Kadušak, Mustafa Tašić, Šefik Tašić and Ismet Ćilić, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

VI. Vojno Detention Centre

730. As an initial matter, the Chamber notes that the Muslims imprisoned at the Vojno Detention Centre were either prisoners of war or civilians and were thus protected by the Geneva Conventions.

¹³⁷⁴ See "Heliiodrom Detainees Killed While Being Used as Human Shields" in the Chamber's factual findings with regard to the Heliiodrom.

¹³⁷⁵ See "Use of Heliiodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliiodrom.

¹³⁷⁶ See "Heliiodrom Detainees Wounded While Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliiodrom.

¹³⁷⁷ See "Heliiodrom Detainees Wounded While Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliiodrom.

731. The Chamber established that on 5 December 1993, while being held at the Vojno Detention Centre, Mustafa Kahvić was shot and killed by Mario Mihalj, a soldier of the 2nd HVO Brigade responsible for the detention centre.¹³⁷⁸ The Chamber is satisfied that by firing four or five shots at Mustafa Kahvić,¹³⁷⁹ Mario Mihalj intended to kill him, thereby committing the crime of wilful killing, a crime recognised by Article 2 of the Statute.

732. The Chamber established that several men held by the HVO at the Vojno Detention Centre, including Mensud Dedajić, Salim Alilović, Hamdija Tabaković, Džemal Sabitović, Kemal Zuhrić and Salman Mensur, were killed between 2 September 1993 and 31 January 1994 while working on the front lines in the Vojno area under the guard of HVO soldiers and while fighting was ongoing between the ABiH and the HVO.¹³⁸⁰

733. The Chamber notes that for almost five months, the HVO soldiers regularly used the detainees from the Vojno Detention Centre for work. During this work, the detainees were exposed to ABiH firing and were regularly wounded and killed without the HVO soldiers taking any measures to ensure their safety.¹³⁸¹ The Chamber is therefore satisfied that the HVO soldiers, who were aware of the conditions under which the work was being done and who continued for almost five months to expose the detainees to firing, intended to cause them serious bodily harm that they could reasonably have foreseen could cause the death of some of them.

734. In light of the above, the Chamber finds that between 2 September 1993 and 31 January 1994, the HVO soldiers caused the deaths of several detainees, including Mensud Dedajić, Salim Alilović, Hamdija Tabaković, Džemal Sabitović, Kemal Zuhrić and Salman Mensur, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

VII. Municipality of Stolac

735. The Chamber established that on 13 July 1993 as part of an operation to expel the Muslims from the village of Pješivac Greda, an HVO soldier by the name of Dragan Bonojza killed Sanida

¹³⁷⁸ See "Authorities Responsible for Operation of the Vojno Detention Centre" and "Death of Detainees While in Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³⁷⁹ See "Death of Detainees While in Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³⁸⁰ See "Types and Locations of Labour in the Vojno-Bijelo Polje Area" and "Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹³⁸¹ See "Detainees from the Heliodrom and the Vojno Detention Centre Injured While Working" and "Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre.

Kaplan, a Muslim civilian aged 17, by opening fire in her direction while she was leaving the Kaplan family home and asking him: "You've taken away the men, but why do you want to take us?"¹³⁸² The Chamber finds that on 13 July 1993, an HVO soldier shot at Sanida Kaplan, a civilian protected by the Geneva Conventions, with the intention of killing her, thereby committing the crime of wilful killing, a crime recognised by Article 2 of the Statute.

736. The Chamber also established that at the Koštana Hospital, members of the Military Police and HVO soldiers beat and caused the deaths of several Muslim men being held there. In that way, on 3 August 1993, members of the Military Police beat and killed Vejsil Đulić and Salem Đulić. HVO soldiers also beat and caused the death of Salko Kaplan during his detention in August 1993; he died from his wounds shortly thereafter once he had been transferred to Dretelj Prison. On 25 September 1993, members of the Military Police beat Ibro Razić and Suad Obradović and they died of their wounds the next day (Ibro Razić died after being transferred to Gabela Prison).¹³⁸³

737. The Chamber is satisfied that the military policemen and soldiers of the HVO beat these detainees with the intention of causing them serious bodily harm. The Chamber is also satisfied that they must have reasonably foreseen that such beatings could cause the deaths of these detainees. The Chamber therefore finds that members of the Military Police caused the deaths of Vejsil Đulić and Salem Đulić on 3 August 1993, as well as the deaths of Ibro Razić and Suad Obradović on 26 September 1993 as a result of the beatings they suffered the day before and that in August 1993, HVO soldiers caused the death of Salko Kaplan – all five held by the HVO and thus protected by the Geneva Conventions – thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

VIII. Municipality of Čapljina

738. The Chamber established by a majority, with Judge Antonetti dissenting, that around 13 July 1993 during operations in which the HVO expelled Muslim women, children and elderly people from the village of Domanovići,¹³⁸⁴ two young Muslim women aged 17 and 23, Dženita and Sanela Hasić, were killed one after the other by HVO snipers while they were walking along the main road in the village of Domanovići, and that there was no fighting between the HVO and the

¹³⁸² See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹³⁸³ See "Death of Detainees at the Koštana Hospital" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹³⁸⁴ See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

ABiH in the village when the shots were fired.¹³⁸⁵ The Chamber has no doubt that the two young women were not members of any armed force at the time of their deaths and that they were thus civilians protected by the Geneva Conventions. The Chamber is satisfied that by aiming and opening fire which killed the first young woman and, once she had been hit, by firing other shots at the second young woman's leg and head killing her on the spot, the HVO sniper(s) intended to kill them.

739. The Chamber finds by a majority, with Judge Antonetti dissenting, that around 13 July 1993 in the village of Domanovići, one or more HVO soldiers caused the deaths of Dženita and Sanela Hasić, two young Muslim civilian women, thereby committing the crime of wilful killing against each of them, a crime recognised by Article 2 of the Statute.

740. The Chamber also established that on 14 July 1993, during operations in which the HVO expelled Muslim women, children and elderly people from the village of Bivolje Brdo between 13 and 16 July 1993,¹³⁸⁶ a disabled man aged 83 was shot and killed by members of the HVO.¹³⁸⁷ In this regard, the Chamber noted that the members of the HVO entered the old man's house, called him by his surname, "provoked" him about his son and then opened fire on him.¹³⁸⁸ The Chamber has no doubt that the old man was not a member of any armed force and was thus a civilian protected by the Geneva Conventions. The Chamber is satisfied that by calling the old man by name after entering his house, provoking him and then opening fire on him, the HVO intended to kill him.

741. In light of the evidence, the Chamber finds that members of the HVO caused the death of an old, disabled civilian man in the village of Bivolje Brdo on 14 July 1993, thereby committing the crime of wilful killing against him, a crime recognised by Article 2 of the Statute.

742. The Chamber also established that around 16 July 1993, during operations to expel the Muslim inhabitants from the village of Bivolje Brdo between 13 and 16 July 1993,¹³⁸⁹ members of the HVO – some of whom were soldiers belonging to the 1st *Knez Domagoj* Brigade while others were military policemen belonging to the 3rd Company of the 5th Battalion of the Military Police –

¹³⁸⁵ See "Death of Two Young Women in the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³⁸⁶ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³⁸⁷ See "Death of an 83-Year-Old Man in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³⁸⁸ See "Death of an 83-Year-Old Man in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³⁸⁹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

arrested 12 Muslim men from the village of Bivolje Brdo: Nijaz Ćiber, aged 61, Halil Šoše, Mustafa Đonko, Safet Đonko, Mustafa Torlo, Ahmet Torlo, Ibro Trbonja, aged 72, Bećir Trbonja, aged 71, Hilmo Mrgan, aged 62, Bećir Mrgan, Džemal Elezović, aged 62, and Ibro Rahimić, aged 85 – and then killed them savagely before burning and burying their bodies near the old bauxite mine of Bivolje Brdo.¹³⁹⁰ The Chamber notes that the 12 men, having fallen into the hands of the HVO, were protected by the Geneva Conventions. The Chamber is satisfied that by killing the 12 men, burning their corpses and burying the remains near the old bauxite mine of Bivolje Brdo, the members of the HVO intended to kill them.

743. The Chamber finds that members of the HVO, including some who were soldiers belonging to the 1st *Knez Domagoj* Brigade and others who were military policemen belonging to the 3rd Company of the 5th Battalion of the Military Police, caused the deaths of 12 Muslim men, who were protected by the Geneva Conventions, in the village of Bivolje Brdo around 16 July 1993, thereby committing the crime of wilful killing against each of them, a crime recognised by Article 2 of the Statute.

IX. Dretelj Prison

744. As an initial matter, the Chamber notes that the Muslims imprisoned in Dretelj Prison were either prisoners of war or civilians and thus protected by the Geneva Conventions.

745. The Chamber noted that six Muslim detainees died while being held at Dretelj Prison.¹³⁹¹ The Chamber thus established that in mid-July 1993, a Muslim called Plavuškić died of dehydration when the HVO soldiers deprived the detainees of food and water under orders from Nećđjko Obradović, Commander of the 1st *Knez Domagoj* Brigade.¹³⁹² The Chamber is satisfied that by depriving the detainees of food and water and keeping them locked up in hangars in mid-July when the heat was suffocating, the members of the HVO intended to cause the detainees serious bodily harm which they must have reasonably foreseen could cause their deaths, and thus the death of Plavuškić.

746. Lastly, the Chamber established that in mid-July 1993, three detainees, including Hasan Duvnjak, died as a result of shots fired by HVO military policemen at the sheet metal hangars in

¹³⁹⁰ See "Disappearance of 12 Muslims Men from Bivolje Brdo on 16 July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹³⁹¹ See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" and "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹³⁹² See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" in the Chamber's factual findings with regard to Dretelj Prison.

which they were confined.¹³⁹³ The Chamber is satisfied that by firing their weapons at the sheet metal hangars in which the detainees were confined, the HVO military policemen intended to cause the deaths of some of them or at least to cause them serious bodily harm which they must have reasonably foreseen could cause the death of some of the detainees.

747. The Chamber also established that Omer Kohnić and Emir Repak died in August 1993 as a result of beatings inflicted by members of the HVO and by other detainees on orders from the military policemen.¹³⁹⁴ In light of the evidence, the Chamber finds that by shooting him, the member(s) of the HVO intended to kill him or at least to cause him serious bodily harm which he/they must have reasonably foreseen could cause death.

748. In light of the evidence, the Chamber finds that members of the HVO, including military policemen, caused the deaths of six Muslim detainees from Dretelj Prison: Plavuškić, Omer Kohnić, Emir Repak, Hasan Duvnjak and two other detainees whose identity the Chamber does not know between mid-July and August 1993, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

X. Gabela Prison

749. As an initial matter, the Chamber notes that the Muslims imprisoned in Gabela Prison were either prisoners of war or civilians and thus protected by the Geneva Conventions.

750. The Chamber already established that on 19 or 29 August 1993, one or more members of the HVO shot and killed Hifzija Dizdar while he was being held at Gabela Prison.¹³⁹⁵ In light of the evidence, the Chamber finds that by shooting him, the member(s) of the HVO intended to kill him or at least to cause him serious bodily harm which he/they must have reasonably foreseen could cause his death, thereby committing the crime of wilful killing recognised by Article 2 of the Statute.

751. Moreover, the Chamber established that between 2 October and 11 December 1993, Boško Previšić, warden of Gabela Prison and member of the 1st *Knez Domagoj* Brigade, killed Mustafa Obradović while he was being held at Gabela Prison, by shooting him with a firearm.¹³⁹⁶ The Chamber finds that Boško Previšić shot Mustafa Obradović with the intention of killing him, thereby committing the crime of wilful killing recognised by Article 2 of the Statute.

¹³⁹³ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹³⁹⁴ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹³⁹⁵ See "Death of Several Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹³⁹⁶ See "Death of Several Detainees" in the Chamber's factual findings with regard to Gabela Prison.

XI. Municipality of Vareš

752. The Chamber established that during and after the attack on the village of Stupni Do on 23 October 1993, 36 people, Muslim inhabitants of the village of Stupni Do, were killed by members of the *Maturice* and/or *Apostoli* special units.¹³⁹⁷ Of the victims, 28 people were either Muslims not belonging to any armed force and therefore civilians, or fighters in the hands of the enemy after being arrested and disarmed. The Chamber noted that these 28 people were either killed with bladed instruments or shot at very close range or even burned alive in the torched houses of the village.¹³⁹⁸ These persons were: Merima Likić, Mebrura Likić, Vahidin Likić, Lejla Likić, Indira Zutić, Hatidža Likić, Nevzeta Likić, Medina Likić, Suhra Likić, Edin Mahmutović, Rifet Likić, Rašida Likić, Mehmed Likić, Salih Likić, Ibrahim Likić, Dževha Likić, Šerifa Likić, Šerifa Lulić, Nazif Likić, Ramiz Likić, Alija Likić, Enis Likić, Minheta Likić, Refika Likić, Sabina Likić, Vernest Likić, Zahida Likić and Munira Likić.¹³⁹⁹ The Chamber is therefore satisfied that the members of the *Maturice* and/or *Apostoli* special units intended to kill these 28 Muslim inhabitants of the village of Stupni Do.

753. The Chamber therefore finds that during the attack on the village of Stupni Do on 23 October 1993, the members of the *Maturice* and/or *Apostoli* special units killed 28 people, Muslim inhabitants of the village of Stupni Do, thereby committing the crime of wilful killing against each of these persons, a crime recognised by Article 2 of the Statute.

754. However, the Chamber was unable to establish whether Adis Likić and Samir Likić or Rahić, who belonged to the village guards and/or were members of the ABiH,¹⁴⁰⁰ were killed by the members of the *Maturice* and/or *Apostoli* special units once they were captured by the HVO or while they were engaged in combat. Under these circumstances, the Chamber is unable to find that they were victims of wilful killing, a crime recognised by Article 2 of the Statute.

755. The Chamber was also unable to determine whether Abdulah Likić and Avdan Likić belonged to the village guards and/or the ABiH¹⁴⁰¹ and if so, whether they were killed after being

¹³⁹⁷ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁹⁸ See "Death of Villagers in and around Kemal Likić's House", "Death of Villagers in Front of Zejnil Mahmutović's House" and "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹³⁹⁹ See "Death of Villagers in and around Kemal Likić's House", "Death of Villagers in Front of Zejnil Mahmutović's House" and "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁰⁰ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁰¹ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

captured by the HVO. Under these circumstances, the Chamber is unable to find that they were victims of wilful killing, a crime recognised by Article 2 of the Statute.

756. Lastly, the Chamber noted that Zejnil Mahmutović, a member of the ABiH, was killed by HVO soldiers while on guard north of the village of Stijenčica on the road between the hamlet of Prica Do and Stupni Do.¹⁴⁰² It also noted that the bodies of Salko Likić, Muamer Likić and Šefko Likić, members of the ABiH, were found in the trenches on Bogoš hill.¹⁴⁰³ The Chamber finds that the four men died while taking part in combat and that they were not victims of wilful killing, a crime recognised by Article 2 of the Statute.

Heading 3: Rape (Count 4)

I. Municipality of Prozor

757. The Chamber established that in August 1993, several Muslim women and girls held in houses in the Podgrađe neighbourhood were forced to have sexual relations with members of the HVO.¹⁴⁰⁴ The Chamber notes that these acts consisted of sexual penetration¹⁴⁰⁵ and were carried out forcibly and brutally under the threat of weapons¹⁴⁰⁶ on the women and girls held in the Podgrađe neighbourhood while being guarded by the HVO Military Police.¹⁴⁰⁷ The Chamber notes that in two SIS reports dated 13 and 14 August 1993, the HVO referred to abuse, sexual assault, forced prostitution and rape by members of the HVO.¹⁴⁰⁸ In light of the foregoing, the Chamber is satisfied that these sexual relations took place without the consent of the victims. The Chamber is equally satisfied that the members of the HVO intended to have sexual relations with the victims, knowing that those relations were not consensual. The Chamber thus finds that in August 1993 members of the HVO raped several Muslim women and girls held in the Podgrađe neighbourhood while under the guard of the Military Police, thereby committing the crime of rape recognised by Article 5 of the Statute.

¹⁴⁰² See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁰³ See "Death of Villagers in and around the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁰⁴ See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁰⁵ See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁰⁶ See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁰⁷ See "Conditions of Confinement of the Muslims Collected in Podgrađe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁰⁸ See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

758. The Chamber also established that in August 1993, at least one Muslim woman, *Witness BP*, held in houses in the village of Lapsunj, was forced to have sexual relations with two HVO soldiers, one after the other.¹⁴⁰⁹ The Chamber notes that these acts consisted of sexual penetration¹⁴¹⁰ and were carried out forcibly and brutally under the threat of weapons¹⁴¹¹ on this woman while she was being held in the village of Lapsunj under the guard of the HVO.¹⁴¹² In light of the foregoing, the Chamber is satisfied that these sexual relations took place without the consent of the victim. The Chamber is also satisfied that the HVO soldiers intended to have sexual relations with the victim, knowing that those relations were not consensual. The Chamber therefore finds that in August 1993, HVO soldiers raped a Muslim woman, *Witness BP*, who was being held in the village of Lapsunj, thereby committing the crime of rape, recognised by Article 5 of the Statute.

759. The Chamber established that in August 1993, several women being held in houses in the village of Duge were forced to have sexual relations with HVO soldiers and members of the HVO Military Police.¹⁴¹³ The Chamber notes that these acts consisted of sexual penetration¹⁴¹⁴ and were carried out by force on these women being held in that village at the time under the guard of the HVO Military Police.¹⁴¹⁵ The Chamber notes that in two SIS reports dated 13 and 14 August 1993, the HVO itself referred to abuse, sexual assault, forced prostitution and rape by members of the HVO in that village.¹⁴¹⁶ In light of the foregoing, the Chamber is satisfied that these sexual relations took place without the consent of the victims. The Chamber is also satisfied that the soldiers and members of the HVO Military Police intended to have sexual relations with the victims, knowing that those relations were not consensual. The Chamber therefore finds that in August 1993, HVO soldiers and members of the HVO Military Police raped Muslim women who were held in the village of Duge, thereby committing the crime of rape recognised by Article 5 of the Statute.

760. The Chamber also established that from late August 1993 to December 1993, several Muslim women and underage girls in the village of Duge were forced to have sexual relations with

¹⁴⁰⁹ See "Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁰ See "Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹¹ See "Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹² See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹³ See "Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁴ See "Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁵ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁶ See "Treatment of Muslims Collected in Podgraĉe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

members of the HVO, including soldiers belonging to the *Kinder Vod*.¹⁴¹⁷ The Chamber notes that this sexual abuse consisted of sexual penetration¹⁴¹⁸ and was carried out forcibly and brutally under the threat of weapons on the women and underage girls being held in the village of Duge under the guard of HVO military policemen.¹⁴¹⁹ In light of the foregoing, the Chamber is satisfied that these sexual relations took place without the consent of the victims. The Chamber is also satisfied that the members of the HVO intended to have sexual relations with the victims, knowing that these relations were not consensual. The Chamber thus finds that from late August 1993 to December 1993, members of the HVO, and in particular soldiers of the *Kinder Vod*, raped several Muslim women and underage girls being held in the village of Duge, while they were under the guard of the Military Police, thereby committing the crime of rape recognised by Article 5 of the Statute.

II. Municipality of Mostar

761. The Chamber established that during an operation to expel 90 Muslims from the Dum neighbourhood from their homes, soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade as well as Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG,¹⁴²⁰ forced Muslim women to have non-consensual sexual relations.¹⁴²¹ The Chamber holds that the circumstances of these incidents – the presence of witnesses and the fact that the HVO unit itself when reporting these acts characterised them as rape – show unequivocally that the victims had not given their consent. The Chamber is also satisfied beyond any reasonable doubt that the HVO soldiers intended to have sexual relations with their victims knowing that the victims did not consent to them. The Chamber therefore finds that on 13 June 1993, soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG,¹⁴²² raped several Muslim women during operations to expel Muslims from the Dum neighbourhood in West Mostar from their homes, thereby committing the crime of rape recognised by Article 5 of the Statute.

¹⁴¹⁷ See "Treatment of Muslims in the Municipality from Late August to December 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁸ See "Treatment of Muslims in the Municipality from Late August to December 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴¹⁹ See "Treatment of Muslims in the Municipality from Late August to December 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴²⁰ The *Tihomir Mišić* Battalion was mentioned by the Chamber in its factual findings with regard to the HVO armed forces in the Municipality of Mostar.

¹⁴²¹ See West Mostar "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²² The *Tihomir Mišić* Battalion was mentioned by the Chamber in its factual findings with regard to the HVO armed forces in the Municipality of Mostar.

762. The Chamber established that during the HVO operations in July 1993 to expel the Muslims from West Mostar, uniformed HVO soldiers broke into the apartment of a Muslim woman and forced her to have sexual relations with them while her children were sleeping in the next room.¹⁴²³ The Chamber holds that the circumstances of the incident show unequivocally that the victim did not give her consent. The Chamber is moreover satisfied that the HVO soldiers intended to penetrate her sexually knowing that the victim had not given her consent. The Chamber therefore finds that HVO soldiers raped a Muslim woman during operations in July 1993 to expel the Muslims of West Mostar, thereby committing the crime of rape, a crime recognised by Article 5 of the Statute.

763. Moreover, as the Chamber established, on 4 September 1993, a military policeman sexually penetrated a Muslim woman whom he had expelled from her home, handcuffed, undressed and threatened. Nine other members of the HVO – a second military policeman and members of the *Vinko Škrobo* ATG – also had sexual relations with the victim that lasted two hours, before they took her to the front line and forced her to cross it.¹⁴²⁴ The Chamber holds that the circumstances of the incident show unequivocally that the victim did not give her consent. The Chamber is, moreover, satisfied that when they took the woman into a room, handcuffed her, took off her trousers and proceeded repeatedly and systematically to penetrate the victim sexually, the members of the HVO intended to penetrate her knowing that the victim had not given her consent. The Chamber therefore finds that on 4 September 1993, two military policemen and members of the *Vinko Škrobo* ATG raped a Muslim woman during operations in September 1993 to expel Muslims from West Mostar, thereby committing the crime of rape, a crime recognised by Article 5 of the Statute.

764. The Chamber also established that on 29 September 1993 during an operation conducted by the *Vinko Škrobo* ATG and the 1st Light Assault Battalion of the Military Police to evict Muslim residents of the Centar II neighbourhood in West Mostar, several women, including a 16-year-old girl and *Witness CX*, were subjected to sexual abuse, including forced sexual relations.¹⁴²⁵ With regard to *Witness CX*, the Chamber deems that the use of force and violence against her and the extreme humiliation she suffered at the time of the events and after, notably due to the presence of her family during the sexual acts committed successively by nine HVO soldiers, unquestionably show both the lack of consent by the victim and that the soldiers intended to sexually penetrate the

¹⁴²³ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims During the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²⁴ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

victim knowing that this penetration was non-consensual. The Chamber is satisfied, furthermore, that the HVO soldiers had non-consensual sexual relations with other women, including a girl of 16, with the intention to commit such acts. The Chamber therefore finds that on 29 September 1993, HVO soldiers, including members of the *Vinko Škrobo* ATG, raped *Witness CX* and other Muslim women, thereby committing the crime of rape, a crime recognised by Article 5 of the Statute.

765. The Chamber recalls nevertheless that it was unable to determine whether rapes were committed against Muslims driven out of West Mostar by the HVO during May and August 1993¹⁴²⁶ and after September 1993. Consequently, the Chamber cannot find that the HVO committed the crime of rape recognised by Article 5 of the Statute during the months of May and August 1993 and after September 1993.

III. Vojno Detention Centre

766. The Chamber recalls that the count of rape is alleged only for events regarding the detention of women¹⁴²⁷ and that it does not have any evidence about this.¹⁴²⁸ Consequently, the Chamber is unable to find that rapes were committed in the Vojno Detention Centre.

IV. Municipality of Vareš

767. The Chamber established that on 23 October and in the night of 24-25 October 1993, two Muslim women, *Witnesses DF* and *DG*, inhabitants of the town of Vareš, were sexually abused by HVO members, some of whom belonged to the *Maturice* special unit, and that this abuse consisted of sexual relations.¹⁴²⁹ The Chamber noted in particular that a soldier, a member of the HVO, entered *Witness DF's* house together with two other soldiers, forced her to have sexual relations "from the back" and then ejaculated into her mouth in front of the two other soldiers.¹⁴³⁰ The soldier then said to her: "I hurt you. I humiliated you."¹⁴³¹ The Chamber also established that *Witness DG*,

¹⁴²⁵ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²⁶ See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims During the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²⁷ See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁴²⁸ See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁴²⁹ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴³⁰ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴³¹ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

who was a virgin – which the perpetrators realised – was forced into successive sexual relations with three HVO members at her home. The sexual relations were forced upon her repeatedly and in a particularly brutal manner.¹⁴³² In light of the foregoing, the Chamber is satisfied that the sexual relations took place without the consent of the victims. The Chamber is also satisfied that the HVO members intended to force the victims to have sexual relations despite their knowing that this was non-consensual. This is notably attested to by the completely deliberate, public, repeated and violent nature of the sexual abuse. Consequently, the Chamber finds that between 23 and 25 October 1993, HVO members, some of whom belonged to the *Maturice* special unit, forced two Muslim women in the town of Vareš to have sexual relations, thereby committing the crime of rape against both these women, a crime recognised by Article 5 of the Statute.

768. The Chamber also established that on 23 October 1993, following the attack on the village of Stupni Do, a member of the *Maturice* or *Apostoli* special unit forced a young Muslim girl from the village, *Witness DH*, aged 17 at the time of the events, who had taken refuge in a village house along with the other villagers, to have sexual relations. After being forced outside the shelter, she was taken by the soldier to the basement of a house while being hit with a firearm. He then ordered her to take off her clothes and lie back on a couch, he put the barrel of a gun into her mouth, threatened to kill her if she did not obey him and then inserted his penis into her vagina.¹⁴³³ In light of the foregoing, the Chamber is satisfied that these sexual relations took place without the consent of the victim. The Chamber is also satisfied that the member of the *Maturice* or *Apostoli* special unit intended to force the victim to engage in those sexual relations despite his knowing that she had not given her consent. This is notably attested to by the completely deliberate, threatening and violent nature of the sexual abuse. The Chamber finds, therefore, that on 23 October 1993, a member of the *Maturice* or *Apostoli* special unit forced a young underage Muslim girl in the village of Stupni Do to have sexual relations, thereby committing the crime of rape recognised by Article 5 of the Statute.

Heading 4: Inhuman Treatment (Sexual Assault) (Count 5)

I. Municipality of Prozor

769. The Chamber found for Count 4 that in August 1993, several women and girls held in the Podgraĉe neighbourhood were victims of the crime of rape committed by members of the HVO;

¹⁴³² See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴³³ See "Sexual Abuse of Women in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

that at least one Muslim woman, *Witness BP*, held in the houses in the village of Lapsunj was a victim of the crime of rape committed by HVO soldiers in August 1993; that several women held in the village of Duge were victims of the crime of rape committed by HVO soldiers and members of the Military Police in August 1993 and that from late August 1993 to December 1993, several Muslim women and girls also held in the village of Duge were victims of the crime of rape committed by HVO members, some of whom belonged to the *Kinder Vod*. Insofar as the circumstances surrounding each of these rapes attest to the fact that the women and girls were in enemy hands at the time of their rape, the Chamber finds that they were protected by the Geneva Conventions. Moreover, the Chamber considers that the brutal way in which the HVO members treated these women and girls each time caused them serious bodily and mental harm and an attack on their dignity and that the HVO members intended to cause such harm. The Chamber finds that the rapes committed by HVO members constituted inhuman treatment, crimes recognised by Article 2 of the Statute.

770. The Chamber established that in August 1993, HVO soldiers forced five men detained in the Secondary School and taken to and held in Jurići¹⁴³⁴ to perform oral sex on each other¹⁴³⁵ in a degrading and humiliating manner¹⁴³⁶ and under intimidation and threat of violence.¹⁴³⁷ The Chamber recalls that insofar as the men were being detained by the HVO at the moment of the sexual attacks, as civilians or prisoners of war they were protected by the Geneva Conventions. The Chamber finds that the sexual abuse of these detainees caused them serious psychological suffering and constituted a serious attack on their dignity. Considering the circumstances in which this event unfolded, the Chamber is satisfied that the HVO soldiers intended to cause the victims great mental suffering and a serious attack on their dignity. Consequently, the Chamber finds that in August 1993, HVO soldiers committed sexual assaults against five Muslim detainees in Jurići and that this constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

771. The Chamber established, furthermore, that in August 1993, several Muslim women and girls detained in houses in the village of Duge, under the guard of members of the HVO Military Police¹⁴³⁸ and therefore in enemy hands and protected by the Geneva Conventions, were sexually

¹⁴³⁴ See "Labour Performed by Detainees from Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴³⁵ See "Labour Performed by Detainees from Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴³⁶ See "Labour Performed by Detainees from Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴³⁷ See "Labour Performed by Detainees from Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴³⁸ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

abused by HVO soldiers and members of the HVO Military Police.¹⁴³⁹ The Chamber notes that over a period of several days, the HVO soldiers and the members of the HVO Military Police forced Muslim girls and women to engage in humiliating sexual activity such as, for example, forcing them to undress to music in front of them, to serve them naked and to undress in front of their fathers.¹⁴⁴⁰

772. The Chamber finds that this sexual abuse caused these women and girls serious bodily and mental harm and was a serious attack on their dignity. The Chamber is also satisfied that the HVO soldiers and the military policemen intended to cause their victims serious bodily and mental harm and a serious attack on their dignity. The Chamber finds, therefore, that in August 1993, HVO soldiers and members of the HVO Military Police committed sexual assaults against Muslim women and girls being held in the village of Duge, thereby committing the crime of inhuman treatment recognised by Article 2 of the Statute.

773. The Chamber also established that in August 1993, several Muslim women and girls detained in houses in the Podgrađe neighbourhood, under the guard of members of the HVO Military Police¹⁴⁴¹ and therefore in enemy hands and protected by the Geneva Conventions, were sexually abused by HVO members.¹⁴⁴² In particular, one woman was forced to undress while being threatened with a weapon while another was subjected to attempted oral penetration by two HVO soldiers armed with a rifle and a knife who threatened to kill her.¹⁴⁴³

774. The Chamber finds that this sexual abuse caused the women and girls serious bodily and mental harm and was a serious attack on their dignity. The Chamber is also satisfied that the HVO soldiers intended to cause their victims serious bodily and mental harm and a serious attack on their dignity. The Chamber therefore finds that in August 1993, HVO soldiers committed sexual assaults against Muslim women and girls being held in the Podgrađe neighbourhood, thereby committing the crime of inhuman treatment recognised by Article 2 of the Statute.

¹⁴³⁹ See "Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁴⁰ See "Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁴¹ See "Conditions of Confinement of the Muslims Collected in Podgrađe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁴² See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁴³ See "Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

II. Municipality of Mostar

775. The Chamber found for Count 4 that soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and the members of the *Vinko Škrobo* ATG,¹⁴⁴⁴ Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", raped several Muslim women in the Dum neighbourhood on 13 June 1993; that a Muslim woman was the victim of the crime of rape committed by HVO soldiers in mid-July 1993;¹⁴⁴⁵ that on 4 September 1993, another Muslim woman was the victim of the crime of rape committed by two military policemen and eight soldiers of the *Vinko Škrobo* ATG, and that on 29 September 1993, several Muslim women, including a girl aged 16 and *Witness CX*, were the victims of rape committed by HVO soldiers. Insofar as the circumstances surrounding each of the rapes attest to the fact that the women were in enemy hands at the time of their rape, that the HVO soldiers caused them serious bodily and mental harm and an attack on their dignity each time and that this was their intent, the Chamber finds that these rapes, committed by HVO soldiers, including two military policemen and eight soldiers from the *Vinko Škrobo* ATG in the case of the rape committed on 4 September 1993, constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

776. The Chamber also established that on 29 September 1993, other Muslim women who had been evicted from their apartments in West Mostar were forced by HVO soldiers to undress in public, some of them in a medical centre where they had been brought and were subjected to a body search before being taken away to East Mostar¹⁴⁴⁶ and others in the street;¹⁴⁴⁷ that a girl taken with her mother by an unknown man to a room in a house where many "soldiers" were present was forced to undress on orders from two men and then violently punched and kicked before being taken away to East Mostar.¹⁴⁴⁸ The Chamber is satisfied that the sexual abuse of these women, civilians in enemy hands, caused them serious physical and mental suffering. It is also satisfied that this sexual abuse, inflicted in a degrading and humiliating manner, resulted in a serious attack on the human dignity of the victims. The Chamber is also satisfied that the HVO soldiers intended to cause their victims serious bodily and mental harm and a serious attack on their dignity. The Chamber finds, therefore, that HVO soldiers carried out serious sexual assaults on several Muslim

¹⁴⁴⁴ The *Tihomir Mišić* Battalion was mentioned by the Chamber in its factual findings with regard to the HVO armed forces in the Municipality of Mostar.

¹⁴⁴⁵ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar. See also "Municipality of Mostar" in the Chamber's legal findings with regard to Count 4 (rape, a crime against humanity).

¹⁴⁴⁶ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁴⁷ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

women from West Mostar as part of their eviction operation on 29 September 1993 and that these assaults constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

777. The Chamber recalls however that it was unable to determine that rapes or sexual assaults were committed against Muslims driven out of West Mostar by the HVO in May and August 1993¹⁴⁴⁹ and after September 1993. Consequently, the Chamber is unable to find that during the months of May and August 1993 and after September 1993, the HVO committed acts of inhuman treatment because of sexual assaults, a crime recognised by Article 2 of the Statute.

III. Vojno Detention Centre

778. The Chamber established that it did not have any evidence regarding the detention of women in the Vojno Detention Centre or any crimes associated with their detention.¹⁴⁵⁰ Consequently, the Chamber is unable to find that sexual assault as inhuman treatment was committed in the Vojno Detention Centre.

IV. Municipality of Vareš

779. The Chamber found for Count 4 that *Witnesses DF, DG and DH*, all three Muslims, were victims of the crime of rape between 23 and 25 October 1993 committed by HVO soldiers, some of whom were members of the *Maturice* special unit. Insofar as the circumstances surrounding each of these rapes attest to the fact that the women were in enemy hands and thus protected persons within the meaning of the Fourth Geneva Convention, that by these rapes the HVO soldiers caused them serious bodily and mental harm and an attack on their dignity and that this was their intention, the Chamber finds that the rapes constituted inhuman treatment, crimes recognised by Article 2 of the Statute.

780. The Chamber also established that on 23 October 1993, following the attack on the village of Stupni Do, *Witness EG*, a Muslim woman from the village of Stupni Do who was in enemy hands at the time and was therefore a protected person within the meaning of the Fourth Geneva Convention, was taken to a neighbour's house by a member of the *Maturice* or *Apostoli* special unit,

¹⁴⁴⁸ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁴⁹ See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993" and "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims During the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁵⁰ See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre.

who forced her to undress¹⁴⁵¹ and then ordered her to dress again.¹⁴⁵² The Chamber also noted that after she was taken outside in front of a villager's house, another member of the *Maturice* or *Apostoli* special unit tore off her t-shirt and squeezed her breasts hard in front of all the neighbours who had also been gathered in front of the house by members of the *Maturice* or *Apostoli* special unit.¹⁴⁵³ In light of the evidence, the Chamber is satisfied that the sexual abuse of *Witness EG* caused her serious physical and mental suffering. The Chamber is satisfied, furthermore, that this sexual abuse, inflicted in a degrading and humiliating manner, resulted in a serious attack on the human dignity of the victim. The Chamber finds that the two members of the *Maturice* or *Apostoli* special unit who inflicted this sexual abuse intended to cause such physical and mental suffering and a serious attack on the dignity of *Witness EG*. This is notably attested to by the completely deliberate, public and violent nature of this abuse. The Chamber finds, therefore, that on 23 October 1993, two members of the *Maturice* or *Apostoli* special unit sexually assaulted *Witness EG*, a Muslim woman from the village of Stupni Do, and that this sexual assault constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

Heading 5: Deportation (Count 6)

I. Municipality of Prozor

781. The Chamber recalls that it was not able to establish that the HVO removed Muslims from the Municipality of Prozor to other territories in December 1993.¹⁴⁵⁴ The Chamber is thus not in a position to find that the HVO committed the crime of deportation recognised by Article 5 of the Statute in the Municipality of Prozor.

II. Municipality of Mostar

782. The Chamber established that from mid-May to September 1993, members of the HVO systematically expelled Muslims from West Mostar to East Mostar - which was under the control of the ABiH - and to third countries. Accordingly, in the second half of May 1993, HVO soldiers – members of the *Benko Penavić* ATG in particular – forced a large number of Muslims from West

¹⁴⁵¹ See "Sexual Abuse of Women in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁵² See "Sexual Abuse of Women in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁵³ See "Sexual Abuse of Women in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁵⁴ See "Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, Then to Other Territories" in the Chamber's factual findings with regard to the Municipality of Prozor.

Mostar to cross the front line into East Mostar.¹⁴⁵⁵ On 26 May 1993, the HVO transferred at least 300 Muslims from West Mostar to East Mostar without them having the possibility of returning to West Mostar.¹⁴⁵⁶ On 13 June 1993, HVO soldiers - who were shouting and shooting in the air and burning identity papers and residency permits - rounded up Muslims from West Mostar and then forced these Muslims to run across the front line while they fired shots over their heads and around their legs.¹⁴⁵⁷ Similarly, following the attack of 30 June 1993, HVO soldiers and military policemen organised the transfer of Muslim families from West Mostar to East Mostar on foot or by bus according to the same procedure.¹⁴⁵⁸ The HVO soldiers continued to expel Muslim families from West Mostar in July and August 1993 by forcing them to cross the front line into East Mostar.¹⁴⁵⁹ In September 1993, the HVO - resorting to extreme violence and committing one act of rape - also continued to expel Muslims from West Mostar into East Mostar, as well as to third countries.¹⁴⁶⁰ A large-scale and systematic operation was organised on the evening of 29 September 1993 by the *Vinko Škrobo* ATG and the 1st Light Assault Battalion of the Military Police during which the soldiers were particularly brutal towards the Muslim population and committed numerous acts of theft as well as several acts of rape.¹⁴⁶¹ Finally, the Chamber noted that these campaigns were conducted between October 1993 and February 1994.¹⁴⁶²

783. The Chamber is satisfied that from mid-May 1993 to February 1994, the HVO forced the Muslims from West Mostar to leave their homes to go mostly to East Mostar and, on some occasions in September 1993, to third countries. The Chamber recalls that the front line between East Mostar and West Mostar was established in the course of the military operations on 9 May 1993 and remained unchanged until April 1994.¹⁴⁶³ The Chamber therefore finds by a majority, with Judge Antonetti dissenting, that the HVO forced the Muslim population of West Mostar to cross a *de facto* border, and in certain cases, in September 1993, a *de jure* one. The Chamber is

¹⁴⁵⁵ See "Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁵⁶ See "Removal of 300 Muslims to East Mostar at the End of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁵⁷ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁵⁸ See "Removal around 30 June 1993 of Muslim Families Living in West Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁵⁹ See "Eviction and Transfer of Muslims to East Mostar or Other Countries from Mid-July to August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁶⁰ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings regarding the Municipality of Mostar; "Municipality of Mostar" in the Chamber's legal findings with regard to Count 4 (rape, a crime against humanity).

¹⁴⁶¹ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁶² See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁶³ See "Front Lines and Military Positions After 9 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

satisfied by a majority, with Judge Antonetti dissenting, that this removal was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that only the Muslim inhabitants of West Mostar were to be transferred and the HVO had not made any plans for the population to return. With regard to the sequence of events, the Chamber is satisfied that it was the intention of the HVO to remove the Muslim population of West Mostar forcibly across a *de facto* or *de jure* border. Thus, the Chamber finds that the HVO expelled the Muslim population of West Mostar mostly to East Mostar and, on certain occasions, in September 1993, to third countries - between mid-May 1993 and February 1994 - thereby committing the crime of deportation recognised by Article 5 of the Statute.

784. The Chamber, however, recalls that it was not able to establish that the HVO had removed the Muslim population of West Mostar in the first half of May 1993.¹⁴⁶⁴ It is thus not in a position to find that the HVO committed the crime of deportation recognised by Article 5 of the Statute in the first half of the month of May 1993.

785. Finally, the Chamber notes that the allegations in paragraph 105 of the Indictment concerning the removal of Muslim men held at the Heliodrom with their families from Mostar will be analysed under the counts relating to the Heliodrom.

III. The Heliodrom

786. The Chamber established that from around 17 July 1993 to November 1993, several hundred detainees at the Heliodrom were released on condition that they agree to leave BiH with their families and go to a third country by first passing through Croatia.¹⁴⁶⁵ After having signed a "form" issued by the ODPR of the HZ H-B indicating a country of destination, the detainees in possession of a letter of guarantee were released from the Heliodrom and had to return to their places of residence, namely to Mostar or Ljubuški.¹⁴⁶⁶ They had very little time, sometimes only 30 minutes, to pack their bags and gather their families before having to leave BiH and go to Croatia.¹⁴⁶⁷ Some of the detainees were escorted to the Croatian border by the Military Police.¹⁴⁶⁸

¹⁴⁶⁴ See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁶⁵ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁶⁶ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁶⁷ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁶⁸ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

787. The Chamber finds that by making the release of the detainees from the Heliodrom conditional on their leaving BiH with their families to go to a third country, the HVO, and members of the Military Police in particular, forced them to leave their area of origin. Moreover, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the absence of any measures for the return of the detainees and their families to their homes. The Chamber also finds that even if the detainees had given their "consent" to leave BiH with their families,¹⁴⁶⁹ this would not have made their removal lawful. The Chamber recalls that the Muslims did not in fact have a real choice since they either had to remain in detention at the Heliodrom in extremely harsh conditions¹⁴⁷⁰ and without their families - some of them had been detained for several months¹⁴⁷¹ - or to leave.

788. Moreover, the Chamber finds that by forcing the Muslims to provide guarantees that they would in fact leave BiH and leave their possessions to Herceg-Bosna,¹⁴⁷² the HVO intended to expel them from the territory of BiH.

789. In the light of the above, the Chamber finds that between the months of July and November 1993, the HVO expelled several hundred Muslim detainees as well as their families from the territory of BiH, thereby committing the crime of deportation recognised by Article 5 of the Statute.

790. In addition, the Chamber established that between 15 and 17 December 1993, several hundred detainees, including women, were released from the Heliodrom on condition that they go to third countries¹⁴⁷³ or to East Mostar, which was territory held by the ABiH.¹⁴⁷⁴

791. The Chamber finds that by releasing Muslim detainees from the Heliodrom to remove them to a third country or an area held by the ABiH, namely East Mostar, the HVO forced them to leave their areas of origin. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any

¹⁴⁶⁹ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷⁰ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷¹ See "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷² See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷³ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷⁴ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

measures for the return of the detainees to their homes. Moreover, the Chamber finds that by organising the release of the Muslims held at the Heliodrom and their departure for a third country or an area under ABiH control, the HVO had the intention of forcibly removing them from BiH or HVO held territory, which is demonstrated in particular by the minutes of a meeting of the HVO on 13 December 1993 which explain which detainees from the Heliodrom had to leave or could stay in the HR H-B.¹⁴⁷⁵

792. Given the above, the Chamber finds that between 15 and 17 December 1993, the HVO forcibly expelled Muslim men and women held at the Heliodrom from BiH or territory under the control of the HVO, thereby committing the crime of deportation recognised by Article 5 of the Statute.

IV. Ljubuški Municipality and Detention Centres

793. As the Chamber established, in August 1993, the HVO organised the release of the Muslim men, whom they were detaining at various locations, from the municipality of Ljubuški on condition that they guarantee they would leave the territory of BiH with their families within 24 hours.¹⁴⁷⁶ Hundreds of Muslims from the Municipality of Ljubuški thus arrived in Zagreb, Croatia, at the end of August 1993, from where they subsequently had to leave for other countries.¹⁴⁷⁷

794. The Chamber finds that by making the release of the Muslim men from detention centres conditional on their departure with their families from the municipality, the HVO forced the Muslims from the Municipality of Ljubuški to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. Moreover, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide guarantees that they would in fact leave BiH, the HVO intended to expel them from the territory of BiH.

795. In the light of the evidence, the Chamber finds that in August 1993, the HVO expelled the Muslim population of the Municipality of Ljubuški from the territory of BiH, thereby committing the crime of deportation recognised by Article 5 of the Statute.

¹⁴⁷⁵ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁴⁷⁶ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and detention facilities of Ljubuški.

¹⁴⁷⁷ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

796. Concerning the Muslims held at Ljubuški Prison in particular, the Chamber established that on 13 August 1993, two Muslim civilians were released by Valentin Ćorić because they were in possession of a letter guaranteeing their departure for Germany.¹⁴⁷⁸ The Chamber is satisfied that by authorising the release of these civilians solely because they had a letter guaranteeing their departure to Germany, the HVO forced these Muslims to leave the territory of Herceg-Bosna to go to a third country. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti dissenting, that by releasing these Muslims solely because they provided a guarantee that they would leave BiH, the HVO had the intention of expelling them from the territory of BiH.

797. The Chamber therefore finds that on 13 August 1993, the HVO expelled these two Muslim civilians from BiH, thereby committing the crime of deportation recognised by Article 5 of the Statute.

798. With regard to the Muslims held in the Vitina-Otok Camp, the Chamber established that at the end of August 1993, certain detainees were released on condition that they leave the territory and go to a third country via Croatia.¹⁴⁷⁹ The Chamber finds that by making the release of the detainees conditional on their departure from the BiH territory, the HVO forced them to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide guarantees that they would in fact leave the territory, the HVO had the intention of expelling them from BiH.

799. In the light of the evidence, the Chamber finds that at the end of August 1993, the HVO expelled the detainees at Vitina-Otok Camp from the territory of BiH, thereby committing the crime of deportation recognised by Article 5 of the Statute.

V. Municipality of Čapljina

800. The Chamber established that on about 13 July 1993, members of the HVO, including soldiers belonging to the 1st *Knez Domagoj* Brigade, entered the village of Domanovići, evicted women, children and elderly people from their homes and held them for several days, even weeks,

¹⁴⁷⁸ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

in particular at the Čapljina Silos and at Počitelj, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.¹⁴⁸⁰ The Chamber also noted that between 13 and 16 July 1993, members of the HVO, some of whom were members of the 1st *Knez Domagoj* Brigade and others of the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their village of Bivolje Brdo and held them for days, and even weeks, at various locations, including the Čapljina Silos, the Sovići School, the Gradina Collection Centre in the village of Počitelj and in Doljani, before forcing them to go to territories under the control of the ABiH - primarily to Blagaj.¹⁴⁸¹ The Chamber further noted that on about 13 July 1993 and at the beginning of August 1993, members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and removed them by lorry to Buna and then to Blagaj.¹⁴⁸² The Chamber established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some of them were taken to a house in Tasovčići¹⁴⁸³ before being taken to the Silos on 2 October 1993 and then to Blagaj.¹⁴⁸⁴ Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP evicted women, children and elderly people from the town of Čapljina - holding some of them at the Silos - and transferred them to territories under the control of the ABiH.¹⁴⁸⁵

801. In the light of this evidence, the Chamber is satisfied that the women, children and elderly people were forcibly removed from the villages of Domanovići, Bivolje Brdo, Počitelj and Višići and from the town of Čapljina and that they were detained in various locations before gradually being forcibly taken to territories under the control of the ABiH. The majority of the Chamber considers, with Judge Antonetti dissenting, that by removing the Muslims to territories under the

¹⁴⁷⁹ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁴⁸⁰ See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići", "Incarceration of Muslims at the Silos", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸¹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo", "Incarceration of Muslims at the Silos", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸² See "Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸³ See "Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸⁴ See "Incarceration of Muslims at the Silos" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸⁵ See "Events in August and September 1993 in the Town of Čapljina" and "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" in the Chamber's factual findings with regard to the Municipality of Čapljina.

control of the ABiH, the HVO forced them to cross a *de facto* border. Moreover, it is clear to the majority of the Chamber, Judge Antonetti dissenting, that this transfer, at a time when the HVO was in control of the town and villages and there was no fighting, was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO did not make any arrangements for the return of the population. On the contrary, the HVO kept the villagers in detention for several days, and even several weeks, at various locations, including the Silos in Čapljina, the village of Počitelj, a house in Tasovčići and the Sovići School, so that they could subsequently transfer them to territories under ABiH control. With regard to the organisation of the arrests, detention and removal of Muslim women, children and elderly people, the Chamber is also satisfied that the members of the HVO had the intention of transferring the Muslim civilian population from the Municipality of Čapljina to territories under the control of the ABiH.

802. The Chamber finds that between July and October 1993, members of the HVO, some of whom belonged to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police and to the MUP, removed the Muslim civilian population from the villages of Domanovići, Bivolje Brdo, Počitelj and Višići and the town of Čapljina to ABiH-held territories, thereby committing the crime of deportation recognised by Article 5 of the Statute.

803. However, with regard to the village of Opličići, the Chamber observed that it did not have evidence that would allow it to establish that members of the HVO evicted and removed women, children and elderly people from this village.¹⁴⁸⁶ With regard to the village of Lokve, the Chamber considered that it was not in a position to find - solely on the basis of one testimony admitted under Rule 92 *bis* of the Rules - that members of the HVO removed women, children and elderly people from this village on about 13 July 1993.¹⁴⁸⁷ The Chamber is thus not able to find that the HVO transferred women, children and elderly people from the villages of Opličići and Lokve to territories under the control of the ABiH or to third countries, which constitutes a crime recognised by Article 5 of the Statute.

VI. Dretelj Prison

804. The Chamber established that from September 1993, Muslims held at the Dretelj Prison were released on condition that they have a letter of guarantee and a transit visa for the purpose of

¹⁴⁸⁶ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in and around the Village of Opličići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁸⁷ See "Evictions and Removals of Women, Children and Elderly People from the Village of Lokve" in the Chamber's factual findings with regard to the Municipality of Čapljina.

leaving the territory of BiH.¹⁴⁸⁸ They went to the Croatian islands, including Korčula and Badija, with a view to leaving for third countries.¹⁴⁸⁹

805. The Chamber finds by a majority, with Judge Antonetti dissenting, that by making the release of the Muslim men from Dretelj Prison conditional on obtaining a letter of guarantee in order to leave for a third country and a transit visa for Croatia, the HVO forced them to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide a guarantee that they would in fact leave BiH, the HVO had the intention of expelling them from the territory of BiH.

806. In the light of the evidence, the Chamber finds that from September 1993, the HVO expelled the Muslims held at Dretelj Prison from the territory of BiH, thereby committing the crime of deportation recognised by Article 5 of the Statute.

VII. Gabela Prison

807. As previously established by the Chamber, the HVO organised the release of the Muslim men it was holding at Gabela Prison on condition that they guarantee - by showing they had a transit visa for Croatia and a letter of guarantee in order to leave BiH and go to another country - that they would leave the territory of BiH within 24 hours.¹⁴⁹⁰ It is in this way that hundreds of Muslims held at Gabela Prison left, via Croatia, for third countries, including Denmark, in December 1993.¹⁴⁹¹

808. The Chamber finds that by making the release of the Muslim men from Gabela Prison conditional on their leaving BiH for a third country, the HVO forced them to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti

¹⁴⁸⁸ See "Departure of the Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of the Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁴⁸⁹ See "Departure of the Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of the Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁴⁹⁰ See "Authorities Responsible for Managing Departure of Detainees" and "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁴⁹¹ See "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

dissenting, that by forcing the Muslims to provide guarantees that they would in fact leave the territory of BiH, the HVO had the intention of expelling them to third countries via Croatia.

809. In light of the evidence, the Chamber finds that in December 1993, the HVO expelled the Muslim men held at Gabela Prison from the territory of BiH, without it being possible for them to return, thereby committing the crime of deportation recognised by Article 5 of the Statute.

Heading 6: Unlawful Deportation of a Civilian (Count 7)

I. Municipality of Prozor

810. The Chamber recalls that it was not able to establish that the HVO removed Muslims from the Municipality of Prozor to other territories in December 1993.¹⁴⁹² It is thus not able to find that in the Municipality of Prozor, the HVO committed the crime of unlawful deportation of a civilian recognised by Article 2 of the Statute.

II. Municipality of Mostar

811. The Chamber established that from mid-May to September 1993, members of the HVO systematically expelled Muslims from West Mostar to East Mostar - which was under the control of the ABiH - and to third countries. Accordingly, in the second half of May 1993, HVO soldiers – and members of the *Benko Penavić* ATG in particular – forced a large number of Muslims from West Mostar to cross the front line into East Mostar.¹⁴⁹³ On 26 May 1993, the HVO transferred at least 300 Muslims from West Mostar to East Mostar without the possibility of returning to West Mostar.¹⁴⁹⁴ On 13 June 1993, HVO soldiers - who were shouting and shooting in the air and burning identity papers and residency permits - rounded up Muslim residents from West Mostar and then forced them to run across the front line while firing shots over their heads and around their legs.¹⁴⁹⁵ Following the attack of 30 June 1993, HVO soldiers and military policemen also organised the removal of Muslim families from West Mostar to East Mostar on foot or by bus according to the same procedure.¹⁴⁹⁶ HVO soldiers continued to expel Muslim families from West Mostar in July

¹⁴⁹² See "Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, Then to Other Territories" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁴⁹³ See "Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to West Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁹⁴ See "Removal of 300 Muslims to East Mostar at the End of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁹⁵ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁹⁶ See "Removal around 30 June 1993 of Muslim Families Living in West Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

and August 1993 by forcing them to cross the front line into East Mostar.¹⁴⁹⁷ In September 1993, the HVO - resorting to extreme violence and committing one act of rape - continued to expel Muslims from West Mostar into East Mostar, as well as to third countries.¹⁴⁹⁸ A large-scale and systematic operation was organised on the evening of 29 September 1993 by the *Vinko Škrobo* ATG and the 1st Light Assault Battalion of the Military Police during which the soldiers were particularly brutal towards the Muslim population and committed numerous acts of theft as well as several acts of rape.¹⁴⁹⁹ Finally, the Chamber found that these campaigns were conducted between October 1993 and February 1994.¹⁵⁰⁰

812. The Chamber recalls that the HVO occupied West Mostar from mid-May 1993 to February 1994. Thus, the Chamber considers that the Muslim women, children and elderly people residing in West Mostar were civilians who had fallen into the hands of the enemy and were therefore protected by the Geneva Conventions.

813. The Chamber is satisfied that from mid-May 1993 to February 1994, the HVO forced the Muslims of West Mostar to leave their homes to go mostly to East Mostar and, on certain occasions in September 1993, to third countries. The Chamber recalls that the front line between East Mostar and West Mostar was established during the military operations on 9 May 1993 and remained unchanged until April 1994.¹⁵⁰¹ The Chamber therefore finds by a majority, with Judge Antonetti dissenting, that the HVO forced the Muslim civilian population of West Mostar to cross a *de facto* border and, in certain cases in September 1993, a *de jure* one. The Chamber is satisfied by a majority, with Judge Antonetti dissenting, that this removal was on no account an evacuation conducted for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that only the Muslim inhabitants of West Mostar were to be removed and that the HVO had made no plans for the return of the civilian population. Finally, with regard to the sequence of the events, the Chamber is satisfied that the HVO had the intention of forcibly transferring the Muslim civilian population over a *de facto* or *de jure* border. In the light of the evidence, the Chamber finds that the HVO expelled the Muslim civilian population of West Mostar mostly to East Mostar and on certain occasions – in September 1993 – to third countries, between

¹⁴⁹⁷ See "Eviction and Transfer of Muslims to East Mostar or Other Countries from Mid-July to August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁹⁸ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁹⁹ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁰⁰ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁰¹ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

mid-May 1993 and February 1994, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

814. The Chamber, however, recalls that it was not able to establish that the HVO removed the Muslim population of West Mostar in the first half of May 1993.¹⁵⁰² The Chamber is therefore not in a position to find that in the first half of May 1993, the HVO committed the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

815. Finally, the Chamber notes that the allegations in paragraph 105 of the Indictment concerning the removal of the Muslim men held at the Heliodrom with their families from Mostar will be analysed under the counts relating to the Heliodrom.

III. The Heliodrom

816. The Chamber established that between about 17 July 1993 and November 1993, several hundred detainees at the Heliodrom, some of whom did not belong to any armed force and were therefore civilians, were released on condition that they agree to leave BiH and go to a third country with their families by initially passing through Croatia.¹⁵⁰³ After having signed a "form" issued by the ODPH of the HZ H-B indicating a country of destination, the detainees in possession of a letter of guarantee were released from the Heliodrom and had to return to their places of residence, namely to Mostar or Ljubuški.¹⁵⁰⁴ They had very little time, sometimes only 30 minutes, to pack their bags and gather their families before having to leave BiH and go to Croatia.¹⁵⁰⁵ Some of these detainees were escorted to the Croatian border by the Military Police.¹⁵⁰⁶

817. The Chamber finds that by making the release of the detainees at the Heliodrom conditional on their leaving BiH with their families to go to a third country, the HVO, and the Military Police in particular, forced them to leave their area of origin. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the absence of any measures for the return of the detainees and their families to their homes. The

¹⁵⁰² See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁰³ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰⁴ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰⁵ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰⁶ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

Chamber also finds that even if the detainees had given their "consent" to leave BiH with their families,¹⁵⁰⁷ this would not have made their removal lawful. The Chamber recalls that the Muslims did not in fact have a real choice since they either had to remain in detention at the Heliodrom in extremely harsh conditions¹⁵⁰⁸ and without their families - some of them had been detained for several months¹⁵⁰⁹ - or leave.

818. Moreover, the Chamber finds that by forcing the Muslims to provide guarantees that they would in fact leave BiH and leave their possessions to Herceg-Bosna,¹⁵¹⁰ the HVO intended to expel them from the territory of BiH.

819. In the light of the above, the Chamber finds that between July and November 1993, the HVO unlawfully expelled Muslim civilians from the territory of BiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

820. In addition, the Chamber established that between 15 and 17 December 1993, several hundred detainees, amongst whom were persons, including women, who did not belong to any armed force and were therefore civilians, were released from the Heliodrom on condition that they go to third countries¹⁵¹¹ or to East Mostar, which was territory held by the ABiH.¹⁵¹²

821. The Chamber finds that by releasing Muslim detainees from the Heliodrom to transfer them to a third country or an area held by the ABiH, namely East Mostar, the HVO forced detained civilians to leave their areas of origin. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any measures for the return of the detainees to their homes. Moreover, the Chamber finds that by organising the release of the Muslims detained at the Heliodrom and their departure for a third country or an area under ABiH control, the HVO had the intention of forcibly removing them from BiH or HVO-held territory. This can be seen from the minutes of a meeting of the HVO

¹⁵⁰⁷ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰⁸ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰⁹ See "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹⁰ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹¹ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹² See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

on 13 December 1993 explaining which detainees from the Heliodrom had to leave or could stay in the HR H-B.¹⁵¹³

822. Given the above, the Chamber finds that between 15 and 17 December 1993, the HVO unlawfully expelled civilians held at the Heliodrom from BiH or territory under the control of the HVO, thereby committing the crime of unlawful deportation of a civilian, a crime recognised by Article 2 of the Statute.

IV. Ljubuški Municipality and Detention Centres

823. As previously established by the Chamber, in August 1993, the HVO organised the release of the Muslim men from the Municipality of Ljubuški they were holding at various locations among whom some did not belong to any armed force and were therefore civilians. This release was made conditional on their showing a guarantee that they would leave the territory of BiH with their families within 24 hours.¹⁵¹⁴ It is in this manner that hundreds of Muslims from the Municipality of Ljubuški arrived in Zagreb, Croatia, at the end of August 1993, from where they were subsequently to leave for other countries.¹⁵¹⁵

824. The Chamber finds that by making the release of the Muslim men from the detention centres conditional on their departure with their families from the municipality, the HVO forced the Muslim civilians from the Municipality of Ljubuški to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. Moreover, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide guarantees that they would in fact leave the municipality, the HVO had the intention of expelling them from the territory of BiH.

825. In the light of the evidence, the Chamber finds that in August 1993, the HVO unlawfully expelled the Muslim civilian population of the Municipality of Ljubuški from the territory of BiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

¹⁵¹³ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹⁴ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁵¹⁵ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

826. Concerning the Muslims detained at Ljubuški Prison in particular, the Chamber established that on 13 August 1993, two Muslim civilians were released by Valentin Ćorić as they were in possession of a letter guaranteeing their departure for Germany.¹⁵¹⁶ The Chamber finds that by authorising the release of these civilians solely because they had a letter guaranteeing their departure to Germany, the HVO forced them to leave the territory of Herceg-Bosna to go to a third country. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti dissenting, that by releasing these Muslims solely because they provided a guarantee that they would leave BiH, the HVO had the intention of expelling them from the territory of BiH.

827. The Chamber therefore finds that on 13 August 1993, the HVO unlawfully expelled these two Muslim civilians from BiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

828. With regard to the detained Muslims - some of whom were not members of any armed force and were therefore civilians¹⁵¹⁷ - in Vitina-Otok Camp, the Chamber established that in August 1993, some detainees were released on condition that they leave the territory and go to a third country via Croatia.¹⁵¹⁸ The Chamber finds that by making the release of the detainees, some of whom were civilians, conditional on their departure from the territory of BiH, the HVO forced them to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide a guarantee that they would indeed leave the territory, the HVO had the intention of expelling them from BiH.

829. In the light of the evidence, the Chamber finds that in August 1993, the HVO expelled civilian detainees of Vitina-Otok Camp from the territory of BiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

¹⁵¹⁶ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁵¹⁷ See "Municipality of Ljubuški" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity).

¹⁵¹⁸ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

V. Municipality of Čapljina

830. The Chamber established that on about 13 July 1993, members of the HVO, including soldiers belonging to the 1st *Knez Domagoj* Brigade, entered the village of Domanovići, evicted women, children and elderly people from their homes, and held them for days, even weeks, in particular at the Čapljina Silos and in Počitelj, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.¹⁵¹⁹ The Chamber also noted that between 13 and 16 July 1993, members of the HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their village of Bivolje Brdo and held them for days, and even weeks, at various locations, including the Čapljina Silos, the Sovići School, the Gradina Collection Centre in the village of Počitelj and in Doljani, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.¹⁵²⁰ The Chamber further noted that members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and removed them by lorry to Buna and then Blagaj on about 13 July 1993 and at the beginning of August 1993.¹⁵²¹ The Chamber established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some of them were taken to a house in Tasovčići¹⁵²² before being taken to the Silos on 2 October 1993 and then to Blagaj.¹⁵²³ Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP evicted women, children and elderly people from the town of Čapljina - holding some of them at the Silos - and removed them to territories under the control of the ABiH.¹⁵²⁴

¹⁵¹⁹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²⁰ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²¹ See "Eviction and Removals of Women, Children and Elderly People from the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²² See "Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²³ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²⁴ See "Events in August and September 1993 in the Town of Čapljina" and "Incarceration of Muslims at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

831. The Chamber is satisfied that these women, children and elderly people - who were civilians who had fallen into the hands of the enemy and were therefore protected by the Geneva Conventions - were forcibly removed from their villages of Domanovići, Bivolje Brdo, Počitelj and Višići and the town of Čapljina and held at various locations before being gradually taken by force to territories under the control of the ABiH. The majority of the Chamber, with Judge Antonetti dissenting, considers that by transferring the Muslims to territories under the control of the ABiH, the HVO forced them to cross a *de facto* border. Moreover, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this transfer at a time when the HVO had the town and villages under its control and there was no fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the civilian population to return. On the contrary, the HVO held the villagers in detention for several days, and even several weeks, at various locations, including the Silos in Čapljina, the village of Počitelj, a house in Tasovčići and the Sovići School, and then transferred them to territories under the control of the ABiH. With regard to the organisation of the evictions, arrests, detention and removal of the Muslim women, children and elderly people, the Chamber is also satisfied that the members of the HVO and the MUP had the intention of transferring the Muslim civilian population of the Municipality of Čapljina to territories under the control of the ABiH.

832. The Chamber finds that between July and October 1993, members of the HVO, some of whom belonged to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police and to the MUP, transferred the Muslim civilian population from the villages of Domanovići, Bivolje Brdo, Počitelj and Višići and the town of Čapljina to territories under the control of the ABiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

833. However, as far as the village of Opličići is concerned, the Chamber observed that it did not have any evidence that would allow it to establish that members of the HVO evicted and removed women, children and elderly people from this village.¹⁵²⁵ With regard to the village of Lokve, the Chamber established that it was not able to find, solely on the basis of one testimony admitted under Rule 92 *bis* of the Rules, that members of the HVO removed women, children and elderly people from this village on about 13 July 1993.¹⁵²⁶ The Chamber is therefore not able to find that the HVO removed women, children and elderly people from the villages of Opličići and Lokve to

¹⁵²⁵ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in and around the Village of Opličići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

territories under the control of the ABiH or to third countries, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

VI. Dretelj Prison

834. The Chamber established that between April and October 1993, the HVO held prisoners, some of whom were not members of any armed force and were therefore civilians, at Dretelj Prison.¹⁵²⁷ The Chamber also observed that as of September 1993, Muslims held at Dretelj Prison, some of whom were civilians, were released on condition that they had a letter of guarantee and a transit visa to leave the territory of BiH.¹⁵²⁸ They went to the Croatian islands, to Korčula and Badija in particular, with a view to going to third countries.¹⁵²⁹

835. The Chamber finds by a majority, with Judge Antonetti dissenting, that by making the release of the Muslim men from Dretelj Prison conditional on their obtaining a letter of guarantee to leave for a third country and a transit visa for Croatia, the HVO forced the Muslim detainees to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. Moreover, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide guarantees that they would in fact leave BiH, the HVO intended to expel them from the territory of BiH.

836. In the light of the evidence, the Chamber finds that from September 1993, the HVO unlawfully expelled Muslim civilians held at Dretelj Prison from the territory of BiH, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

¹⁵²⁶ See "Evictions and Removals of Women, Children and Elderly People from the Village of Lokve" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵²⁷ See "Arrival of Detainees at Dretelj Prison" and "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁵²⁸ See "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁵²⁹ See "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

VII. Gabela Prison

837. The Chamber established that the HVO held prisoners, some of whom did not belong to any armed forces and were therefore civilians, at Gabela Prison.¹⁵³⁰ As previously noted by the Chamber, the HVO organised the release of the Muslim men it was holding at Gabela Prison on condition that they produce a guarantee – that is, a transit visa for Croatia and a letter guaranteeing they would leave BiH and go to a third country – that they would leave the territory of BiH within 24 hours to go to a third country.¹⁵³¹ Hundreds of Muslims, including civilians being held at Gabela Prison, left in this manner, via Croatia, for third countries, including Denmark, in December 1993.¹⁵³²

838. The Chamber finds that by making the release of the Muslim men from Gabela Prison conditional on their departure from BiH to go to a third country, the HVO forced the Muslims held at Gabela Prison - among whom there were civilians - to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. Moreover, the Chamber finds by a majority, with Judge Antonetti dissenting, that by forcing the Muslims to provide a guarantee that they would in fact leave the territory of BiH, the HVO intended to expel them to third countries via Croatia.

839. In the light of the evidence, the Chamber finds that in December 1993, the HVO expelled Muslim civilians held at Gabela Prison to third countries, thereby committing the crime of unlawful deportation of civilians recognised by Article 2 of the Statute.

Heading 7: Inhumane Acts (Forcible Transfer) (Count 8)

I. Municipality of Prozor

840. The Chamber already established that on 28 August 1993, HVO soldiers, acting independently outside the framework of a combat situation, rounded up at least 2,500 Muslim women, children and elderly people being held in the villages of Lapsunj and Duge and in the neighbourhood of PodgraĀe and - occasionally shooting in the air to make them get into the lorries -

¹⁵³⁰ See "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison. Concerning the fact that almost all the detainees were Muslims, see "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁵³¹ See "Authorities Responsible for Managing Departure of Detainees" and "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁵³² See "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

transferred them in lorries to the village of Kućani in the vicinity of the front line between HVO forces and ABiH forces; the HVO soldiers forced them to walk three to four kilometres, under escort, in the direction of Čelina, an ABiH-held area.¹⁵³³ The soldiers opened fire in their direction, wounding several people. The Muslims then continued on their way to various areas under the control of the ABiH.¹⁵³⁴

841. The Chamber is satisfied that the women, children and elderly people held in the villages of Lapsunj and Duge and in the neighbourhood of PodgraĀe were forcibly transferred to Čelina, an area under the control of the ABiH. The majority of the Chamber is likewise satisfied, with Judge Antonetti dissenting, that this transfer at a time when these persons were being held by the HVO soldiers and there was no fighting in the area, was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the population to return. On the contrary, the Chamber is satisfied that the HVO held them in the villages of Lapsunj and Duge and in the PodgraĀe neighbourhood in order to be able to remove them from their homes. Since they were evicted from their homes without the possibility of returning, the Chamber considers that these Muslims were deprived of their right to enjoy a normal family and social life. Furthermore, the Chamber is satisfied that as a result of the violence with which the HVO soldiers expelled these Muslims from the Municipality of Prozor on 28 August 1993 - firing shots in the air or in the direction of the Muslims, wounding some of them, and not giving them any water in spite of the extreme heat,¹⁵³⁵ these Muslims suffered serious bodily and mental harm. The Chamber is also satisfied that the HVO soldiers had the intention of forcibly transferring the 2,500 or so women, children and elderly people from several villages in the Municipality of Prozor who were being held in Lapsunj, Duge and the PodgraĀe neighbourhood and that, given the circumstances of the transfer, it was their intention to inflict serious bodily and mental harm on them.

842. In the light of the evidence, the Chamber therefore finds that on 28 August 1993, the HVO forcibly transferred Muslim women, children and elderly people being held in the villages of Lapsunj and Duge and in the PodgraĀe neighbourhood, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

¹⁵³³ See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in PodgraĀe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁵³⁴ See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in PodgraĀe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁵³⁵ See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in PodgraĀe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

843. In addition, the Chamber established that on 14 November 1993, 105 Muslim men held in Prozor were transferred on the orders of General Tole to Gabela Prison on account of a lack of space;¹⁵³⁶ and that on 15 December 1993, 140 Muslim detainees from Prozor were transferred to the Heliodrom under an escort provided by the 3rd Military Police Battalion and on an order of Radoslav Lavrić¹⁵³⁷ issued further to an order from Marijan Biškić.¹⁵³⁸ The Chamber considers that by moving the detainees to another detention centre, the HVO members did not commit the crime of forcible transfer against them. Proscribing forcible transfer seeks to protect the right of individuals to live in their communities and homes and not to be deprived of their possessions.¹⁵³⁹ This crime is therefore committed only when persons are transferred from an area they legally inhabit to a location so far from their families that the detainees are deprived of their right to enjoy a social, family and cultural life. The Chamber considers that a person in detention has already been deprived of his or her right to live in his or her community or home. As a result, transfers between detention centres cannot constitute forcible transfer if the persons concerned are not removed from the location in which they enjoyed the right to a community and family life. Therefore, the transfers between the above-mentioned detention centres do not constitute the crime of inhumane acts (forcible transfer) recognised by Article 5 of the Statute.

844. Finally, the Chamber recalls that it was not in a position to establish that in December 1993, Muslims from the Municipality of Prozor were transferred to other territories under the control of the ABiH.¹⁵⁴⁰ The Chamber cannot therefore find that the HVO forcibly transferred Muslims from the Municipality of Prozor in December 1993, which would constitute an inhumane act recognised by Article 5 of the Statute.

II. Municipality of Gornji Vakuf

845. The Chamber established that following the attack launched on 18 January 1993 on the village of Duša, HVO soldiers arrested Muslim women, children and elderly people from this village and took them to a house in the village of Paloć where they were detained. Following this period of detention, over a period of about two weeks, UNPROFOR took these civilians to Gornji Vakuf, from where most of them were never able to return to their homes, as their houses had been

¹⁵³⁶ See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁵³⁷ The Acting Chief of the Military Police Administration.

¹⁵³⁸ Marijan Biškić was Assistant Minister of Defence of the HR H-B. See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁵³⁹ See "Deportation and Forcible Transfer" in the part on the applicable law: Crimes Against Humanity.

¹⁵⁴⁰ See "Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, Then to Other Territories" in the Chamber's factual findings with regard to the Municipality of Prozor.

destroyed by the HVO.¹⁵⁴¹ In the light of this evidence, the Chamber is satisfied that these women, children and elderly people were forcibly transferred - at least as far as Paloć. The Chamber is satisfied that this transfer - at a time when the HVO had control of the village and there was no more fighting - was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the population to return. On the contrary, by burning about 16 houses belonging to Muslim families¹⁵⁴² at a time when the fighting had ceased and it was in control of the village, the HVO deliberately prevented the population from returning. As they were forced to remain in Gornji Vakuf, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of the village serious mental suffering. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the population of the village and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - it also had the intention of causing them serious mental harm. The Chamber finds that following the attack on the village of Duša on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute

846. The Chamber established that following the attack launched on 18 January 1993 on the village of Hrasnica, HVO soldiers arrested the women, children and elderly people. Some civilians were successively detained in a house in the centre of town, in a house in the hamlet of Volari in the village of Ploca, at the Trnovača Furniture Factory and finally in houses in Trnovača. After about three weeks in detention, the HVO released them, admittedly without instructing them to go to any specific location, but UNPROFOR had to take some of them to Bugojno, since their houses had been burnt down by the HVO.¹⁵⁴³ The other group of civilians was held at the Trnovača School for about a fortnight before being released by the HVO which ordered them to go to ABiH-held territory.¹⁵⁴⁴ In the light of this evidence, the Chamber is satisfied that these women, children and elderly people from the village of Hrasnica were forcibly removed from their village. The Chamber is satisfied that this transfer - at a time when the HVO had control of the village and there was no

¹⁵⁴¹ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša" and "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴² See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴³ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴⁴ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

more fighting - was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the population to return. On the contrary, by making sure that all the houses belonging to Muslim families were destroyed,¹⁵⁴⁵ the HVO, which had control of the village, deliberately prevented the population from returning. Given the impossibility of returning to their homes, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of the village serious mental suffering. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the population of the village and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - the HVO had, in addition, the intention of causing them serious mental harm. The Chamber therefore finds that following the attack on the village of Hrasnica on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

847. The Chamber established that following the attack launched on 18 January 1993 on the village of Uzričje, the HVO soldiers detained the women, children and elderly people in two houses in the village. Some of these civilians were able to escape at the end of February or beginning of March 1993 to Bugojno, while others were put under pressure by the HVO to leave the village and went to Gornji Vakuf.¹⁵⁴⁶ In the light of this evidence, the Chamber is satisfied that the women, children and elderly people from the village of Uzričje were forcibly removed from their village. The Chamber is satisfied that this removal - at a time when the HVO had control of the village and there was no more fighting - was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the population to return. On the contrary, by burning at least 22 houses belonging exclusively to Muslim families¹⁵⁴⁷ - the houses belonging to Croats were spared - the HVO, which had control of the village, deliberately prevented the Muslim population from returning. Since they were compelled to settle in Gornji Vakuf or Bugojno, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of the village serious mental suffering. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had

¹⁵⁴⁵ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴⁶ See "Removal of Villagers from the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴⁷ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

the intention of forcibly removing the population of the village and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - the HVO had, in addition, the intention of causing them serious mental harm. The Chamber therefore finds that following the attack on the village of Uzriçje on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

848. The Chamber established that following the attack launched on 18 January 1993 on the village of Țdrimci, the HVO soldiers detained the women and children in three or four houses in the village for a month and a half before releasing them after a ceasefire with the ABiH had been signed.¹⁵⁴⁸ However, numerous civilians had no choice but to leave the village given that the HVO had burnt down at least about thirty houses belonging to Muslim families.¹⁵⁴⁹ In the light of this evidence, the Chamber is satisfied that the women, children and elderly people from the village of Țdrimci were forcibly removed from their village. By destroying numerous houses in the village that belonged to Muslim families alone,¹⁵⁵⁰ the HVO deliberately prevented the population from returning to the village. As it was impossible for them to return to their homes, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of the village serious mental suffering. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the population of the village and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - the HVO had, in addition, the intention of causing them serious mental harm. The Chamber therefore finds that following the attack on the village of Țdrimci on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

849. The Chamber established that following the HVO attack on the villages of Sovići and Doljani on 17 April 1993, about 450 women, children and elderly people - Muslim inhabitants of

¹⁵⁴⁸ See "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁴⁹ See "Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*" and "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁵⁰ See "Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

the villages of Sovići et Doljani¹⁵⁵¹ who were detained at the Sovići School and in the hamlet of Junuzovići - were transferred on 5 May 1993 by HVO soldiers, including "Tuta's" men, to Gornji Vakuf.¹⁵⁵² The Chamber observes that these persons - who were not members of any armed force participating in the conflict - were detained before being transported by bus and lorry to Gornji Vakuf under an HVO escort for the entire duration of the trip.¹⁵⁵³ The Chamber is satisfied that these civilians were forcibly removed by HVO soldiers, including "Tuta's" men, from the area they inhabited. Furthermore, it is clear to the Chamber that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons.

850. The Chamber also notes that by being transferred from the Municipality of Jablanica to Gornji Vakuf, far from their usual place of residence, these persons were deprived of their right to a normal social, family and cultural life. The Chamber is satisfied that this transfer – which lasted for more than one night and required several stops in order to change the means of transport with the result that a number of women and children, whose bus had broken down, had to sleep on the road¹⁵⁵⁴ – caused the victims serious mental suffering.

851. Finally, the Chamber notes that the transfer was organised and prepared in advance. It was ordered by Vlado Ćurić, one of "Tuta's" men, and carried out at night with buses and lorries and under an escort provided by HVO soldiers.¹⁵⁵⁵ The Chamber is satisfied that the HVO did indeed have the intention of forcibly removing the victims. Furthermore, aware of the fact that the persons being removed - women accompanied by children and elderly people - were particularly vulnerable, the HVO had, in addition, the intention of causing them serious mental harm.

852. The Chamber therefore finds that on 5 May 1993, HVO soldiers, including "Tuta's" men, forcibly removed the Muslim civilians of Sovići and Doljani, who had been held at the Sovići School and the hamlet of Junuzovići, to Gornji Vakuf, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

¹⁵⁵¹ See "Detention at Sovići School, the Deaths of Detainees and the Work Done" and "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵² See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵³ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵⁴ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵⁵ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

IV. Municipality of Mostar

853. The Chamber established that from mid-May to September 1993, soldiers of the HVO systematically expelled Muslims from West Mostar, mostly civilians, to East Mostar, which was under the control of the ABiH, and to third countries. Accordingly, in the second half of May 1993, HVO soldiers, and members of the *Benko Penavić* ATG in particular, forced a large number of Muslims from West Mostar to cross the front line into East Mostar.¹⁵⁵⁶ On 26 May 1993, the HVO transferred at least 300 Muslims from West Mostar to East Mostar without their having the possibility of returning to West Mostar.¹⁵⁵⁷ On 13 June 1993, HVO soldiers, who were shouting and shooting in the air and burning identity papers and residency permits, rounded up Muslims from West Mostar and then forced them to run across the front line while they fired shots over their heads and around their legs.¹⁵⁵⁸ Following the attack of 30 June 1993, HVO soldiers and military policemen organised the transfer of Muslim families from West Mostar to East Mostar on foot or by bus and according to the same procedure.¹⁵⁵⁹ The HVO soldiers also continued to expel Muslim families from West Mostar in July and August 1993 by forcing them to cross the front line into East Mostar.¹⁵⁶⁰ In September 1993, the HVO, resorting to extreme violence and committing one act of rape, continued to expel the Muslims from West Mostar into East Mostar, as well as to third countries.¹⁵⁶¹ A large-scale and systematic operation was organised on the evening of 29 September 1993 by the *Vinko Škrobo* ATG and the 1st Light Assault Battalion of the Military Police during which the soldiers were particularly brutal towards the Muslim population and committed numerous acts of theft as well as several acts of rape.¹⁵⁶² The Chamber observed that these campaigns were conducted between October 1993 and February 1994.¹⁵⁶³ The Chamber thus determined that, as a result, the population of East Mostar increased significantly between May 1993 when about 20,000

¹⁵⁵⁶ See "Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁵⁷ See "Removal of 300 Muslims to East Mostar at the End of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁵⁸ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁵⁹ See "Removal around 30 June 1993 of Muslim Families Living in West Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶⁰ See "Eviction and Transfer of Muslims to East Mostar or Other Countries from Mid-July to August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶¹ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶² See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶³ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

people were living in this part of the town, and at least August 1993, by which time the population had increased to about 55,000, a figure which remained unchanged until mid-November 1993.¹⁵⁶⁴

854. The Chamber is satisfied that from mid-May 1993 to February 1994, the HVO forced the Muslims from West Mostar to leave their homes to go mostly to East Mostar and, on some occasions in September 1993, to third countries. The Chamber is satisfied by a majority, with Judge Antonetti dissenting, that these removals were on no account evacuations conducted for security purposes nor were they justified for compelling military reasons. This is demonstrated by the fact that only the Muslim inhabitants of West Mostar were concerned by the removals and that the HVO had not made any arrangements for the population to return. Since they were forced to leave West Mostar and go to East Mostar or to third countries, the Chamber considers that these persons were deprived of their right to enjoy a normal social, family and cultural life. Furthermore, the Chamber is satisfied that the removals as well as the circumstances under which they were carried out caused serious bodily and mental harm to the Muslim population of West Mostar.

855. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the Muslim population of West Mostar. Furthermore, with regard to the violence to which the Muslims were subjected in the course of their removal, the Chamber is satisfied that the HVO had the intention of causing them serious bodily and mental harm.

856. The Chamber finds that the HVO forcibly transferred the Muslim population of West Mostar mostly to East Mostar and, on certain occasions – in September 1993 – to third countries, between mid-May 1993 and February 1994, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

857. However, the Chamber recalls that it was not in a position to establish that the HVO removed the Muslim population of West Mostar in the first half of May 1993¹⁵⁶⁵ and consequently is not able to find that the HVO committed inhumane acts in the form of forcible transfer in the first half of May 1993, a crime recognised by Article 5 of the Statute.

858. Moreover, the Chamber previously established that on 24 August 1993, following the attack by HVO forces on Raštani and after having killed four Muslim men in the area around a village house and then robbed and abused the women and children who had taken refuge in the house, the

¹⁵⁶⁴ See "Influx of People to East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶⁵ See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

HVO soldiers allowed the women and children to leave and then go to ABiH-held territory.¹⁵⁶⁶ Although the Chamber was not in a position to find that the HVO ordered them to cross the Neretva to go to ABiH-held territory, it is nevertheless satisfied, in view of the particularly coercive climate, that these women and children had no other choice but to flee the village of Raštani, which was occupied by soldiers of the HVO, and cross the river to reach ABiH-held territory.

859. The Chamber is satisfied that the women and children from the village of Raštani were forced to leave the village to go to ABiH-held territory. With regard to the circumstances of this removal, the majority of the Chamber is satisfied, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. As they were forced to leave their village and go to ABiH-held territory, the Chamber considers that these persons were deprived of their right to enjoy a normal social, family and cultural life. Furthermore, the Chamber is satisfied that this removal and the circumstances under which it was carried out caused serious bodily and mental harm to the women and children.

860. With regard to the circumstances surrounding the removal of the women and children from Raštani, the Chamber is satisfied that the HVO had the intention of forcing them to leave their village and causing them serious bodily and mental harm.

861. In the light of the above, the Chamber finds that on 24 August 1993, the HVO forcibly transferred Muslim women and children from the village of Raštani to territory under the control of the ABiH, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

862. Finally, the Chamber notes that the allegations in paragraph 105 of the Indictment concerning the removal of Muslim men held at the Heliodrom with their families from Mostar will be analysed under the counts relating to the Heliodrom.

V. The Heliodrom

863. The Chamber established that between around 17 July 1993 and November 1993, several hundred detainees at the Heliodrom were released on condition that they agree to leave BiH with their families and go to a third country by first passing through Croatia.¹⁵⁶⁷ After having signed a "form" issued by the ODPH of the HZ H-B indicating a country of destination, the detainees in possession of a letter of guarantee were released from the Heliodrom and had to return to their

¹⁵⁶⁶ See "Displacement of Muslim Women and Children During the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁶⁷ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

places of residence, namely to Mostar or Ljubuški.¹⁵⁶⁸ They had very little time, sometimes only 30 minutes, to pack their bags and gather their families before having to leave BiH and go to Croatia.¹⁵⁶⁹ Some of these detainees were escorted to the Croatian border by the Military Police.¹⁵⁷⁰

864. The Chamber finds that by making the release of the detainees from the Heliodrom conditional on their leaving BiH with their families to go to a third country, the HVO, and members of the Military Police in particular, forced them to leave their homes. The Chamber is satisfied that as a result of the distance of the destinations - initially Croatia, and then third countries - the Muslims were deprived of their right to enjoy a normal social, family and cultural life. Furthermore, the Chamber observes that the detainees at the Heliodrom had the choice of either remaining in detention in very harsh conditions or leaving their cultural and social environment with their families within a very brief time. The Chamber is satisfied that as a result of this choice, the Muslim families suffered serious mental harm. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any measures taken for the return of the detainees to their homes.

865. Moreover, the Chamber finds that by forcing the Muslims to chose between remaining in detention at the Heliodrom under extremely harsh conditions¹⁵⁷¹ and separated from their families - at a time when some of them had already been detained for several months¹⁵⁷² - or leaving their homes with their families, the HVO had the intention of forcing them to leave BiH, thereby causing them serious mental harm.

866. In the light of the above, the Chamber finds that between July and November 1993, the HVO forcibly transferred hundreds of Muslim detainees as well as their families from the territory of BiH, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

867. In addition, the Chamber established that between 15 and 17 December 1993, several hundred detainees, among whom there were civilians, including women, were released from the

¹⁵⁶⁸ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁶⁹ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷⁰ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷¹ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷² See "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

Heliodrom on condition that they go to third countries¹⁵⁷³ or to East Mostar, which was territory held by the ABiH.¹⁵⁷⁴

868. The Chamber finds that by releasing Muslim detainees from the Heliodrom to transfer them to a third country or an area held by the ABiH, namely East Mostar, the HVO forced detained civilians to leave their area of origin. The Chamber is satisfied that as a result of these removals, the Muslims were deprived of their right to enjoy a normal social, cultural and family life. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any measures taken for the return of the detainees to their homes. In addition, the Chamber finds that by organising the release of the Muslims detained at the Heliodrom and their departure to a third country or an area held by the ABiH,¹⁵⁷⁵ the HVO had the intention of forcibly transferring them from BiH or HVO-held territory, thereby causing them serious mental harm. This can be seen from the minutes of an HVO meeting on 13 December 1993 explaining which detainees from the Heliodrom had to leave or could stay in the HR H-B.¹⁵⁷⁶

869. In light of the above, the Chamber finds that between 15 and 17 December 1993, the HVO forcibly transferred Muslims detained at the Heliodrom from BiH or territory under the control of the HVO, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

VI. Ljubuški Municipality and Detention Centres

870. As previously established by the Chamber, in August 1993, the HVO organised the release of Muslim men from the Municipality of Ljubuški - some of whom were civilians and whom they were detaining at various locations - on condition that they produce a guarantee they would leave the territory of BiH with their families within 24 hours.¹⁵⁷⁷ In this manner, hundreds of Muslims

¹⁵⁷³ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷⁴ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷⁵ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷⁶ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁷⁷ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

from the Municipality of Ljubuški arrived in Zagreb, Croatia, at the end of August 1993, from where they were subsequently to go to other countries.¹⁵⁷⁸

871. The Chamber finds that by making the release of the Muslim men from the detention centres conditional on their leaving the municipality with their families, the HVO forced the Muslims of Ljubuški Municipality to leave their homes within 24 hours. The Chamber is satisfied that as a result of the distance of their destinations - Zagreb in Croatia in particular - from the Municipality of Ljubuški, the Muslims were deprived of their right to enjoy a social, family and cultural life.

872. Furthermore, the Chamber observes that the Muslim men held by the HVO had the choice of remaining in detention in sometimes very harsh conditions or leaving their cultural and social environment with their families within a very brief time. The Chamber is satisfied that as a result of this choice, the Muslim families suffered serious mental harm. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons.

873. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their families, the HVO had the intention of forcing them to leave the municipality and causing them serious mental harm.

874. The Chamber therefore finds that in August 1993, the HVO forcibly transferred the population of the Municipality of Ljubuški, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

875. With regard to the Muslims held in Ljubuški Prison in particular, the Chamber established that on 13 August 1993, two Muslim civilians were released by Valentin Čorić because they had a letter guaranteeing their departure for Germany.¹⁵⁷⁹ The Chamber is satisfied that by authorising the release of these civilians only because they had a letter guaranteeing their departure to Germany, the HVO forced these Muslims to leave the territory of Herceg-Bosna. The Chamber is satisfied that the departure of these detainees to Germany resulted in their being deprived of their right to enjoy a social, family and cultural life. Moreover, the Chamber considers that making their release conditional on going to Germany caused them serious mental suffering. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In

¹⁵⁷⁸ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁵⁷⁹ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

addition, in view of the circumstances under which they were released, the Chamber finds that the HVO had the intention of forcing them to leave the territory of Herceg-Bosna and causing them serious mental harm. The Chamber therefore finds that on 13 August 1993, the HVO forcibly transferred two Muslim civilians held in Ljubuški Prison, thereby committing inhumane acts (forcible transfer), a crime recognised by Article 5 of the Statute.

876. In addition, the Chamber previously established that the detainees at Ljubuški Prison, some of whom were civilians, were regularly moved from the prison to the Heliodrom and Dretelj Prison between May 1993 and March 1994.¹⁵⁸⁰ The Chamber considers that by moving detainees to a different detention centre, the HVO members did not commit the crime of forcible transfer against them. The purpose of the ban on forcible transfer is in fact to protect the right of individuals to live in their communities and homes and not to have their property seized.¹⁵⁸¹ This crime is therefore committed only when persons are transferred from the area they legally inhabit to a location so far from their families that the detainees are deprived of their right to enjoy a social, family and cultural life. The Chamber considers that a person in detention has already been deprived of his or her right to live in his or her community and home. For this reason, transfer between detention centres cannot constitute forcible transfer insofar as it does not involve removing people from a location in which they enjoyed the right to a community and family life. Therefore, the transfers between the above-mentioned detention centres do not constitute the crime of inhumane acts (forcible transfer) recognised by Article 5 of the Statute.

877. With regard to the Muslims detained in Vitina-Otok Camp, the Chamber established that in August 1993, some of the detainees, including civilians, were released on condition that they leave the territory of BiH and go to third countries via Croatia, and that most of the detainees were removed to other detention facilities in the municipalities of Posušje and Mostar, primarily to the Heliodrom.¹⁵⁸²

878. With regard to the detainees released in August 1993 on condition that they leave BiH, the Chamber observes that they had the choice of remaining in detention in very harsh conditions or leaving their cultural and social environment with their families within a very brief time. The Chamber is satisfied that as a result of this choice, the Muslims suffered serious mental harm. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this

¹⁵⁸⁰ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁵⁸¹ See "Deportation and Forcible Transfer" in the Chamber's treatment of the applicable law: Crimes Against Humanity.

¹⁵⁸² See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their families, the HVO had the intention of forcing them to leave BiH and causing them serious bodily and mental harm.

879. In the light of the evidence, the Chamber finds that in August 1993, the HVO forcibly transferred detainees from Vitina-Otok Camp, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

880. With regard to the transfer of the majority of the detainees from Vitina-Otok Camp to the Heliodrom at the end of August 1993, the Chamber considers that by moving the detainees to another detention centre, the HVO members did not transfer them from the area they were legally inhabiting to a place so far away from their families that the detainees were deprived of their right to enjoy a social, family and cultural life.

VII. Municipality of Stolac

881. The Chamber established that on 6 or 7 July 1993, HVO soldiers arrested women from the village of Prenj and held them at the Aladinići/Crnići School.¹⁵⁸³ Moreover, the Chamber established that on 13 July 1993, HVO soldiers and a military policeman arrested women, children and elderly people in the village of Aladinići and detained them - initially in a shop in the village and then at the Aladinići/Crnići School.¹⁵⁸⁴ On the same date, 13 July 1993, HVO soldiers arrested the women, children and elderly people from Pješivac Greda at gunpoint and killed a young girl. The HVO soldiers then took them to the Aladinići/Crnići School where they were detained.¹⁵⁸⁵ In addition, the Chamber established that on about 19 July 1993, HVO soldiers took the detainees from the Aladinići/Crnići School to the village of Pješivac Greda and held them in houses until 2 August 1993, which is when they transported them to Buna and then forced them to walk to Blagaj while firing shots over their heads.¹⁵⁸⁶

882. The Chamber is satisfied that these women, children and elderly people were forcibly removed from their villages of Prenj, Aladinići and Pješivac Greda. The majority of the Chamber is satisfied, with Judge Antonetti dissenting, that this removal, at a time when the HVO had control of

¹⁵⁸³ See "Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁸⁴ See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁸⁵ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

the villages and there was no fighting, was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, the HVO organised the departure of these people they detained – first at the Aladinići/Crnići School and then in houses in Pješivac Greda – to Blagaj, which was ABiH-held territory. Since these persons were forced to leave their homes, the Chamber considers that they were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of these villages serious mental suffering. Finally, with regard to the organisation of the arrests, which always followed the same pattern, and of detention, which was at the same locations for all the villagers no matter which village they came from in the municipality, and with regard to the departure of these Muslims - of whom almost 1,250 left in the end - the Chamber is satisfied that the HVO members had the intention of forcibly transferring them and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - had, in addition, the intention of causing them serious mental harm. The Chamber finds that following the arrests of the women, children and elderly people from the villages of Prenj, Aladinići and Pješivac Greda and their detention at the Aladinići/Crnići School, the HVO forcibly transferred these women, children and elderly people on 2 August 1993, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

883. The Chamber also established that following a new wave of arrests of women, children and elderly people from the Municipality of Stolac on 4 August 1993, the HVO detained these persons at various locations in the town of Stolac: at the Aladinići/Crnići School,¹⁵⁸⁷ the TGA factory¹⁵⁸⁸ and in the VPD.¹⁵⁸⁹ The HVO gradually sent them to Blagaj, via Buna, in October and November 1993.¹⁵⁹⁰

884. The Chamber is satisfied that these women, children and elderly people were forcibly removed from their homes in the Municipality of Stolac. The majority of the Chamber is also satisfied, with Judge Antonetti dissenting, that this removal, at a time when the HVO had control of the municipality and there was no fighting, was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that

¹⁵⁸⁶ See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁸⁷ See "Detentions at the Aladinići/Crnići School in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁸⁸ See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁸⁹ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁹⁰ See "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

the HVO had not made any arrangements for the return of the population. On the contrary, the HVO organised the departure of these people, whom they were holding at various locations in the municipality, to Blagaj, which was ABiH-held territory. As they were forced to leave their homes, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused this Muslim population serious mental suffering. Finally, with regard to the organisation of the arrests on that same day and the detention and systematic departure of these Muslims to Blagaj via Buna, the Chamber is satisfied that the HVO members had the intention of forcibly transferring them and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - had, in addition, the intention of causing them serious mental harm. The Chamber finds that following the arrests of the women, children and elderly people who still remained in the Municipality of Stolac on 4 August 1993, the HVO forcibly transferred these women, children and elderly people between October and November 1993, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

885. However, the Chamber recalls that it did not receive any evidence concerning the removal of women, children and elderly people from the town of Stolac,¹⁵⁹¹ the village of Rotimlja¹⁵⁹² or the village of Borojevići¹⁵⁹³ in July 1993. The Chamber is therefore not in a position to find that the HVO forcibly transferred the Muslim population of the town of Stolac and the villages of Rotimlja and Borojevići in July 1993, and can therefore not find that the HVO committed inhumane acts at these locations in the Municipality of Stolac in July 1993.

VIII. Municipality of Čapljina

886. The Chamber established that members of the HVO, some of whom belonged to the 1st *Knez Domagoj* Brigade, entered the village of Domanovići on about 13 July 1993, evicted women, children and elderly people from their homes, held them for days, even weeks, at various locations - at the Čapljina Silos and Počitelj in particular - before forcing them to go to ABiH-held territory, primarily Blagaj.¹⁵⁹⁴ The Chamber also noted that between 13 and 16 July 1993, members of the

¹⁵⁹¹ See "Removal of the Population, Damage to the Mosque and Theft of Property in Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁹² See "Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁹³ See "Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁵⁹⁴ See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their houses and the village of Bivolje Brdo and held them for days, even weeks, at various locations, including the Čapljina Silos, the Sovići School, a collection centre in Gradina in the village of Počitelj and in Doljani, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.¹⁵⁹⁵ The Chamber further noted that members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and moved them by lorry to Buna and then Blagaj on about 13 July 1993 and at the beginning of August 1993.¹⁵⁹⁶ The Chamber established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići, some of whom were taken to a house in Tasovčići,¹⁵⁹⁷ before being taken to the Silos on 2 October 1993 and then to Blagaj.¹⁵⁹⁸ Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP expelled women, children and elderly people from the town of Čapljina - some of whom they held at the Silos - and removed them to territories under the control of the ABiH.¹⁵⁹⁹

887. The Chamber is satisfied that these women, children and elderly people were forcibly removed from their villages of Domanovići, Bivolje Brdo, Počitelj and Višići and from the town of Čapljina. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this removal, at a time when the HVO had control of the town and villages and there was no fighting, was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, the HVO held them for several days, even several weeks, at various locations such as the Silos of Čapljina, the village of Počitelj, a house in Tasovčići and the Sovići School, and then transferred them to territories under the control of the ABiH. Since they were forced to leave their homes, the Chamber considers that these persons

¹⁵⁹⁵ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵⁹⁶ See "Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵⁹⁷ See "Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵⁹⁸ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵⁹⁹ See "Events in August and September 1993 in the Town of Čapljina" and "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" in the Chamber's factual findings with regard to the Municipality of Čapljina.

were deprived of their right to enjoy a normal social and family life. Moreover, the Chamber is satisfied that these events caused the population of these villages and of the town of Čapljina serious mental suffering. Finally, with regard to the organisation of the arrests, the detention and the removal of the Muslim women, children and elderly people from the town of Čapljina and the villages of Domanovići, Bivolje Brdo, Počitelj and Višići, the Chamber is satisfied that the members of the HVO and the MUP had the intention of forcibly transferring them and, aware of the vulnerability of the persons being removed - women accompanied by children and elderly people - had, in addition, the intention of causing them serious mental harm. The Chamber finds that following the arrest of the women, children and elderly people from the villages of Domanovići, Bivolje Brdo, Počitelj and Višići and the town of Čapljina, the HVO forcibly transferred these women, children and elderly people between July and October 1993, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

888. However, with regard to the village of Opličići, the Chamber noted that it did not have any evidence allowing it to establish that members of the HVO evicted and removed women, children and elderly people from this village.¹⁶⁰⁰ As far as the village of Lokve is concerned, the Chamber established that it could not find, solely on the basis of one testimony admitted under Rule 92 *bis* of the Rules, that HVO members removed women, children and elderly people from this village on about 13 July 1993.¹⁶⁰¹ The Chamber is therefore not in a position to find that the HVO transferred women, children and elderly people from the villages of Opličići and Lokve to territories under the control of the ABiH or to third countries, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

IX. Gabela Prison

889. As previously established by the Chamber, the HVO organised the release of the Muslim men it was holding at Gabela Prison, some of whom were civilians, on condition that they produce a guarantee - namely a transit visa for Croatia and a letter of guarantee to leave BiH and go to a third country - that they would leave the territory of BiH within 24 hours and go to a third

¹⁶⁰⁰ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in and around the Village of Opličići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁰¹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Lokve" in the Chamber's factual findings with regard to the Municipality of Čapljina.

country.¹⁶⁰² It is in this way that hundreds of Muslims being held at Gabela Prison left in December 1993 via Croatia for third countries, including Denmark.¹⁶⁰³

890. The Chamber finds that by making the release of the Muslim men from Gabela Prison conditional on their departure from BiH to go to third countries, the HVO forced them to leave their homes. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. The Chamber is satisfied that as the destinations of the Muslims, namely third countries, were so far away from BiH, they were deprived of their right to enjoy a social, family and cultural life.

891. Furthermore, the Chamber observes that the Muslim men held by the HVO had the choice of either remaining in detention in what were sometimes very harsh conditions or leaving their family, cultural and social environment within a very brief time. The Chamber is satisfied that as a result of this choice, the Muslims suffered serious bodily and mental harm.

892. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their families, the HVO had the intention of forcing them to leave the municipality and causing them serious bodily and mental harm.

893. In the light of the evidence, the Chamber finds that in December 1993, the HVO forcibly transferred the Muslim men held at Gabela Prison, thereby committing inhumane acts, a crime recognised by Article 5 of the Statute.

Heading 8: Unlawful Transfer of a Civilian (Count 9)

I. Municipality of Prozor

894. The Chamber established that on 28 August 1993, HVO soldiers, acting independently and outside the framework of any armed combat, rounded up and transferred by lorries - sometimes firing shots in the air to make them get into the lorries - at least 2,500 Muslim women, children and elderly people being held in the villages of Lapsunj, Duge and in the PodgraĀe neighbourhood to the village of KuĀani in the vicinity of the front line between HVO and ABiH forces and that the HVO soldiers forced them to walk three to four kilometres towards Āelina, an ABiH-held area,

¹⁶⁰² See "Authorities Responsible for Managing Departure of Detainees" and "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁶⁰³ See "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

under escort and while firing shots in their direction, thereby wounding several persons.¹⁶⁰⁴ These Muslims then continued on their way to various territories under the control of the ABiH.¹⁶⁰⁵

895. The Chamber observes that these Muslim women, children and elderly people were held by the HVO forces when they were forced to go to territory under the control of the ABiH, and therefore considers that they were persons who were protected by the Geneva Conventions. Furthermore, the majority of the Chamber is satisfied, with Judge Antonetti dissenting, that this removal - at a time when these persons were being held by HVO soldiers and there was no fighting in the area - was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, the Chamber is satisfied that the HVO held them in the villages of Lapsunj and Duge and in the Podgraĉe neighbourhood in order to be able to remove them from their homes. The Chamber considers that these Muslims, having been expelled from their homes without the possibility of returning to them, were deprived of their right to enjoy a normal social and family life. Furthermore, the Chamber is satisfied that the HVO soldiers had the intention of forcibly removing the 2,500 or so women, children and elderly people from a number of villages in the Municipality of Prozor who were being detained in Lapsunj, Duge and in the Podgraĉeneighbourhood.

896. In the light of the evidence, the Chamber therefore finds that on 28 August 1993, the HVO forcibly transferred Muslim women, children and elderly people from the Municipality of Prozor who were being held in the villages of Lapsunj, Duge and the Podgraĉe neighbourhood, thereby committing the crime of illegal transfer of civilians recognised by Article 2 of the Statute.

897. In addition, the Chamber previously established that on 14 November 1993, 105 Muslim men held in Prozor were transferred to Gabela Prison because of a lack of space and on orders from General Tole¹⁶⁰⁶ and that on 15 December 1993, 140 Muslim detainees in Prozor were transferred to the Heliodrom under an escort provided by the 3rd Battalion of the Military Police and on orders from Radoslav Lavrić,¹⁶⁰⁷ further to an order from Marijan Biškić.¹⁶⁰⁸ The Chamber considers that by moving detainees to another detention centre, the HVO members did not commit the crime of

¹⁶⁰⁴ See "Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁰⁵ See "Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁰⁶ See "Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, Then to Other Territories" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁰⁷ Radoslav Lavrić was the Acting Chief of the Military Police Administration.

unlawful transfer against them. The purpose of the ban on forcible transfer is in fact to protect the right of individuals to live in their communities and homes and not to have their property seized.¹⁶⁰⁹ Thus, a crime is committed only when persons are removed from the area they legally inhabit to a location so far away from their families that it results in the detainees being deprived of their right to enjoy a social, family and cultural life. The Chamber considers that a person who is in detention has already been deprived of his or her right to live in his or her community and home. For this reason, moving detainees from one detention centre to another cannot constitute forcible transfer if the people concerned are not removed from a location in which they enjoyed the right to a community and family life. Consequently, the transfers between the above-mentioned detention centres do not constitute the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

898. Finally, the Chamber recalls that it was not in a position to establish that Muslims from the Municipality of Prozor were removed to other territories under the control of the ABiH in December 1993.¹⁶¹⁰ The Chamber can therefore not find that the HVO forcibly transferred Muslims from the Municipality of Prozor in December 1993, as recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

899. The Chamber established that following the attack launched on the village of Duša on 18 January 1993, HVO soldiers occupied the village, arrested the women, children and elderly people from this village, took them to a house in the village of Paloć and held them there. The Chamber finds that these women, children and elderly people were therefore civilians who had fallen into the hands of the enemy and were therefore protected within the meaning of the Fourth Geneva Convention.

900. Having been detained for about a fortnight, UNPROFOR took them to Gornji Vakuf from where most of them were never able to return to their homes as their houses had been destroyed.¹⁶¹¹ In the light of this evidence, the Chamber is satisfied that these women, children and elderly people were forcibly transferred, at the very least as far as Paloć. The Chamber is satisfied that this removal at a time when the HVO had control of the village and there was no more fighting was on

¹⁶⁰⁸ Marijan Biškić was Assistant Minister of Defence of the HR H-B. See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁰⁹ See "Deportation and Unlawful Transfer of a Civilian" in the Chamber's treatment of the applicable law: Crimes Against Humanity.

¹⁶¹⁰ See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, by burning down about 16 houses belonging to Muslim families¹⁶¹² at a time when the fighting had ceased, the HVO, which was in control of the village, deliberately prevented the Muslim population from returning. As they were forced to remain in Gornji Vakuf, the Chamber considers that these civilians were deprived of their right to enjoy a normal social and family life. Moreover, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly transferring the Muslim population of the village. The Chamber therefore finds that following the attack on the village of Duša on 18 January 1993, the HVO forcibly transferred women, children and elderly people from the village, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

901. The Chamber established that following the attack launched on the village of Hrasnica on 18 January 1993, HVO soldiers occupied the village and arrested the women, children and elderly people. The Chamber finds that these women, children and elderly people were therefore civilians who had fallen into the hands of the enemy and were thus protected within the meaning of the Fourth Geneva Convention.

902. Some of the villagers from Hrasnica were successively detained in a house in the centre of town, in a house in the hamlet of Volari in the village of Ploča, at the Trnovača Furniture Factory and, finally, in houses in Trnovača. After about three weeks in detention, the HVO released them, admittedly without instructing them to go to any specific place, but some of them had to be taken to Bugojno by UNPROFOR as their houses had been destroyed by the HVO.¹⁶¹³ The other part of the population was held at the Trnovača School for about a fortnight before being released by the HVO who ordered them to go to ABiH-held territory.¹⁶¹⁴ In the light of this evidence, the Chamber is satisfied that the women, children and elderly person from the village of Hrasnica were forcibly removed from their village. The Chamber is satisfied that this removal at a time when the HVO had control of the village and there was no more fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the

¹⁶¹¹ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹² See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹³ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹⁴ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

contrary, by making sure that all the houses belonging to Muslim families had been destroyed,¹⁶¹⁵ the HVO, which was in control of the village, deliberately prevented the civilian population from returning. As it was impossible for them to return to their homes, the Chamber considers that these civilians were deprived of their right to enjoy a normal social and family life. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly transferring the population of the village. The Chamber therefore finds that following the attack on the village of Hrasnica on 18 January 1993, the HVO forcibly transferred women, children and elderly people from the village, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

903. The Chamber established that following the attack launched on the village of Uzričje on 18 January 1993, HVO soldiers occupied the village and held the women, children and elderly people in two houses in the village. The Chamber finds that these women, children and elderly people were therefore civilians who had fallen into the hands of the enemy and were thus protected within the meaning of the Fourth Geneva Convention.

904. The Chamber recalls that some of the villagers were able to escape to Bugojno in late February and early March 1993, and others, who came under pressure from the HVO to leave the village, went to Gornji Vakuf.¹⁶¹⁶ In the light of this evidence, the Chamber is satisfied that these women, children and elderly people from the village of Uzričje were forcibly transferred from their village. The Chamber is satisfied that this removal at a time when the HVO had control of the village and there was no more fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the civilian population to return. On the contrary, by burning down at least 22 houses belonging only to Muslim families,¹⁶¹⁷ the HVO, which was in control of the village, deliberately prevented the Muslim population from returning. As they were forced to settle in Gornji Vakuf or Bugujno, the Chamber considers that these civilians were deprived of their right to enjoy a normal social and family life. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly transferring the population of the village. The Chamber therefore finds that following the attack on the village of Uzričje on 18 January 1993, the HVO forcibly transferred women, children and elderly people from

¹⁶¹⁵ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹⁶ See "Removal of Villagers from the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹⁷ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

the village, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

905. The Chamber established that following the attack launched on the village of Țdrimci on 18 January 1993, the HVO soldiers occupied the village and held the women and children in three or four houses in the village for a month and a half before releasing them after a ceasefire had been signed with the ABiH.¹⁶¹⁸ The Chamber finds that these women, children and elderly people were therefore civilians who had fallen into the hands of the enemy and were thus protected within the meaning of the Fourth Geneva Convention.

906. After they had been released, many villagers had no other choice but to leave their village since the HVO had burnt down at least about 30 houses belonging to Muslim families.¹⁶¹⁹ In the light of this evidence, the Chamber is satisfied that these women and children from the village of Țdrimci were forcibly transferred from their village. By destroying numerous houses in the village which all belonged to Muslim families,¹⁶²⁰ the HVO deliberately prevented the Muslim population from resettling in their village. As returning to their homes was not possible, the Chamber considers that these civilians were deprived of their right to enjoy a normal social and family life. Finally, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the population of the village. The Chamber therefore finds that following the attack on the village of Țdrimci on 18 January 1993, the HVO forcibly transferred women, children and elderly people from the village, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

907. The Chamber established that after the HVO attack on the villages of Sovići and Doljani on 17 April 1993, the women, children and elderly people, Muslim inhabitants of Sovići and Doljani¹⁶²¹ who were being held at the Sovići School and in the hamlet of Junuzovići, that is, about 450 persons, were transferred to Gornji Vakuf by HVO soldiers, including "Tuta's" men, on 5 May

¹⁶¹⁸ See "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶¹⁹ See "Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*" and "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶²⁰ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶²¹ See "Detention at Sovići School, the Deaths of Detainees and the Work Done" and "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1993.¹⁶²² The Chamber notes that these people, who were not members of any armed force, were Muslim civilians and were therefore protected within the meaning of the Fourth Geneva Convention and that they were detained before being transported by bus and lorry to Gornji Vakuf under the escort of HVO soldiers for the entire duration of the trip.¹⁶²³ The Chamber is therefore satisfied that these civilians were forcibly removed by HVO soldiers, including "Tuta's" men, from the area in which they lived. Furthermore, it is clear to the Chamber that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons.

908. The Chamber also notes that by being transferred from the Municipality of Jablanica to the town of Gornji Vakuf, far from their usual place of residence, these persons were deprived of their right to enjoy a normal social, family and cultural life.

909. Finally, the Chamber notes that the transfer was organised and prepared in advance. It was ordered by Vlado Ćurić, one of "Tuta's" men, and carried out at night with buses and lorries and under an escort of HVO soldiers.¹⁶²⁴ The Chamber is therefore satisfied that the HVO did indeed have the intention of forcibly transferring the victims.

910. The Chamber therefore finds that on 5 May 1993, HVO soldiers, including "Tuta's" men, forcibly transferred civilians held at the Sovići School and in the hamlet of Junuzovići to Gornji Vakuf, thereby committing the crime of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

IV. Municipality of Mostar

911. The Chamber also established that from mid-May to September 1993, the HVO soldiers systematically expelled the Muslims from West Mostar to East Mostar, which was under the control of the ABiH, and to third countries. Accordingly, in the second half of May 1993, HVO soldiers and members of the *Benko Penavić* ATG in particular forced a large number of Muslims from West Mostar to cross the front line into East Mostar.¹⁶²⁵ On 26 May 1993, the HVO transferred at least 300 Muslims from West Mostar to East Mostar without their having the possibility of

¹⁶²² See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶²³ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶²⁴ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶²⁵ See "Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

returning to West Mostar.¹⁶²⁶ On 13 June 1993, HVO soldiers, who were shouting and shooting in the air and burning identity papers and residency permits, rounded up Muslims from West Mostar and then forced them to run across the front line while they fired shots over their heads and around their legs.¹⁶²⁷ Likewise, following the attack of 30 June 1993, HVO soldiers and military policemen organised the transfer of Muslim families from West Mostar to East Mostar on foot or by bus according to the same procedure.¹⁶²⁸ In July and August 1993, the HVO soldiers continued to expel Muslim families from West Mostar by forcing them to cross the front line into East Mostar.¹⁶²⁹ In September 1993, the HVO, resorting to extreme violence and committing one act of rape, continued to expel the Muslims from West Mostar into East Mostar as well as to third countries.¹⁶³⁰ A large-scale and systematic operation was organised on the evening of 29 September 1993 by the *Vinko Škrobo* ATG and the 1st Light Assault Battalion of the Military Police during which the soldiers were particularly brutal towards the Muslim population and committed numerous acts of theft as well as several acts of rape.¹⁶³¹ The Chamber noted that these campaigns were conducted between October 1993 and February 1994.¹⁶³² The Chamber thus determined that, as a result of this, the population of East Mostar increased considerably between May 1993, at which time about 20,000 people were living in that part of the town, and at least August 1993, by which date the population had grown to about 55,000, a figure that remained unchanged until mid-November 1993.¹⁶³³

912. The Chamber recalls that the HVO occupied West Mostar from mid-May 1993 to February 1994. The Chamber therefore considers that the Muslim women, children and elderly people living in West Mostar were civilians who had fallen into the hands of the enemy and were therefore protected by the Geneva Conventions.

913. The Chamber is satisfied that from mid-May 1993 to February 1994, the HVO forced the Muslims of West Mostar to leave their homes to go mostly to East Mostar and, on some occasions in September 1993, to third countries. The Chamber is satisfied by a majority, with Judge Antonetti dissenting, that this removal was on no account an evacuation conducted for security purposes nor

¹⁶²⁶ See "Removal of 300 Muslims to East Mostar at the End of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶²⁷ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶²⁸ See "Removal around 30 June 1993 of Muslim Families Living in West Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶²⁹ See "Eviction and Transfer of Muslims to East Mostar or Other Countries from Mid-July to August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶³⁰ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶³¹ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶³² See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

was it justified for compelling military reasons. This is demonstrated by the fact that only the Muslim inhabitants of West Mostar were concerned by the transfer and that the HVO had not made any plans for the population to return. As they were forced to leave West Mostar to go to East Mostar or to third countries, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Moreover, with regard to the course of events, the Chamber is satisfied that the HVO had the intention of forcibly removing the Muslim population of West Mostar.

914. The Chamber finds that the HVO forcibly transferred the Muslim population of West Mostar mostly to East Mostar and, on certain occasions – in September 1993 – to third countries between mid-May 1993 and February 1994, thereby committing acts of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

915. However, the Chamber recalls that it was not in a position to establish that the HVO had removed the Muslim population of West Mostar in the first half of May 1993¹⁶³⁴ and can therefore not find that it committed acts of unlawful transfer of civilians in the first half of May 1993, a crime recognised by Article 2 of the Statute.

916. In addition, the Chamber previously established that following the attack on Raštani by the HVO forces on 24 August 1993, and after having killed four Muslim men in the area near a village house and then robbing and abusing the women and children who had taken refuge in the house, the HVO soldiers allowed these women and children to leave, and the women and children then went to ABiH-held territory.¹⁶³⁵ Although the Chamber was not able to find that the HVO ordered them to cross the Neretva to reach ABiH-held territory, it is however satisfied that these Muslim women and children, civilians who had fallen into the hands of the enemy and were protected by the Geneva Conventions, had no other choice - in view of the particularly coercive climate - but to flee the village of Raštani which was occupied by the HVO soldiers and go to ABiH-held territory.

917. The Chamber is satisfied that the women and children from the village of Raštani were forced to leave the village to go to ABiH-held territories. With regard to the circumstances of this removal, the majority of the Chamber is satisfied, with Judge Antonetti dissenting, that this was on no account an evacuation conducted for security purposes nor was it justified for compelling

¹⁶³³ See "Influx of People to East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶³⁴ See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶³⁵ See "Displacement of Muslim Women and Children During the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

military reasons. As they were forced to leave their village to go to ABiH-held territory, the Chamber considers that these civilians were deprived of their right to enjoy a normal social and family life. With regard to the circumstances surrounding the removal of the women and children from Raštani, the Chamber is satisfied that the HVO had the intention of forcing them to leave their village.

918. In the light of the above, the Chamber finds that on 24 August 1993, the HVO forcibly transferred Muslim women and children from the village of Raštani to territory under the control of the ABiH, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

919. Finally, the Chamber notes that the allegations in paragraph 105 of the Indictment concerning the removal of the Muslim men held at the Heliodrom with their families who were from Mostar will be analysed under the counts relating to the Heliodrom.

V. The Heliodrom

920. The Chamber established that between around 17 July 1993 and November 1993, several hundred detainees at the Heliodrom, some of whom were not members of any armed force and were therefore civilians, were released on condition that they agree to leave BiH and go to a third country with their families, by initially passing through Croatia.¹⁶³⁶ After having signed a "form" issued by the ODPH of the HZ H-B indicating a country of destination, the detainees in possession of a letter of guarantee were released from the Heliodrom and had to return to their places of residence, namely to Mostar or Ljubuški.¹⁶³⁷ They then had very little time, sometimes only 30 minutes, to pack their bags and gather their families before having to leave BiH and go to Croatia.¹⁶³⁸ Some of these detainees were escorted to the Croatian border by the Military Police.¹⁶³⁹

921. The Chamber finds that by making the release of the detainees from the Heliodrom conditional on their leaving BiH with their families to go to a third country, the HVO, and members of the Military Police in particular, forced them to leave their area of origin. The Chamber is satisfied that by being forced to go to these destinations, initially to Croatia and then to third countries, the Muslims were deprived of their right to enjoy a normal social, family and cultural

¹⁶³⁶ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶³⁷ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶³⁸ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

life. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any measures taken for the return of the detainees to their homes.

922. In addition, the Chamber finds that by compelling the Muslims to choose between remaining in detention at the Heliodrom in extremely harsh conditions¹⁶⁴⁰ and separated from their families, at a time when some of them had been detained for several months,¹⁶⁴¹ or leaving their homes with their entire family, the HVO had the intention of forcibly removing them from BiH.

923. In the light of the above, the Chamber finds that between July and November 1993, the HVO forcibly removed hundreds of Muslim detainees and their families from the territory of BiH, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

924. In addition, the Chamber established that between 15 and 17 December 1993, several hundred detainees, among whom were people, including women, who were not members of any armed force and were therefore civilians, were released from the Heliodrom on condition that they go to third countries¹⁶⁴² or to East Mostar, which was ABiH-held territory.¹⁶⁴³

925. The Chamber finds that by releasing Muslim detainees from the Heliodrom to transfer them to a third country or an area held by the ABiH, namely East Mostar, the HVO forced detained civilians to leave their area of origin. The Chamber is satisfied that as a result of these removals, the Muslims were deprived of their right to enjoy a normal social, cultural and family life. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is in fact demonstrated by the absence of any measures taken for the return of the detainees to their homes. In addition, the Chamber finds that by organising the release of the Muslims held at the Heliodrom and their departure to a third country or an area under ABiH control, the HVO had the intention of forcibly removing them from BiH or HVO-held territory.

¹⁶³⁹ See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁴⁰ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁴¹ See "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁴² See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁴³ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

This can be seen in particular from the minutes of a meeting of the HVO on 13 December 1993 explaining which detainees from the Heliodrom had to leave or could stay in the HR H-B.¹⁶⁴⁴

926. In the light of the above, the Chamber finds that between 15 and 17 December 1993, the HVO forcibly transferred civilians held at the Heliodrom from BiH or HVO-held territory, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

VI. Ljubuški Municipality and Detention Centres

927. As previously found by the Chamber, in August 1993, the HVO organised the release of the Muslim men from the Municipality of Ljubuški whom they were detaining at various locations - some of whom were not members of any armed force and were therefore civilians - on condition that they produce a guarantee that they would leave the territory of BiH with their families within 24 hours.¹⁶⁴⁵ It is in this manner that hundreds of Muslims from the Municipality of Ljubuški arrived in Zagreb, Croatia, at the end of August, from where they were subsequently to leave for other countries.¹⁶⁴⁶

928. The Chamber finds that by making the release of the Muslim men from the detention centres conditional on their leaving the municipality with their families, the HVO forced the Muslims of Ljubuški Municipality to leave their homes within 24 hours. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. The Chamber is satisfied that as a result of the distance of the destinations - of Zagreb in Croatia in particular - from the Municipality of Ljubuški, the Muslims were deprived of their right to enjoy a social, family and cultural life.

929. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their families, the HVO had the intention of forcibly removing them from the municipality.

930. In the light of the evidence, the Chamber therefore finds that in August 1993, the HVO forcibly transferred the civilian population of the Municipality of Ljubuški, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

¹⁶⁴⁴ See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territories between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁴⁵ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁴⁶ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

931. With regard to the Muslims held in Ljubuški Prison in particular, the Chamber established that on 13 August 1993, two Muslim civilians were released by Valentin Ćorić because they had a letter guaranteeing their departure to Germany.¹⁶⁴⁷ The Chamber finds that by authorising the release of these civilians only because they had a letter guaranteeing their departure to Germany, the HVO forced these Muslims to leave the territory of Herceg-Bosna. The Chamber is satisfied that the departure of these detainees to Germany resulted in their being deprived of their right to enjoy a social, family and cultural life. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, in view of the circumstances of their release, the Chamber finds that the HVO had the intention of forcing them to leave the territory of Herceg-Bosna. The Chamber therefore finds that on 13 August 1993, the HVO forcibly transferred two Muslim civilians held at Ljubuški Prison, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

932. In addition, the Chamber previously established that the detainees at Ljubuški Prison, some of whom were not members of any armed force and were therefore civilians, were regularly moved from the prison to the Heliodrom and Dretelj Prison between May 1993 and March 1994.¹⁶⁴⁸ The Chamber considers that by moving detainees to another detention centre, the HVO members did not commit the crime of unlawful transfer against them. The ban on forcible transfer is in fact intended to protect the right of individuals to live in their communities and homes and not to have their property seized.¹⁶⁴⁹ A crime is thus committed only when persons are removed from the area they legally inhabit to a location so far from their families that it results in these persons being deprived of their right to enjoy a social, family and cultural life. The Chamber considers that a person in detention has already been deprived of his or her right to live in his or her community and home. For this reason, transfer from one detention centre to another cannot constitute forcible transfer insofar as the people concerned are not being removed from a location in which they enjoyed the right to a community and family life. Consequently, transfers between the above-mentioned detention centres do not constitute the crime of inhumane acts recognised by Article 5 of the Statute.

933. With regard to the Muslims detained in Vitina-Otok Camp, some of whom were not members of any armed force and were therefore civilians, the Chamber established that in August

¹⁶⁴⁷ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁴⁸ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

1993, some of the detainees were released on condition that they leave the territory and go to third countries via Croatia whereas other detainees were removed to other detention facilities in the municipalities of Posušje and Mostar, primarily to the Heliodrom.¹⁶⁵⁰

934. With regard to the detainees released in August 1993 on condition that they leave the territory of BiH, the Chamber observes that these detainees had the choice of either remaining in detention in very harsh conditions or leaving their family, cultural and social environment with their families within a very brief time. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their families, the HVO had the intention of forcibly removing them from BiH.

935. In the light of the evidence, the Chamber finds that in August 1993, the HVO forcibly transferred Muslim civilians held in Vitina-Otok Camp, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

936. With regard to the transfer of the detainees to the Heliodrom at the end of August 1993, the Chamber considers that by moving the detainees to another detention centre, the HVO members did not transfer them from the area they were legally inhabiting to a location so far from their families that the detainees were deprived of their right to enjoy a social, family and cultural life.

VII. Municipality of Stolac

937. The Chamber established that on 6 or 7 July 1993, HVO soldiers arrested women from the village of Prenj and held them at the Aladinići/Crnići School.¹⁶⁵¹ Moreover, the Chamber established that on 13 July 1993, HVO soldiers and a military policeman arrested women, children and elderly people from the village of Aladinići and detained them first in a shop in the village, and then at the Aladinići/Crnići School.¹⁶⁵² On the same date, 13 July 1993, HVO soldiers arrested the women, children and elderly people from Pješivac Greda at gunpoint and killed a girl. The HVO

¹⁶⁴⁹ See "Deportation and Unlawful Transfer of a Civilian" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions.

¹⁶⁵⁰ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁵¹ See "Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵² See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" in the Chamber's factual findings with regard to the Municipality of Stolac.

soldiers then took them to the Aladinići/Crnići School where they were detained.¹⁶⁵³ In addition, the Chamber established that on about 19 July 1993, the HVO soldiers took the detainees from the Aladinići/Crnići School to the village of Pješivac Greda and held them in houses until 2 August 1993 when they transported them to Buna and then forced them to walk to Blagaj while firing shots over their heads.¹⁶⁵⁴

938. The Chamber notes that these persons were not members of any armed force, and the majority of the Chamber notes, with Judge Antonetti dissenting, that they were in occupied territory at the time of their arrest. They were therefore protected by the Fourth Geneva Convention.

939. The Chamber is satisfied that these women, children and elderly people were forcibly removed from their villages of Prenj, Aladinići and Pješivac Greda. The majority of the Chamber is satisfied, with Judge Antonetti dissenting, that this removal at a time when the HVO had control of these villages and there was no fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, the HVO organised the departure of these civilians whom they held first at the Aladinići/Crnići School and then in houses in Pješivac Greda to Blagaj, which was ABiH-held territory. As they were forced to leave their homes, the Chamber considers that these Muslim civilians were deprived of their right to enjoy a normal social and family life. Lastly, with regard to the organisation of the arrests, which always followed the same pattern, and the detention, which was at the same sites for all the villagers, no matter which village in the municipality they were from, and with regard to the departure of these Muslims, of whom almost 1,250 finally left, the Chamber is satisfied that members of the HVO had the intention of forcibly transferring them. The Chamber therefore finds that following the arrest of the women, children and elderly people from the villages of Prenj, Aladinići and Pješivac Greda and their detention at the Aladinići/Crnići School, the HVO forcibly transferred these women, children and elderly people on 2 August 1993, thereby committing an act of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

940. The Chamber also established that after a new wave of arrests of women, children and elderly people from the Municipality of Stolac on 4 August 1993, the HVO held these persons at various locations in the town of Stolac: at the Aladinići/Crnići School,¹⁶⁵⁵ the TGA factory¹⁶⁵⁶ and

¹⁶⁵³ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵⁴ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵⁵ See "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

in the VPD.¹⁶⁵⁷ The HVO gradually sent them to Blagaj via Buna in October and November 1993.¹⁶⁵⁸

941. The Chamber is satisfied that these women, children and elderly people were forcibly removed from their homes in the Municipality of Stolac. The majority of the Chamber is also satisfied, with Judge Antonetti dissenting, that this removal at a time when the HVO had control of the municipality and there was no fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the civilian population to return. On the contrary, the HVO organised the departure of these civilians whom they were holding at various locations in the municipality to Blagaj, which was ABiH-held territory. As they were forced to leave their homes, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Finally, with regard to the organisation of the arrests on the same day, the detention and the systematic departure of these Muslims to Blagaj via Buna, the Chamber is satisfied that the members of the HVO had the intention of forcibly removing the Muslim civilian population from the municipality. The Chamber finds that after the women, children and elderly people still remaining in the Municipality of Stolac had been arrested on 4 August 1993, the HVO forcibly transferred these women, children and elderly people between October and November 1993, thereby committing acts of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

942. However, the Chamber recalls that it did not receive any evidence concerning the removal of the women, children and elderly people from the town of Stolac,¹⁶⁵⁹ the village of Rotimlja¹⁶⁶⁰ or the village of Borojevići¹⁶⁶¹ in July 1993. The Chamber is therefore not in a position to find that the HVO forcibly transferred the Muslim population of the town of Stolac and the villages of Rotimlja and Borojevići in July 1993, and can therefore not find that the HVO engaged in the unlawful transfer of civilians from these locations in the Municipality of Stolac in July 1993.

¹⁶⁵⁶ See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵⁷ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵⁸ See "Removal of the Population of the Town of Stolac" and "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁵⁹ See "Removal of the Population, Damage to the Mosque and Theft of Property in Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁶⁰ See "Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁶⁶¹ See "Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići" in the Chamber's factual findings with regard to the Municipality of Stolac.

VIII. Municipality of Čapljina

943. The Chamber established that members of the HVO, some of whom belonged to the 1st *Knez Domagoj* Brigade, entered the village of Domanovići on about 13 July 1993, evicted the women, children and elderly people from their homes, held them for days, even weeks, at various locations - at the Čapljina Silos and Počitelj in particular - before forcing them to go to ABiH-held territory, primarily Blagaj.¹⁶⁶² The Chamber also noted that between 13 and 16 July 1993, members of the HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their houses and from the village of Bivolje Brdo and held them for days, even weeks, at various locations, including the Čapljina Silos, the Sovići School, a collection centre in Gradina in the village of Počitelj and Doljani, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.¹⁶⁶³ The Chamber further established that members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and transported them in lorries to Buna and then Blagaj on about 13 July 1993 and at the beginning of August 1993.¹⁶⁶⁴ The Chamber noted that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići, some of whom were taken to a house in Tasovčići,¹⁶⁶⁵ before being taken to the Silos on 2 October 1993 and then moved to Blagaj.¹⁶⁶⁶ Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP expelled women, children and elderly people from the town of Čapljina - holding some of them at the Silos - and removed them to territories under the control of the ABiH.¹⁶⁶⁷

¹⁶⁶² See "Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶³ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo", "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards", "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶⁴ See "Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶⁵ See "Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶⁶ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶⁷ See "Events in August and September 1993 in the Town of Čapljina" and "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" in the Chamber's factual findings with regard to the Municipality of Čapljina.

944. The Chamber observes that these inhabitants were not members of any armed force and, with Judge Antonetti dissenting on this point, that they were in occupied territory when they were forced to leave their town and village. They were therefore protected by the Geneva Conventions. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this removal at a time when the HVO had control of the town and the villages and there was no fighting was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons. This is demonstrated by the fact that the HVO had not made any arrangements for the return of the population. On the contrary, the HVO organised the departure of the civilians whom they held for several days, even several weeks, at various locations such as the Silos of Čapljina, the village of Počitelj, a house in Tasovčići and the Sovići School, and then transferred them to territories under the control of the ABiH. As they were forced to leave their homes to go to ABiH-held territory, the Chamber considers that these persons were deprived of their right to enjoy a normal social and family life. Finally, with regard to the organisation of the evictions, arrests and detention as well as the removals of the Muslim women, children and elderly people from these various locations, the Chamber is satisfied that the members of the HVO and the MUP had the intention of forcibly removing them. The Chamber therefore finds that after the women, children and elderly people from the villages of Domanovići, Bivolje Brdo, Počitelj and Višići and the town of Čapljina had been arrested, the HVO forcibly transferred these women, children and elderly people between July and October 1993, thereby committing the crime of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

945. However, the Chamber noted that it did not have any evidence allowing it to establish that members of the HVO evicted and removed women, children and elderly people from the village of Oplići. ¹⁶⁶⁸ As far as the village of Lokve is concerned, the Chamber established that it could not find, solely on the basis of one testimony admitted under Rule 92 *bis* of the Rules, that HVO members removed women, children and elderly people from this village on about 13 July 1993. ¹⁶⁶⁹ The Chamber is therefore not in a position to find that the HVO transferred women, children and elderly people from the villages of Oplići and Lokve to territories under the control of the ABiH or to third countries, thereby committing the crime of unlawful transfer of civilians, a crime recognised by Article 2 of the Statute.

¹⁶⁶⁸ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in and around the Village of Oplići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁶⁶⁹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Lokve" in the Chamber's factual findings with regard to the Municipality of Čapljina.

IX. Gabela Prison

946. As previously established by the Chamber, the HVO organised the release of the Muslim men it was holding at Gabela Prison, some of whom were not members of any armed force and were therefore civilians, on condition that they produce a guarantee - namely a transit visa for Croatia and a letter of guarantee to leave BiH and go to a different country - that they would leave the territory of BiH within 24 hours and go to a different country.¹⁶⁷⁰ It is in this way that in December 1993, hundreds of Muslims being held at Gabela Prison, some of whom were civilians, left for third countries, including Denmark, via Croatia.¹⁶⁷¹

947. The Chamber finds that by making the release of the Muslim men from Gabela Prison conditional on their departure from BiH to go to a third country, the HVO forced them to leave their homes. The Chamber is satisfied that because the destinations of the Muslims in third countries were so far from BiH, they were deprived of their right to enjoy a social, family and cultural life. Furthermore, it is clear to the majority of the Chamber, with Judge Antonetti dissenting, that this was on no account an evacuation carried out for security purposes nor was it justified for compelling military reasons.

948. In addition, the Chamber finds that by forcing the Muslims to choose between remaining in detention or leaving their homes with their entire family, the HVO had the intention of forcibly removing them from BiH.

949. In the light of the evidence, the Chamber finds that in December 1993, the HVO forcibly transferred the Muslim civilian men held in Gabela Prison, thereby committing the crime of unlawful transfer of civilians recognised by Article 2 of the Statute.

Heading 9: Imprisonment (Count 10)

I. Municipality of Prozor

950. The Chamber established that from 24 October 1992, the HVO used the Ripci School to hold Muslim men, members of the TO/ABiH arrested in Prozor, for periods of two days to one week, and, from 25 October 1992, to hold Muslim men of military age, including members of the

¹⁶⁷⁰ See "Authorities Responsible for Managing Departure of Detainees" and "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁶⁷¹ See "Detainees Released from Gabela Prison on Condition that They Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

TO/ABiH, who had been arrested in Paljike.¹⁶⁷² The Chamber also established that elderly men from Paljike were not arrested or detained at the Ripci School, and it cannot find that minors were arrested on this occasion.¹⁶⁷³ Therefore, the evidence does not allow the Chamber to find that persons who were not members of any armed forces, and were thus civilians, were held at the Ripci School. The Chamber cannot find, therefore, that the HVO unlawfully imprisoned civilians at the Ripci School, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

951. The Chamber established that during the summer of 1993, the HVO *Rama* Brigade used the Prozor Secondary School to hold Muslim men ranging from 16 to 60 years of age, who were members of the TO/ABiH, as well as seven detainees under the age of 16 and 40 detainees over the age of 60 who were not members of any armed forces.¹⁶⁷⁴ The Chamber therefore finds that the HVO *Rama* Brigade held prisoners of war and civilians at the Prozor Secondary School and that these civilians were arrested in the course of large-scale campaigns of arrest in the Municipality of Prozor, following which the HVO forces detained these Muslims, irrespective of their status. With regard to the civilians, the HVO authorities did not make any individual assessments of the security reasons which could have justified their detention. The Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslim civilians.

952. In light of the evidence, the Chamber finds that during the summer of 1993, the HVO *Rama* Brigade unlawfully imprisoned civilians at the Prozor Secondary School, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

953. The Chamber already established that in July 1993, the HVO held between 20 and 30 Muslim men from Skrobućani - including a sick Muslim man and a sixteen-year-old minor - in the Unis Building for three or four days.¹⁶⁷⁵ Although the Chamber has very little information on the status of these men, it nevertheless considers that at least one sixteen-year-old minor was a civilian held in the Unis Building by the HVO. These Muslims were arrested and detained irrespective of their status during a large-scale arrest campaign against the inhabitants of the village of Skrobućani

¹⁶⁷² See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷³ See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷⁴ See "Arrival, Transfer and Release of Detainees of the Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷⁵ See "Detention of Muslim Men at the Unis Building" in the Chamber's factual findings with regard to the Municipality of Prozor.

at the end of July 1993.¹⁶⁷⁶ The HVO authorities did not make any individual assessments of the security reasons that could have justified their detention. The Muslim civilian did not have any possibility of challenging his detention with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining this young sixteen-year-old civilian.

954. In the light of the evidence, the Chamber therefore finds that at the end of July 1993, the HVO unlawfully imprisoned at least one civilian in the Unis Building, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

955. The Chamber already established that from the end of June and in July 1993, members of the Prozor HVO Military Police held Muslims - members of the HVO or the TO/ABiH - at the fire station for several days.¹⁶⁷⁷ The Chamber therefore notes that prisoners of war were detained and can therefore not find that the HVO unlawfully imprisoned civilians at the fire station and committed the crime of imprisonment recognised by Article 5 of the Statute.

956. The Chamber established that Muslims were held in the buildings of the Prozor MUP between July and November 1993.¹⁶⁷⁸ However, as the Chamber has no information on the status of these detainees, it cannot find that the HVO unlawfully imprisoned civilians in the buildings of the Prozor MUP and thereby committed the crime of imprisonment recognised by Article 5 of the Statute.

957. The Chamber established that between 19 August 1993 and 9 September 1993, the HVO held Muslim men - who had not been identified as "prisoners of war" by Țeljko Šiljeg and who were described as "civilians" by *Rudy Gerritsen* and *Peter Hauenstein*, ECMM observers - at the Prozor Tech School.¹⁶⁷⁹ The Chamber considers that it can give credence to the civilian status asserted by these two witnesses given that they were both officers who were performing their duties as military observers at the time of the events. The Chamber has no information on the circumstances surrounding their arrest and subsequent detention, on whether any individual assessments of the security reasons that could have led to their detention were made, or on whether these civilians were able to challenge their detention with the relevant authorities. However, the Chamber did establish that the detainees were regularly used to perform labour on the front line. In

¹⁶⁷⁶ See "Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷⁷ See "Detention of Muslim Men at the Prozor Fire Station" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷⁸ See "Organisation, Operation and Number of Detainees in the Prozor MUP Buildings" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁷⁹ See "Detention of Muslim Men at the Tech School" in the Chamber's factual findings with regard to the Municipality of Prozor.

the light of these circumstances, the Chamber is satisfied by a majority, with Judge Antonetti dissenting, that the HVO did not hold these civilians because they posed a threat to the security of its armed forces, and that it had the intention of holding them without any legal justification. This leads the Chamber to find that the HVO unlawfully imprisoned civilians at the Prozor Tech School between 19 August and 9 September 1993, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

958. The Chamber established that in late July and beginning of August 1993, HVO soldiers and military policemen, under the command of Ilija Franjić, Commander of the 4th Company of the 6th Battalion of the Military Police, arrested Muslim women, children and elderly people from Prozor Municipality and held them in the Podgraĉe neighbourhood and in the villages of Lapsunj and Duge in order to accommodate the Croats who had recently arrived in the municipality.¹⁶⁸⁰ The Chamber therefore finds that the HVO held civilians in Podgraĉe, Lapsunj and Duge and that these civilians had been arrested in the course of a large-scale operation to make room for the newly-arrived Croats. The Chamber is satisfied by a majority, with Judge Antonetti dissenting, that the HVO did not hold these civilians because they posed a threat to the security of their armed forces, and that it had the intention of holding them without any legal justification.

959. In light of the evidence, the Chamber therefore finds that between late July and the beginning of August 1993, the HVO unlawfully imprisoned civilians in Podgraĉe, Lapsunj and Duge, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

II. Municipality of Gornji Vakuf

960. The Chamber noted that following the HVO attack on the villages of Duša, Hrasnica, Uzriĉje and Ťdrimci on 18 January 1993, the HVO arrested men who were members of the ABiH, but also women, children and elderly people, and then held them in houses in these villages as well as at the Trnovaĉa Furniture Factory and in houses in Trnovaĉa, Volari and Paloć.¹⁶⁸¹

961. The Chamber therefore finds that the HVO arrested civilians in the villages of Duša, Hrasnica, Uzriĉje and Ťdrimci and held them in houses in these villages, at the Trnovaĉa Furniture

¹⁶⁸⁰ See "Arrests and Placement of Women, Children and Elderly People in Houses in Podgraĉe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁶⁸¹ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša", "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica", "Allegations of Removal of the Villagers from the Village of Uzriĉje", "Allegations Regarding Detention and Removal of Women and Children from the Village of Ťdrimci", "Organisation and Operation of the Trnovaĉa Furniture Factory as a Detention Facility" and "Exchanges of the Men from Duša and the Transfer of the Men from Hrasnica to a Detention Centre in Prozor" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

Factory and in houses in Trnovača, Volari and Paloć, sometimes for over two months;¹⁶⁸² that these civilians had been arrested by the HVO in the course of large-scale operations during which HVO forces arrested and then detained all the Muslims, irrespective of their status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities.

962. The Chamber therefore finds that following the attack on 18 January 1993, the HVO unlawfully imprisoned civilians from the villages of Duša, Hrasnica, Uzričje and Țdrimci in houses in these villages, at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć, thereby committing the crime of imprisonment, a crime against humanity recognised by Article 5 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

963. The Chamber established that after the attack on the villages of Sovići and Doljani on 17 April 1993, the HVO held Muslim men, including members of the ABiH, women, children and elderly people, at the Sovići School between 17 April and 5 May 1993.¹⁶⁸³ The Chamber established that members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police were there to guard the detainees or conduct interrogations.¹⁶⁸⁴ The Chamber finds that the members of the ABiH held at the Sovići School were prisoners of war; that the Muslim women, children and elderly people held at this location were not members of any armed forces in the conflict and were thus civilians; that civilians had been arrested en masse after the attack on the villages of Sovići and Doljani on 17 April 1993 and that following these operations, HVO forces detained all the Muslims, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons that would have led them to detain these civilians. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. The Chamber therefore finds that between 17 April and 5 May 1993, the HVO unlawfully imprisoned civilians at the Sovići School, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

¹⁶⁸² See "Detention of Villagers from the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶⁸³ See "Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶⁸⁴ See "Organisation and Operation of the Sovići School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

964. The Chamber established that following the attack on the villages of Sovići and Doljani on 17 April 1993, HVO soldiers, including "Tuta's" men and former members of the HOS, held women, children and elderly people in six or seven houses in Junuzovići between 19 April and 4 or 5 May 1993.¹⁶⁸⁵ The Chamber therefore finds that civilians were held in the houses in Junuzovići; that these civilians had been arrested after the attack on the villages of Sovići and Doljani on 17 April 1993 and that following these operations, HVO forces detained about 400 Muslims, irrespective of their status. It follows that the HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The Muslim civilians in detention did not have the possibility of challenging their detention with the relevant authorities. The Chamber therefore finds that between 19 April and 4 or 5 May 1993, the HVO unlawfully imprisoned civilians in the hamlet of Junuzovići, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

965. The Chamber established that HVO soldiers, including members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB, held eight or nine ABiH soldiers at the Fish Farm, at least on 20 April 1993.¹⁶⁸⁶ Thus, the Chamber only has information on the detention of prisoners of war at the Fish Farm and no evidence referring to the presence of civilians. Consequently, the Chamber cannot find, in relation to these events, that the HVO unlawfully imprisoned civilians at the Fish Farm on 20 April 1993, or that the HVO committed the crime of imprisonment recognised by Article 5 of the Statute..

IV. Municipality of Mostar

966. The Chamber noted that between 9 and 11 May 1993, HVO armed forces, including members of the *Vinko Škrobo* ATG and the HVO Military Police, forced the Muslim inhabitants of West Mostar to leave their homes and held them for several hours at the Mechanical Engineering Faculty, the Tobacco Institute, the MUP Building and the Velež Stadium, where they separated the men from the women and children. These Muslims were then transported mainly to the Heliodrom, where they were imprisoned for several days before they were released and able to return to their homes.¹⁶⁸⁷ The Chamber established that following these arrests, the HVO separated the Muslims

¹⁶⁸⁵ See "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići", "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶⁸⁶ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁶⁸⁷ See "Fall of the Vranica Building on 10 May 1993", "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993", "Fate of the 12 ABiH Soldiers", "Tobacco Institute" and "MUP Building" in the Chamber's factual findings with regard to the Municipality of Mostar.

from the Croats and released the Croats.¹⁶⁸⁸ Among the Muslims who had been arrested and detained, there were women, children and elderly people, as well as men who were members of the ABiH or the HVO or ordinary inhabitants of West Mostar.¹⁶⁸⁹ The Chamber also noted that in the second half of May 1993, HVO soldiers, particularly members of the *Benko Penavić* ATG, systematically expelled a large number of Muslims in West Mostar from their homes and held some of them at the Heliodrom.¹⁶⁹⁰ In addition, the Chamber found that following the attack on 30 June 1993, the HVO arrested several thousand Bosnian Muslim men in Mostar and its surroundings, including members of the ABiH and Muslim soldiers of the HVO, as well as boys about 14 years of age and men over 60 years of age, and sometimes as old as 84, and held them at the Heliodrom or Dretelj Prison.¹⁶⁹¹

967. The Chamber therefore finds that between 9 and 11 May 1993, during the second half of May 1993 and following the attack on 30 June 1993, the HVO held Muslim civilians at the Mechanical Engineering Faculty, the Tobacco Institute, the MUP Building, the Velet Stadium, the Heliodrom and Dretelj Prison, and that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status. It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

968. The Chamber therefore finds that between 9 and 11 May 1993, during the second half of May 1993 and, finally, following the attack on 30 June 1993, the HVO - and members of the *Vinko Škrobo* and *Benko Penavić* ATGs and of the Military Police in particular - unlawfully imprisoned civilians at various HVO detention centres, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

969. However, the Chamber was not able to establish that Muslims from West Mostar were taken and imprisoned in HVO prisons and detention centres in June 1993 and from the second half of July

¹⁶⁸⁸ See "Fall of the Vranica Building on 10 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶⁸⁹ See "Fall of the Vranica Building on 10 May 1993" and "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶⁹⁰ See "Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶⁹¹ See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

1993 up to March 1994.¹⁶⁹² The Chamber is therefore unable to find that during these periods, the HVO committed the crime of imprisonment, a crime recognised by Article 5 of the Statute.

V. The Heliodrom

970. The Chamber found that between 9 May 1993 and 18 or 19 April 1994, the HVO held women, Muslim members of the HVO, members of the ABiH and men who were not members of any armed forces at the Heliodrom.¹⁶⁹³ The Chamber finds that the HVO held prisoners of war and civilians at the Heliodrom and that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁶⁹⁴ With regard to the civilians, the authorities did not make any individual assessments of the security reasons which could have led to their detention. Nor did the detained Muslim civilians have the possibility of challenging their detention with the relevant authorities.

971. In the light of the evidence, the Chamber finds that between 9 May 1993 and 18 or 19 April 1994, the HVO unlawfully imprisoned civilians at the Heliodrom, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

VI. Vojno Detention Centre

972. The Chamber established that between August 1993 and January 1994, the HVO held ABiH members and persons who were not members of any armed forces, whom the HVO authorities themselves described as civilians, at the Vojno Detention Centre.¹⁶⁹⁵ The Chamber therefore finds that prisoners of war as well as civilians were held in the Vojno Detention Centre. However, the Chamber has no information on the circumstances surrounding the arrest and subsequent detention of the civilians, and on whether any individual assessments of the security reasons that could have led to their detention were made; nor does it have information on whether these civilians were able to challenge their detention with the relevant authorities. In the absence of such information, the Chamber cannot find, beyond reasonable doubt, that the HVO unlawfully imprisoned civilians at

¹⁶⁹² See "Crimes Allegedly Committed in June 1993", "Crimes Alleged to Have Been Committed in July and August 1993 in West Mostar" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁶⁹³ See "Arrival of Detainees Following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁹⁴ See "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993", "Arrival of Detainees Following Waves of Arrests in the Second Half of May 1993" and "Arrival of Detainees Following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom. With regard to the fact that only Muslims were held at the Heliodrom, see "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

the Vojno Detention Centre and committed the crime of imprisonment recognised by Article 5 of the Statute.

VII. Ljubuški Municipality and Detention Centres

973. The Chamber will address the detention of Muslims from the Municipality of Ljubuški arrested by the HVO on 14 and 15 August 1993 and held at the Heliodrom when it examines the count of imprisonment concerning this detention centre.

974. With regard to the Muslims detained at Ljubuški Prison, the Chamber established that the HVO detained Muslim men and women who were members of the ABiH or the HVO, as well as children, teachers and politicians who were not members of any armed forces.¹⁶⁹⁶ The Chamber finds that between April 1993 and March 1994, the HVO held civilians at Ljubuški Prison and that these civilians had been arrested in the course of large-scale operations during which the HVO forces detained all the Muslims, irrespective of their status.¹⁶⁹⁷ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intent to detain these Muslims. In light of the evidence, the Chamber therefore finds that between April 1993 and March 1994, the HVO unlawfully imprisoned civilians at Ljubuški Prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

975. With regard to the Vitina-Otok Camp, the Chamber established that the HVO used it to hold Muslim men between 20 and 60 years of age, some of whom were members of the ABiH, while others were not members of any armed forces.¹⁶⁹⁸ The Chamber therefore finds that in July and August 1993, the HVO held civilians at the Vitina-Otok Camp and that a large number of these civilians had been arrested irrespective of their status.¹⁶⁹⁹ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the

¹⁶⁹⁵ See "Organisation of the Vojno Detention Centre", "Status of Detainees at the Vojno Detention Centre" and "Detainees Sent from the Heliodrom for Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁶⁹⁶ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁹⁷ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁹⁸ See "Arrival and Relocation of Detainees from the Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁶⁹⁹ See "Arrival and Relocation of Detainees from the Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention to detain these Muslims. In the light of the evidence, the Chamber therefore finds that in July and August 1993, the HVO unlawfully imprisoned civilians at the Vitina-Otok Camp, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

VIII. Municipality of Stolac

976. The Chamber established that when the HVO requisitioned Koštana Hospital to use it as a detention centre, HVO members transferred the patients who were there to the Grabovina barracks on 10 May 1993.¹⁷⁰⁰ The Chamber observes that insofar as these persons were admitted to Koštana Hospital, which specialises in treating bone diseases, it is in a position to find that these persons were not part of any armed forces at the time of their detention, and were thus civilians.

977. The Chamber established that these sick people were held in these barracks without medical aid until they were transferred to ABiH-held territory on 25 or 26 July 1993.¹⁷⁰¹ The Chamber notes that HVO members detained all the patients from Koštana Hospital without making any individual assessments of the security risk they could have posed to the HVO. Furthermore, these detainees did not have the possibility of challenging their detention with the relevant authorities.

978. Thus, the Chamber finds that from 10 May to 25 or 26 July 1993, the HVO unlawfully imprisoned patients from Koštana Hospital at the Grabovina barracks, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

979. As the Chamber established, on 20 April 1993, the 3rd Company of the 3rd Battalion of the HVO Military Police, as well as HVO soldiers, arrested prominent Muslims in the Municipality of Stolac, including the director of the Koštana Hospital, a teacher and two professors, and held them at the Grabovina barracks.¹⁷⁰² The Chamber finds that the persons arrested on 20 April 1993 and held at the Grabovina barracks did indeed include persons who were not members of any armed forces in the conflict and were thus civilians; that these civilians had been arrested in the course of a large-scale operation specifically targeting prominent individuals from the municipality and, following this operation, the HVO forces detained all the Muslims, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of

¹⁷⁰⁰ See "Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰¹ See "Removal of the Sick from Koštana Hospital to Territories Under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

challenging their detention with the relevant authorities either. The Chamber finds that from 20 April 1993, the HVO unlawfully imprisoned prominent Muslim civilians from the Municipality of Stolac, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

980. The Chamber established that in July 1993, the Military Police and the 1st *Knez Domagoj* Brigade of the HVO conducted a campaign of arrests of Muslim men of military age in the Municipality of Stolac – particularly in the villages of Pješivac Greda, Stolac, Prenj and Aladinići; this campaign of arrests concerned Muslim members of the HVO and ABiH soldiers, as well as men who were not members of any armed forces. These men were subsequently held in the prisons of Dretelj, Gabela and Ljubuški and at the Heliodrom.¹⁷⁰³ The Chamber therefore finds that the 1st *Knez Domagoj* Brigade of the HVO and the Military Police arrested members of the armed forces as well as civilians in the course of a large-scale operation following which both prisoners of war and civilians were detained, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. The Chamber therefore finds that the HVO unlawfully imprisoned civilians in the course of its campaign of arrests in July 1993, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

981. The Chamber observed that on 6 or 7 July 1993, HVO soldiers arrested women from the village of Prenj and held them at the Aladinići/Crnići School.¹⁷⁰⁴ The Chamber furthermore established that on 13 July 1993, HVO soldiers and a military policeman arrested women, children and elderly people from the village of Aladinići and held them first in a shop in the village and then at the Aladinići/Crnići School.¹⁷⁰⁵ On that same date, 13 July 1993, HVO soldiers arrested the women, children and elderly people from the village of Pješivac Greda, took them to the Aladinići/Crnići School and held them there.¹⁷⁰⁶ In addition, the Chamber observed that around 19 July 1993, HVO soldiers took the persons held at the Aladinići/Crnići School to the village of Pješivac Greda and held them in houses until 2 August 1993.¹⁷⁰⁷ Finally, the Chamber established

¹⁷⁰² See "Arrests of Prominent Muslims in the Municipality of Stolac around 20 April 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰³ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰⁴ See "Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰⁵ See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰⁶ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰⁷ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

that after a new wave of arrests of women, children and elderly people from the Municipality of Stolac, on 4 August 1993, the HVO held these persons at various locations in the town of Stolac, at the Aladinići/Crnići School,¹⁷⁰⁸ the TGA Factory¹⁷⁰⁹ and in the VPD.¹⁷¹⁰ The HVO gradually sent them to Blagaj via Buna in October and November 1993.¹⁷¹¹

982. The Chamber finds that the HVO held women, children and elderly people at various locations and that these persons were civilians who had been arrested en masse in July 1993 and at the beginning of August 1993 and held by the HVO, irrespective of their civilian status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. The Chamber therefore finds that between July and November 1993, the HVO unlawfully imprisoned civilians at various locations in the Municipality of Stolac, including the Aladinići/Crnići School, private houses in the village of Pješivac Greda, the TGA Factory and the VPD, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

983. Lastly, the Chamber established that Muslim men who were members of the HVO as well as the ABiH, or did not belong to any armed forces, were arrested by the HVO in the Municipality of Stolac and held between May and October 1993 at Koštana Hospital before being gradually moved to other detention centres such as Gabela and Dretelj prisons.¹⁷¹² The Chamber finds that the HVO held civilians at Koštana Hospital between May and October 1993, without taking their civilian status into consideration. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. The Chamber therefore finds that from May to October 1993, the HVO unlawfully imprisoned civilians at Koštana Hospital, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

¹⁷⁰⁸ See "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁰⁹ See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷¹⁰ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷¹¹ See "Removal of the Population of the Town of Stolac" and "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷¹² See "Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks" in the Chamber's factual findings with regard to the Municipality of Stolac.

IX. Municipality of Čapljina

984. The Chamber established that in April 1993, members of the HVO arrested Muslim men from the Municipality of Čapljina, some of whom were not members of any armed forces and were thus civilians, and held them in the Grabovina barracks and Dretelj Prison. However, the Chamber was not able to determine the length of their detention.¹⁷¹³ The Chamber finds that at least in April 1993, civilians from the Municipality of Čapljina were held at the Grabovina barracks and Dretelj Prison; these civilians had been arrested in the course of a campaign of arrests specifically targeting Muslim men from the municipality, following which the HVO forces detained these Muslims, irrespective of their status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

985. The Chamber therefore finds that in April 1993, the HVO unlawfully imprisoned civilians from the Municipality of Čapljina at the Grabovina Barracks and Dretelj Prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

986. In addition, the Chamber established that between 30 June 1993 and mid-July 1993, members of the 1st *Knez Domagoj* Brigade, the 3rd Company of the 3rd Battalion of the Military Police and the Čapljina MUP arrested Muslim men from the Municipality of Čapljina - some of whom were not members of any armed forces - and held them in Dretelj and Gabela prisons and at the Heliodrom.¹⁷¹⁴ The Chamber finds that between 30 June 1993 and mid-July 1993, prisoners of war and civilians from the Municipality of Čapljina – particularly from the villages of Bivolje Brdo, Višići, Domanovići and Lokve - were held in Dretelj and Gabela prisons and at the Heliodrom; that these civilians had been arrested in the course of a large-scale operation specifically targeting Muslim men from the municipality and that, following this operation, the HVO forces detained the Muslims, irrespective of their status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The Muslim civilians did not have the possibility of challenging their detention with the relevant authorities.

¹⁷¹³ See "Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷¹⁴ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

987. The Chamber therefore finds that between 30 June 1993 and mid-July 1993, the HVO unlawfully imprisoned civilians from the Municipality of Čapljina in Dretelj and Gabela prisons and at the Heliodrom, thereby committing the crime of imprisonment, a crime recognised by Article 5 of the Statute.

988. The Chamber also established that between July and October 1993, the HVO held hundreds of women, children and elderly people from the villages of Domanovići, Višići and Bivolje Brdo and the town of Čapljina at the Silos of Čapljina, mostly for several days.¹⁷¹⁵ For instance, the Chamber noted that on 13 July 1993, at least 420 Muslim women, children and elderly people from seven different villages located between Stolac and Čapljina were placed in a convoy of six armoured lorries and transported to the Silos, where they spent three days.¹⁷¹⁶ The Chamber therefore finds that between July and October 1993, civilians were held at the Silos; that these civilians had been arrested by the HVO in the course of large-scale operations throughout the Municipality of Čapljina, following which they were detained by the HVO forces, irrespective of their civilian status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

989. The Chamber therefore finds that between July and October 1993, the HVO unlawfully imprisoned civilians from the Municipality of Čapljina at the Čapljina Silos, thereby committing the crime of imprisonment, a crime recognised by Article 5 of the Statute.

990. Furthermore, the Chamber established that within the framework of the eviction operations carried out by the HVO in the villages of the Municipality of Čapljina in July and August 1993, members of the MUP and HVO soldiers took women, children and elderly people from the Municipality of Čapljina to various locations, including houses - particularly in the villages of Tasovčići and Lokve - the Sovići School and a collection centre in Gradina in the village of Počitelj, and held them there, even for weeks at a time. The Chamber finds that in July and August 1993, civilians were held at various locations in the Municipality of Čapljina; that these civilians had been arrested by the HVO in the course of large-scale operations after which HVO forces detained them, irrespective of their civilian status. The HVO authorities did not make any

¹⁷¹⁵ The Chamber also notes that the men who had previously been held in isolation cells in Dretelj Prison (about 120 detainees, some of whom were not members of any armed forces) were transferred from Dretelj Prison shortly before 6 September 1993 and the first visit by the ICRC to this prison, and spent two days at the Silos. See "Incarceration of Muslims at the Silos" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷¹⁶ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" in the Chamber's factual findings with regard to the Municipality of Čapljina.

individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

991. The Chamber therefore finds that in July and August 1993, the HVO unlawfully imprisoned civilians from the Municipality of Čapljina at various locations, including houses and a school, thereby committing the crime of imprisonment, a crime recognised by Article 5 of the Statute.

992. The Chamber recalls that the allegations in paragraph 184 of the Indictment concerning the detention of Muslim men in Koštana Hospital were analysed under the counts relating to the events that took place in the Municipality of Stolac.¹⁷¹⁷

X. Dretelj Prison

993. The Chamber established that between April and October 1993, the HVO held members of the ABiH as well as persons who were not members of any armed forces, and were thus civilians, at Dretelj Prison; that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁷¹⁸ The HVO authorities did not make any individual assessments of the security reasons which could have led to the detention of these civilians. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

994. The Chamber therefore finds that between April and October 1993, the HVO unlawfully imprisoned civilians at Dretelj Prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

XI. Gabela Prison

995. The Chamber established that the HVO used Gabela Prison to hold Muslim men aged between 16 and 60 who were members of the ABiH or the HVO, as well as Muslim men who were not members of any armed forces, and were thus civilians.¹⁷¹⁹

¹⁷¹⁷ See "Municipality of Stolac" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity) and Count 11 (wilful killing, a grave breach of the Geneva Conventions).

¹⁷¹⁸ See "Arrival of Detainees at Dretelj Prison" and "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷¹⁹ See "Arrival of Detainees at Gabela Prison" and "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

996. The Chamber finds that between April 1993 and December 1993, the HVO held civilians at Gabela Prison; these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁷²⁰ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either.¹⁷²¹ These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

997. In light of the evidence, the Chamber therefore finds that between April 1993 and December 1993, the HVO unlawfully imprisoned civilians at Gabela Prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

XII. Municipality of Vareš

998. The Chamber previously established that on 18 October 1993, HVO soldiers arrested four ABiH members and two Muslim men - who were not members of any armed forces and were thus civilians - in Pajtov Han, and took them to the Vareš Military Police prison, where they were detained by members of the Military Police platoon attached to the *Bobovac* Brigade until 23 October 1993.¹⁷²² The Chamber finds that the HVO held prisoners of war and civilians at the Vareš Military Police prison and that these civilians had been arrested and detained, irrespective of their status. The members of the Military Police platoon attached to the *Bobovac* Brigade made no individual assessments of any possible compelling security reasons which might have led to their detention. The Chamber notes that the Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In light of the evidence, the Chamber therefore finds that between 18 and 23 October 1993, the HVO unlawfully imprisoned civilians at the Vareš Military Police prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

999. The Chamber also established that from the morning of 23 October 1993 to 24 October 1993, members of the HVO, some of whom belonged to the *Maturice* special unit, arrested Muslim men from the town of Vareš, including ABiH members and others who were not part of any armed

¹⁷²⁰ See "Arrival of Detainees at Gabela Prison" and "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷²¹ See "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷²² See "Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention" in the Chamber's factual findings with regard to the Municipality of Vareš.

forces and were thus civilians.¹⁷²³ The Chamber noted that from 23 October 1993 at dawn, HVO members went to Muslim homes, made the Muslim men come out, some of whom were still in their underwear, and took them to the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison, where they detained them - under the surveillance of members of the Military Police platoon attached to the *Bobovac* Brigade, members of the *Bobovac* Brigade itself and members of the Vareš MUP - up to 4 November 1993 at the latest.¹⁷²⁴ The Chamber therefore finds that the HVO held prisoners of war and civilians at the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison; that these civilians had been arrested in the course of large-scale operations to arrest and detain all the Muslims from the town of Vareš, which is borne out by the report that Ivica Rajić himself sent to Milivoj Petković on 23 October 1993 informing him that the town of Vareš had been "cleansed" and that all the Muslims of military age had been placed "under surveillance"; that the HVO then detained these Muslims, irrespective of their status; that the HVO authorities made no individual assessments of any possible compelling security reasons which could have led to the detention of these civilians; and that the Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In light of the evidence, the Chamber therefore finds that between 23 October and 4 November 1993 at the latest, the HVO unlawfully imprisoned civilians in the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison, thereby committing the crime of imprisonment recognised by Article 5 of the Statute.

Heading 10: Unlawful Confinement of Civilians (Count 11)

I. Municipality of Prozor

1000. The Chamber established that from 24 October 1992, the HVO used the Ripci School to hold Muslim men, who were members of the TO/ABiH and had been arrested in Prozor, for periods ranging from two days to one week and, from 25 October 1992, to hold Muslim men of military age, including members of the TO/ABiH, who had been arrested in Paljike.¹⁷²⁵ The Chamber also established that the elderly men from Paljike were not arrested or held at the Ripci School, and that

¹⁷²³ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁷²⁴ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" and "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁷²⁵ See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

it cannot find that minors were arrested on this occasion.¹⁷²⁶ Thus, the evidence does not allow the Chamber to find that the Ripci School was used to hold persons who were not members of any armed forces, and were thus civilians who had fallen into enemy hands and were protected by the Geneva Conventions. Consequently, the Chamber is unable to find that the HVO unlawfully imprisoned civilians at the Ripci School and committed the crime of unlawful detention of a civilian recognised by Article 2 of the Statute.

1001. The Chamber established that at the Prozor Secondary School in the summer of 1993, the HVO *Rama* Brigade held Muslim men - members of the TO/ABiH aged between 16 and 60 years, as well as seven detainees under the age of 16 and 40 detainees over the age of 60 who were not members of any armed forces.¹⁷²⁷ The Chamber therefore finds that the HVO *Rama* Brigade held prisoners of war and civilians who had fallen into enemy hands and were thus protected by the Geneva Conventions, at the Prozor Secondary School; these civilians had been arrested in the course of large-scale campaigns of arrest in the Municipality of Prozor, following which HVO armed forces detained the Muslims, irrespective of their status. With regard to the civilians, the HVO authorities did not make any individual assessments of the security reasons which could have justified these detentions. The Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslim civilians.

1002. In light of the evidence, the Chamber therefore finds that in the summer of 1993, the HVO unlawfully imprisoned civilians at the Prozor Secondary School, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1003. The Chamber already established that in July 1993, the HVO held between 20 and 30 Muslim men from Skrobućani, including a sick Muslim man and a sixteen-year-old minor, in the Unis Building for three or four days.¹⁷²⁸ Although the Chamber has very little information on the status of these men, it nevertheless considers that at least one sixteen-year-old minor was a civilian held in the Unis Building by the HVO. The Chamber finds that this young man had fallen into the hands of the enemy, and as a civilian in detention, was protected under the Geneva Conventions. The Chamber recalls that he was arrested during a large-scale campaign of arrests in late July 1993

¹⁷²⁶ See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷²⁷ See "Arrival, Transfer and Release of Detainees of the Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷²⁸ See "Detention of Muslim Men at the Unis Building" in the Chamber's factual findings with regard to the Municipality of Prozor.

targeting the inhabitants of Skrobućani village who were detained irrespective of their status.¹⁷²⁹ The HVO authorities did not make any individual assessments of the security reasons that could have justified these detentions. Nothing indicates that this young Muslim man had the possibility of challenging his confinement with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed intend to detain this young sixteen-year-old civilian.

1004. In light of the evidence, the Chamber therefore finds that in July 1993, the HVO unlawfully imprisoned at least one civilian in the Unis Building, thereby committing the crime of unlawful confinement of a civilian recognised by Article 2 of the Statute.

1005. The Chamber established that from late June to July 1993, HVO military policemen held Muslims - members of the HVO or the TO/ABiH - at the fire station for several days.¹⁷³⁰ The Chamber therefore notes that these detainees were prisoners of war and can therefore not find that the HVO unlawfully imprisoned civilians at the fire station and committed the crime of unlawful confinement of a civilian, recognised by Article 2 of the Statute.

1006. The Chamber already established that Muslims were held in buildings of the Prozor MUP between July and November 1993.¹⁷³¹ However, as the Chamber has no information on the status of these detainees, it cannot find that the HVO unlawfully imprisoned civilians in the buildings of the Prozor MUP and thereby committed the crime of unlawful confinement of a civilian recognised by Article 2 of the Statute.

1007. The Chamber established that between 19 August 1993 and 9 September 1993, the HVO used the Prozor Tech School to hold Muslim men, who had not been identified as "prisoners of war" by Țeljko Šiljeg and who were described as "civilians" by *Rudy Gerritsen* and *Peter Hauenstein*, ECMM observers.¹⁷³² The Chamber considers that it can give credence to the description these two witnesses provided of these Muslim men as civilians, given that they are both officers who were performing their duties as military observers at the time of the events. The Chamber therefore finds that civilians were detained at the Prozor Tech School and, as they were in detention while in enemy hands, they were protected by the Geneva Conventions. The Chamber has no information on the circumstances under which they were arrested and subsequently confined,

¹⁷²⁹ See "Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³⁰ See "Detention of Muslim Men at the Prozor Fire Station" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³¹ See "Organisation, Operation and Number of Detainees in the Prozor MUP Buildings" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³² See "Detention of Muslim Men at the Tech School" in the Chamber's factual findings with regard to the Municipality of Prozor.

whether any individual assessments of the security reasons that could have led to their detention were made, or whether these civilians were able to challenge their confinement with the relevant authorities. However, the Chamber did establish that the detainees were regularly used to perform labour on the front line. The majority of the Chamber, with Judge Antonetti dissenting, considers that the only logical inference it can draw from these circumstances is that the HVO did not hold these civilians because they posed a threat to the security of its armed forces and that it had the intention of holding them without any legal justification. The Chamber therefore finds that the HVO unlawfully imprisoned civilians at the Prozor Tech School between 19 August and 9 September 1993, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1008. The Chamber already established that HVO soldiers and military policemen under the command of Ilija Franjić, Commander of the 4th Company of the 6th Battalion of the Military Police, arrested Muslim women, children and elderly people from Prozor Municipality in late July and early August 1993 and held them in Podgraĉe and the villages of Lapsunj and Duge in order to accommodate newly-arrived Croats in the municipality.¹⁷³³ The Chamber therefore finds that the HVO held civilians in Podgraĉe, Lapsunj and Duge and that these civilians had been arrested in the course of a large-scale operation the purpose of which was to make room for the newly-arrived Croats. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities.

1009. In addition, with regard to the conditions of confinement in the Podgraĉe neighbourhood - a factor on the basis of which it is also possible to assess the lawfulness of this confinement - the Chamber already established that the women, children and elderly people held in the houses of this Prozor neighbourhood in July and August 1993 were held there in a climate of terror, with between 20 and 80 persons in each house, and they had to sleep on the floor.¹⁷³⁴ The Chamber already established that the houses in the village of Lapsunj in which women, children and elderly people were held from late July and in August 1993 were overcrowded, hygiene was deplorable and the detainees slept on the floor and did not have access to enough water.¹⁷³⁵ Lastly, with regard to the village of Duge, the Chamber already established that the houses in which women, children and

¹⁷³³ See "Arrests and Placement of Women, Children and Elderly People in Houses in Podgraĉe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³⁴ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³⁵ See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

elderly people were held in August 1993 were overcrowded and the detainees slept on the floor and did not have enough to eat.¹⁷³⁶

1010. In light of the evidence, the Chamber finds that between late July and early August 1993, the HVO unlawfully imprisoned civilians in Podgrađe, Lapsunj and Duge, thereby committing the crime of unlawful confinement of a civilian recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

1011. The Chamber observed that following the HVO attack on the villages of Duša, Hrasnica, Uzričje and Țdrimci on 18 January 1993, the HVO arrested men who were members of the ABiH, but also women, children and elderly people - civilians who had fallen into enemy hands and were thus protected under the Fourth Geneva Convention - and held them in houses in these villages, as well as at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć.¹⁷³⁷

1012. The Chamber finds that the HVO arrested civilians in the villages of Duša, Hrasnica, Uzričje and Țdrimci; that it held them in houses in these villages, at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć, sometimes for over two months,¹⁷³⁸ that these civilians had been arrested by the HVO in the course of large-scale operations during which HVO forces arrested and then detained all the Muslims, irrespective of their status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities.

1013. The Chamber therefore finds that following the attack on 18 January 1993, the HVO unlawfully confined civilians from the villages of Duša, Hrasnica, Uzričje and Țdrimci in houses in these villages, at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

¹⁷³⁶ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷³⁷ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša", "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica", "Allegations of Removal of the Villagers from the Village of Uzričje", "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci", "Organisation and Operation of the Trnovača Furniture Factory as a Detention Facility" and "Exchanges of the Men from Duša and the Transfer of the Men from Hrasnica to a Detention Centre in Prozor" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁷³⁸ See "Detention of Villagers from the Village of Uzričje" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

III. Municipality of Jablanica (Sovići and Doljani)

1014. The Chamber established that after the attack on the villages of Sovići and Doljani on 17 April 1993, the HVO held Muslim men, including members of the ABiH, women, children and elderly people, at the Sovići School between 17 April and 5 May 1993.¹⁷³⁹ The Chamber established that members of the 3rd *Mijat Tomić* Battalion, the KB and the Military Police were there to guard the detainees or conduct interrogations.¹⁷⁴⁰ The Chamber therefore finds that prisoners of war as well as civilians were held at the Sovići School; that these civilians had been arrested en masse after the attack on the villages of Sovići and Doljani on 17 April 1993 and following these operations, the HVO forces detained all the Muslims, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities.

1015. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber noted that the detainees, of whom there were about one hundred at the Sovići School on 18 April 1993, were crammed into two classrooms; that hygiene was rudimentary and during the first few days of their detention, they lacked food and water.¹⁷⁴¹

1016. The Chamber therefore finds that between 17 April and 5 May 1993, the HVO unlawfully held civilians at the Sovići School, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1017. The Chamber established that after the attack on the villages of Sovići and Doljani on 17 April 1993, HVO soldiers, including "Tuta's" men, held women, children and elderly people in six or seven houses in Junuzovići between 19 April and 4 or 5 May 1993.¹⁷⁴² The Chamber therefore finds that civilians were held in the houses in Junuzovići; that these civilians had been arrested after the attack on the villages of Sovići and Doljani on 17 April 1993 and, following these operations,

¹⁷³⁹ See "Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁷⁴⁰ See "Organisation and Operation of the Sovići School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁷⁴¹ See "Conditions of Confinement and Treatment of Detainees at Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁷⁴² See "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići", "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

the HVO forces detained about 400 Muslims, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities.

1018. The Chamber therefore finds that between 19 April and 4 or 5 May 1993, the HVO unlawfully held civilians in the hamlet of Junuzovići, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1019. The Chamber established that HVO soldiers, including members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB, held eight to nine ABiH soldiers at the Fish Farm, at least on 20 April 1993.¹⁷⁴³ Thus, the Chamber only has information on the detention of prisoners of war at the Fish Farm and no evidence referring to the presence of civilians. Consequently, the Chamber cannot find that the HVO unlawfully confined civilians at the Fish Farm on 20 April 1993, nor that the HVO committed the crime of unlawful confinement of civilians, recognised by Article 2 of the Statute, in relation to these events.

IV. Municipality of Mostar

1020. The Chamber already established that between 9 and 11 May 1993, the HVO armed forces, including members of the *Vinko Škrobo* ATG and the HVO Military Police, forced the inhabitants of West Mostar to leave their homes and held them for several hours at the Mechanical Engineering Faculty, the Tobacco Institute, the MUP Building and the Velež Stadium, separating the men from the women and children. The Chamber also noted that the Muslims were subsequently transported mainly to the Heliodrom, where they were imprisoned for several days before they were released and able to return to their homes.¹⁷⁴⁴ The Chamber established that following these arrests, the HVO separated the Muslims from the Croats and released the Croats.¹⁷⁴⁵ The Muslims who had been arrested and detained included women, children and elderly people, as well as men who were members of the ABiH or the HVO, or ordinary inhabitants of West Mostar.¹⁷⁴⁶ The Chamber also

¹⁷⁴³ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁷⁴⁴ See "Fall of the Vranica Building on 10 May 1993", "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993", "Fate of the 12 ABiH Soldiers", "Tobacco Institute" and "MUP Building" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴⁵ See "Fall of the Vranica Building on 10 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴⁶ See "Fall of the Vranica Building on 10 May 1993" and "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

established that in the second half of May 1993, HVO soldiers - members of the *Benko Penavić* ATG in particular - systematically expelled a large number of Muslims from West Mostar from their homes and held some of them at the Heliodrom.¹⁷⁴⁷ In addition, the Chamber noted that following the attack on 30 June 1993, the HVO arrested several thousand Muslim men from BiH in Mostar and its surroundings, including members of the ABiH and Muslim soldiers of the HVO, as well as boys about 14 years of age and men over 60 years of age, and sometimes as old as 84, and held them at the Heliodrom or Dretelj Prison.¹⁷⁴⁸

1021. The Chamber therefore finds that between 9 and 11 May 1993, during the second half of May 1993 and, finally, following the attack on 30 June 1993, the HVO held Muslim prisoners of war and civilians at the Mechanical Engineering Faculty, the Tobacco Institute, the MUP Building, the Veletj Stadium and the Heliodrom; that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status; that, therefore, the HVO authorities did not make any individual assessments of the security reasons that could have led to their detention, and the Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

1022. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their confinement was lawful - the Chamber established that the Muslim men, some of whom were civilians, were held in overcrowded premises at the Heliodrom; that some of the detainees had to sleep on the floor; that the detainees suffered from hunger; that hygiene was poor and that the detention conditions in the isolation cells were extremely harsh.¹⁷⁴⁹

1023. The Chamber therefore finds that between 9 and 11 May 1993, during the second half of May 1993 and, finally, following the attack on 30 June 1993, the HVO - members of the *Vinko Škrobo* and *Benko Penavić* ATGs and the Military Police in particular - unlawfully confined civilians at various HVO detention centres, thereby committing the crime of unlawful confinement of a civilian, a crime recognised by Article 2 of the Statute.

¹⁷⁴⁷ See "Muslims from West Mostar Expelled From Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴⁸ See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴⁹ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Municipality of Mostar.

1024. However, the Chamber was not able to establish that Muslims from West Mostar were taken and imprisoned in HVO prisons and detention centres in June and from the second half of July 1993 to March 1994.¹⁷⁵⁰ The Chamber is therefore unable to find that during these periods, the HVO committed the crime of unlawful confinement of civilians, a crime recognised by Article 2 of the Statute.

V. The Heliodrom

1025. The Chamber established that between 9 May 1993 and 18 or 19 April 1994, the HVO held women, Muslim members of the HVO, members of the ABiH and men who were not members of any armed forces at the Heliodrom.¹⁷⁵¹ The Chamber can therefore find that the HVO held prisoners of war and civilians at the Heliodrom and that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁷⁵² The authorities did not make any individual assessments of the security reasons which could have led to the detention of the civilians. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either.

1026. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber noted that the Muslim men, some of whom were civilians, were held in overcrowded premises; that some of the detainees had to sleep on the floor; that the detainees suffered from hunger; that hygiene was poor and that the detention conditions in the isolation cells were extremely harsh.¹⁷⁵³

1027. In light of the evidence, the Chamber finds that between 9 May 1993 and 18 or 19 April 1994, the HVO unlawfully imprisoned civilians at the Heliodrom, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

¹⁷⁵⁰ See "Crimes Allegedly Committed in June 1993", "Crimes Alleged to Have Been Committed in July and August 1993 in West Mostar" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁵¹ See "Arrival of Detainees Following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁵² See "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993", "Arrival of Detainees Following Waves of Arrests in the Second Half of May 1993" and "Arrival of Detainees Following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom. With regard to the fact that only Muslims were held at the Heliodrom, see "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁵³ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

VI. Vojno Detention Centre

1028. The Chamber established that between August 1993 and January 1994, the HVO held ABiH members and persons whom the HVO authorities themselves described as civilians at the Vojno Detention Centre.¹⁷⁵⁴ Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber therefore finds that prisoners of war as well as civilians were held at the Vojno Detention Centre. However, the Chamber has no information on the circumstances surrounding the arrest and subsequent detention of the civilians, or on whether any individual assessments of the security reasons that could have led to their detention were made, or whether these civilians were able to challenge their confinement with the relevant authorities. In the absence of such information, the Chamber cannot find, beyond reasonable doubt, that the HVO unlawfully held civilians at the Vojno Detention Centre and committed the crime of unlawful confinement of a civilian, recognised by Article 2 of the Statute.

VII. Ljubuški Municipality and Detention Centres

1029. The Chamber will address the detention of Muslims from the Municipality of Ljubuški arrested by the HVO on 14 and 15 August 1993 and held at the Heliostrom when it examines the count of unlawful confinement in this detention centre.

1030. With regard to Ljubuški Prison, the Chamber found that the HVO held Muslim men and women who were members of the ABiH or the HVO as well as children, teachers and politicians who were not members of any armed forces.¹⁷⁵⁵ Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber therefore finds that between April 1993 and March 1994, the HVO held prisoners of war and civilians at Ljubuški Prison and that these civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁷⁵⁶ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities

¹⁷⁵⁴ See "Organisation of the Vojno Detention Centre", "Status of Detainees at the Vojno Detention Centre" and "Detainees Sent from the Heliostrom for Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁷⁵⁵ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁷⁵⁶ See "Arrival and Relocation of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber established that these civilians were held in overcrowded and insalubrious premises, without beds or blankets; they had little food, which was of poor quality, only one toilet and very limited access to medical care.¹⁷⁵⁷

1031. In light of the evidence, the Chamber therefore finds that between April 1993 and March 1994, the HVO unlawfully held civilians in Ljubuški Prison, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1032. With regard to the Muslim men held at the Vitina-Otok Camp, the Chamber noted that in July and August 1993, the HVO detained Muslim men between 20 and 60 years of age, regardless of whether or not they were members of the ABiH.¹⁷⁵⁸ Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber finds that in July and August 1993, the HVO held prisoners of war and civilians at the Vitina-Otok Camp and that large numbers of civilians were arrested, irrespective of their status.¹⁷⁵⁹ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber established that these civilians were held in a basic, unsuitable and overcrowded hangar, without access to sanitary facilities or medical care.¹⁷⁶⁰

1033. In light of the evidence, the Chamber therefore finds that in July and August 1993, the HVO unlawfully held civilians at the Vitina-Otok Camp, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

¹⁷⁵⁷ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁷⁵⁸ See "Arrival and Relocation of Detainees from the Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁷⁵⁹ See "Arrival and Relocation of Detainees from the Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁷⁶⁰ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

VIII. Municipality of Stolac

1034. The Chamber established that on 10 May 1993 when the HVO requisitioned Koštana Hospital to use it as a detention centre, HVO members transferred the patients who were there to the Grabovina barracks.¹⁷⁶¹ The Chamber deems that as these persons had been admitted to Koštana Hospital which specialises in treating bone diseases, it can find that these persons were not part of any armed forces at the time of their detention, and were thus civilians. The sick were held in these barracks without medical aid until they were removed to ABiH-held territory on 25 or 26 July 1993.¹⁷⁶² The Chamber notes that HVO members detained all the patients from Koštana Hospital without making any assessments of the security risk they could have posed to the HVO. Furthermore, these detainees did not have the possibility of challenging their detention with the relevant authorities. Thus, the Chamber finds that from 10 May to 25 or 26 July 1993, the HVO unlawfully imprisoned patients from Koštana Hospital at the Grabovina barracks, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1035. As the Chamber established, on 20 April 1993, the 3rd Company of the 3rd Battalion of the HVO Military Police, as well as HVO soldiers, arrested prominent Muslims from the Municipality of Stolac, including the director of the Koštana Hospital, a teacher and two professors, and held them at the Grabovina barracks.¹⁷⁶³ The Chamber finds that the persons arrested on 20 April 1993 and held at the Grabovina barracks did indeed include persons who were not members of any of the armed forces in the conflict and were thus civilians; that these civilians had been arrested in the course of a large-scale operation specifically targeting prominent individuals from the municipality and that, following this operation, the HVO forces detained all the Muslims, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their detention with the relevant authorities either. The Chamber therefore finds that from 20 April 1993, the HVO unlawfully detained civilians - prominent Muslims from the Municipality of Stolac - thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1036. The Chamber noted that in July 1993, the Military Police and the 1st HVO *Knez Domagoj* Brigade conducted a campaign to arrest Muslim men of military age in the Municipality of Stolac -

¹⁷⁶¹ See "Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶² See "Removal of the Sick from Koštana Hospital to Territories Under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

in the villages of Pješivac Greda, Stolac, Prenj and Aladinići, in particular - and that this campaign of arrests concerned Muslim members of the HVO and ABiH soldiers as well as civilians. These men were subsequently detained in the prisons of Dretelj, Gabela and Ljubuški and at the Heliodrom.¹⁷⁶⁴ The Chamber therefore finds that the 1st HVO *Knez Domagoj* Brigade and the Military Police arrested members of the armed forces as well as civilians in the course of a large-scale operation, following which the prisoners of war and the civilians were detained, irrespective of their status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities either. The Chamber therefore finds that the HVO unlawfully held civilians in the course of its arrest campaign in July 1993, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1037. The Chamber established that on 6 or 7 July 1993, HVO soldiers arrested women from the village of Prenj and held them at the Aladinići/Crnići School.¹⁷⁶⁵ The Chamber furthermore established that on 13 July 1993, HVO soldiers and a military policeman arrested women, children and elderly people from the village of Aladinići and held them first in a shop in the village and then at the Aladinići/Crnići School.¹⁷⁶⁶ On that same date, 13 July 1993, HVO soldiers arrested the women, children and elderly people from the village of Pješivac Greda, took them to the Aladinići/Crnići School and held them there.¹⁷⁶⁷ In addition, the Chamber established that around 19 July 1993, HVO soldiers took the persons held at the Aladinići/Crnići School to the village of Pješivac Greda and held them in houses until 2 August 1993.¹⁷⁶⁸ Finally, the Chamber established that after a new wave of arrests of women, children and elderly people from the Municipality of Stolac, on 4 August 1993, the HVO held these persons at various locations in the town of Stolac, at the Aladinići/Crnići School,¹⁷⁶⁹ the TGA Factory¹⁷⁷⁰ and in the VPD.¹⁷⁷¹ The HVO gradually sent

¹⁷⁶³ See "Arrests of Prominent Muslims in the Municipality of Stolac around 20 April 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁴ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁵ See "Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁶ See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁷ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁸ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁶⁹ See "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁷⁰ See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁷¹ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

them to Blagaj via Buna in October and November 1993.¹⁷⁷² The Chamber finds that the HVO held women, children and elderly people at various locations and that these persons were civilians who had been arrested en masse in July 1993 and early August 1993 and held by the HVO, irrespective of their civilian status. The HVO authorities made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities either. The Chamber therefore finds that between July and November 1993, the HVO unlawfully detained civilians at various locations in the Municipality of Stolac, including the Aladinići/Crnići School, the TGA Factory, the VPD and private houses in the village of Pješivac Greda, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1038. Lastly, the Chamber established that Muslim men who were members of the HVO or the ABiH, or were not members of any armed forces, were arrested by the HVO in the Municipality of Stolac and held at Koštana Hospital between May and October 1993 before being gradually moved to other detention centres such as Gabela and Dretelj prisons.¹⁷⁷³ The Chamber finds that the HVO held civilians at Koštana Hospital between May and October 1993, without taking their civilian status into consideration. The HVO authorities in fact made no individual assessments of any possible compelling security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities. The Chamber therefore finds that from May to October 1993, the HVO unlawfully imprisoned civilians at Koštana Hospital, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

IX. Municipality of Čapljina

1039. The Chamber established that in April 1993, members of the HVO arrested Muslim men from the Municipality of Čapljina, some of whom were not members of any armed forces and were thus civilians, and then held them in the Grabovina barracks and Dretelj Prison. However, the Chamber was not able to determine the length of their detention.¹⁷⁷⁴ The Chamber finds that at least in April 1993, civilians from the Municipality of Čapljina were held at the Grabovina barracks and Dretelj Prison; that these civilians had been arrested in the course of a campaign of arrests

¹⁷⁷² See "Removal of the Population of the Town of Stolac" and "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁷³ See "Removal of the Sick from Koštana Hospital to Territories Under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁷⁴ See "Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

specifically targeting Muslim men from the municipality; and that after these arrests, the HVO forces detained these Muslims irrespective of their civilian status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

1040. The Chamber therefore finds that in April 1993, the HVO unlawfully held civilians from the Municipality of Čapljina at the Grabovina barracks and Dretelj Prison, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1041. In addition, the Chamber established that between 30 June 1993 and mid-July 1993, members of the 1st *Knez Domagoj* Brigade, the 3rd Company of the 3rd Military Police Battalion and the Čapljina MUP arrested Muslim men from the Municipality of Čapljina - including Muslim men who were not members of any armed forces as well as Muslim members of the HVO and the ABiH - and held them in Dretelj and Gabela prisons and at the Heliodrom.¹⁷⁷⁵ The Chamber finds therefore that between 30 June 1993 and mid-July 1993, prisoners of war and civilians from the Municipality of Čapljina were held in Dretelj and Gabela prisons and at the Heliodrom, and that these civilians had been arrested in the course of a large-scale operation following which HVO forces detained prisoners of war and civilians, irrespective of their status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their confinement with the relevant authorities.

1042. The Chamber therefore finds that between 30 June 1993 and mid-July 1993, the HVO unlawfully imprisoned civilians from the Municipality of Čapljina in Dretelj and Gabela prisons and at the Heliodrom, thereby committing the crime of unlawful confinement of civilians, a crime recognised by Article 2 of the Statute.

1043. The Chamber also established that between July and October 1993, the HVO held hundreds of women, children and elderly people from the villages of Domanovići, Višići and Bivolje Brdo in particular, and from the town of Čapljina, in the Čapljina Silos, mostly for several days.¹⁷⁷⁶ The Chamber finds that between July and October 1993, civilians were held at the Silos; that these

¹⁷⁷⁵ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷⁷⁶ The Chamber also notes that the men who had previously been held in isolation cells in Dretelj Prison (about 120 detainees, some of whom were not members of any armed forces) were transferred from Dretelj Prison shortly before 6 September 1993 and the first visit by the ICRC to this prison, and spent two days at the Silos. See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina.

civilians had been arrested by the HVO in the course of large-scale operations following which HVO forces detained these Muslims, irrespective of their civilian status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

1044. Moreover, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not the detention was lawful - the Chamber noted that the persons detained at the Silos had been crammed into a very confined space: four rooms on either side of a long corridor, some of which held up to 150 persons;¹⁷⁷⁷ that they had very little food and no sanitary facilities and had to sleep on the floor, without blankets or heating, in concrete rooms where the temperature was very low in September and October 1993.¹⁷⁷⁸

1045. The Chamber therefore finds that between July and October 1993, the HVO unlawfully confined civilians from the Municipality of Čapljina at the Čapljina Silos for varying periods of time, thereby committing the crime of unlawful confinement of civilians, a crime recognised by Article 2 of the Statute.

1046. Furthermore, the Chamber established that as part of the eviction and removal operations conducted by the HVO in the villages of the Municipality of Čapljina in July and August 1993, members of the MUP and HVO soldiers took women, children and elderly people from the Municipality of Čapljina to various locations, including houses - particularly in the villages of Tasovčići and Lokve - the Sovići School and a collection centre in Gradina in the village of Počitelj, and held them there, sometimes for as long as several weeks.¹⁷⁷⁹ The Chamber finds that in July and August 1993, civilians from the Municipality of Čapljina were held at various locations in the municipality; that these civilians had been arrested by the HVO in the course of large-scale operations following which the HVO forces detained them, irrespective of their civilian status. The HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The civilians did not have the possibility of challenging their detention with the relevant authorities.

¹⁷⁷⁷ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷⁷⁸ See "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷⁷⁹ See "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" in the Chamber's factual findings with regard to the Municipality of Čapljina.

1047. The Chamber therefore finds that in July and August 1993, the HVO unlawfully held civilians from the Municipality of Čapljina at various locations, including houses and a school, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1048. The Chamber recalls that the allegations in paragraph 184 of the Indictment concerning the detention of Muslim men in Koštana Hospital were analysed under the counts relating to the events that took place in the Municipality of Stolac.¹⁷⁸⁰

X. Dretelj Prison

1049. The Chamber established that the HVO used Dretelj Prison to hold Muslim men, including members of the ABiH and the HVO, Muslim men of military age, children - the youngest of whom was 13 years old - and elderly people who were not members of any armed forces and had mostly been arrested from 30 June 1993 during waves of arrests in the municipalities of Stolac, Čapljina and Mostar.¹⁷⁸¹

1050. Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber finds that in July and August 1993. The Chamber finds that between April and October 1993, the HVO held prisoners of war and civilians in Dretelj Prison and that civilians had been arrested in the course of large-scale operations during which HVO forces detained all the Muslims, irrespective of their status.¹⁷⁸² The HVO authorities did not make any individual assessments of the security reasons which could have led to the detention of these civilians. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities either. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

1051. In addition, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber established the following: the prison was overcrowded; the detainees did not have enough room or air; hygiene was extremely poor; the detainees suffered from hunger and thirst; they did not have access to medical

¹⁷⁸⁰ See also "Municipality of Stolac" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity) and Count 11 (wilful killing, a grave breach of the Geneva Conventions).

¹⁷⁸¹ See "Arrival of Detainees at Dretelj Prison" and "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷⁸² See "Arrival of Detainees at Dretelj Prison" and "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

care during their detention,¹⁷⁸³ and the detainees in Dretelj were not categorised or separated on the basis of their status, with the exception of some elderly people, minors and a few imams who were detained between 1 July and 1 October 1993 in the prison clinic.¹⁷⁸⁴

1052. In light of the evidence, the Chamber therefore finds that between April and October 1993, the HVO unlawfully imprisoned civilians in Dretelj Prison, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

XI. Gabela Prison

1053. With regard to the Muslims held at Gabela Prison, the Chamber established that the HVO detained Muslim men between 16 and 60 years of age who were members of the ABiH or the HVO, and Muslim men who were not members of any armed forces.¹⁷⁸⁵

1054. Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber finds that between April 1993 and December 1993, the HVO held prisoners of war and civilians at Gabela Prison, and that these civilians had been arrested in the course of large-scale operations during which the HVO forces detained all the Muslims, irrespective of their status.¹⁷⁸⁶ It follows that the HVO authorities did not make any individual assessments of the security reasons which could have led to their detention. The detained Muslim civilians did not have the possibility of challenging their confinement with the relevant authorities either.¹⁷⁸⁷ These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims.

1055. Furthermore, with regard to the conditions of confinement - a factor on the basis of which it is also possible to assess whether or not their detention was lawful - the Chamber established the following: the prison was overcrowded and there was not enough room; the prisoners of war and civilians had not been separated on the basis of their status; hygiene was extremely poor; the cells were insalubrious; there were no beds, blankets or warm clothes; there was a lack of water and

¹⁷⁸³ See "Lack of Space and Air", "Lack of Hygiene", "Inadequate Access to Food and Water", "Lack of Medical Care" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷⁸⁴ See "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷⁸⁵ See "Arrival of Detainees at Gabela Prison" and "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷⁸⁶ See "Arrival of Detainees at Gabela Prison" and "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷⁸⁷ See "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

food; the food was of poor quality and the detainees did not have access to medical care during their detention.¹⁷⁸⁸

1056. In light of the evidence, the Chamber therefore finds that between April 1993 and December 1993, the HVO unlawfully imprisoned civilians in Gabela Prison, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

XII. Municipality of Vareš

1057. The Chamber previously established that on 18 October 1993, HVO soldiers arrested four ABiH members and two Muslim men - who were not members of any armed forces and were thus civilians - in Pajtov Han, and took them to the Vareš Military Police Prison, where they were detained by members of the Military Police platoon attached to the *Bobovac* Brigade up to 23 October 1993.¹⁷⁸⁹ Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber therefore finds that the HVO held prisoners of war and civilians at the Vareš Military Police Prison, and that these civilians had been arrested and detained irrespective of their status. The members of the Military Police platoon of the *Bobovac* Brigade made no individual assessments of any possible compelling security reasons which might have led to their detention. The Chamber notes that the Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In light of the evidence, the Chamber therefore finds that between 18 and 23 October 1993, the HVO unlawfully imprisoned civilians at the Vareš Military Police Prison, thereby committing the crime of unlawful confinement of civilians recognised by Article 2 of the Statute.

1058. The Chamber also established that from the morning of 23 October 1993 to 24 October 1993, members of the HVO, some of whom belonged to the *Maturice* special unit, arrested Muslim men from the town of Vareš, including ABiH members and men who were not part of any armed forces, and were thus civilians.¹⁷⁹⁰ Having fallen into enemy hands, both the combatants - ABiH members as prisoners of war - and the civilians were persons protected by the Geneva Conventions. The Chamber noted that from 23 October 1993 at dawn, HVO members went to Muslim homes,

¹⁷⁸⁸ See "Number and Status of Detainees at Gabela Prison", "Lack of Room", "Lack of Hygiene", "Lack of Access to Food and Water", "Lack of Access to Medical Care" and "Conditions of Confinement in mid-July 1993" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷⁸⁹ See "Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention" in the Chamber's factual findings with regard to the Municipality of Vareš.

made the Muslim men, some still in their underwear, come out, and took them to the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison, where they held them - under the surveillance of members of the Military Police platoon attached to the *Bobovac* Brigade, members of the *Bobovac* Brigade itself and members of the Vareš MUP - up to 4 November 1993 at the latest.¹⁷⁹¹ The Chamber therefore finds that the HVO held prisoners of war and civilians at the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison; that these civilians had been arrested in the course of large-scale operations the purpose of which was to arrest and detain all the Muslims from the town of Vareš, which is borne out by the report that Ivica Rajić himself sent to Milivoj Petković on 23 October 1993 informing him that the town of Vareš had been "cleansed" and that all the Muslims of military age had been placed "under surveillance"; that the HVO then detained these Muslims, irrespective of their status; that the HVO authorities made no individual assessments of any possible compelling security reasons which could have led to the detention of these civilians; and that the Muslim civilians did not have the possibility of challenging their detention with the relevant authorities. These facts allow the Chamber to find that the HVO did indeed have the intention of detaining these Muslims. In light of the evidence, the Chamber therefore finds that between 23 October and 4 November 1993 at the latest, the HVO unlawfully imprisoned civilians in the Vareš High School, the Vareš Elementary School and the Vareš-Majdan Prison, thereby committing the crime of unlawful confinement of a civilian recognised by Article 2 of the Statute.

Heading 11: Inhumane Acts (Conditions of Confinement) (Count 12)

I. Municipality of Prozor

1059. The Chamber established that from late July to late August 1993, the Muslim women, children and elderly people in the houses in the Podgračeneighbourhood of Prozor were detained in a climate of terror, with 20 to 80 persons in each house, and had to sleep on the floor.¹⁷⁹² The Chamber notes that the HVO forced them to live under these conditions of confinement for over a month. Consequently, and in view of the particularly vulnerable status of the victims and the period of time they spent under such conditions, the Chamber finds that these conditions caused them serious bodily and mental harm.

¹⁷⁹⁰ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁷⁹¹ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" and "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁷⁹² See "Conditions of Confinement of the Muslims Collected in Podgrače" in the Chamber's factual findings with regard to the Municipality of Prozor.

1060. The Chamber is satisfied that the HVO military policemen - who had the Podgraĉe neighbourhood under surveillance¹⁷⁹³ - had the intention of imposing these conditions or, at the very least, were aware of the conditions of confinement, did nothing to change them and could reasonably have foreseen that they were likely to cause serious bodily and mental harm to the women, children and elderly people detained.

1061. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims in the houses of the Podgraĉe neighbourhood between late July and late August 1993 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1062. With regard to the village of Lapsunj, the Chamber established that the Muslim women, children and elderly people held by the HVO from late July and in mid-August 1993 were crammed into houses, with 20 to 30 of them in each house, and slept on the floor; that hygiene was deplorable and that the detainees did not have access to enough water.¹⁷⁹⁴ The Chamber finds therefore that the HVO held Muslim women, children and elderly people in houses in the village of Lapsunj in conditions that caused them serious bodily and mental harm.

1063. The Chamber is satisfied that the members of the HVO who were in charge of the detainees in Lapsunj were aware of the conditions of confinement, did nothing to change them and could reasonably have foreseen that such conditions were likely to cause serious bodily and mental harm to the women, children and elderly people detained.

1064. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims in the houses of Lapsunj village from late July and in August 1993 were such that they constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1065. With regard to the village of Duge, the Chamber established that the women, children and elderly people held under the surveillance of Military Police patrols in August 1993 were crammed into houses - with thirty persons in each house - slept on the floor and did not have enough food.¹⁷⁹⁵ Therefore, the Chamber finds that the HVO held Muslims in houses in Duge village under conditions that caused them serious bodily and mental harm.

¹⁷⁹³ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷⁹⁴ See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

1066. The Chamber is satisfied that the HVO military policemen patrolling the village and a MUP officer who visited it¹⁷⁹⁶ were aware of the conditions of confinement, did nothing to change them and could reasonably have foreseen that they were likely to cause serious bodily and mental harm to the detainees.

1067. In light of the evidence, the Chamber finds that the conditions of confinement for the Muslims in the houses of Duge village, imposed by the HVO in August 1993, were such that they constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

II. Municipality of Gornji Vakuf

1068. With regard to the Muslim children, women and elderly people in the Municipality of Gornji Vakuf who were held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci, as well as at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć following the attack on 18 January 1993, the Chamber noted that it did not have sufficient evidence to allow it to establish what the conditions of their confinement were like.¹⁷⁹⁷ The Chamber is therefore unable to find that the conditions of confinement for the persons held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1069. With regard to the Muslim men held at the Trnovača Furniture Factory by members of the *Ante Starčević* Brigade and the HVO Military Police in late January and early February 1993, the Chamber established that they suffered from the cold, were given insufficient quantities of food during their detention, which lasted for about two weeks, and that some of them lost between seven and 20 kilos.¹⁷⁹⁸ The Chamber is therefore persuaded that the conditions of confinement imposed on the Muslim detainees for over fifteen days, and the lack of food in particular, caused them serious bodily and mental harm.

¹⁷⁹⁵ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷⁹⁶ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷⁹⁷ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša", "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" and "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁷⁹⁸ See "Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1070. The Chamber is also satisfied that by depriving the detainees of food, the members of the HVO *Ante Starčević* Brigade and the Military Police had the intention of causing serious bodily and mental harm to the detained men.

1071. The Chamber finds therefore that the conditions of confinement for the Muslim men held at the Trnovača Furniture Factory that were imposed by the members of the *Ante Starčević* Brigade and the Military Police in late January and early February 1993 were such as to constitute inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1072. The Chamber established that the conditions of confinement at the Sovići School between 17 April and 5 May 1993 were very harsh; the detainees, of whom there were about one hundred on 18 April 1993, were crammed into two classrooms, hygiene was rudimentary, and during the first few days of their detention the detainees lacked food and water.¹⁷⁹⁹

1073. The Chamber is persuaded that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims - among whom there were women, children and elderly people - held at the Sovići School, some of them for almost three weeks, caused them serious bodily and mental harm. The Chamber is satisfied that those responsible for guarding these detainees - members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police¹⁸⁰⁰ - who were aware of these conditions of confinement, did nothing to change them and continued to keep the Muslims in detention, could reasonably have foreseen that such conditions of confinement were likely to cause serious bodily and mental harm to the detainees.

1074. The Chamber therefore finds that the conditions of confinement for Muslims at the Sovići School between 17 April and 5 May 1993 were such as to constitute inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1075. The Chamber established that the witnesses did not say much about the conditions of confinement for the women, children and elderly people in the six or seven houses in Junuzovići. The Chamber was only able to find that living conditions were rudimentary, living space was

¹⁷⁹⁹ See "Conditions of Confinement and Treatment of Detainees at Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁸⁰⁰ See "Organisation and Operation of the Sovići School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

limited and there was no electricity.¹⁸⁰¹ Although it recognises that the conditions in which these persons were kept were harsh, the Chamber is not satisfied that these conditions were such as to cause serious bodily or mental harm to the detainees. The Chamber is therefore unable to find that the conditions of confinement for the Muslims held in the houses in Junuzovići between 19 April and 4 or 5 May 1993 were such as to constitute an inhumane act recognised by Article 5 of the Statute.

IV. The Heliodrom

1076. The Chamber indicated that it was not in a position to find that the conditions of confinement for the women at the Heliodrom were excessively harsh.¹⁸⁰² For that reason, the Chamber is unable to find that the women detained were subjected to inhumane acts as a result of their condition of confinement.

1077. With regard to the conditions of confinement for the men at the Heliodrom, the Chamber established the following: the facilities were overcrowded; the detainees had so little room that some of them had to take turns to lie down and sleep in their cells; several detainees had to sleep on the floor; some of the detainees received very little food, which was furthermore of poor quality, and as a result, the detainees lost weight, sometimes a considerable amount (Mustafa Hadrović, who spent nine months at the Heliodrom, lost 47 kilos); the conditions of hygiene were "unacceptable" - to use the wording of a report dated 30 September 1993 drafted by doctors from the HR H-B Department of Defence Health Service; the wounded or sick detainees were not given adequate medical care; the conditions of confinement in the isolation cells were harsh in the extreme; the detainees in the isolation cells did not receive enough to eat and drink, and, as a result, some detainees even had to drink their own urine.¹⁸⁰³ Moreover, the Chamber notes that although the HVO authorities granted the ICRC and other representatives of the international community access to the Heliodrom on several occasions, they did not allow them to visit all the facilities and all the detainees. They also hid some of the detainees and refused to provide information on the detainees who were absent at roll call when these representatives were visiting.¹⁸⁰⁴

¹⁸⁰¹ See "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići", "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁸⁰² See "Conditions of Confinement for Women and Children from mid-May to 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁰³ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁰⁴ See "Restrictions on Visits to Heliodrom Detainees by Members of the International Community" in the Chamber's factual findings with regard to the Heliodrom.

1078. The Chamber is persuaded that the extremely harsh conditions imposed by the HVO on the men held at the Heliodrom for several months caused them serious bodily and mental harm and constituted an attack on their dignity. The Chamber is satisfied that the authorities responsible for the conditions of confinement of the detainees at the Heliodrom, namely Stanko Božić and Josip Praljak, who were Warden and Deputy Warden respectively, and members of the Military Police, members of the 1st Active Battalion and the 5th Military Police Battalion, as well as members of the 3rd HVO Brigade¹⁸⁰⁵ – who were aware of the conditions of confinement and continued to keep the Muslims in detention – could reasonably have foreseen that such conditions were likely to cause them serious bodily and mental harm and constitute an attack on their dignity.

1079. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslim men at the Heliodrom between May 1993 and April 1994 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

V. Vojno Detention Centre

1080. As a preliminary remark, the Chamber notes that the allegations of inhumane acts (conditions of confinement) at the Vojno Detention Centre are set forth in paragraph 142 of the Indictment, which provides an account of the facts relating to the detention of children. As the Chamber already indicated, it has no evidence on the detention of any children and is therefore unable to find that they were subjected to inhumane acts as a result of the conditions of their confinement.

1081. The Chamber established that the Vojno Detention Centre - which consisted of a garage and a boiler room - was used to hold men who were not members of any armed forces and were thus civilians, as well as members of the ABiH, who were thus prisoners of war; that between 8 November 1993 and 28 January 1994, this centre was overcrowded and did not have enough room; that there was not enough food; that hygiene was extremely poor and the premises were insalubrious, particularly because the detainees had to urinate in the rooms in which they slept, they could not wash and their personal belongings had been taken from them.¹⁸⁰⁶ The Chamber is persuaded that the appalling conditions in which the HVO held the Muslims at the Vojno Detention Centre for almost three months caused them serious bodily and mental harm and was an attack on

¹⁸⁰⁵ See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁰⁶ See "Detention Conditions at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

their human dignity. The Chamber is satisfied that the members of the 2nd HVO Brigade¹⁸⁰⁷ - who were in charge of the Vojno Detention Centre, were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - could reasonably have foreseen that such conditions were likely to cause serious bodily and mental harm to the detainees and constitute an attack on their human dignity.

1082. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO at the Vojno Detention Centre from 8 November 1993 to 28 January 1994 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

VI. Ljubuški Municipality and Detention Centres

1083. The Chamber noted that between April 1993 and March 1994, the HVO held men who were not members of any armed forces and were thus civilians, as well as ABiH members, who were thus prisoners of war, in Ljubuški Prison; that the prison was overcrowded and the cells were insalubrious; that there were no beds or blankets; that the food was insufficient and of poor quality, and some of the detainees lost up to 30 kilos during their detention; that there was only one toilet and very limited access to medical care.¹⁸⁰⁸ The Chamber is therefore persuaded that the very harsh conditions of confinement imposed by the HVO on the Muslim detainees at Ljubuški Prison for close to a year caused them serious bodily and mental harm. The Chamber is satisfied that the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration¹⁸⁰⁹ - who were in charge of the prison, were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - could reasonably have foreseen that such conditions of detention were likely to cause serious bodily and mental harm to the detainees.

1084. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims held in Ljubuški Prison constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1085. The Chamber established that in July and August 1993, the HVO held men who were not members of any armed forces and were thus civilians, as well as members of the ABiH, who were thus prisoners of war, in the Vitina-Otok Camp. The Chamber noted that the camp was no more

¹⁸⁰⁷ See "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁸⁰⁸ See "Conditions of Detention at Ljubuški Prison" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

than an overcrowded hangar which was unsuitable for holding detainees, without beds or access to sanitary facilities or medical care.¹⁸¹⁰ The Chamber is persuaded that the extremely unsuitable and harsh conditions under which the HVO held the Muslims in the Vitina-Otok Camp for two months caused them serious bodily and mental harm. The Chamber is satisfied that those in charge of the camp - the *Domobrani* Company, which was on site, the HVO 4th Brigade, the SIS and the Military Police platoon attached to the 4th Brigade¹⁸¹¹ - who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention, could reasonably have foreseen that such conditions were likely to cause serious bodily and mental harm to the detainees. In light of the evidence, the Chamber therefore finds that the conditions of confinement that the HVO imposed on the Muslims held at the Vitina-Otok Camp constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

VII. Municipality of Stolac

1086. The Chamber established that the distribution of food was extremely limited, if not lacking entirely, at the Aladinići/Crnići School in which several hundred persons were imprisoned for seven to ten days in July and August 1993.¹⁸¹² It also noted that the detainees slept on the floor and did not have working toilets.¹⁸¹³ The Chamber also established that from about 19 July to 2 August 1993, over 1,000 villagers were held in a few houses in Pješivac Greda, 250 of whom were crammed into one house,¹⁸¹⁴ and that the Muslims held in a shop in the village of Aladinići for several days from 13 July 1993 were given nothing to eat and could not go out to use the toilets.¹⁸¹⁵

1087. The Chamber is persuaded that the completely unsuitable and very harsh conditions of confinement imposed by the HVO on the Muslims detained in July and August 1993 at the Aladinići/Crnići School, on those held from about 19 July to 2 August 1993 in private houses in Pješivac Greda and on those held for several days from 13 July 1993 in a shop in the village of Aladinići, caused them serious bodily and mental harm. The Chamber is satisfied that those in

¹⁸⁰⁹ See "Command Structure In Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸¹⁰ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸¹¹ See "Organisation of Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸¹² See "Detentions at the Aladinići/Crnići School in July 1993" and "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹³ See "Detentions at the Aladinići/Crnići School in July 1993" and "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹⁴ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹⁵ See "Detentions in Other Locations not Specified in the Indictment" in the Chamber's factual findings with regard to the Municipality of Stolac.

charge of the various detention facilities - in particular Zdenko Beno, a member of the Military Police, Pero Raguţ, a member of the MUP, and, in the case of the Aladinići/Crnići School, the *Domobrani*,¹⁸¹⁶ who were aware of the conditions in which the Muslims were being held, did nothing to change them and continued to keep them in detention - could reasonably have foreseen that these conditions, which sometimes lasted for fifteen days, were likely to cause them serious bodily and mental harm.

1088. The Chamber therefore finds that the conditions of confinement in which the Muslims of the Municipality of Stolac were held by the HVO, both at the Aladinići/Crnići School in July and August 1993 and in houses in Pješivac Greda from about 19 July to 2 August 1993, as well as in a shop in the village of Aladinići for several days beginning on 13 July 1993, were such as to constitute inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1089. However, the Chamber considered that it was not in a position to establish that the conditions of confinement at the VPD were particularly harsh.¹⁸¹⁷ Moreover, it noted that it had no information on the conditions of confinement at the TGA Factory.¹⁸¹⁸ The Chamber is thus unable to find that the conditions of confinement at the VPD and at the TGA Factory constituted inhumane acts, a crime recognised by Article 5 of the Statute.

VIII. Municipality of Čapljina

1090. The Chamber established that between July and October 1993, the HVO held Muslims at the Silos under very harsh conditions. A great number of detainees were crammed into a confined space, namely into four rooms on either side of a long corridor, some of which contained up to 150 persons.¹⁸¹⁹ They had very little food and water, there were no sanitary facilities or any electricity. The Muslims had to sleep on the floor, without blankets and heating, in concrete rooms where the temperature was very low in September and October 1993.¹⁸²⁰

1091. The Chamber is persuaded that the completely unsuitable and harsh conditions of confinement that the HVO imposed on the Muslims held at the Silos - including women, some of whom were pregnant, children and elderly people - caused them serious bodily and mental harm. The Chamber is satisfied that the members of the Military Police and the MUP who were in charge

¹⁸¹⁶ See "Authorities Responsible for the HVO Detention Centre at the Aladinići/Crnići School" and "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹⁷ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹⁸ See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸¹⁹ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

of guarding these detainees - and were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - could reasonably have foreseen that such conditions were likely to cause serious bodily and mental harm to the detainees.

1092. The Chamber therefore finds that the conditions of confinement for the Muslims at the Čapljina Silos from July to October 1993 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1093. However, the Chamber noted that it had no evidence concerning the conditions under which the women, children and elderly people from the Municipality of Čapljina were held in July and August 1993 in houses in Tasovčići and Lokve, the Sovići School and a collection centre in Gradina in the village of Počitelj.¹⁸²¹ Consequently, the Chamber is unable to find that inhumane acts were committed against these women, children and elderly people as a result of the conditions of their confinement.

IX. Dretelj Prison

1094. The Chamber established that between July 1993 and the first few days of October 1993, men who were not members of any armed forces, and were thus civilians, as well as members of the ABiH, who were thus prisoners of war, were kept in detention. The Chamber noted that Dretelj Prison was overcrowded; that the detainees did not have enough room or air; that hygiene was extremely poor; that the detainees suffered from hunger - as a result of which they lost a considerable amount of weight¹⁸²² - and from thirst; that the detainees had no access to medical care during their detention, and that the conditions of confinement for the detainees in the isolation cells were particularly trying.¹⁸²³

1095. The Chamber is persuaded that the extremely harsh conditions imposed by the HVO on the detainees in Dretelj Prison for more than three months caused them serious bodily and mental harm and constituted an attack on their human dignity. The Chamber is satisfied that those in charge of the prison and the units present in the camp - the 3rd Company of the 3rd and later the 5th Military Police Battalion, the 1st *Knez Domagoj* Brigade and the *Domobrani* unit¹⁸²⁴ - who were aware of the

¹⁸²⁰ See "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸²¹ See "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸²² See "Inadequate Access to Food and Water" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸²³ See "Lack of Space and Air", "Lack of Hygiene", "Inadequate Access to Food and Water", "Lack of Medical Care" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸²⁴ See "Description of Dretelj Prison", "3rd Company of the 3rd and then 5th Battalion of the Military Police", "1st *Knez Domagoj* Brigade" and "The *Domobrani*" in the Chamber's factual findings with regard to Dretelj Prison.

conditions of confinement, did nothing to change them and continued to keep the Muslims in detention, could reasonably have foreseen that such conditions were likely to cause serious bodily and mental harm to the detainees.

1096. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims in Dretelj Prison between July and the first few days of October 1993 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

X. Gabela Prison

1097. The Chamber established that while Gabela Prison was operating as a detention centre between April and December 1993,¹⁸²⁵ the HVO detained men who were not members of any armed forces and were thus civilians, as well as members of the ABiH, who were thus prisoners of war. The Chamber noted the following: this prison was overcrowded and there was not enough room; hygiene was extremely poor; the cells were insalubrious; there were no beds, blankets or warm clothes; food and water were lacking, and the food was of poor quality; the detainees had no access to medical care during their detention and some former detainees are still suffering from the consequences of this detention.¹⁸²⁶ The Chamber is persuaded that the very harsh conditions imposed by the HVO on the detainees of Gabela Prison for nine months caused them serious bodily and mental harm. The Chamber is satisfied that those in charge of the prison - the 1st *Knez Domagoj* Brigade, of which the Prison Warden and Deputy Warden were members¹⁸²⁷ - who were aware of the conditions of confinement, did nothing to change them and continued to hold the Muslims in detention - could reasonably have foreseen that these conditions were likely to cause serious bodily and mental harm to the detainees.

1098. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslims held at Gabela Prison constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

XI. Municipality of Vareš

1099. As far as the Vareš High School is concerned, the Chamber noted that the Muslim men who were arrested in the town of Vareš on 23 October 1993 - men who were not members of any armed

¹⁸²⁵ See "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸²⁶ See "Lack of Room", "Lack of Hygiene", "Lack of Access to Food and Water", "Lack of Access to Medical Care" and "Conditions of Confinement in mid-July 1993" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸²⁷ See "Management of Gabela Prison", "Authorities Granting Access to Gabela Prison for People from Outside", "Authorities Controlling Detainee Access to Food and Water" and "Authorities Responsible for Organising and Providing Medical Care" in the Chamber's factual findings with regard to Gabela Prison.

forces and were thus civilians, as well as members of the ABiH, who were thus prisoners of war - were detained under very harsh conditions for periods ranging from one week to ten days.¹⁸²⁸ The detainees, who were guarded by members of the Military Police platoon attached to the *Bobovac* Brigade, had virtually no food or water and could use the toilets only occasionally and very briefly.¹⁸²⁹ Admittedly, on 23 and 24 October 1993, the Municipal Red Cross provided the detainees with food, but they were not fed on the following three or four days. The Chamber also established that there was no access to medical care, which is borne out by the fact that Dr Dražen Grgić, an officer from the *Bobovac* Brigade Medical Corps, was expelled by members of the Military Police platoon attached to the *Bobovac* Brigade when he attempted to offer the detainees medical treatment on 26 October 1993.¹⁸³⁰ It also noted that the detainees had no beds and had to sleep on mats or on the floor.¹⁸³¹ The Chamber is satisfied that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims held for over ten days at the Vareš High School - some of whom were sick and/or elderly - caused them serious bodily and mental harm. The Chamber is persuaded that the members of the Military Police platoon attached to the *Bobovac* Brigade - who were responsible for guarding the detainees and deliberately made the conditions of confinement worse for the Muslims by depriving them of food for several days after the visit from the Municipal Red Cross and by expelling the doctor from the Vareš High School even though some of the detainees were sick - had the intention of causing serious bodily and mental harm to the detainees by imposing such conditions of confinement. The Chamber therefore finds that the conditions of confinement for the Muslim men held at the Vareš High School between 23 October and 4 November 1993 were such that they constituted inhumane acts, a crime recognised by Article 5 of the Statute.

1100. As far as the Vareš Elementary School is concerned, the Chamber noted that the Muslim men who were arrested in the town of Vareš on 23 October 1993 - men who were not members of any armed forces, and were thus civilians, as well as members of the ABiH, who were thus prisoners of war - were detained for periods ranging from one week to ten days¹⁸³² under very harsh conditions. The detainees, who were guarded by members of the Military Police platoon attached to

¹⁸²⁸ See "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸²⁹ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸³⁰ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸³¹ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸³² See "Arrival, Number of Detainees and Organisation of the Vareš Elementary School as a Detention Centre" and "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

the *Bobovac* Brigade, were not fed or allowed to use the toilets.¹⁸³³ They did not have any bedding either.¹⁸³⁴ However, the Chamber noted that, on a date it was unable to determine but which was between 27 October and 2 November 1993,¹⁸³⁵ when the detainees were being guarded by the soldiers of the *Bobovac* Brigade and no longer by the Military Police platoon, the conditions of confinement improved since the detainees were treated better and were allowed to use the toilets. The Chamber is satisfied that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims held at the Vareš Elementary School for more than ten days caused them serious bodily and mental harm. The Chamber is persuaded that the members of the Military Police platoon attached to the *Bobovac* Brigade - who were initially responsible for guarding these detainees, were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - must have reasonably foreseen that such conditions were likely to cause serious bodily and mental harm to the detainees. In view of the evidence, the Chamber finds that the conditions of confinement for the Muslim men held at the Vareš Elementary School between 23 October and 4 November 1993 constituted inhumane acts, a crime against humanity recognised by Article 5 of the Statute.

1101. As far as the Vareš-Majdan Prison is concerned, the Chamber established that it had only one statement admitted pursuant to Rule 92 *bis* of the Rules. In the absence of other evidence, the Chamber cannot find that the conditions of confinement for the persons held at the Vareš-Majdan Prison - civilians as well as members of the ABiH, who were thus prisoners of war - were such as to constitute inhumane acts, a crime recognised by Article 5 of the Statute.

Heading 12: Inhuman Treatment (Conditions of Confinement) (Count 13)

I. Municipality of Prozor

1102. As a preliminary remark, the Chamber recalls that the Muslims held in the Podgraĉe neighbourhood, the village of Lapsunj and the village of Duge were civilians who had fallen into enemy hands and were thus protected under the Geneva Conventions.

1103. With regard to the Podgraĉe neighbourhood, the Chamber established that from late July to late August 1993, the women, children and elderly people in the houses of this Prozor

¹⁸³³ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸³⁴ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸³⁵ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

neighbourhood were held in a climate of terror, with 20 to 80 people in each house, and had to sleep on the floor.¹⁸³⁶ The Chamber notes that the HVO forced them to live in such conditions of confinement for over a month and therefore finds that, in view of the particularly vulnerable status of the victims and the period of time they spent in such conditions, these conditions caused them serious physical and mental suffering.

1104. The Chamber is satisfied that the HVO military policemen who had the Podgraĉe neighbourhood under their surveillance¹⁸³⁷ intended to impose such conditions of confinement or were, at the very least aware of them, and - having done nothing to change them - knew that such conditions were likely to cause serious physical and mental suffering to the detainees, yet showed no concern.

1105. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslims held in the houses of the Podgraĉe neighbourhood between late July and late August 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1106. With regard to the village of Lapsunj, the Chamber finds that the women, children and elderly people held by the HVO from late July to mid-August 1993 were crammed into houses, with 20 to 30 of them in each house, and slept on the floor; that hygiene was deplorable and the detainees did not have access to a sufficient amount of water.¹⁸³⁸ The Chamber therefore finds that the HVO held Muslim women, children and elderly people in houses in the village of Lapsunj in conditions that caused them serious physical and mental suffering.

1107. The Chamber is satisfied that members of the HVO in charge of the detainees in Lapsunj were aware of the conditions under which these people were being held and - having done nothing to change them - knew that these conditions would probably cause serious physical and mental suffering and result in a serious attack on their human dignity, and accepted this fact.

1108. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims in the houses of Lapsunj village from late July and in August 1993 were such that they constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

¹⁸³⁶ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸³⁷ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸³⁸ See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

1109. With regard to the village of Duge, the Chamber found that the women, children and elderly people held under the surveillance of Military Police patrols in August 1993 were crammed into houses - with 30 people per house - slept on the floor and were not provided with enough food.¹⁸³⁹ The Chamber therefore finds that the HVO held Muslims in houses in the village of Duge in conditions that caused them serious physical and mental suffering.

1110. The Chamber is satisfied that the HVO military policemen patrolling the village and an MUP officer who visited it¹⁸⁴⁰ were aware of the conditions of confinement, did nothing to change them, knew that such conditions were likely to cause serious physical and mental suffering and showed no concern for this fact.

1111. In light of the evidence, the Chamber finds that the conditions of confinement that the HVO imposed on the Muslims held in the houses of Duge village in August 1993 were such as to constitute inhuman treatment, a crime recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

1112. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Gornji Vakuf were either prisoners of war or civilians who had fallen into enemy hands and were thus protected by the Geneva Conventions.

1113. With regard to the Muslim children, women and elderly people from the Municipality of Gornji Vakuf who were held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci, as well as at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloć following the attack of 18 January 1993, the Chamber noted that it did not have enough evidence to enable it to establish what the conditions of their confinement were like.¹⁸⁴¹ The Chamber is therefore unable to find that the conditions of confinement of the persons held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci were such as to constitute inhuman treatment, a crime recognised by Article 2 of the Statute.

1114. With regard to the Muslim men held at the Trnovača Furniture Factory by members of the *Ante Starčević* Brigade and the HVO Military Police in late January and early February 1993, the

¹⁸³⁹ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁴⁰ See "Conditions of Confinement of the Muslims Collected in the Village of Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁴¹ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša", "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" and "Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

Chamber established that they suffered from the cold, they did not receive enough food during their detention that lasted almost two weeks and some of them lost between 7 and 20 kilos.¹⁸⁴² The Chamber is persuaded that the conditions of confinement imposed by the HVO on the Muslim detainees for more than fifteen days - and the lack of food in particular - caused them serious physical and mental suffering.

1115. The Chamber is also satisfied that by depriving the detainees of food, the members of the HVO *Ante Starčević* Brigade and the Military Police had the intention of causing them great physical and mental suffering.

1116. The Chamber thus finds that the conditions of confinement at the Trnovača Furniture Factory imposed by the members of the *Ante Starčević* Brigade and the Military Police in late January and early February 1993 were such as to constitute inhuman treatment, a crime recognised by Article 2 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1117. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Jablanica were either prisoners of war or civilians who were thus protected by the Geneva Conventions.

1118. The Chamber established that the conditions of confinement at the Sovići School between 17 April and 5 May 1993 were very harsh; that the detainees, of whom there were close to 100 on 18 April 1993, were crammed into two classrooms; that hygiene was rudimentary, and that they lacked food and water during the first few days of their detention.¹⁸⁴³

1119. The Chamber is persuaded that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims - among whom there were women, children and elderly people - held at the Sovići School, some of them for almost three weeks, caused them serious physical and mental suffering. The Chamber is satisfied that those responsible for guarding these detainees - members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police¹⁸⁴⁴ - who were aware of the conditions of confinement, did nothing to change them

¹⁸⁴² See "Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁸⁴³ See "Conditions of Confinement and Treatment of Detainees at Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁸⁴⁴ See "Organisation and Operation of the Sovići School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

and continued to keep the Muslims in detention - knew that these conditions of confinement were likely to cause serious physical and mental suffering to the detainees, yet showed no concern.

1120. The Chamber therefore finds that the conditions of confinement for the Muslims at the Sovići School between 17 April and 5 May 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1121. The Chamber established that the witnesses did not say much about the conditions of confinement for the women, children and elderly people in the six or seven houses in Junuzovići. The Chamber was only able to establish that living conditions were rudimentary, living space was limited and there was no electricity.¹⁸⁴⁵ Although it recognises that the conditions in which these persons were kept were harsh, the Chamber is not satisfied that these conditions were such as to cause serious physical or mental suffering or that they constituted a serious attack on the human dignity of the detainees. The Chamber is therefore unable to find that the conditions of confinement for the Muslims in the houses in Junuzovići between 19 April and 4 or 5 May 1993 were such that they constituted inhuman treatment recognised by Article 2 of the Statute.

IV. The Heliodrom

1122. The Chamber recalls that the Muslims imprisoned at the Heliodrom were either prisoners of war or civilians who were thus protected by the Geneva Conventions.

1123. The Chamber indicated that it was not in a position to find that the conditions of confinement for the women at the Heliodrom were excessively harsh.¹⁸⁴⁶ Consequently, the Chamber cannot find that the detained women were victims of inhuman treatment as a result of the conditions of their confinement.

1124. With regard to the conditions of confinement for the men at the Heliodrom, the Chamber established the following: the facilities were overcrowded; the detainees had so little room that some of them had to take turns to lie down and sleep in their cells; several detainees had to sleep on the floor; some of the detainees received very little food, which was furthermore of poor quality, and as a result, the detainees lost weight, sometimes a considerable amount (one of the detainees who spent nine months at the Heliodrom lost 47 kilos); the conditions of hygiene were "unacceptable" - to quote a report dated 30 September 1993 drafted by the doctors of HR H-B

¹⁸⁴⁵ See "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići", "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

Department of Defence Health Service; the wounded or sick detainees were not provided with adequate medical care; the conditions of confinement in the isolation cells were extremely harsh, and detainees in the isolation cells did not receive enough to eat and drink, and, as a result, some of them even had to drink their own urine.¹⁸⁴⁷ Moreover, the Chamber notes that although the HVO authorities granted the ICRC and other representatives of the international community access to the Heliodrom on several occasions, they did not allow them to visit all the facilities and all of the detainees. They also hid some of the detainees and refused to provide information on the detainees who were absent at roll call when these representatives were visiting.¹⁸⁴⁸

1125. The Chamber is persuaded that the extremely harsh conditions imposed by the HVO on the men held at the Heliodrom for several months caused them serious physical and mental suffering. The Chamber is satisfied that the authorities responsible for the conditions of confinement of the detainees at the Heliodrom, namely Stanko Božić and Josip Praljak, who were Warden and Deputy Warden respectively, and members of the Military Police, members of the 1st Active Battalion and then of the 5th Military Police Battalion, as well as members of the 3rd HVO Brigade¹⁸⁴⁹ – who were aware of the conditions under which the Muslims were held and continued to keep them in detention - knew that these conditions of confinement were likely to cause serious physical and mental suffering to the detainees and did nothing to change them.

1126. In light of the evidence, the Chamber finds that the conditions of confinement the HVO imposed on the Muslim men at the Heliodrom from May 1993 to April 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

V. Vojno Detention Centre

1127. As a preliminary remark, the Chamber notes that the allegations of inhuman treatment (conditions of confinement) are set forth in paragraph 142 of the Indictment, which recounts facts relating to the confinement of children. As the Chamber already indicated, it has no evidence on the detention of children and is therefore unable to find that they were subjected to inhuman treatment as a result of the conditions of their confinement.

¹⁸⁴⁶ See "Conditions of Confinement for Women and Children from mid-May to 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁴⁷ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁴⁸ See "Restrictions on Visits to Heliodrom Detainees by Members of the International Community" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁴⁹ See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

1128. The Chamber further notes that the Muslims imprisoned at the Vojno Detention Centre were either men who were not part of any armed forces, and were thus civilians, or members of the ABiH, who were thus prisoners of war, and that consequently, all of them were protected by the Geneva Conventions.

1129. The Chamber established that from 8 November 1993 to 28 January 1994, the Vojno Detention Centre - which consisted of a garage and a boiler room - was overcrowded and lacking in space; that there was not enough food; that hygiene was extremely poor and the premises insalubrious - particularly because the detainees had to urinate in the rooms in which they slept, they could not wash and their personal belongings had been taken from them.¹⁸⁵⁰ The Chamber is persuaded that the conditions in which the Muslims were held by the HVO for almost three months at the Vojno Detention Centre caused them serious physical and mental suffering and constituted a serious attack on their human dignity. The Chamber is satisfied that the members of the 2nd HVO Brigade in charge of the Vojno Detention Centre¹⁸⁵¹ - who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that such conditions were likely to cause serious physical and mental suffering to the detainees yet showed no concern.

1130. In the light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the detainees at the Vojno Detention Centre from 8 November 1993 to 28 January 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VI. Ljubuški Municipality and Detention Centres

1131. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Ljubuški were either men who were not part of any armed forces, and were thus civilians, or members of the ABiH, who were thus prisoners of war, and that consequently, all of them were under the protection of the Geneva Conventions.

1132. With regard to Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the prison was overcrowded; that the cells were insalubrious; that there were no beds or blankets; that the Muslim civilians did not have the right to receive visits from their families; that food was insufficient and of poor quality (some of the detainees lost up to 30 kilos during their

¹⁸⁵⁰ See "Detention Conditions at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁸⁵¹ See "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

detention); that there was only one toilet and access to medical care was very limited.¹⁸⁵² The Chamber is persuaded that the very harsh conditions of confinement imposed by the HVO on the Muslim detainees at Ljubuški Prison for almost a year caused them serious physical and mental suffering. The Chamber is satisfied that those in charge of the prison - the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration,¹⁸⁵³ who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that these conditions were likely to cause serious physical and mental suffering to the detainees yet showed no concern. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the detainees at Ljubuški Prison constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1133. With regard to the Vitina-Otok Camp, the Chamber established that in July and August 1993, the camp was no more than an overcrowded hangar unsuitable for holding detainees and without access to sanitary facilities or medical care.¹⁸⁵⁴ The Chamber is persuaded that the extremely unsuitable and harsh conditions under which the HVO held the Muslims in the Vitina-Otok Camp for two months caused them serious physical and mental suffering. The Chamber is satisfied that those in charge of the camp - the *Domobrani* Company which was on site, the HVO 4th Brigade, the SIS and the Military Police platoon attached to the 4th Brigade,¹⁸⁵⁵ who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that such conditions were likely to cause serious physical and mental suffering to the detainees yet showed no concern. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the detainees at the Vitina-Otok Camp constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VII. Municipality of Stolac

1134. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Stolac were either prisoners of war or civilians, and were thus protected by the Geneva Conventions.

¹⁸⁵² See "Conditions of Detention at Ljubuški Prison" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸⁵³ See "Command Structure In Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸⁵⁴ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸⁵⁵ See ""Organisation of Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

1135. The Chamber established that the distribution of food was extremely limited, if not lacking entirely, at the Aladinići/Crnići School in which several hundred people were imprisoned for periods ranging from one week to ten days in July and August 1993.¹⁸⁵⁶ It also noted that the detainees slept on the floor and did not have any working toilets.¹⁸⁵⁷ The Chamber also established that from about 19 July to 2 August 1993, over 1,000 villagers were held in a few houses in Pješivac Greda, 250 of whom were crammed into a single house,¹⁸⁵⁸ and the Muslims held in a shop in Aladinići village for several days, from 13 July 1993, were given nothing to eat and could not go out to use the toilets.¹⁸⁵⁹

1136. The Chamber is persuaded that the completely unsuitable and very harsh conditions of confinement imposed by the HVO on the Muslims held at the Aladinići/Crnići School in July and August 1993, on Muslims held in private houses in Pješivac Greda from about 19 July to 2 August 1993, and on Muslims held for several days in a shop in the town of Stolac from 13 July 1993 caused them serious physical and mental suffering. The Chamber is satisfied that those in charge of the various detention centres, in particular Zdenko Beno, a member of the Military Police, Pero Raguţ, a member of the MUP, and, in the case of the Aladinići/Crnići School, the *Domobrani*¹⁸⁶⁰ – who were aware of the conditions in which the Muslims were being held, did nothing to change them and continued to keep them in detention - knew that these conditions, which sometimes lasted for fifteen days, were likely to cause them serious physical and mental suffering yet showed no concern.

1137. The Chamber therefore finds that the conditions of confinement in which the Muslims of the Municipality of Stolac were held by the HVO, both at the Aladinići/Crnići School in July and August 1993, and in private houses in Pješivac Greda from about 19 July to 2 August 1993, as well as in a shop in the village of Aladinići for several days beginning on 13 July 1993, constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1138. However, the Chamber considered that it was not in a position to establish that the conditions of confinement at the VPD were particularly harsh.¹⁸⁶¹ Moreover, it noted that it did not

¹⁸⁵⁶ See "Detentions at the Aladinići/Crnići School in July 1993" and "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁵⁷ See "Detentions at the Aladinići/Crnići School in July 1993" and "Detentions at the Aladinići/Crnići School from 4 August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁵⁸ See "Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda" and "Detentions in Private Houses" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁵⁹ See "Detentions in Other Locations Not Specified in the Indictment" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁶⁰ See "Authorities Responsible for the HVO Detention Centre at the Aladinići/Crnići School" and "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁶¹ See "Incarcerations at the VPD" in the Chamber's factual findings with regard to the Municipality of Stolac.

have any information on the conditions of confinement at the TGA Factory.¹⁸⁶² The Chamber is therefore unable to find that the conditions of confinement at the VPD and at the TGA Factory constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VIII. Municipality of Čapljina

1139. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Čapljina were either prisoners of war or civilians, and were thus protected by the Geneva Conventions.

1140. The Chamber established that between July and October 1993, the HVO held Muslims at the Silos in Čapljina under very harsh conditions. A great number of detainees were crammed into a limited space: four rooms on either side of a long corridor, some of which contained up to 150 people.¹⁸⁶³ They had very little food and water, there were no sanitary facilities and no electricity. The Muslims had to sleep on the floor, without blankets or heating, in concrete rooms where the temperature was very low in September and October 1993.¹⁸⁶⁴

1141. The Chamber is persuaded that the completely unsuitable and very harsh conditions of confinement imposed by the HVO on the Muslims held at the Silos, including women, some of whom were pregnant, children and elderly people caused them serious physical and mental suffering. The Chamber is satisfied that the members of the Military Police and the MUP who were in charge of guarding these detainees – and were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in confinement – knew that the conditions under which the Muslims were held were likely to cause them serious physical and mental suffering yet showed no concern.

1142. The Chamber therefore finds that the conditions of confinement for the Muslims at the Čapljina Silos between July and October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1143. However, the Chamber noted that it had no evidence concerning the conditions under which the women, children and elderly people from the Municipality of Čapljina were held in houses in Tasovčići and Lokve, the Sovići School and a collection centre in Gradina in the village of Počitelj

¹⁸⁶² See "Detentions at the TGA Factory" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁶³ See "Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards" and "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸⁶⁴ See "Detention Conditions at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

in July and August 1993.¹⁸⁶⁵ Consequently, the Chamber is unable to find that these women, children and elderly people were subjected to inhuman treatment as a result of the conditions of their confinement.

IX. Dretelj Prison

1144. As a preliminary remark, the Chamber notes that the Muslims imprisoned at Dretelj Prison were either men who were not part of any armed forces and were thus civilians, or members of the ABiH who were thus prisoners of war, and consequently, they were all protected by the Geneva Conventions.

1145. The Chamber established that between July 1993 and the first few days of October 1993, Dretelj Prison was overcrowded; that the detainees did not have enough room or air; that hygiene was extremely poor; that the detainees suffered from hunger - as a result of which they lost a considerable amount of weight¹⁸⁶⁶ - and from thirst; that they had no access to medical care during their detention; that no international organisation was able to visit Dretelj Prison prior to 6 September 1993; and that the conditions of confinement for the detainees in the isolation cells were particularly trying.¹⁸⁶⁷

1146. The Chamber is persuaded that the extremely harsh conditions imposed by the HVO on the detainees in Dretelj Prison for over three months caused them serious physical and mental suffering. The Chamber is satisfied that those in charge of the prison and the units present in the camp, namely, the 3rd Company of the 3rd and later the 5th Military Police Battalion, the 1st *Knez Domagoj* Brigade and the *Domobrani* unit¹⁸⁶⁸ - who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that these conditions of confinement were likely to cause serious bodily and mental harm to the detainees yet showed no concern..

1147. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslim detainees at Dretelj Prison between July and the first few days of October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

¹⁸⁶⁵ See "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸⁶⁶ See "Inadequate Access to Food and Water" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁶⁷ See "Lack of Space and Air", "Lack of Hygiene", "Inadequate Access to Food and Water", "Lack of Medical Care", "Conditions of Confinement in Isolation Cells" and "Restrictions on Access to Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁶⁸ See "Description of Dretelj Prison", "3rd Company of the 3rd and then 5th Battalion of the Military Police", "1st *Knez Domagoj* Brigade" and "The *Domobrani*" in the Chamber's factual findings with regard to Dretelj Prison.

X. Gabela Prison

1148. As a preliminary remark, the Chamber notes that the Muslims imprisoned at Gabela Prison were either men who were not part of any armed forces and were thus civilians, or members of the ABiH who were thus prisoners of war, and consequently, they were all protected by the Geneva Conventions.

1149. The Chamber established that while Gabela Prison operated as a detention centre, namely from April 1993 to December 1993,¹⁸⁶⁹ it was overcrowded and had insufficient room; hygiene was extremely poor; the cells were insalubrious; there were no beds, blankets or warm clothes; water and food, which was of poor quality, were lacking; the detainees had no access to medical care during their detention; it was only from 30 August or 1 September 1993 that the HVO granted international organisations access to Gabela Prison; and some former detainees are still suffering from the consequences of this detention.¹⁸⁷⁰ The Chamber is persuaded that the very harsh conditions imposed by the HVO on the detainees in Gabela Prison for nine months caused them serious physical and mental suffering. The Chamber is satisfied that those in charge of the prison - the 1st *Knez Domagoj* Brigade, of which the Prison Warden and Deputy Warden were members,¹⁸⁷¹ who were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that these conditions of confinement were likely to cause serious bodily and mental harm to the detainees yet showed no concern.

1150. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslims held at Gabela Prison constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

XI. Municipality of Vareš

1151. As a preliminary remark, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Vareš were either men who were not members of any armed forces and were thus civilians, or members of the ABiH who were thus prisoners of war, and consequently, they were all protected by the Geneva Conventions.

¹⁸⁶⁹ See "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸⁷⁰ See "Lack of Room", "Lack of Hygiene", "Lack of Access to Food and Water", "Lack of Access to Medical Care", "Conditions of Confinement in mid-July 1993" and "Restricted Access to Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸⁷¹ See "Management of Gabela Prison", "Authorities Granting Access to Gabela Prison for People from Outside", "Authorities Controlling Detainee Access to Food and Water" and "Authorities Responsible for Organising and Providing Medical Care" in the Chamber's factual findings with regard to Gabela Prison.

1152. With regard to the Vareš High School, the Chamber noted that the Muslim men arrested in the town of Vareš on 23 October 1993 were held for periods of time ranging from one week to ten days¹⁸⁷² under very harsh conditions. The detainees, who were guarded by members of the Military Police platoon attached to the *Bobovac* Brigade, had virtually no food or water and could only use the toilets occasionally and very briefly.¹⁸⁷³ Admittedly, on 23 and 24 October 1993, the Municipal Red Cross brought food for the detainees, but they were not fed on the following three or four days. The Chamber also established that there was no access to medical care, which is borne out by the fact that Dr Dražen Grgić, an officer from the *Bobovac* Brigade Medical Corps, was expelled by members of the Military Police platoon attached to the *Bobovac* Brigade when he attempted to provide the detainees with medical treatment on 26 October 1993.¹⁸⁷⁴ It also noted that the detainees had no beds and had to sleep on mats or on the floor.¹⁸⁷⁵ The Chamber is satisfied that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims held for over ten days at the Vareš High School - some of whom were sick or elderly - caused them serious physical and mental suffering. The Chamber is persuaded that the members of the Military Police platoon attached to the *Bobovac* Brigade - who were responsible for guarding the detainees and who deliberately made the conditions of confinement worse for the Muslims by not giving them any food for several days after the visit of the Municipal Red Cross and by expelling the doctor from the Vareš High School at a time when some of the detainees were sick - had the intention of causing serious physical and mental suffering to the detainees by imposing such conditions of confinement. The Chamber therefore finds that the conditions of confinement for the Muslim men held at the Vareš High School between 23 October and 4 November 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1153. With regard to the Vareš Elementary School, the Chamber noted that the Muslim men arrested in the town of Vareš on 23 October 1993 were held for periods ranging from one week to ten days¹⁸⁷⁶ under very harsh conditions. The detainees, who were guarded by members of the Military Police platoon attached to the *Bobovac* Brigade, were not fed and were not allowed to use the toilets.¹⁸⁷⁷ They did not have any bedding either.¹⁸⁷⁸ However, the Chamber noted that when the

¹⁸⁷² See "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷³ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷⁴ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷⁵ See "Detention Conditions at the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷⁶ See "Arrival, Number of Detainees and Organisation of the Vareš Elementary School as a Detention Centre" and "Release of Detainees" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷⁷ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

detainees were guarded by the soldiers of the *Bobovac* Brigade and no longer by the Military Police platoon - on a date that the Chamber was not able to determine, but which was between 27 October and 2 November 1993¹⁸⁷⁹ - the conditions of confinement improved, since the detainees were allowed to see a doctor, were treated better and were allowed to use the toilets. The Chamber is satisfied that the completely unsuitable and harsh conditions of confinement imposed by the HVO on the Muslims held for more than ten days at the Vareš Elementary School caused them serious physical and mental suffering. The Chamber is persuaded that the members of the Military Police platoon attached to the *Bobovac* Brigade - who were initially responsible for guarding these detainees, were aware of the conditions of confinement, did nothing to change them and continued to keep the Muslims in detention - knew that these conditions of confinement were likely to cause serious physical and mental suffering to the detainees yet showed no concern. In view of the evidence, the Chamber finds that the conditions of confinement for the Muslim men held at the Vareš Elementary School between 23 October and 4 November 1993 constituted inhuman treatment, a crime against humanity recognised by Article 2 of the Statute.

1154. As far as the Vareš-Majdan Prison is concerned, the Chamber established that it had only one statement admitted pursuant to Rule 92 *bis* of the Rules. In the absence of other evidence, the Chamber is not in a position to find that the conditions of confinement for the detainees in the Vareš-Majdan Prison constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

Heading 13: Cruel Treatment (Conditions of Confinement) (Count 14)

I. Municipality of Prozor

1155. As an initial matter, the Chamber recalls that, because they were in detention, the Muslims held in the Podgraĉe neighbourhood, the village of Lapsunj and the village of Duge were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1156. With reference to the Podgraĉe neighbourhood, the Chamber established that the women, children and elderly people in the houses of this neighbourhood of Prozor were held from late July to late August 1993 in a climate of terror, 20 to 80 persons per house, and were forced to sleep on

¹⁸⁷⁸ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁸⁷⁹ See "Detention Conditions at the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

the floor.¹⁸⁸⁰ The Chamber notes that the HVO forced them to live in such conditions of confinement for over a month and therefore finds, in view of the particularly vulnerable category of the victims and the period of time during which they were held in such conditions, that the conditions caused them serious physical and mental suffering and were a serious attack on their dignity.

1157. The Chamber is satisfied that the HVO military policemen guarding the Podgraĉe neighbourhood¹⁸⁸¹ intended to impose such conditions or, at least, knew about such conditions of confinement, did nothing to change them and knew that the probable consequences of such conditions would be serious physical and mental suffering and a serious attack on dignity and accepted this fact.

1158. In light of the evidence, the Chamber finds that the conditions of confinement for the Muslims in the houses of the Podgraĉe neighbourhood, conditions imposed by the HVO between late July and late August 1993, constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1159. With regard to the village of Lapsunj, the Chamber established that the women, the children and the elderly people held by the HVO from late July and in August 1993 were crammed 20 to 30 persons to a house and slept on the floor; that the conditions of hygiene were deplorable and that the detainees did not have adequate access to water.¹⁸⁸² The Chamber recalls that these people were arrested and taken to Lapsunj by the Military Police and HVO soldiers, and that a member of the MUP was present in August.¹⁸⁸³ However, with the exception of this information, the Chamber does not know exactly which HVO unit held the women, children and elderly people in Lapsunj. The Chamber thus finds that the HVO held the Muslim women, children and elderly people in houses in the village of Lapsunj in conditions that caused them serious physical and mental suffering and were a serious attack on their dignity.

1160. The Chamber is satisfied that the members of the HVO on whom the Lapsunj detainees were dependent knew in what conditions these people were being held and, having done nothing to

¹⁸⁸⁰ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁸¹ See "Conditions of Confinement of the Muslims Collected in Podgraĉe" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁸² See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁸³ See "Conditions of Confinement of the Muslims Collected in the Village of Lapsunj" in the Chamber's factual findings with regard to the Municipality of Prozor.

change them, knew that the conditions would probably cause serious physical and mental suffering and a serious attack on their human dignity and accepted this fact.

1161. In light of the evidence, the Chamber finds that the conditions of confinement for the Muslims held in the houses of the village of Lapsunj imposed by the HVO from late July and in August 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1162. With regard to the village of Duge, the Chamber established that the women, the children and the elderly people held in August 1993 under the guard of the Military Police patrols, were crammed 30 persons per house, slept on the floor and were not given enough food.¹⁸⁸⁴ The Chamber thus finds that the HVO held Muslims in houses in the village of Duge in conditions that caused them serious physical and mental suffering and were a serious attack on their dignity.

1163. The Chamber is satisfied that the HVO Military Police patrolling the village and the MUP agent who visited it,¹⁸⁸⁵ who knew about those conditions of confinement and did nothing to change them, were aware that the probable consequences of the conditions would be serious physical and mental suffering and thus a serious attack on their dignity and accepted this fact.

1164. In light of the evidence, the Chamber finds that the conditions of confinement for the Muslims held in the houses of the village of Duge imposed by the HVO in August 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

II. Municipality of Gornji Vakuf

1165. As an initial matter, the Chamber notes that because they were in detention the Muslims held in the Municipality of Gornji Vakuf were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1166. With regard to the Muslim children, women and elderly people of the Municipality of Gornji Vakuf held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci, as well as at the Trnovača Furniture Factory and in houses in Trnovača, Volari and Paloč following the attack of 18 January 1993, the Chamber noted that it did not have enough evidence to establish what the

¹⁸⁸⁴ See “Conditions of Confinement of the Muslims Collected in the Village of Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁸⁸⁵ See “Conditions of Confinement of the Muslims Collected in the Village of Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

conditions of their confinement were like.¹⁸⁸⁶ The Chamber is thus unable to find that the conditions of confinement of the persons held in houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1167. With regard to the Muslim men held at the Trnovača Furniture Factory by members of the *Ante Starčević* Brigade and the HVO Military Police in late January and early February 1993, the Chamber established that they suffered from the cold, that they did not receive enough food during their detention that lasted about two weeks and that some of them lost between 7 and 20 kilos.¹⁸⁸⁷ The Chamber is satisfied that the conditions of confinement and, in particular, the lack of food, imposed on the Muslim detainees by the HVO for over two weeks, caused them great physical and mental suffering and were a serious attack on their dignity. The Chamber is also satisfied that by depriving them of food, the members of the *Ante Starčević* Brigade of the HVO and the members of the Military Police intended to cause serious physical and mental suffering and an attack on the dignity of the Muslim detainees.

1168. The Chamber thus finds that the conditions of confinement at the Trnovača Furniture Factory imposed by the members of the *Ante Starčević* Brigade and the Military Police in late January-early February 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1169. As an initial matter, the Chamber notes that because they were in detention the Muslims held in various places in the Municipality of Jablanica were not or were no longer taking part in combat. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1170. The Chamber established that the conditions of confinement at the Sovići School between 17 April and 5 May 1993 were very harsh; that the approximately one hundred detainees on 18

¹⁸⁸⁶ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša”, “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” and “Allegations of Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁸⁸⁷ See “Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

April 1993 were crammed into two classrooms; that the conditions of hygiene were rudimentary; and that in the first few days of their detention, they lacked food and water.¹⁸⁸⁸

1171. The Chamber is satisfied that the completely inappropriate and harsh conditions of confinement imposed by the HVO on the Muslims held at the Sovići School, including women, children and elderly people, up to three weeks for some of them, caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that those responsible for guarding the detainees – members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police¹⁸⁸⁹ – who were aware of these conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of such detention conditions would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact.

1172. The Chamber therefore finds that the conditions of confinement of the Muslims at the Sovići School between 17 April and 5 May 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1173. The Chamber established that the witnesses did not speak much about the conditions of confinement for the women, children and elderly in the six or seven houses in Junuzovići. The Chamber was able to note only that living conditions were rudimentary, that living space was restricted and that there was no electricity.¹⁸⁹⁰ Although it recognises that the conditions in which these persons were kept were harsh, the Chamber is not satisfied that these conditions were such as to cause great suffering or physical or mental pain and thus, a serious attack on the human dignity of the detainees. The Chamber is therefore not in a position to find that the conditions of confinement of the Muslims in the houses in Junuzovići between 19 April and 4 or 5 May 1993 were such as to constitute cruel treatment as recognised by Article 3 of the Statute.

IV. The Heliodrom

1174. As an initial matter, the Chamber notes that due to their detention, the Muslims held at the Heliodrom were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

¹⁸⁸⁸ See “Conditions of Confinement and Treatment of Detainees at the Sovići School” and “The Chamber’s Findings about Alleged Criminal Events at Sovići School” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁸⁸⁹ See “Organisation and Operation of the Sovići School as a Detention Site” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1175. The Chamber indicated that it was unable to find that the conditions of confinement of women at the Heliodrom were excessively harsh.¹⁸⁹¹ Consequently, it cannot find that the women held at the Heliodrom were victims of cruel treatment because of the conditions of their confinement.

1176. With regard to the conditions of confinement for the men at the Heliodrom, the Chamber found that the facilities were overcrowded; that the detainees were given so little room that some could only lie down in shifts to sleep in their cells; that several detainees had to sleep on the floor; that some detainees received very little food, which was furthermore of bad quality, and that, consequently, the detainees lost weight, sometimes a lot of weight (one detainee lost 47 kilograms in nine months of detention at the Heliodrom); that the conditions of hygiene were "unacceptable" - to use the wording of the report of 30 September 1993 drafted by the doctors of the health service of the HR H-B Department of Defence; that the wounded or sick detainees were not given appropriate medical care; that the conditions of confinement in the isolation cells were extremely harsh; that the detainees in the isolation cells did not receive enough to eat and drink and that, as a result, some detainees were forced to drink their own urine.¹⁸⁹² Moreover, the Chamber notes that, although the HVO authorities gave the ICRC and other representatives of the international community access to the Heliodrom on several occasions, they did not allow them to visit all the facilities and all the detainees, that they hid some of the detainees during the visits and refused to provide information on the missing detainees during the visits by these representatives.¹⁸⁹³

1177. The Chamber is satisfied that the extremely harsh conditions imposed by the HVO on the men held at the Heliodrom for several months caused them great physical and mental suffering and were a serious attack on their dignity. The Chamber is satisfied that the authorities responsible for the conditions of confinement of the Heliodrom detainees – i.e. Stanko Božić and Josip Praljak, the Warden and Deputy Warden respectively, and members of the Military Police, members of the 1st Active Battalion and of the 5th Battalion of the Military Police, as well as members of the 3rd HVO Brigade¹⁸⁹⁴ – who were aware of the conditions in which the Muslims were being held and continued to hold them in detention, knew that the probable consequences of those detention

¹⁸⁹⁰ See “Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići”, “Organisation of Houses in Junuzovići as a Detention Site” and “Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁸⁹¹ See “Conditions of Confinement for Women and Children from mid-May to 17 December 1993” in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁹² See “Overcrowding at the Camp”, “Lack of Beds and Blankets”, “Access to Food and Water”, “Lack of Hygiene”, “Medical Treatment of Detainees” and “Conditions of Confinement in Isolation Cells” in the Chamber's factual findings with regard to the Heliodrom.

¹⁸⁹³ See “Restrictions on Visits to Heliodrom Detainees by Members of the International Community” in the Chamber's factual findings with regard to the Heliodrom.

conditions would be great physical and mental suffering and a serious attack on their dignity and accepted this fact.

1178. In light of the evidence, the Chamber finds that the conditions of confinement of the Muslim men at the Heliodrom imposed by the HVO from May 1993 to April 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

V. Vojno Detention Centre

1179. As an initial matter, the Chamber notes that paragraph 142 of the Indictment alleges cruel treatment (conditions of confinement) with regard to the detention of children. As it has already indicated, the Chamber has no evidence on the detention of these children and is therefore unable to find that they suffered cruel treatment due to the conditions of their confinement.

1180. The Chamber also notes that because they were in detention the Muslims held at the Vojno Detention Centre were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1181. The Chamber established that from 8 November 1993 to 28 January 1994, the Vojno Detention Centre, set up in a garage and a boiler room, was overcrowded and lacking in space; that there was hardly any food; that the conditions of hygiene were extremely poor and the facilities unsanitary, in particular since the detainees had to urinate in the rooms in which they were sleeping, were unable to wash, and were deprived of their personal belongings.¹⁸⁹⁵ The Chamber is satisfied that the terrible conditions in which the Muslims were held by the HVO for almost three months at the Vojno Detention Centre caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that those responsible for the Vojno Detention Centre – members of the 2nd HVO Brigade¹⁸⁹⁶ – who were aware of these conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those conditions would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact.

1182. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the detainees at the Vojno Detention Centre from 8 November 1993 to 28 January 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

¹⁸⁹⁴ See “Management of the Heliodrom” in the Chamber’s factual findings with regard to the Heliodrom.

¹⁸⁹⁵ See “Detention Conditions at the Vojno Detention Centre” in the Chamber’s factual findings with regard to the Vojno Detention Centre.

VI. Municipality and Detention Centres of Ljubuški

1183. As an initial matter, the Chamber notes that because they were in detention the Muslims held in the Municipality of Ljubuški were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1184. With regard to Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the prison was overcrowded; that conditions in the cells were unsanitary; that there were no beds or blankets; that there was insufficient food which was of bad quality (some of the detainees lost up to 30 kilograms during their detention); there was only one toilet; and that access to medical care was very limited.¹⁸⁹⁷ The Chamber is satisfied that the very harsh conditions of confinement imposed by the HVO on the Muslim detainees at Ljubuški Prison for almost one year caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that those responsible for the prison – the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration¹⁸⁹⁸ – who were aware of these conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those conditions would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslim detainees at Ljubuški Prison constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1185. With regard to the Vitina-Otok Camp, the Chamber noted that in July and August 1993, the camp was simply an overcrowded hangar unsuitable for detainees with no access to sanitary facilities or health care.¹⁸⁹⁹ The Chamber is satisfied that the very inappropriate and harsh conditions imposed by the HVO on the Muslim detainees at the Vitina-Otok Camp for two months caused them great physical and mental suffering and a serious attack on their human dignity. The Chamber is satisfied that those responsible for the camp – the *Domobrani* company that was on site,

¹⁸⁹⁶ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁸⁹⁷ See “Conditions of Detention at Ljubuški Prison” and “Factual Findings of the Chamber” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸⁹⁸ See “Command Structure in Ljubuški Prison” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁸⁹⁹ See “Factual Findings of the Chamber” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

the 4th Brigade of the HVO, the SIS and the Military Police platoon attached to the 4th Brigade¹⁹⁰⁰ – who were aware of these conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those conditions would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslim detainees at the Vitina-Otok Camp constituted cruel treatment, a crime recognised by Article 3 of the Statute.

VII. Municipality of Stolac

1186. As an initial matter, the Chamber notes that because they were in detention the Muslims held in the Municipality of Stolac were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1187. The Chamber established that the distribution of food was extremely limited, even inexistent, at the Aladinići/Crnići School in which several hundred people were imprisoned for seven to ten days between July and August 1993.¹⁹⁰¹ It also noted that the detainees slept on the floor and did not have any working toilets.¹⁹⁰² The Chamber also established that from about 19 July to 2 August 1993, over 1,000 villagers were held in a few houses in Pješivac Greda, 250 of them being crammed into a single house,¹⁹⁰³ and that for several days beginning on 13 July 1993, the Muslims held in a shop in the village of Aladinići were given nothing to eat and were not allowed to go out to use the toilets.¹⁹⁰⁴

1188. The Chamber is satisfied that the completely inappropriate and very harsh conditions of confinement imposed by the HVO on the Muslims detained in July and August 1993 in the Aladinići/Crnići School, on those held from about 19 July to 2 August 1993 in private houses in Pješivac Greda and on those held for several days starting on 13 July 1993 in a shop in the town of Stolac, caused them great physical and mental suffering and a serious attack on their human dignity. The Chamber is satisfied that those responsible for the various detention facilities - and in particular

¹⁹⁰⁰ See “Organisation of Vitina-Otok Camp” in the Chamber’s factual findings with regard to the Municipality and Detention Centres of Ljubuški.

¹⁹⁰¹ See “Detentions at the Aladinići/Crnići School in July 1993” and “Detentions at the Aladinići/Crnići School from 4 August 1993” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰² See “Detentions at the Aladinići/Crnići School in July 1993” and “Detentions at the Aladinići/Crnići School from 4 August 1993” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰³ See “Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda” and “Detentions in Private Houses” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰⁴ See “Detentions in other Locations not Specified in the Indictment” in the Chamber’s factual findings with regard to the Municipality of Stolac.

Zdenko Beno, a member of the Military Police, and Pero Raguţ, a member of the MUP and of the *Domobrani* for the Aladinići/Crnići School¹⁹⁰⁵ – who were aware of the conditions in which the Muslims were being held, did nothing to change them and continued to hold them in detention, knew that the probable consequences of those detention conditions that sometimes lasted for two weeks would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact.

1189. The Chamber therefore finds that the conditions of confinement in which the Muslims of the Municipality of Stolac were held by the HVO both at the Aladinići/Crnići School in July and August 1993 and in private houses in Pješivac Greda from about 19 July to 2 August 1993, as well as in a shop in the village of Aladinići for several days beginning on 13 July 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1190. However, the Chamber considered that it could not establish that the conditions of confinement at the VPD were particularly harsh.¹⁹⁰⁶ Moreover, it noted that it did not have any information on the conditions of confinement at the TGA factory.¹⁹⁰⁷ The Chamber is thus unable to find that the conditions of confinement at the VPD and at the TGA factory constituted cruel treatment as recognised by Article 3 of the Statute.

VIII. Municipality of Čapljina

1191. As an initial matter, the Chamber notes that because of their detention the Muslims detained in various places in the Municipality of Čapljina were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1192. The Chamber established that the HVO held Muslims at the Silos in Čapljina between July and October 1993 under very harsh conditions. A great many detainees were crammed into small spaces, i.e. four rooms on the two sides of a long corridor, with some of the rooms containing up to 150 people.¹⁹⁰⁸ They had very little food and water, there were no sanitary facilities and no

¹⁹⁰⁵ See “Authorities Responsible for the HVO Detention Centre at the Aladinići/Crnići School” and “Incarcerations at the VPD” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰⁶ See “Incarcerations at the VPD” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰⁷ See “Detentions at the TGA Factory” in the Chamber’s factual findings with regard to the Municipality of Stolac.

¹⁹⁰⁸ See “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards” and “Conditions of Confinement at the Silos” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

electricity. The Muslims had to sleep on the floor without blankets and heating in concrete rooms, where the temperature was very low in September and October 1993.¹⁹⁰⁹

1193. The Chamber is satisfied that the completely inappropriate and very harsh conditions of confinement imposed by the HVO on the Muslims held at the Silos, among whom were women, including pregnant women, children and elderly people, caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that those responsible for guarding the detainees – members of the Military Police and members of the MUP – who were aware of those conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those detention conditions would be great physical and mental suffering and a serious attack on their human dignity and accepted this fact.

1194. In light of the evidence, the Chamber finds that the conditions of confinement of the Muslims in the Silos between July and October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1195. However, the Chamber already found that it did not have any evidence about the conditions under which the women, children and elderly people were held in July and August 1993 in other detention facilities, including houses and a school.¹⁹¹⁰ Consequently, the Chamber is unable to find that these women, children and elderly people were victims of cruel treatment due to the conditions of their confinement.

IX. Dretelj Prison

1196. As an initial matter, the Chamber notes that because of their detention the Muslims held in Dretelj Prison were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1197. The Chamber established that between July 1993 and the early days of October 1993, Dretelj Prison was overcrowded; that the detainees did not have enough room and air; that the conditions of hygiene were extremely poor; that the detainees suffered from hunger – which caused significant weight loss¹⁹¹¹ – and from thirst; that the detainees had no access to medical care during

¹⁹⁰⁹ See “Conditions of Confinement at the Silos” in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁹¹⁰ See “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina” in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁹¹¹ See “Inadequate Access to Food and Water” in the Chamber's factual findings with regard to Dretelj Prison.

their detention; and that the conditions of confinement for the detainees in isolation cells were particularly trying.¹⁹¹²

1198. The Chamber is satisfied that the extremely harsh conditions imposed by the HVO on the detainees at Dretelj Prison for more than three months caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that those responsible for the prison and the units present in and around the camp - the 3rd Company of the 3rd and then 5th Battalion of the Military Police, the 1st *Knez Domagoj* Brigade and the *Domobrani* unit¹⁹¹³ – who were aware of these conditions of confinement did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those detention conditions would be great physical and mental suffering and a serious attack on the human dignity of the detainees and accepted this fact.

1199. In light of the evidence, the Chamber therefore finds that the conditions of confinement imposed by the HVO on the detainees at Dretelj Prison between July and the early days of October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

X. Gabela Prison

1200. As an initial matter, the Chamber notes that because of their detention the Muslims held in Gabela Prison were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1201. The Chamber established that during the time when Gabela Prison was in operation as a detention facility, i.e. from April 1993 to December 1993,¹⁹¹⁴ it was overcrowded and had insufficient room; that the conditions of hygiene were extremely poor; that the cells were unsanitary; that there were no beds, blankets or warm clothing; that there was not enough food and water; that the food was of bad quality; that the detainees had no access to medical care during their detention; and that some former detainees are still suffering from the consequences of this detention.¹⁹¹⁵ The Chamber is satisfied that the very harsh conditions imposed by the HVO on the detainees at Gabela Prison for nine months caused them great physical and mental suffering and thus a serious attack on their dignity. The Chamber is satisfied that those responsible for the prison

¹⁹¹² See “Lack of Space and Air”, “Lack of Hygiene”, “Inadequate Access to Food and Water”, “Lack of Medical Care” and “Conditions of Confinement in Isolation Cells” in the Chamber’s factual findings with regard to Dretelj Prison.

¹⁹¹³ See “Description of Dretelj Prison”, “3rd Company of the 3rd and then 5th Military Police Battalion”, “1st *Knez Domagoj* Brigade” and “The *Domobrani*” in the Chamber’s factual findings with regard to Dretelj Prison.

¹⁹¹⁴ See “Opening and Closing of Gabela Prison” in the Chamber’s factual findings with regard to Gabela Prison.

– the 1st *Knez Domagoj* Brigade, including the Warden and Deputy Warden of the prison who were members thereof, as well as the *Herceg Stjepan* Brigade and a *Domobrani* unit that guarded and maintained security for the detainees¹⁹¹⁶ – who were aware of those conditions of confinement, did nothing to change them and continued to hold the Muslims in detention, knew that the probable consequences of those conditions would be great physical and mental suffering and a serious attack on the human dignity of the detainees and accepted this fact.

1202. In light of the evidence, the Chamber finds that the conditions of confinement imposed by the HVO on the Muslims held at Gabela Prison constituted cruel treatment, a crime recognised by Article 3 of the Statute.

XI. Municipality of Vareš

1203. As an initial matter, the Chamber notes that because of their detention the Muslims held in the Municipality of Vareš were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1204. With regard to the Vareš Secondary School, the Chamber noted that the Muslim men arrested in the town of Vareš on 23 October 1993 were held for one week to ten days¹⁹¹⁷ under very harsh conditions. Guarded by members of the Military Police platoon attached to the *Bobovac* Brigade, the detainees had virtually no food or water and could only very briefly and occasionally use the toilets.¹⁹¹⁸ Admittedly, on 23 and 24 October 1993, the municipal Red Cross brought in food to the detainees but they were no longer fed on the following three or four days. The Chamber also established that there was no access to medical care, as attested to by the fact that Dr Dražen Grgić, an officer of the medical corps of the *Bobovac* Brigade, was expelled by the members of the Military Police platoon attached to the *Bobovac* Brigade when he attempted to provide medical care to the detainees on 26 October 1993.¹⁹¹⁹ It also noted that the detainees had no beds and had to sleep on mats or even on the floor.¹⁹²⁰ The Chamber is satisfied that the completely inappropriate

¹⁹¹⁵ See “Lack of Space”, “Lack of Hygiene”, “Lack of Access to Food and Water”, “Lack of Access to Medical Care”, “Conditions of Confinement in mid-July 1993” and “Restricted Access to Detainees at Gabela Prison” in the Chamber's factual findings with regard to Gabela Prison.

¹⁹¹⁶ See “Management of Gabela Prison”, “Authorities Granting Access to Prison for People from Outside”, “Authorities Controlling Detainee Access to Food and Water” and “Authorities Responsible for Organising and Providing Medical Care” in the Chamber's factual findings with regard to Gabela Prison.

¹⁹¹⁷ See “Release of Detainees” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹¹⁸ See “Detention Conditions at the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹¹⁹ See “Detention Conditions at the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹²⁰ See “Detention Conditions at the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

and harsh conditions of confinement imposed by the HVO on the Muslims held at the Vareš Secondary School, some of whom were sick and/or elderly, for more than ten days, caused them great physical and mental suffering and were a serious attack on their human dignity. The Chamber is satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade responsible for guarding the detainees who deliberately made the conditions of confinement worse for the Muslim detainees by depriving them of food for several days after the visit by the municipal Red Cross and by expelling the doctor from the Vareš Secondary School even though some of the detainees were sick, by imposing such conditions of confinement, intended to cause great physical and mental suffering and a serious attack on their human dignity. The Chamber therefore finds that the conditions of confinement for the Muslim men held at the Vareš Secondary School between 23 October and 4 November 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1205. With regard to the Vareš School, the Chamber noted that the Muslim men arrested in the town of Vareš on 23 October 1993 were held for one week to ten days¹⁹²¹ under very harsh conditions. Guarded by members of the Military Police platoon attached to the *Bobovac* Brigade, the detainees were not fed and were not allowed to use the toilets.¹⁹²² Nor did they have any bedding.¹⁹²³ However, the Chamber noted that – on a date the Chamber could not establish but that was sometime between 27 October and 2 November 1993¹⁹²⁴ – while the detainees were being guarded by the soldiers of the *Bobovac* Brigade and no longer by the Military Police platoon, the conditions of confinement improved since the detainees were allowed to see a doctor, were better treated and were allowed to use the toilets. The Chamber is satisfied that the completely inappropriate and very harsh conditions of confinement imposed by the HVO on the Muslims held at the Vareš School for more than ten days caused them great physical and mental suffering and a serious attack on their human dignity. The Chamber is satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade, initially responsible for guarding the detainees, who were aware of these conditions of confinement did nothing to change them and continued to hold the Muslims in detention, knew that the consequences of those detention conditions would be great physical and mental suffering and a serious attack on the human dignity of the detainees and accepted this fact. In view of the evidence, the Chamber finds that the conditions of confinement for

¹⁹²¹ See “Arrival, Number of Detainees and Organisation of the Vareš Elementary School as a Detention Centre” and “Release of Detainees” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹²² See “Detention Conditions at the Vareš Elementary School” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹²³ See “Detention Conditions at the Vareš Elementary School” in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁹²⁴ See “Detention Conditions at the Vareš Elementary School” in the Chamber's factual findings with regard to the Municipality of Vareš.

the Muslim men held at the Vareš School between 23 October and 4 November 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1206. As to the prison of Vareš-Majdan, the Chamber established that it had only one statement received under Rule 92 *bis* of the Rules. In the absence of other evidence, the Chamber cannot find that the conditions of confinement of the detainees at the prison of Vareš-Majdan constituted cruel treatment, a crime recognised by Article 3 of the Statute.

Heading 14: Inhumane Acts (Count 15)

I. Municipality of Prozor

1207. As the Chamber established, during the takeover of the town of Prozor and the village of Paljike as of 24 October 1992, the HVO forces destroyed many Muslim houses as well as vehicles belonging to inhabitants of the town of Prozor¹⁹²⁵ and set fire to at least one Muslim house in the village of Paljike and killed one elderly man and a women, both inhabitants of the village.¹⁹²⁶ The Chamber is satisfied that these events caused serious bodily and mental harm to the Muslim population of the town of Prozor and the village of Paljike. The Chamber is, moreover, satisfied that by committing those acts of violence, the HVO forces intended to cause serious bodily and mental harm to the Muslim inhabitants there, thus committing inhumane acts, a crime recognised by Article 5 of the Statute.

1208. The Chamber established that after the takeover of the town of Prozor and the village of Paljike, the HVO forces arrested and held a large number of Muslim members of the TO/ABiH from Prozor and Paljike, as well as men of military age from Paljike, at the Ripci School.¹⁹²⁷ The Chamber was, however, unable to establish that the detainees at the school were mistreated by the HVO during their detention.¹⁹²⁸ The Chamber is therefore unable to find that the detainees at the Ripci School were victims of inhumane acts, a crime recognised by Article 5 of the Statute.

1209. As the Chamber established, during the takeover of the villages of Parcani on 17 April 1993 and Tošćanica on 19 April 1993, the HVO forces destroyed many houses in the two villages and

¹⁹²⁵ See “Damage to and Burning of Property and Houses Belonging to Muslims after the Takeover of the Town of Prozor” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹²⁶ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹²⁷ See “Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹²⁸ See “Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992” in the Chamber's factual findings with regard to the Municipality of Prozor.

killed two elderly persons in the village of Toščanica.¹⁹²⁹ The Chamber is satisfied that these events caused serious bodily and mental harm to the entire Muslim population of the villages. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces, who took control of the two villages on 17 and 19 April 1993, intended to cause serious bodily and mental harm to the inhabitants of the villages, thus committing inhumane acts, a crime recognised by Article 5 of the Statute.

1210. The Chamber is, however, unable to find that the HVO forces committed crimes during the takeover of the village of Lizoperci on 18 or 19 April 1993¹⁹³⁰ and therefore rejects the count of inhumane acts for the events that took place in that village.

1211. Regarding restrictions on the movements of the Muslim population of the Municipality of Prozor beginning in the summer of 1993, the Chamber noted that the entire population of Prozor, and not only the Muslim population, was unable to leave the municipality freely without a *laissez-passer*.¹⁹³¹ The Chamber also noted that although the Military Police monitored every movement of the inhabitants, they specifically blocked the Muslim women, children and elderly people and the Imam of Prozor from leaving the town and the municipality at least during the summer of 1993.¹⁹³² On the basis of this evidence alone, the Chamber is, nevertheless, unable to find that this restriction caused serious bodily and mental harm or constituted a serious attack on the dignity of the Muslim population of Prozor and consequently rejects the count of inhumane acts for these events.

1212. As the Chamber established, during the attack on the village of Skrobućani in May or June 1993, HVO forces burned down Muslim properties and the village mosque.¹⁹³³ In June 1993, HVO soldiers terrorised the population of the village of Gračanica by raiding the village at night and hurling grenades into the forest where part of the population had taken refuge.¹⁹³⁴ The HVO soldiers burned down several Muslim houses during the attack on Lug at the end of June 1993.¹⁹³⁵ During the attack by the HVO Military Police or the *Kinder Vod* unit on the village of Podoniš (or

¹⁹²⁹ See “Attack on the Village of Parcani on 17 April 1993 and Burning of Houses” and “Attack on the Village of Toščanica on 19 April 1993, Burning of Houses and Death of Three Residents” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³⁰ See “Attack on the Village of Lizoperci on 18 or 19 April 1993 and Burning of Houses” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³¹ See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³² See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³³ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³⁴ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹⁹³⁵ See “Attack on the Villages of Duge and Lug and Damage to Property” in the Chamber’s factual findings with regard to the Municipality of Prozor.

Podonis) on 5 July 1993, members of the HVO burned down property belonging to Muslims and killed livestock.¹⁹³⁶ During the attack on the village of Prajine and Mount Tolovac on 19 July 1993, the HVO soldiers severely beat and killed three people in Prajine and broke into a barn on Mount Tolovac and threatened a small group of men, women and children who had taken refuge there. Threatening to kill them, they forced them out and beat and killed a man by the name of Bajro Munikoza, a woman by the name of Saha Munikoza, and a physically disabled person by the name of Šaban Hodžić, and then set fire to the barn.¹⁹³⁷ The Chamber is satisfied that these events caused serious bodily and mental harm to the entire Muslim population of these places. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces that attacked the villages intended to cause serious bodily and mental harm to the inhabitants, thus committing inhumane acts, a crime recognised by Article 5 of the Statute.

1213. The Chamber was, however, unable to find that crimes and thus inhumane acts were committed by the HVO forces during the attack on the villages of Duge, Lizoperci, Munikoze and Parcani between June and August 1993.¹⁹³⁸

1214. With regard to the Prozor Secondary School, the Chamber established that in July and August 1993, Muslim detainees were beaten by military policemen and soldiers of the HVO, including members of the *Kinder Vod*, who came from outside the school to beat the detainees and shoot at them.¹⁹³⁹ One of the detainees was seriously wounded by a bullet, was taken out of the Secondary School and has been missing ever since.¹⁹⁴⁰ The detainees were beaten on a daily basis, with the beatings beginning late at night and lasting until the next morning.¹⁹⁴¹ HVO soldiers slapped the detainees and beat them with their rifle butts.¹⁹⁴² The Chamber therefore finds that the military policemen and soldiers of the HVO, including members of the *Kinder Vod*, mistreated the Muslims held at the Prozor Secondary School, who, as a result, suffered serious bodily harm. The Chamber is satisfied not only that by committing such acts of violence, the military policemen and

¹⁹³⁶ See “Attack on the Village of Podaniš or Podonis and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹³⁷ See “Death of Six Muslims in the Region of Prajine and Tolovac” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹³⁸ See “Attack on the Villages of Duge and Lug and Damage to Property”, “Attack on the Village of Lizoperci and Damage to Property and the Mosque”, “Attack on the Village of Munikoze and Damage to Property” and “Attack on the Village of Parcani and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹³⁹ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁰ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴¹ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴² See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

soldiers of the HVO, including members of the *Kinder Vod*, who came from outside the School, intended to cause serious bodily harm to the detainees, but also that those responsible for the Prozor Secondary School – the *Rama* Brigade, civilian police officers, the *Domobrani* and, from 15 July 1993 onwards, military policemen¹⁹⁴³ – who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Prozor Secondary School by HVO soldiers, including members of the *Kinder Vod*, and military policemen in July and August 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1215. With regard to the Unis Building, the Chamber established that in July 1993, some detainees were beaten by HVO soldiers who came to look for detainees or to interrogate and/or beat them. When they came back, the detainees were crying and screaming.¹⁹⁴⁴ The Chamber therefore finds that HVO soldiers mistreated the Muslim detainees at the Unis Building who suffered serious bodily harm. The Chamber is satisfied that by committing such acts of violence, the HVO soldiers intended to cause serious bodily harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Unis Building by HVO soldiers in July 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1216. The Chamber recalls that it was unable to establish that the detainees at the Prozor Fire Station suffered cruel treatment during their detention.¹⁹⁴⁵ The Chamber recalls that it was unable to establish that the detainees at the Prozor Technical School suffered abuse on site during their detention.¹⁹⁴⁶ The Chamber therefore rejects the crime of inhumane acts for the events that took place in those places.

1217. The Chamber established that in July 1993, HVO soldiers forced the detainees at the Prozor MUP station to perform labour consisting of digging trenches on the front line and that the detainees were subjected to abuse by one of the HVO soldiers while they were doing this work.¹⁹⁴⁷ The detainees had bruises on their backs and bellies, had broken ribs, and their faces were swollen

¹⁹⁴³ See “Description, Organisation and Operation of Prozor Secondary School as a Detention Site” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁴ See “Detention of Muslim Men at the Unis Building” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁵ See “Detention of Muslim Men at the Prozor Fire Station” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁶ See “Detention of Muslim Men at the Tech School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁷ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

and covered in blood.¹⁹⁴⁸ The Chamber finds that by being forced to do work of a military nature for the HVO, the enemy army, the detainees suffered serious mental harm. In addition, the detainees who were beaten, as shown by the bruises and marks on their faces, suffered serious bodily and mental harm. The Chamber therefore finds that by inflicting such brutal and humiliating treatment on them, the HVO soldiers intended to cause serious bodily and mental harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the MUP station by HVO soldiers while they were doing work constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1218. The Chamber already established that in the summer of 1993, the HVO soldiers forced detainees at the Prozor Secondary School to perform labour consisting in particular of digging trenches and that the detainees suffered abuse by HVO soldiers while they were doing that work.¹⁹⁴⁹ Some detainees had broken noses or ribs, or even bruises on their bodies and faces, particularly around the eyes.¹⁹⁵⁰ The Chamber finds that by being forced to do work of a military nature for the HVO, the enemy army, the detainees suffered serious mental harm. Moreover, the detainees who were beaten suffered serious bodily and mental harm. The Chamber is satisfied that the HVO soldiers intended to cause serious bodily harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Prozor Secondary School by HVO soldiers while they were doing work, constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1219. The Chamber already established that on 31 July 1993, about 50 detainees from the Prozor Secondary School were taken to the front line at Crni Vrh and, while being insulted, were forced to walk barefoot before being tied to one another with telephone cables by HVO soldiers.¹⁹⁵¹ The Chamber also already noted that the HVO soldiers opened fire on the detainees and that, because of the cables with which the detainees were tied, they suffocated when other detainees were shot and fell to the ground.¹⁹⁵² The Chamber thus finds that the HVO soldiers mistreated the detainees from the Prozor Secondary School whom they had taken to the front line at Crni Vrh, and that the detainees suffered serious bodily and mental harm. The Chamber is satisfied that the HVO soldiers

¹⁹⁴⁸ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁴⁹ See “Treatment of Detainees at Prozor Secondary School” and “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁰ See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵¹ See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵² See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

intended to cause serious bodily harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees from the Prozor Secondary School by the HVO soldiers at Crni Vrh constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1220. The Chamber established that in July and August 1993, the Muslim population held in Podgraĉe, Lapsunj and Duge was living under very harsh conditions¹⁹⁵³ and was subjected to verbal and physical assaults by HVO soldiers of the *Rama* Brigade and military police.¹⁹⁵⁴ It also established that women and girls were beaten and humiliated – some of them had had their skulls shaven or were undressed in front of their fathers and *vice versa*.¹⁹⁵⁵ The Chamber is satisfied that by the treatment that they suffered directly or that was suffered by their relatives, the Muslims detained in the neighbourhood of Podgraĉe and the villages of Lapsunj and Duge suffered serious bodily and mental harm and a serious attack on their dignity. The Chamber is satisfied that by inflicting such brutal and humiliating treatment on them, the HVO soldiers and the military policemen intended to cause serious bodily and mental harm to the detained population and a serious attack on its dignity. The Chamber therefore finds that the treatment meted out by the HVO to the Muslim population held in Podgraĉe, Lapsunj and Duge in July and August 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1221. The Chamber established that on 28 August 1993, the HVO soldiers moved the women, children and elderly people being held in Podgraĉe, Lapsunj and Duge to ABiH territories and fired on and wounded some of them at that time.¹⁹⁵⁶ Having surrounded the village of Duge, the HVO soldiers shot in the air to force the Muslims to get into the lorries.¹⁹⁵⁷ They did not give any water to those Muslims during transportation even though it was very hot, and some of them suffocated and fainted.¹⁹⁵⁸ When they arrived at Kuĉani, they were forced to continue on foot, escorted by HVO soldiers, and were warned by the soldiers that there were land mines along the path.¹⁹⁵⁹ The Chamber finds that, because of these extremely brutal events, the Muslim women, children and

¹⁹⁵³ See “Conditions of Confinement of the Muslims Collected in Podgraĉe”, “Conditions of Confinement of the Muslims Collected in the Village of Lapsunj” and “Conditions of Confinement of the Muslims Collected in the Village of Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁴ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁵ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁶ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁷ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁵⁸ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

elderly people held in Podgraĉe, Lapsunj and Duge suffered serious bodily and mental harm during their removal to the village of Kuĉani and territory under ABiH control. The Chamber is satisfied that by inflicting such brutal treatment on them, the HVO soldiers present during the removal, including a member of the *Kinder Vod*,¹⁹⁶⁰ intended to cause serious bodily and mental harm to the women, children and elderly people. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims by the HVO soldiers during their removal from Podgraĉe, Lapsunj and Duge to the territory under ABiH control constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1222. The Chamber already established that from late August 1993 to December 1993, women, children and elderly people were held in the village of Duge where they were abused by members of the HVO, in particular by those from the *Kinder Vod*, that is, they suffered death threats, insults and beatings.¹⁹⁶¹ Some members of the HVO harassed the Muslims, in particular the oldest among them, including an old man who was hit by an HVO soldier with a chair that he smashed over his head.¹⁹⁶² The Chamber therefore finds that members of the HVO mistreated the Muslim population held in the village of Duge and that the population suffered serious bodily and mental harm. The Chamber is satisfied not only that by inflicting such brutal treatment on them, the HVO soldiers, including members of the *Kinder Vod*, intended to cause the detainees serious bodily harm, but also that those responsible for guarding the village of Duge – members of the HVO Military Police¹⁹⁶³ – who knew about that treatment and did nothing to stop it, could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees.

1223. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims in the village of Duge by HVO soldiers, including members of the *Kinder Vod*, between late August 1993 and December 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

¹⁹⁵⁹ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁶⁰ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁶¹ See “Treatment of Muslims in Prozor Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁶² See “Treatment of Muslims in Prozor Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁹⁶³ See “Treatment of Muslims in Prozor Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

II. Municipality of Gornji Vakuf

1224. As the Chamber established, during the HVO attack of 18 January 1993 on the town of Gornji Vakuf and the villages of Duša, Uzričje, Țdrimci and Hrasnica, the HVO forces destroyed part of the town of Gornji Vakuf and houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci.¹⁹⁶⁴ In the village of Duša, women, children and elderly people were wounded and seven others were killed by an HVO shell fired at a house in which they had taken refuge.¹⁹⁶⁵ The Chamber also recalls that once the HVO forces took over the villages, they systematically placed the population there in detention.¹⁹⁶⁶ The Chamber is satisfied that all these events caused serious bodily and mental harm to the Muslim population who were the victims of those actions. The Chamber is moreover satisfied that the HVO forces that attacked the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Țdrimci intended to cause serious bodily and mental harm to the inhabitants and thereby committed inhumane acts, a crime recognised by Article 5 of the Statute.

1225. The Chamber established that after the HVO attack of 18 January 1993, HVO soldiers hit and beat Muslim inhabitants of the village of Uzričje being held in two houses in the village and forced one of them to undress during interrogation.¹⁹⁶⁷ The Chamber also noted that in February 1993, HVO soldiers forced the inhabitants of the village of Uzričje out of their homes and made them stand in the cold for a long time while insulting them, threatening to kill them and firing into the air over their heads.¹⁹⁶⁸

1226. The Chamber is satisfied that the brutal and humiliating treatment inflicted on the inhabitants of Uzričje who were held for about one and a half months¹⁹⁶⁹ caused them serious bodily and mental harm and constituted an attack on their dignity. The Chamber is satisfied that by

¹⁹⁶⁴ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack”, “Attack on the Village of Duša”, “Attack on the Village of Hrasnica”, “Attack on the Village of Țdrimci” and “Attack on the Village of Uzričje” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁶⁵ See “Attack on the Village of Duša” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf. Concerning the seven people killed by a shell that landed in the house in which they had taken refuge, see “Municipality of Gornji Vakuf” in the Chamber’s legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

¹⁹⁶⁶ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša”, “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica”, “Detention of Villagers from the Village of Uzričje” and “Allegations of Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁶⁷ See “Detention of Villagers from the Village of Uzričje” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁶⁸ See “Detention of Villagers from the Village of Uzričje” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁶⁹ See “Detention of Villagers from the Village of Uzričje” and “Removal of Villagers from the Village of Uzričje” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

inflicting such treatment on the inhabitants of Uzričje on several occasions, the HVO soldiers intended to cause them serious bodily and mental harm and an attack on their dignity. The Chamber thus finds that the treatment meted out to the inhabitants of Uzričje by the HVO soldiers beginning on 19 January 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1227. With regard to the men of the villages of Duša and Hrasnica held at the Trnovača Furniture Factory for about two weeks from 18 January 1993, the Chamber established that HVO soldiers from outside beat and kicked them with batons, rifle butts, truncheons and iron bars; that they forced them to beat one another and to undress; that HVO soldiers cut off the ear of one of them, Hasan Behlo, and then poured alcohol onto it and beat the wound with a shoe.¹⁹⁷⁰

1228. The Chamber is satisfied that the brutal treatment inflicted on the detainees at the Furniture Factory by HVO soldiers on several occasions for about two weeks caused serious bodily and mental harm and constituted an attack on their dignity. The Chamber is satisfied that by inflicting such brutal treatment on the detainees, the HVO soldiers intended to cause serious bodily and mental harm and an attack on their dignity and also that the soldiers in charge of guarding the detainees – members of the *Ante Starčević* Brigade¹⁹⁷¹ – who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause the detainees serious bodily and mental harm. The Chamber therefore finds that the treatment meted out to the detainees at the Trnovača Furniture Factory by the HVO soldiers for about two weeks after 18 January 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1229. The Chamber also established that the women of the village of Țdrimci held in three or four houses in the village after the attack of 18 January 1993 were forced to recite Christian prayers in front of the *Mekteb* by HVO soldiers who threatened to burn it down.¹⁹⁷² The Chamber is satisfied that such treatment caused them serious mental harm and constituted an attack on their dignity. The Chamber is also satisfied that by forcing them to recite such prayers and threatening to burn down an institution dedicated to religion, the HVO soldiers intended to cause them serious mental harm and an attack on their dignity. The Chamber thus finds that the treatment meted out to the women of the village of Țdrimci constituted an inhumane act, a crime recognised by Article 5 of the Statute.

¹⁹⁷⁰ See “Conditions of Confinement and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷¹ See “Organisation and Operation of the Trnovača Furniture Factory as a Detention Facility” and “Conditions of Confinement and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷² See “Allegations of Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1230. The Chamber also established that the women, children and elderly people from the village of Hrasnica held from 18 January 1993 and removed to Volari that same evening¹⁹⁷³ were insulted and "provoked" by two HVO soldiers escorting them, although no further details were given.¹⁹⁷⁴ The Chamber is not satisfied that these insults, threats and provocations caused serious bodily or mental harm or constituted an attack on the dignity of the women, children and elderly people from the villages of Hrasnica. The Chamber is thus unable to find that the treatment of those women, children and elderly people constituted an inhumane act recognised by Article 5 of the Statute.

1231. Finally, with regard to the women, children and elderly people from the village of Hrasnica held from 19 January 1993 in houses in Trnovača following their detention in Volari and at the Furniture Factory, the Chamber noted that the HVO did not mistreat them.¹⁹⁷⁵ Concerning the women, children and elderly people from the villages Duša and Țdrimci, the Chamber recalls that it was unable to determine how they were treated at the various sites where they were detained.¹⁹⁷⁶ The Chamber is thus unable to find that the treatment of the Muslim detainees at the various sites constituted an inhumane act recognised by Article 5 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1232. The Chamber determined that in the course of their detention at the Sovići School between 17 April and 5 May 1993, some Muslim detainees, including women, were beaten and mistreated by HVO soldiers, including KB soldiers.¹⁹⁷⁷ The Chamber thus noted in particular that between 17 and 19 April 1993, two women were beaten and then forced to beat one another with truncheons; that one male detainee was punched and kicked several times and was beaten with a rifle butt without receiving any medical attention thereafter; and that one detainee was knifed in the thigh.¹⁹⁷⁸ The Chamber is satisfied that the brutal treatment inflicted on those detainees by HVO soldiers, including members of the KB, caused them serious bodily and mental harm. The Chamber is satisfied not only that the HVO soldiers, including soldiers of the KB, intended to cause serious bodily harm to the detainees but also that those responsible for guarding the detainees at the Sovići

¹⁹⁷³ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷⁴ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷⁵ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷⁶ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša" and "Allegations of Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁹⁷⁷ See "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁹⁷⁸ See "Conditions of Confinement and Treatment of Detainees at the Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

School – members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police¹⁹⁷⁹ – who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause the detainees serious bodily and mental harm.

1233. The Chamber thus finds that the treatment meted out to the Muslims held at the Sovići School by soldiers of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the HVO Military Police between 17 April and 5 May 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1234. The Chamber determined that during the transfer from the Sovići School to Ljubuški Prison on 18 April 1993, HVO soldiers, including soldiers of the KB, severely beat Muslim men they were holding and humiliated them, for instance by demanding that one detainee take off his shirt and clean the shoes of the officers with the clothes he had taken off.¹⁹⁸⁰ The Chamber received evidence showing that these detainees bore signs of the beatings when they arrived at Ljubuški.¹⁹⁸¹ The Chamber is satisfied that the brutal and humiliating treatment inflicted on the Muslims by HVO soldiers, including KB soldiers, on 18 April 1993 caused them serious bodily and mental harm and constituted a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including soldiers of the KB, intended to cause serious bodily and mental harm to the detainees and an attack on their human dignity.

1235. The Chamber therefore finds that the treatment meted out to certain Muslim detainees during their transfer to Ljubuški Prison by the HVO on 18 April 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1236. The Chamber established that between 19 April and 4 or 5 May 1993, women, children and elderly people held by HVO soldiers, including “Tuta“s” soldiers in six or seven houses in Junuzovići were regularly beaten and otherwise abused: for example, they were insulted and threatened with death, and shots were fired at the houses by HVO soldiers, including “Tuta“s” soldiers, to frighten them. The Chamber likewise noted that, generally speaking, there was a real climate of fear among the detainees.¹⁹⁸² The Chamber is satisfied that the brutal treatment inflicted on the Muslims by the HVO soldiers, including members of the KB, for almost three weeks caused

¹⁹⁷⁹ See “Organisation and Operation of the Sovići School as a Detention Site” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁹⁸⁰ See “Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁹⁸¹ See “Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

them serious bodily and mental harm. The Chamber is satisfied not only that HVO soldiers, including members of the KB, intended to cause serious bodily harm to the detainees but also that the authorities responsible for guarding detainees in the hamlet of Junuzovići – members of the KB and HVO soldiers – who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees.

1237. The Chamber therefore finds that the treatment meted out to the Muslims held in the houses of Junuzovići by the HVO between 19 April and 4 or 5 May 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1238. The Chamber established that on 20 April 1993, ABiH soldiers held at the fish farm by HVO soldiers, including members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB, were severely beaten, humiliated, insulted, and threatened with death by HVO soldiers, including "Tuta".¹⁹⁸³ The Chamber is satisfied that the brutal and degrading treatment inflicted on the ABiH soldiers by the HVO soldiers and Mladen Naletilić alias "Tuta" that day caused them serious bodily and mental harm and was a serious attack on their dignity. The Chamber is satisfied not only that the HVO soldiers, including Mladen Naletilić, intended to cause serious bodily harm to the detainees and a serious attack on their human dignity but also that the units present at the fish farm on 20 April 1993 – members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB¹⁹⁸⁴ – who were aware of such treatment and did nothing to stop it could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees and a serious attack on their dignity.

1239. The Chamber thus finds that the treatment meted out to the Muslims held by the HVO at the fish farm constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1240. The Chamber established that some of the men held at the Sovići School under the guard of soldiers belonging to the 3rd *Mijat Tomić* Battalion, members of the KB and members of the HVO Military Police between 17 April and 5 May 1993, including Nihad Kovač, who was 13 years old at the time, and an ABiH soldier, were forced to do work such as burying the bodies of soldiers who

¹⁹⁸² See "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁹⁸³ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁹⁸⁴ See "Organisation of the Fish Farm as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

had been killed or "engineering" works at HVO positions.¹⁹⁸⁵ While he was being held at the Sovići School, Nihad Kovač was forced by HVO soldiers to dig trenches and carry heavy ammunition cases to a military site about four kilometres from the Sovići School.¹⁹⁸⁶ The Chamber finds by a majority, with Judge Trechsel dissenting, that the detainee suffered serious bodily and mental harm in view of his age and the nature and duration of the work he was forced to do. The Chamber also finds by a majority, with Judge Trechsel dissenting, that the HVO soldiers who forced him to do this work could reasonably have foreseen that it was likely to cause him serious bodily and mental harm.

1241. The Chamber thus finds by a majority, with Judge Trechsel dissenting, that the work done by 13-year-old Nihad Kovač who was being held at the Sovići School constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1242. With regard to the ABiH soldier, the Chamber notes that he stated that he volunteered to bury the bodies of Muslims killed during the HVO attack on the villages of Sovići and Doljani.¹⁹⁸⁷ Except for this evidence, the Chamber has no further information. Accordingly, it can find only that the work done by the soldier while being held by the HVO at the Sovići School constituted an inhumane act, a crime recognised by Article 5 of the Statute.

IV. Municipality of Mostar

1243. As the Chamber established, HVO soldiers and in particular Mladen Naletilić and Juka Prazina used their feet and rifle butts to severely beat the Muslim men arrested during the fall of the Vranica Building in West Mostar on 10 March 1993 and held at the Tobacco Institute.¹⁹⁸⁸ The Chamber is satisfied that the particularly brutal treatment inflicted by members of the HVO on the Muslim men held at the Tobacco Institute, both civilians and prisoners of war, in May 1993 caused them serious bodily and mental harm. The Chamber is satisfied that by beating the detainees in this way, the HVO soldiers, including Mladen Naletilić and Juka Prazina, intended to cause them serious bodily and mental harm. The Chamber therefore finds that the treatment inflicted by the HVO soldiers on the Muslim men held at the Tobacco Institute after the fall of the Vranica Building on 10 May 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

¹⁹⁸⁵ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sović and Doljani).

¹⁹⁸⁶ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sović and Doljani).

¹⁹⁸⁷ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sović and Doljani).

¹⁹⁸⁸ See "Tobacco Institute" in the Chamber's factual findings with regard to the Municipality of Mostar.

1244. The Chamber also noted that the Muslim men held at the Mechanical Engineering Faculty after the attacks of 9 May 1993 and 30 June 1993, both prisoners of war and civilians, were victims of severe and repeated beatings in May and July 1993 by HVO soldiers and military policemen, including members of the 3rd Battalion of the Military Police. The detainees were kicked and beaten with rifle butts, truncheons and thick cables causing serious injury and loss of consciousness.¹⁹⁸⁹ One detainee even had his ear cut off and several detainees died during these beatings.¹⁹⁹⁰ The Chamber also established that it did not have evidence making it possible to determine whether these beatings continued into August 1993 or whether the Muslims were imprisoned at the Mechanical Engineering Faculty after July 1993.¹⁹⁹¹

1245. The Chamber is satisfied that the extremely brutal treatment inflicted by HVO soldiers and members of the HVO Military Police on the Muslim men held at the Mechanical Engineering Faculty in May and July 1993 caused them serious bodily and mental harm. The Chamber is satisfied that by treating the detainees so brutally, the HVO soldiers and the military policemen intended to cause them serious bodily and mental harm. The Chamber therefore finds that the treatment inflicted by the HVO soldiers and military policemen on the Muslims from West Mostar held at the Mechanical Engineering Faculty in May and July 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1246. The Chamber established that on 13 June 1993, soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and the members of the *Vinko Škrobo* ATG, Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", severely beat a large number of persons during operations to expel Muslims from the Dum neighbourhood in West Mostar by force. The Chamber is satisfied that the particularly brutal treatment inflicted on these persons caused them serious bodily and mental harm and that these circumstances show that the HVO soldiers intended to cause serious bodily and mental harm to their victims. The Chamber therefore finds that the treatment meted out by soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG,¹⁹⁹² on the Muslims in the Dum

¹⁹⁸⁹ See "Treatment of Detainees at the Mechanical Engineering Faculty", "Fate of the 12 ABiH Soldiers" and "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁰ See "Fate of the 12 ABiH Soldiers" and "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁹⁹¹ See "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁹⁹² The *Tihomir Mišić* Battalion was mentioned by the Chamber in its factual findings with regard to the HVO armed forces in the Municipality of Mostar.

neighbourhood of East Mostar on 13 June 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1247. The Chamber also established that on 14 July 1993, in the locality of Buna, the HVO Military Police there, including the 5th Battalion of the Military Police, arrested and on several occasions badly beat a Muslim boy and his grandfather at the Buna Military Police station before taking them to a roadside and shooting them, killing one of them and seriously wounding and leaving the other one on site.¹⁹⁹³

1248. The Chamber is satisfied that the particularly brutal treatment inflicted by members of the HVO Military Police on these two Muslim civilians in Buna on 14 July 1993 caused them serious bodily and mental harm. The Chamber is satisfied that by beating and shooting the two Muslims, the members of the HVO Military Police intended to cause them serious bodily harm. The Chamber therefore finds that the treatment meted out to the Muslim boy and his grandfather from Buna by members of the HVO Military Police on 14 July 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1249. The Chamber also established that on 24 August 1993, following the HVO attack on Raštani that same day, HVO soldiers subjected women and children near one of the houses in the village to physical and psychological violence such as blows, threats of death and rape, as well as sexual assault.¹⁹⁹⁴

1250. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by HVO soldiers on the Muslim civilians of Raštani on 24 August 1993 caused them serious bodily and mental harm. The Chamber is satisfied that by inflicting such treatment on women and children, the HVO soldiers intended to cause them serious bodily and mental harm. The Chamber thus finds that the treatment meted out to the Muslim women and children of Raštani by the HVO on 24 August 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1251. The Chamber also noted that in the course of the operations during which the Muslims of West Mostar, including civilians, were driven from their homes, between May 1993 and February 1994, HVO soldiers – in particular the *Benko Penavić* ATG in May 1993, the members of the 4th Battalion of the 3rd HVO Brigade and members of the KB in June 1993, the members of the *Vinko Škrobo* and *Benko Penavić* ATGs in September 1993 – threatened and intimidated the Muslims they

¹⁹⁹³ See “Crimes Allegedly Committed in Buna around 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁴ See “Treatment of Muslim Women and Children During the Attack on the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

were evicting from their homes and savagely kicked, punched and beat them with their rifle butts.¹⁹⁹⁵ The Chamber also established that in June, July and September 1993, acts of sexual assaults were committed in the course of those evictions;¹⁹⁹⁶ however, it was unable to find that the Muslims were sexually assaulted during the eviction operations conducted by the HVO in May and August 1993 or between October 1993 and February 1994.¹⁹⁹⁷

1252. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by members of the HVO armed forces on the Muslims of West Mostar while they were being driven from their homes between May 1993 and February 1994 caused them serious bodily and mental harm and constituted an attack on their dignity. The Chamber is satisfied that the HVO soldiers intended to cause them serious bodily and mental harm and an attack on their dignity. In light of the evidence, the Chamber therefore finds that the treatment meted out by the HVO to the Muslims of West Mostar between May 1993 and February 1994 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1253. With regard to the Muslims living in East Mostar, the Chamber established that between June 1993 and March 1994, the HVO shelling and firing on East Mostar and the existence of a real campaign of sniper fire on the Muslim civilian population of East Mostar resulted in the killing and injuring of many Muslims living in the eastern part of the town¹⁹⁹⁸ and in the creation of a climate of terror.¹⁹⁹⁹ The Chamber already established by a majority, with Judge Antonetti dissenting, that women, children and elderly people in East Mostar were targeted by HVO snipers. These civilians

¹⁹⁹⁵ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993” and “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁶ See “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁷ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁸ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar. See also the part devoted to the 12 incidents highlighted by the Prosecution involving HVO snipers, among which were nine incidents that resulted in inhabitants of East Mostar being wounded: “Sniping Incident no. 1”, “Sniping Incident no. 2”, “Sniping Incident no. 4”, “Sniping Incident no. 6”, “Sniping Incident no. 7”, “Sniping Incident no. 8”, “Sniping Incident no. 9” and “Sniping Incident no. 10” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁹⁹⁹ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

were targeted while they were going about their daily activities with no link to combat operations. Firemen serving the population were also attacked.²⁰⁰⁰

1254. The Chamber established, moreover, that the HVO shelling and firing on East Mostar was daily, intense and frequent.²⁰⁰¹ It was not limited to specific targets²⁰⁰² although the HVO was able to target and identify its targets by correction fire.²⁰⁰³ The Chamber deemed that although the HVO armed forces targeted certain zones and/or buildings in particular, in which there may have been military targets,²⁰⁰⁴ the whole of East Mostar with its very high population density was affected by the shelling and firing, including many homes, public buildings and shops.²⁰⁰⁵ The Chamber also established that the HVO fired tyres filled with explosives at homes in the Donja Mahala neighbourhood as well as napalm bombs from planes.²⁰⁰⁶

1255. Finally, as the Chamber established, the Muslim inhabitants of East Mostar lived through extremely harsh and squalid conditions between June 1993 and April 1994.²⁰⁰⁷ The Chamber noted in particular that the civilian population was confined to a limited space and was obliged to live in cellars and basements of buildings or in overcrowded apartments, a situation due especially to the influx of Muslims who arrived as a result of HVO operations to evict them from May 1993 onwards.²⁰⁰⁸ Throughout this period, they had no access to water,²⁰⁰⁹ electricity,²⁰¹⁰ food²⁰¹¹ and medical care.²⁰¹² The Chamber held that those conditions were made worse and maintained over months and that the difficulties were made worse both by the HVO's blocking or hindering the regular provision of humanitarian aid and access of international organisations to East Mostar²⁰¹³ and the isolation in which the HVO kept the population crowded in an enclave where it was forced

²⁰⁰⁰ See "Campaign of Sniping Affecting the Entire Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰¹ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰² See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰³ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁴ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁵ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁶ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁷ See "Living Conditions for the Population in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁸ See "Living Conditions for the Population in East Mostar" (introductory part) in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁰⁹ See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁰ See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹¹ See "Access to Food" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹² See "Access to Medical Care" in the Chamber's factual findings with regard to the Municipality of Mostar.

to remain.²⁰¹⁴ The HVO shelling, intense fire and sniping not only killed, wounded and terrified the population but also hindered it from moving about freely and from trying to get food, water and other basic necessities, and forced it to live in squalid conditions in the underground.²⁰¹⁵

1256. The Chamber finds that by shelling and firing on a daily basis between June 1993 and March 1994 at a small zone with a heavy concentration of civilians while the population was hemmed in and obliged to remain in the said zone,²⁰¹⁶ by imposing extremely harsh living conditions on the inhabitants of East Mostar and by causing numerous deaths, injuries and much destruction, the HVO inflicted serious bodily and mental harm on the inhabitants of East Mostar and caused a serious attack on their dignity. Admittedly, the Chamber is aware that ABiH policy was also to prevent the Muslim population from deserting East Mostar and, as such, it also took part in keeping and blocking the population in this zone. Nonetheless, the Chamber is satisfied that by shelling this small zone of East Mostar intensely and on a daily basis with heavy artillery inappropriate for such a zone,²⁰¹⁷ by carrying out a sniping campaign on the civilian population of East Mostar and by imposing and maintaining extremely harsh living conditions for the inhabitants of East Mostar throughout this period, the HVO intended to cause serious bodily and mental harm to the inhabitants of Mostar and an attack on their dignity. The Chamber thus finds that the treatment meted out to the Muslims of East Mostar by the HVO between June 1993 and March 1994 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

V. The Heliodrom

1257. The Chamber established that between May 1993 and mid-April 1994, members of the Military Police, including those responsible for guarding the detainees, and members of the HVO armed forces, among whom were members of the professional units of the KB and of the *Bruno Bušić* Regiment, regularly and brutally beat the Heliodrom detainees, in particular following military losses by the HVO.²⁰¹⁸ Some detainees were beaten for several hours until they lost consciousness. The detainees were beaten with rifle butts, pickaxes and truncheons; they were

²⁰¹³ See "Access to Food" and "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁴ See "Access to Food", "Blocking of International Organisations and Humanitarian Aid" and "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁵ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁶ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁷ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰¹⁸ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

punched and kicked in the back and the kidneys; they were insulted, threatened and humiliated, and some of them, who had been deprived of food for 36 hours, were given dog food to eat.²⁰¹⁹ The Chamber established as well that on 5 July 1993, between one and three in the morning, HVO soldiers staying at the Heliodrom shot at random at the buildings in which the detainees were being held without the "brigade police" intervening, which they should have done to stop the firing.²⁰²⁰

1258. The Chamber is satisfied that the brutal and degrading treatment inflicted on the Heliodrom detainees within the prison on numerous occasions for almost a year by members of the Military Police, including those responsible for guarding them, and by the armed forces of the HVO, including members of the professional units of the KB and the *Bruno Bušić* Regiment, caused serious bodily and mental harm to the detainees and constituted an attack on their human dignity. The Chamber is satisfied that the members of the Military Police and the armed forces of the HVO intended to cause serious bodily and mental harm to the detainees and attack their human dignity. Indications of this are, in particular, the brutality, the frequency and the duration of the beatings inflicted on them for about eight hours without interruption.²⁰²¹ The Chamber is also satisfied that those responsible for the Heliodrom, in particular Stanko Božić and Josip Praljak, the Warden and Deputy Warden respectively, and members of the Military Police, who knew about this treatment and did nothing to stop it,²⁰²² could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees and constitute an attack on their dignity. The Chamber therefore finds that the treatment meted out to the Muslim detainees in the Heliodrom camp by members of the Military Police and the armed forces of the HVO between May 1993 and mid-April 1994 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1259. The Chamber also established that between May 1993 and March 1994, the HVO took Muslim men held at the Heliodrom to the front line in the Municipality of Mostar to perform labour such as repairing fortifications and collecting the bodies of soldiers.²⁰²³ The Chamber noted that several dozen detainees exposed to the military confrontations, were killed or wounded by firing

²⁰¹⁹ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²⁰ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²¹ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²² The Chamber recalls in particular that every morning between January and November 1993 a meeting was held at the office of Stanko Božić, sometimes in the presence of Josip Praljak, during which the Heliodrom security commander reported about everything that had happened at the prison the day before. The Chamber also notes that the work of the military policemen responsible for guarding the detainees was done under the authority of the Prison Warden (see "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom).

²⁰²³ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

from both the HVO and the ABiH.²⁰²⁴ The Chamber also established that members of the 2nd Battalion of the 2nd Brigade and the 2nd Battalion of the 3rd Brigade of the HVO, as well as members of the KB and the ATG of Vinko Martinović – including Vinko Martinović alias "Štela" himself – struck, brutalised and insulted the Heliodrom detainees while they were performing labour by firing over their heads and putting cigarettes out on their bodies.²⁰²⁵

1260. The Chamber is satisfied that the brutal treatment inflicted on the detainees taken out of the camp between May 1993 and March 1994 by members of the HVO armed forces to perform labour caused them serious bodily and mental harm and an attack on their dignity. The Chamber is satisfied that the members of the armed forces of the HVO who took the detainees to the front line under extremely dangerous conditions and who also deliberately abused them while they were performing labour, intended to cause the detainees serious bodily and mental harm and constituted an attack on their dignity. The Chamber is aware of the fact that some attempts were made, in particular by the Warden and Deputy Warden of the Heliodrom, to restrict the use of forced labour.²⁰²⁶ However, such attempts did not bring about any noticeable results. The Chamber is satisfied that the various authorities who authorised the use of detainees for labour could reasonably have foreseen that the treatment meted out to the Muslim detainees could cause them serious bodily and mental harm and constitute an attack on their dignity. This applies also to the authorities directly informed about the incidents²⁰²⁷ and who did nothing to stop them or prosecute the perpetrators. The authorities knew that the work was being done on the front line and, as such, under extremely dangerous conditions, and were informed on several occasions that detainees had been killed, wounded or beaten during that work.

²⁰²⁴ See "Use of Heliodrom Detainees for Work" and "Detainees Killed or Wounded During Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²⁵ See "Treatment of Detainees During Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²⁶ See "Authorities Informed about Incidents during Work" and "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²⁷ The Chamber recalls that from June 1993 to March 1994, the following persons in particular had power to authorise Heliodrom detainees to be sent out to do work: Marijan Biškić, Deputy Minister for Security in the HR H-B Ministry of Defence from 1 December 1993; Slobodan Praljak; Milivoj Petković; Ante Roso, Commander of the HVO Main Staff from 9 November 1993; Zlatan Mijo Jelić, Commander of the 1st Light Assault Battalion of the Military Police and then Commander of the Central Sector of the defence of the town of Mostar and Commander of the Mostar Defence Sector; Mladen Naletilić, Commander of the KB; Teljko Šiljeg, Chief of the Military Police Administration around December 1993; Radoslav Lavrić, Deputy Chief of the Military Police Administration in the summer of 1993; Zvonko Vidović, an official in the Department for Criminal Investigations of the Military Police Administration; Vladimir Primorac, successor of Zlatan Mijo Jelić as Commander of the 1st Light Assault Battalion of the Military Police; and Berislav Pušić (see "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom). The Chamber also recalls that the following persons were informed of incidents during labour performed by Heliodrom detainees: Stanko Bočić and Josip Praljak, Warden and Deputy Warden of the Heliodrom respectively, Jadranko Prlić, Bruno Stojić, Milivoj Petković, Valentin Ćorić and Berislav Pušić (see "Authorities Informed about Incidents during Work" in the Chamber's factual findings with regard to the Heliodrom).

1261. In light of the evidence, the Chamber therefore finds that the treatment meted out by the HVO to some Muslim detainees at the Heliodrom forced to work on the front line between May 1993 and March 1994 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1262. The Chamber also established that between July and September 1993, Heliodrom detainees were used by the *Vinko Škrobo* ATG as "human shields" on the Mostar front line.²⁰²⁸ For example, the Chamber noted that the detainees were forced to stand in front of or among the HVO troops to protect them from possible ABiH attacks; that they were sometimes forced to wear HVO uniforms and carry fake wooden rifles while combat was raging and compelled to cross the front line to protect the HVO soldiers;²⁰²⁹ that three detainees were wounded on the front line at Mostar on 17 September 1993 when members of the *Vinko Škrobo* ATG gave them wooden rifles and camouflage HVO uniforms to wear²⁰³⁰ and that on that same day, four other detainees were killed while also being used as "human shields."²⁰³¹

1263. The Chamber is satisfied that the brutal treatment inflicted in July, August and September 1993 by members of the *Vinko Škrobo* ATG under the command of Vinko Martinović on detainees being used as "human shields" on the Mostar front line caused them serious bodily and mental harm and constituted an attack on their dignity. The Chamber is satisfied that by inflicting such treatment on the detainees, the members of the *Vinko Škrobo* ATG under the command of Vinko Martinović intended to cause the detainees serious bodily and mental harm and attack their dignity. This is especially evident in the preparations made for the use of the detainees as human shields and in the fact that the detainees were given HVO uniforms and wooden rifles.

1264. In light of the evidence, the Chamber therefore finds that the treatment meted out by the members of the *Vinko Škrobo* ATG to some Muslim detainees at the Heliodrom used as "human shields" in July, August and September 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

VI. Vojno Detention Centre

1265. As an initial matter, the Chamber notes that paragraphs 141 and 142 of the Indictment allege inhumane acts with regard to events concerning the detention of women and children at the Vojno

²⁰²⁸ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²⁰²⁹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²⁰³⁰ See "Heliodrom Detainees Wounded while Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliodrom.

Detention Centre. As it noted, the Chamber was unable to establish the presence of those persons there.²⁰³² Consequently, the Chamber is unable to reach a finding concerning the allegations of inhumane acts made in paragraphs 141 and 142 of the Indictment.

1266. The Chamber established that between 8 November 1993 and 28 January 1994, the detainees at the Vojno Detention Centre, some of whom were members of the ABiH and were thus prisoners of war and others who were not part of any armed force and were thus civilians, were subjected to assaults, brutal beatings and humiliation by Mario Mihalj and Dragan Šunjić, both of whom were HVO soldiers.²⁰³³ The Chamber is satisfied that the particularly violent and degrading treatment inflicted on the detainees by HVO soldiers for almost three months caused them serious bodily and mental harm and constituted a serious attack on their human dignity. The Chamber is satisfied that those responsible for the Vojno Detention Centre (members of the 2nd HVO Brigade),²⁰³⁴ who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause the detainees serious bodily and mental harm and constitute a serious attack on their human dignity.

1267. In light of the evidence, the Chamber finds that the treatment inflicted by HVO soldiers on the detainees at the Vojno Detention Centre between 8 November 1993 and 28 January 1994 constituted inhumane acts, a crime recognised by Article 5 of the Statute.

²⁰³¹ See “Heliodrom Detainees Killed while Being Used as Human Shields” in the Chamber's factual findings with regard to the Heliodrom.

²⁰³² See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre.

²⁰³³ See “Authorities Responsible for Operation of the Vojno Detention Centre” and “Treatment of Detainees During Detention at the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²⁰³⁴ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

1268. The Chamber established that the detainees who were sent from the Heliodrom to the Vojno Detention Centre between August 1993 and March 1994 to perform labour on the front lines were seriously beaten and humiliated by Mario Mihalj and Dragan Šunjić –both HVO soldiers – as well as by other HVO soldiers.²⁰³⁵ The Chamber is satisfied that the particularly brutal and humiliating treatment inflicted by HVO soldiers on the Heliodrom detainees sent to the Vojno Detention Centre while they were performing forced labour for almost eight months caused them serious bodily and mental harm and constituted a serious attack on their human dignity. The Chamber is satisfied that those responsible for the Vojno Detention Centre – members of the 2nd HVO Brigade²⁰³⁶ – and the HVO soldiers responsible for guarding them while they were working who were aware of such treatment and did nothing to stop it could reasonably have foreseen that it could cause the detainees serious bodily and mental harm and constitute a serious attack on their human dignity.

1269. In light of the evidence, the Chamber finds that the treatment inflicted by HVO soldiers on the Heliodrom detainees sent to the Vojno Detention Centre between August 1993 and March 1994 while they were working constituted inhumane acts, a crime recognised by Article 5 of the Statute.

VII. Municipality and Detention Centres of Ljubuški

1270. With regard to Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the Muslim detainees, some of whom were members of the ABiH and were thus prisoners of war and others who were not part of any armed force and were thus civilians, were regularly insulted, abused and beaten in the prison and at sites where they were performing forced labour, by HVO soldiers including members of the Military Police attached to the 4th Brigade in charge of guarding the prison.²⁰³⁷ The Chamber is satisfied that the particularly brutal treatment inflicted on the detainees by members of the armed forces of the HVO for almost a year caused them serious bodily and mental harm. The Chamber is satisfied that those responsible for the prison – the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration²⁰³⁸ – who were aware of such treatment and did nothing to stop it could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at

²⁰³⁵ See “Authorities Responsible for Operation of the Vojno Detention Centre”, “Types and Locations of Labour in the Vojno-Bijelo Polje Area” and “Treatment of Heliodrom Detainees During Labour in the Vojno-Bijelo Polje Area” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²⁰³⁶ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²⁰³⁷ See “Factual Findings of the Chamber” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²⁰³⁸ See “Command Structure in Ljubuški Prison” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

Ljubuški Prison by the HVO constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1271. With regard to the Vitina-Otok Camp, the Chamber recalls that it was unable to determine whether detainees in that camp were mistreated. It is thus unable to find that the treatment meted out to the Muslim detainees at the Vitina-Otok Camp constituted an inhumane act, as recognised by Article 5 of the Statute.

VIII. Municipality of Stolac

1272. The Chamber established that the operations in July and August 1993 during which members of the HVO, including members of the 1st *Knez Domagoj* Brigade and members of the Military Police, expelled the Muslims of the Municipality of Stolac from their homes under threat of arms; that shots were fired over the heads of the people being expelled; that the villagers were threatened with death; that they were forced to walk to their destination, and that a mother was forced to leave behind the body of her daughter after she was killed by an HVO soldier on 13 July 1993.²⁰³⁹

1273. The Chamber is satisfied that the extremely harsh conditions under which the HVO expelled the Muslims of the Municipality of Stolac from their homes caused them serious bodily and mental harm. The Chamber is also satisfied that the soldiers and military policemen of the HVO intended to cause serious bodily and mental harm to the women, children and elderly people they were expelling. The Chamber thus finds that the treatment inflicted by the HVO on the Muslims from the Municipality of Stolac constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1274. The Chamber also established that between May and October 1993, members of the HVO, including members of the Military Police and the MUP, regularly and savagely beat the detainees at Koštana Hospital, punching and kicking them, and beating them with truncheons, rifle butts, belts

²⁰³⁹ See “Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda” and “Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control” in the Chamber's factual findings with regard to the Municipality of Stolac. See also “Municipality of Stolac” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

and chair legs.²⁰⁴⁰ One detainee was also subjected to electric shocks until he lost consciousness.²⁰⁴¹ Some former detainees suffered from the consequences of such violence for years to come.²⁰⁴²

1275. The Chamber is satisfied that the particularly brutal treatment inflicted on the detainees by HVO members, including members of the Military Police and the MUP, caused them serious bodily and mental harm. The Chamber is satisfied that by inflicting such treatment on the detainees, the members of the HVO intended to cause them serious bodily and mental harm, and even more so since those acts took place over a six-month period. The Chamber thus finds that the treatment meted out to the Muslims from the Municipality of Stolac by the members of the HVO constituted an inhumane act, a crime recognised by Article 5 of the Statute.

IX. Municipality of Čapljina

1276. The Chamber established that on about 13 July 1993, members of the HVO, including soldiers belonging to the 1st *Knez Domagoj* Brigade, evicted women, children and elderly people from the village of Domanovići and held them for several days, even weeks, in particular at the Čapljina Silos and at Počitelj, before forcing them to go to territory under the control of the ABiH, primarily Blagaj.²⁰⁴³ The Chamber noted by a majority, with Judge Antonetti dissenting, that during this operation, two young Muslim women aged 17 and 23, Dženita and Sanela Hasić, were shot and killed one after the other by HVO snipers.²⁰⁴⁴

1277. The Chamber also established that between 13 and 16 July 1993, members of the HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their village of Bivolje Brdo and held them for several days, even weeks, at various locations – including the Čapljina Silos, the Sovići School, a collection centre in Gradina in the village of Počitelj and in Doljani — before forcing them to go to territory under the control of the ABiH, primarily

²⁰⁴⁰ See “Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks” and “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁰⁴¹ See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁰⁴² See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁰⁴³ See “Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići”, “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards”, “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁴⁴ See “Death of Two Young Women in the Village of Domanovići” in the Chamber's factual findings with regard to the Municipality of Čapljina.

Blagaj.²⁰⁴⁵ It noted that during those eviction operations, a disabled 83-year-old man was shot and killed in his home on 14 July 1993 by HVO soldiers,²⁰⁴⁶ that houses in the village were burned down and that there were cases of theft.²⁰⁴⁷

1278. The Chamber then noted that on about 13 July 1993 and in early August 1993, members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and sent them by lorry to Buna and Petak where they were subsequently forced to continue on foot to Blagaj.²⁰⁴⁸

1279. The Chamber also established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some of them were taken to a house in Tasovčići²⁰⁴⁹ before being taken to the Silos on 2 October 1993 and then to Blagaj.²⁰⁵⁰

1280. Finally, the Chamber established that in August and September 1993 members of the HVO and the MUP evicted women, children and elderly people from the town of Čapljina - holding some of them at the Silos - and removed them in lorries, vans and cars to territory under the control of the ABiH.²⁰⁵¹

²⁰⁴⁵ See “Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo”, “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards”, “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina”, and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁴⁶ See “Death of an 83-Year-Old Person in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁴⁷ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” and “Thefts of Muslim Property in and around the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁴⁸ See “Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁴⁹ See “Evictions and Removals of Women, Children and Elderly People on 11 August 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁵⁰ See “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁵¹ See “Events in August and September 1993 in the Town of Čapljina” and “Incarceration of Muslims from the Municipality of Čapljina” in the Chamber's factual findings with regard to the Municipality of Čapljina.

1281. The Chamber is satisfied that all these evictions and the conditions under which they were carried out – detention for several days or even weeks in various locations before being forced to set off for territory under the control of the ABiH, sometimes on foot, thefts, burnings and deaths during these operation in some villages – caused serious bodily and mental harm to the women, children and elderly people from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina who were driven from their homes. The Chamber is moreover satisfied that the members of the HVO intended to cause serious bodily and mental harm to the Muslim villagers they were expelling. The Chamber thus finds that the treatment inflicted by the HVO on Muslims from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina from July to October 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1282. However, the Chamber recalls that it was unable to find that the women, children and elderly people from the villages of Oplići and Lokve were removed by the HVO in July and August 1993.²⁰⁵² For this reason, the Chamber is unable to find that the alleged removals and the conditions under which they took place constituted an inhumane act, a crime recognised by Article 5 of the Statute.

X. Dretelj Prison

1283. The Chamber established that between July 1993 and early October 1993, the Muslim detainees at Dretelj Prison, some of whom were members of the ABiH and were thus prisoners of war and others who were not part of any armed force and were thus civilians, were hit, beaten and humiliated on a regular basis by the military policemen in Dretelj Prison, by guards and also by persons from outside the prison, including inhabitants of the region, HVO and HV soldiers and even, on occasion, by other Muslim detainees who were forced to do so.²⁰⁵³ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the armed forces and the HVO Military Police for almost three months caused them serious bodily and mental harm and constituted a serious attack on their human dignity. The Chamber is satisfied that those responsible for the prison and the units present in the camp – the 3rd Company of the 3rd and then 5th Battalion of the Military Police, the 1st *Knez Domagoj* Brigade and the

²⁰⁵² See “Evictions and Removals of Women, Children and Elderly People from the Village of Lokve” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁰⁵³ See “Treatment of Detainees” in the Chamber's factual findings with regard to Dretelj Prison.

Domobrani unit²⁰⁵⁴ – who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees.

1284. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees by the HVO at Dretelj Prison between July 1993 and early October 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

XI. Gabela Prison

1285. The Chamber established that from at least June to October 1993, the Muslim detainees at Gabela Prison, some of whom were members of the ABiH and were thus prisoners of war and others who were not part of any armed force and were thus civilians, were hit, beaten and humiliated on a regular basis, in particular by the prison warden, who was a member of the 1st *Knez Domagoj* Brigade, by the *Domobrani* and by members of the Military Police.²⁰⁵⁵ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the armed forces and the HVO Military Police for at least five months caused them serious bodily and mental harm and constituted a serious attack on their human dignity. The Chamber is satisfied that those responsible for the prison – the 1st *Knez Domagoj* Brigade, whose members were the Warden and the Deputy Warden of the prison, as well as the *Herceg Stjepan* Brigade and a *Domobrani* unit that guarded and maintained security for the detainees²⁰⁵⁶ – who knew about such treatment and did nothing to stop it, could reasonably have foreseen that it could cause serious bodily and mental harm to the detainees.

1286. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Gabela Prison by the HVO from at least June to October 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

XII. Municipality of Vareš

1287. The Chamber established that after their arrest on 18 October 1993, Ešref Likić, Jakub Likić, Mehmed Likić, Himzo Likić, Rešad Likić and Mufid Likić, six Muslim men of whom four were members of the ABiH and thus prisoners of war, and two who were not part of any armed force and were thus civilians, were held from 18 to 23 October 1993 at the Military Police prison in

²⁰⁵⁴ See “Description of Dretelj Prison”, “3rd Company of the 3rd and then 5th Military Police Battalion”, “1st *Knez Domagoj* Brigade” and “The *Domobrani*” in the Chamber’s factual findings with regard to Dretelj Prison.

²⁰⁵⁵ See “Treatment of Detainees” in the Chamber’s factual findings with regard to Gabela Prison.

²⁰⁵⁶ See “Management of Gabela Prison”, “Authorities Granting Access to Prison for People from Outside”, “Authorities Controlling Detainee Access to Food and Water” and “Authorities Responsible for Organising and Providing Medical Care” in the Chamber’s factual findings with regard to Gabela Prison.

Vareš. The Chamber noted that during their detention, they were forced to remain on their knees with their hands behind their backs for several hours and were brutally beaten on two occasions by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit.²⁰⁵⁷ The Chamber noted in particular that one of the detainees had his head covered with a pair of trousers, was handcuffed and then beaten with batons and was punched and kicked. It also noted that one of the detainees was beaten until he lost consciousness.²⁰⁵⁸ The Chamber is satisfied that the brutal treatment inflicted on the six Muslim men by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit caused them serious bodily and mental harm. The Chamber is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade and the soldiers of the *Maturice* special unit intended to cause serious bodily and mental harm to the six Muslim men held at the Military Police prison in Vareš when they beat them. In light of the evidence, the Chamber therefore finds that the treatment meted out to the six Muslim men held at the Military Police prison in Vareš between 18 and 23 October 1993 by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1288. The Chamber also established that from the morning of 23 October 1993 to 24 October 1993, members of the HVO, of whom some belonged to the *Maturice* special unit, arrested Muslim men from the town of Vareš, among whom were members of the ABiH and thus prisoners of war and others who were not part of any armed force and were thus civilians.²⁰⁵⁹ The Chamber noted in particular that beginning on 23 October 1993 at dawn, the members of the HVO went to the homes of Muslims and forced the Muslim men, often still in their underclothes, out of their houses, and took them to the Vareš Secondary School, the Vareš School and the prison of Vareš Majdan where they were detained. During these arrests, the Muslims were insulted, threatened and beaten with rifle butts.²⁰⁶⁰ In particular, the Chamber noted that when the HVO soldiers arrested Salem Ćerenić at his home in the presence of his wife and two children, the soldiers insulted him, put the barrel of a rifle into his mouth demanding gold, money and weapons and that after they forced him out of his house without giving him time to get dressed, he was made to go from one group of soldiers to

²⁰⁵⁷ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁵⁸ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁵⁹ See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁶⁰ See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

another to the Vareš Secondary School with his head bowed down and his hands behind his head while being pushed around and insulted by groups of soldiers.²⁰⁶¹

1289. The Chamber is satisfied that the brutal, humiliating and degrading treatment inflicted on the Muslims of the town of Vareš during their arrest by HVO soldiers beginning on the morning of 23 October 1993 caused them serious bodily and mental harm and constituted an attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including soldiers belonging to the *Maturice* special unit, intended to cause serious bodily and mental harm to the Muslims and an attack on their human dignity. The Chamber thus finds that the treatment meted out to the Muslims when they were arrested as of 23 October 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1290. As to the Muslim men held at the Vareš Secondary School between 23 October and 4 November 1993, including men who were not part of any armed force and were thus civilians and members of the ABiH who were thus prisoners of war, the Chamber noted that they suffered beatings that led to serious injuries as well as burnings and insults by members of the HVO.²⁰⁶² The Chamber established in particular that Salem Ćerenić was beaten by seven HVO soldiers for an hour, during which time he was kicked and struck with batons and rifle butts; that he lost two teeth on that occasion, had his ribs broken, had a skull fracture and a damaged spine, and that he was black and blue with bruises from the beating.²⁰⁶³ This detainee testified that he was beaten several times a day for the five or six days of his detention. The Chamber also noted that an HVO soldier put his cigarette out on the hand of Muris Arapović, while holding a pistol to his head, and that his face was covered in blood.²⁰⁶⁴ The Chamber established that other detainees were insulted, beaten, struck in the face and forced to remain seated all day with their heads between their legs, and that they bore traces of blood, beatings and bruises.²⁰⁶⁵

1291. The Chamber is satisfied that the particularly brutal treatment inflicted by members of the HVO on the Muslim men held at the Vareš Secondary School caused them serious bodily and mental harm and was a serious attack on their dignity. The Chamber is satisfied that the members of the HVO who inflicted this treatment intended to cause serious bodily and mental harm to the

²⁰⁶¹ See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁶² See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁶³ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁶⁴ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School” in the Chamber's factual findings with regard to the Municipality of Vareš.

detained Muslim men and attack their dignity. It is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade responsible for guarding the detainees knew about such treatment, did nothing to stop it, and could reasonably have foreseen that it could cause the detainees serious bodily and mental harm and constitute a serious attack on their dignity. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from going to the Vareš Secondary School before 26 October 1993. The Chamber therefore finds that the treatment by members of the HVO of the Muslim men held at the Vareš Secondary School between 23 October and 4 November 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1292. With regard to the Muslim men held at the Vareš School between 23 October and 4 November 1993, some of whom were not part of any armed force and were thus civilians and others who were members of the ABiH and were thus prisoners of war, the Chamber established that they were beaten as soon as they arrived at the school;²⁰⁶⁶ that during their detention they were repeatedly the objects of brutal beatings that led to visible injuries; that they were forced by members of the HVO to stand or sit in painful and humiliating positions;²⁰⁶⁷ that during his five-day detention at the Vareš School, Salem Ćerenić was beaten once or twice a day by members of the HVO;²⁰⁶⁸ and that all the detainees were beaten during detention.²⁰⁶⁹ The Chamber is satisfied that the Muslim men held at the Vareš School were subjected to brutal treatment that caused them serious bodily and mental harm and constituted an attack on their dignity. The Chamber is also satisfied that the members of the HVO who inflicted this treatment intended to cause serious bodily and mental harm to the Muslim detainees and attack their human dignity. It is moreover satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade and later members of the said brigade responsible for guarding the detainees who were aware of such treatment and did nothing to stop it, could reasonably have foreseen that it could cause the detainees serious bodily and mental harm and an attack on their dignity. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from going to the Vareš School before 26 October 1993. In light of the evidence, the Chamber finds that the treatment inflicted by members

²⁰⁶⁵ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²⁰⁶⁶ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²⁰⁶⁷ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²⁰⁶⁸ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²⁰⁶⁹ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

of the HVO on the Muslim men held at the Vareš School between 23 October and 4 November 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1293. As to the Muslim men held at Vareš-Majdan Prison between 23 October and 4 November 1993, including both men who were not part of any armed force and were thus civilians and members of the ABiH who were thus prisoners of war, the Chamber established that they were victims of acts of violence committed by members of the HVO that led to the hospitalisation of at least one of the detainees.²⁰⁷⁰ The Chamber established in particular that three drunken HVO soldiers, whose unit it was not able to establish, entered a cell containing six detainees, shot over their heads, thrust a knife into the leg of one detainee, Ahmed Likić, and forced another detainee, Nedžad Čazimović, to eat his own beard that they had just cut off.²⁰⁷¹ The Chamber also established that because of the severe beatings they received during their detention at Vareš-Majdan Prison, Mufid Likić and Himzo Likić had to be taken to Vareš-Majdan hospital by two members of the Vareš MUP.²⁰⁷² The Chamber is satisfied that the brutal treatment of the detainees at Vareš-Majdan Prison caused them serious bodily and mental harm and was a serious attack on their dignity. The Chamber is also satisfied that the members of the HVO who inflicted this treatment intended to cause serious bodily and mental harm to the Muslim detainees and attack their human dignity. It is also satisfied that the members of the Vareš MUP and the Military Police platoon attached to the *Bobovac* Brigade responsible for guarding the detainees who were aware of such treatment and did nothing to stop it could reasonably have foreseen that it could cause the detainees serious bodily and mental harm and constitute a serious attack on their dignity. In light of the evidence, the Chamber finds that the treatment inflicted on the detainees at Vareš-Majdan Prison by members of the HVO between 23 October and 4 November 1993 constituted an inhumane act, a crime recognised by Article 5 of the Statute.

1294. With regard to the events during and after the attack on the village of Stupni Do on 23 October 1993 by soldiers of the *Maturice* and *Apostoli* special units of the HVO, the Chamber noted that three Muslim women were the victims of acts of sexual abuse;²⁰⁷³ that 38 inhabitants of the village died during the attack;²⁰⁷⁴ that 36 of these inhabitants were killed by the *Maturice* and

²⁰⁷⁰ See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁷¹ See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁷² See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁷³ See “Sexual Abuse of Women in the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁷⁴ See “Death of Villagers in and around the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

Apostoli special units; that among these individuals, 28 Muslim women, children and men were either Muslims not part of any armed force and thus civilians, or combatants taken by the enemy after having been arrested and disarmed; that these 28 individuals were either killed by bladed instruments or shot at very close range, or even burned alive in the burning houses of the village; that all the houses and adjacent buildings such as sheds and stables were destroyed during or after the attack; that the inhabitants were robbed of their possessions by members of the *Maturice* or *Apostoli* special units, and that the HVO forces prevented UNPROFOR from gaining access to the village of Stupni Do between 23 and 25 October 1993.²⁰⁷⁵

1295. The Chamber holds that all these events caused serious bodily and mental harm and constituted an attack on the dignity of the Muslim inhabitants of the village of Stupni Do. The Chamber is satisfied that the members of the *Maturice* and *Apostoli* special units who took part in the attack and committed these acts intended to cause serious bodily and mental harm and an attack on the dignity of the Muslim inhabitants of the village of Stupni Do. The Chamber finds that all the acts inflicted on the Muslim population of the village of Stupni Do by members of the *Maturice* and *Apostoli* special units during the attack of 23 October 1993 constituted inhumane acts, a crime recognised by Article 5 of the Statute.

Heading 15: Inhuman Treatment (Count 16)

I. Municipality of Prozor

1296. As an initial matter, the Chamber recalls that on 24 October 1992, during the HVO takeover of the town of Prozor and the village of Paljike, there were Muslims present who were not part of any armed force and were thus civilians in the hands of the enemy protected by the Geneva Conventions. Likewise, it recalls that in April 1993, when the HVO took Parcani and Tošćanica, there were Muslims present who were not part of any armed force and were thus civilians in the hands of the enemy protected by the Geneva Conventions. Likewise, between May or June and August 1993, when the HVO attacked the villages of Skrobućani, Gračanica, Lug, Podaniš or Podonis, Prajine and Mount Tolovac, there were Muslims present who were not part of any armed force and were thus civilians in the hands of the enemy protected by the Geneva Conventions. Finally, the Chamber recalls that the Muslims imprisoned by the HVO at various locations in the Municipality of Prozor were either prisoners of war or civilians and were thus protected by the Geneva Conventions.

²⁰⁷⁵ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” and

1297. As the Chamber established, during the HVO armed forces' takeover of the town of Prozor and the village of Paljike as of 24 October 1992, the HVO forces destroyed many Muslim houses, as well as vehicles belonging to inhabitants of the town of Prozor²⁰⁷⁶ and set fire to at least one Muslim house in the village of Paljike and killed an elderly man and a woman, both inhabitants of the village.²⁰⁷⁷ The Chamber is satisfied that these events caused serious physical and mental suffering to the Muslim population of the town of Prozor and the village of Paljike who were the victims of these acts. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces intended to cause serious suffering to the Muslim inhabitants there, thus committing inhuman treatment, a crime recognised by Article 2 of the Statute.

1298. The Chamber established that after the takeover of the town of Prozor and the village of Paljike, the HVO forces arrested and held a large number of Muslim members of the TO/ABiH from Prozor and Paljike as well as men of military age from Paljike at the Ripci School.²⁰⁷⁸ The Chamber was, however, unable to establish that the detainees at the school were mistreated by the HVO during their detention.²⁰⁷⁹ The Chamber is therefore unable to find that the HVO committed inhuman treatment at the Ripci School, a crime recognised by Article 2 of the Statute.

1299. As the Chamber established, during the takeover of the villages of Parcani on 17 April 1993 and Tošćanica on 19 April 1993, the HVO forces destroyed many houses in the two villages and killed two elderly persons in the village of Tošćanica.²⁰⁸⁰ The Chamber is satisfied that these events caused serious physical and mental suffering to the entire Muslim population of these villages. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces who took control of the two villages on 17 and 19 April 1993 intended to cause such suffering, thus committing inhuman treatment, a crime recognised by Article 2 of the Statute.

"Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁰⁷⁶ See "Damage to and Burning of Property and Houses Belonging to Muslims after the Takeover of the Town of Prozor" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁷⁷ See "Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁷⁸ See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁷⁹ See "Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁰ See "Attack on the Village of Parcani on 17 April 1993 and Burning of Houses" and "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

1300. The Chamber is, however, unable to find that HVO forces committed crimes during the takeover of the village of Lizoperci on 18 or 19 April 1993²⁰⁸¹ and therefore rejects the count of inhuman treatment for the events that took place in that village.

1301. Regarding the restrictions on the movements of the Muslim population of the Municipality of Prozor beginning in the summer of 1993, the Chamber noted that the entire population of Prozor, not just the Muslim population, was unable to leave the municipality freely without a laissez-passer.²⁰⁸² The Chamber also observed that although the Military Police monitored every movement of the inhabitants, they more specifically blocked the Muslim women, children, elderly people and the Imam of Prozor from leaving the town and the municipality at least during the summer of 1993.²⁰⁸³ On the basis of this evidence alone, however, the Chamber is unable to find beyond reasonable doubt that this restriction caused great suffering to the Muslim population of Prozor and, therefore, rejects the count of inhuman treatment for these events, a crime recognised by Article 2 of the Statute.

1302. As the Chamber established, during the attack on the village of Skrobućani in May or June 1993, HVO forces burned down Muslim properties and the village mosque.²⁰⁸⁴ In June 1993, HVO soldiers terrorised the population of the village of Gračanica by raiding the village at night and hurling grenades into the forest where part of the population had taken refuge.²⁰⁸⁵ The HVO soldiers burned down several Muslim houses during the attack on Lug in late June 1993.²⁰⁸⁶ During the attack by the HVO Military Police or the *Kinder Vod* unit on the village of Podoniš (or Podonis) on 5 July 1993, members of the HVO burned down property belonging to Muslims and killed livestock.²⁰⁸⁷ During the attack on the village of Prajine and Mount Tolovac on 19 July 1993, the HVO soldiers severely beat and killed three people in Prajine and broke into a barn on Mount Tolovac threatening a small group of men, women and children who had taken refuge there. Threatening to kill them, they forced them out and beat and killed a man by the name of Bajro Munikoza, a woman by the name of Saha Munikoza and a physically disabled person by the name

²⁰⁸¹ See “Attack on the Village of Lizoperci on 18 or 19 April 1993 and Burning of Houses” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸² See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸³ See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁴ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁵ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁶ See “Attack on the Villages of Duge and Lug and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁷ See “Attack on the Village of Podaniš or Podonis and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

of Šaban Hodžić, and then set fire to the barn.²⁰⁸⁸ The Chamber is satisfied that these events caused serious physical and mental suffering to the Muslim population of these villages. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces that attacked these villages intended to cause serious physical and mental suffering to the Muslim population there, thus committing inhuman treatment, a crime recognised by Article 2 of the Statute.

1303. The Chamber was, however, unable to find that crimes and thus inhuman treatment were committed by the HVO forces during the attack on the villages of Duge, Lizoperci, Munikoze and Parcani between June and August 1993.²⁰⁸⁹

1304. With regard to the Prozor Secondary School, the Chamber established that in July and August 1993, Muslim detainees were abused by military policemen and soldiers of the HVO, including members of the *Kinder Vod*, who came from outside the school to beat the detainees and shoot at them.²⁰⁹⁰ One of the detainees was seriously wounded by a bullet, was taken out of the Secondary School and has been missing ever since.²⁰⁹¹ The detainees were beaten on a daily basis with the beatings beginning late at night and lasting until the next morning.²⁰⁹² HVO soldiers slapped the detainees and beat them with their rifle butts.²⁰⁹³ The Chamber thus finds that the military policemen and soldiers of the HVO, including members of the *Kinder Vod*, caused serious physical and mental suffering to the Muslims held at the Secondary School in Prozor. The Chamber is satisfied not only that by committing such acts of violence, the military policemen and soldiers of the HVO, including members of the *Kinder Vod*, from outside the School, intended to cause such suffering to the detainees, but also that those responsible for the Prozor Secondary School – the *Rama* Brigade, civilian police officers, the *Domobrani* and, from 15 July 1993 onwards, military policemen²⁰⁹⁴ – who were aware of such treatment and did nothing to stop it, knew that such mistreatment could cause serious physical and mental suffering to the detainees and did not care. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim

²⁰⁸⁸ See “Death of Six Muslims in the Region of Prajine and Tolavac” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁸⁹ See “Attack on the Villages of Duge and Lug and Damage to Property”, “Attack on the Village of Lizoperci and Damage to Property and the Mosque”, “Attack on the Village of Munikoze and Damage to Property” and “Attack on the Village of Parcani and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁰ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹¹ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹² See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹³ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁴ See “Description, Organisation and Operation of Prozor Secondary School as a Detention Site” in the Chamber's factual findings with regard to the Municipality of Prozor.

detainees at the Prozor Secondary School by HVO soldiers, including members of the *Kinder Vod*, and military policemen in July and August 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1305. With regard to the Unis Building, the Chamber established that in July 1993, some detainees were beaten by HVO soldiers who came to get detainees or to interrogate them and/or beat them. When they came back, the detainees were crying and screaming.²⁰⁹⁵ The Chamber therefore finds that HVO soldiers caused serious physical and mental suffering to the Muslims held at the Unis Building. The Chamber is satisfied that the HVO soldiers intended to cause such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Unis Building by HVO soldiers in July 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1306. The Chamber recalls that it was unable to establish that the detainees at the Prozor Fire Station suffered abuse during their detention.²⁰⁹⁶ The Chamber recalls that it was unable to establish that detainees at the Technical School were abused at the site of their detention.²⁰⁹⁷ The Chamber therefore rejects the crime of inhuman treatment for the events that took place there.

1307. The Chamber already established that in July 1993, HVO soldiers forced the detainees at the MUP station in Prozor to perform labour which consisted of digging trenches on the front line and that the detainees were abused by one of the HVO soldiers while they were doing this work.²⁰⁹⁸ The detainees had bruises on their backs and bellies, had broken ribs, and their faces were swollen and covered in blood.²⁰⁹⁹ The Chamber finds that by forcing the detainees to do work of a military nature for the HVO, the enemy army, the HVO soldiers caused them serious mental suffering. In addition, the detainees who were beaten, as evidenced by the bruises and scars on their faces, suffered serious bodily and mental harm. The Chamber therefore finds that by inflicting such brutal and humiliating treatment on the Muslims held at the MUP station in Prozor, the HVO soldiers caused them serious physical and mental suffering and intended to do so. In light of the evidence, the Chamber therefore finds that the treatment meted out by the HVO soldiers to the Muslim

²⁰⁹⁵ See “Detention of Muslim Men at the Unis Building” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁶ See “Detention of Muslim Men at the Prozor Fire Station” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁷ See “Detention of Muslim Men at the Tech School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁸ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁹⁹ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

detainees at the MUP station in July 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1308. The Chamber established that in the summer of 1993, the HVO soldiers forced the detainees at the Prozor Secondary School to perform labour consisting, in particular, of digging trenches and that the detainees were abused by HVO soldiers while they were doing that work.²¹⁰⁰ Some detainees had broken noses or ribs, or bruises on their bodies and faces, particularly around the eyes.²¹⁰¹ The Chamber finds that by forcing the detainees to do work of a military nature for the HVO, the enemy army, the HVO soldiers caused them serious mental suffering. Moreover, the detainees who were beaten suffered serious bodily and mental harm. The Chamber is satisfied that the HVO soldiers intended to cause the detainees serious bodily and mental harm. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Prozor Secondary School by the HVO soldiers constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1309. The Chamber established that on 31 July 1993, about 50 detainees from the Prozor Secondary School were taken to the front line at Crni Vrh and forced to walk barefoot while being insulted before being tied to one another by HVO soldiers using telephone cables.²¹⁰² The Chamber also noted that the HVO soldiers opened fire on the detainees and that because the cables were tied around their hands and necks, the detainees suffocated when some of them were shot and fell to the ground.²¹⁰³ The Chamber thus finds that the HVO soldiers caused serious physical and mental suffering to the detainees at the Prozor Secondary School whom they took away to the front line at Crni Vrh. The Chamber is satisfied that the HVO soldiers intended to cause such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees from the Prozor Secondary School by the HVO soldiers at Crni Vrh constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1310. The Chamber established that in July and August 1993, the Muslim population being held by the HVO in Podgraĉe, Lapsunj and Duge was living in very harsh conditions²¹⁰⁴ and was the

²¹⁰⁰ See “Treatment of Detainees at Prozor Secondary School” and “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰¹ See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰² See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰³ See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰⁴ See “Conditions of Confinement of the Muslims Collected in Podgraĉe”, “Conditions of Confinement of the Muslims Collected in the Village of Lapsunj” and “Conditions of Confinement of the Muslims Collected in the Village of Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

victim of verbal and physical assaults by HVO soldiers of the *Rama* Brigade and by military policemen.²¹⁰⁵ It also established that women and girls were beaten and humiliated – some of them had had their skulls shaven or were undressed in front of their fathers and *vice versa*.²¹⁰⁶ The Chamber is satisfied that the treatment inflicted on the Muslims held in the Podgraĉe neighbourhood and the villages of Lapsunj and Duge or on their relatives caused them serious physical and mental suffering and constituted a serious attack on their dignity. The Chamber is satisfied that by inflicting such brutal and humiliating treatment on them the HVO soldiers and the military policemen intended to cause them such physical and mental suffering and attack their dignity. The Chamber therefore finds that the treatment meted out by the HVO soldiers to the Muslim population held in Podgraĉe, Lapsunj and Duge in July and August 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1311. The Chamber established that on 28 August 1993, the HVO soldiers moved the women, children and elderly people being held in Podgraĉe, Lapsunj and Duge to ABiH territories and fired on and wounded some of them at that time.²¹⁰⁷ Having surrounded the village of Duge, the HVO soldiers shot in the air to force the Muslims to get into the lorries.²¹⁰⁸ They did not give any water to these Muslims during transportation even though it was very hot and some of them were suffocating and fainting.²¹⁰⁹ When they arrived at Kuĉani, they were forced to continue on foot, escorted by HVO soldiers who warned them that there were land mines along the path.²¹¹⁰ The Chamber thus finds that the brutal treatment meted out by the HVO soldiers to the Muslim women, children and elderly people held in Podgraĉe, Lapsunj and Duge during their removal to the village of Kuĉani and ABiH-held territories caused them serious physical and mental suffering. The Chamber is satisfied that by inflicting such brutal treatment upon them, the HVO soldiers present during the removal, including a member of the *Kinder Vod*,²¹¹¹ intended to cause them such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims by the HVO soldiers during their removal from Podgraĉe, Lapsunj and Duge to ABiH-held territories constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

²¹⁰⁵ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰⁶ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰⁷ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰⁸ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹⁰⁹ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹¹⁰ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

1312. The Chamber established that from the end of August 1993 to December 1993, women, children and elderly people were held in the village of Duge where they were abused by members of the HVO, in particular by those from the *Kinder Vod*, that is, they were threatened with death, insulted and severely beaten.²¹¹² Some members of the HVO harassed the Muslims – in particular the oldest among them – and an old man was struck by an HVO soldier with a chair that was smashed over his head.²¹¹³ The Chamber thus finds that the treatment inflicted by members of the HVO on the Muslim population held in the village of Duge caused it serious physical and mental suffering. The Chamber is satisfied not only that by inflicting such brutal treatment on them, the HVO soldiers, including members of the *Kinder Vod*, intended to cause such suffering, but also that those responsible for guarding the village of Duge – members of the HVO Military Police²¹¹⁴ – who were aware of such treatment and did nothing to stop it, knew that this mistreatment could cause such suffering and did not care.

1313. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims in the village of Duge by HVO soldiers, including members of the *Kinder Vod*, between the end of August 1993 and December 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

1314. As an initial matter, the Chamber recalls that on 18 January 1993 when the HVO attacked the town of Gornji Vakuf and the villages of Duša, Uzričje, Tdrimci and Hrasnica, there were women, children and elderly people - civilians protected by the Geneva Conventions - in those localities. Moreover, the Muslims imprisoned in various places in the Municipality of Gornji Vakuf were either prisoners of war or civilians in the hands of the enemy and were thus protected by the Geneva Conventions.

1315. As the Chamber established, during the HVO attack of 18 January 1993 on the town of Gornji Vakuf and the villages of Duša, Uzričje, Tdrimci and Hrasnica, the HVO forces destroyed part of the town of Gornji Vakuf and houses in the villages of Duša, Hrasnica, Uzričje and

²¹¹¹ See “Removal to Kučani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹¹² See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹¹³ See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²¹¹⁴ See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

Ṭdrimci.²¹¹⁵ In the village of Duša, women, children and elderly people were wounded and seven others killed by an HVO shell fired at a house in which they had taken refuge.²¹¹⁶ The Chamber also recalls that once the HVO forces took the villages, they systematically placed the civilian population there in detention.²¹¹⁷ The Chamber is satisfied that all these events caused serious physical and mental suffering to the civilian Muslim population, the victim of such acts. The Chamber is moreover satisfied that the HVO forces that attacked the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzriçje and Ṭdrimci intended to cause serious physical and mental suffering to the inhabitants and thereby committed inhuman treatment, a crime recognised by Article 2 of the Statute.

1316. The Chamber established that after the HVO attack of 18 January 1993, HVO soldiers beat Muslim inhabitants of the village of Uzriçje who were being held in two houses in the village and forced one of them to undress during interrogation.²¹¹⁸ The Chamber also found that in February 1993, members of the HVO forced the inhabitants of the village of Uzriçje out of their homes and made them stand in the cold for a long time, while insulting them, threatening to kill them and firing into the air over their heads.²¹¹⁹

1317. The Chamber is satisfied that the brutal and degrading treatment inflicted on the inhabitants of Uzriçje who were held for about one and a half months,²¹²⁰ caused serious physical and mental suffering and constituted an attack on their dignity. The Chamber is satisfied that by inflicting such treatment on the villagers being held, and doing so on several occasions, the HVO soldiers intended to cause them serious physical and mental suffering and attack their dignity. The Chamber thus finds that the treatment meted out to the inhabitants of Uzriçje by the HVO soldiers beginning on 19 January 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

²¹¹⁵ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹¹⁶ See “Attack on the Village of Duša” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf. Concerning the seven people killed by a shell that landed in the house in which they had taken refuge, see “Municipality of Gornji Vakuf” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

²¹¹⁷ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša”, “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” and “Detention of Villagers from the Village of Uzriçje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹¹⁸ See “Detention of Villagers from the Village of Uzriçje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹¹⁹ See “Detention of Villagers from the Village of Uzriçje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²⁰ See “Detention of Villagers from the Village of Uzriçje” and “Removal of Villagers from the Village of Uzriçje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1318. With regard to the men of the villages of Duša and Hrasnica held at the Trnovača Furniture Factory for about two weeks after 18 January 1993, the Chamber established that HVO soldiers from outside beat them with truncheons, rifle butts, batons and iron bars, and kicked and punched them; that they forced them to beat one another and to undress; that HVO soldiers cut off the ear of one of them, Hasan Behlo, and then poured alcohol onto it and beat the wound with a shoe.²¹²¹

1319. The Chamber is satisfied that the extremely brutal treatment inflicted on the detainees at the Furniture Factory by HVO soldiers for about two weeks caused serious physical and mental suffering and constituted an attack on their dignity. The Chamber is satisfied not only that by inflicting such treatment on the detainees, and doing so on several occasions, the HVO soldiers intended to cause serious physical and mental suffering and an attack on their dignity, but also that the soldiers in charge of guarding the detainees – members of the *Ante Starčević* Brigade²¹²² – who were aware of such treatment and did nothing to stop it knew that it could cause serious physical and mental suffering to the detainees and did not care. The Chamber therefore finds that the treatment meted out to the detainees at the Trnovača Furniture Factory by the HVO soldiers for about two weeks after 18 January 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1320. The Chamber also established that the women of the village of Țdrimci held in three or four houses in the village after the attack of 18 January 1993 were forced by HVO soldiers to recite Christian prayers in front of the *Mekteb* which the soldiers threatened to burn down.²¹²³ The Chamber is satisfied that such treatment caused them serious mental suffering and was a serious attack on their dignity. The Chamber is also satisfied that by forcing them to recite such prayers and threatening to burn down an institution dedicated to religion, the HVO soldiers intended to cause them serious mental suffering and a serious attack on their dignity. The Chamber thus finds that the treatment meted out to the women of the village of Țdrimci constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1321. The Chamber also established that the women, children and elderly people from the village of Hrasnica held from 18 January 1993 and removed that same evening to Volari²¹²⁴ were insulted and "provoked" by two of the HVO soldiers escorting them, although no further details were

²¹²¹ See "Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²² See "Organisation and Operation of the Trnovača Furniture Factory as a Detention Facility" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²³ See "Allegations of Detention and Removal of Women and Children from the Village of Țdrimci" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²⁴ See "Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

given.²¹²⁵ The Chamber is not satisfied that these insults, threats and provocations caused serious bodily or mental harm or constituted an attack on the dignity of the women, children and elderly people from the village of Hrasnica. The Chamber is thus unable to find that the treatment of these women, children and elderly people constituted inhuman treatment recognised by Article 2 of the Statute.

1322. With regard to the women, children and elderly people from the village of Hrasnica held from 19 January 1993 in houses in Trnovača after their detention in Volari and the Furniture Factory, the Chamber noted that the HVO did not mistreat them.²¹²⁶ Concerning the women, children and elderly people from the villages of Duša and Țdrimci, the Chamber recalls that it was unable to determine how they were treated at the various sites where they were detained.²¹²⁷ The Chamber is thus unable to find that the treatment of the Muslims detained in those various detention sites constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1323. As an initial matter, the Chamber notes that the Muslims imprisoned at various locations in the Municipality of Jablanica were either prisoners of war or civilians and were thus protected by the Geneva Conventions.

1324. The Chamber determined that during their detention at the Sovići School between 17 April and 5 May 1993, some Muslim detainees, including women, were beaten and mistreated by HVO soldiers, including KB soldiers.²¹²⁸ Accordingly, the Chamber noted that between 17 and 19 April 1993, two women were beaten and then forced to beat one another with batons; that one male detainee was punched and kicked several times and was beaten with a rifle butt without receiving medical attention thereafter; and that one detainee was knifed in the thigh.²¹²⁹ The Chamber is satisfied that the brutal treatment inflicted on these detainees by HVO soldiers, including members of the KB, caused them serious physical and mental suffering. The Chamber is thus satisfied not only that the HVO soldiers, including soldiers of the KB, intended to cause serious physical and

²¹²⁵ See “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²⁶ See “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²⁷ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša” and “Allegations of Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²¹²⁸ See “The Chamber's Findings about Alleged Criminal Events at Sovići School” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹²⁹ See “Conditions of Confinement and Treatment of Detainees at the Sovići School” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

mental suffering to the detainees at the Sovići School but also that those responsible for guarding the detainees at the Sovići School – members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police²¹³⁰ – who were aware of such treatment and did nothing to stop it, knew that such mistreatment could cause the detainees serious physical and mental suffering and did not care.

1325. The Chamber therefore finds that the treatment meted out to the Muslims held at the Sovići School by the HVO between 17 April and 5 May 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1326. The Chamber determined that during the transfer from the Sovići School to Ljubuški Prison on 18 April 1993, HVO soldiers, including soldiers of the KB, severely beat the Muslim men and ABiH soldiers they were holding and humiliated them, for instance by demanding that one detainee take off his shirt and clean the shoes of the officers with the clothing he took off.²¹³¹ The Chamber received evidence showing that these detainees bore signs of the beatings when they arrived at Ljubuški.²¹³² The Chamber is satisfied that the brutal and degrading treatment inflicted on the Muslims by HVO soldiers, including soldiers of the KB, on 18 April 1993 caused them serious physical and mental suffering and constituted a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including soldiers of the KB, intended to cause serious physical and mental suffering to the detainees and attack their dignity.

1327. The Chamber therefore finds that the treatment meted out to the Muslims detained at the Sovići School during their transfer to Ljubuški Prison by the HVO on 18 April 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1328. The Chamber established that between 19 April and 4 or 5 May 1993, women, children and elderly people being held by HVO soldiers, including "Tuta"s" soldiers and former members of the HOS, in six or seven houses in Junuzovići were regularly beaten and suffered other abuse such as insults, death threats and shots fired at the houses by HVO soldiers, including "Tuta"s" soldiers, to frighten them.²¹³³ The Chamber also noted that, generally speaking, there was a real climate of fear

²¹³⁰ See "Organisation and Operation of the Sovići School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³¹ See "Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³² See "Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³³ See "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

among the detainees.²¹³⁴ The Chamber is satisfied that the brutal treatment inflicted on the Muslims by the HVO soldiers, including members of the KB, for almost three weeks caused them serious physical and mental suffering and constituted a serious attack on the detainees' human dignity. The Chamber is satisfied not only that the HVO soldiers, including "Tuta"'s soldiers, intended to cause serious physical and mental suffering to the detainees and an attack on their human dignity but also that the authorities responsible for guarding the detainees in the hamlet of Junuzovići – members of the KB, HVO soldiers and former members of the HOS – who were aware of such treatment and did nothing to stop it, knew that such mistreatment could cause serious physical and mental suffering to the detainees and a serious attack on their human dignity and did not care.

1329. The Chamber therefore finds that the treatment meted out to the Muslims held in houses in Junuzovići by the HVO between 19 April and 4 or 5 May 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1330. The Chamber established that on 20 April 1993, ABiH soldiers being held at the fish farm by HVO soldiers, including members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB, were severely beaten, humiliated, insulted and threatened with death by HVO soldiers, including "Tuta".²¹³⁵ The Chamber is satisfied that the brutal and degrading treatment inflicted on the ABiH soldiers by the HVO soldiers and Mladen Naletilić alias "Tuta" that day caused them serious physical and mental suffering and constituted a serious attack on their human dignity. The Chamber is satisfied not only that the HVO soldiers, including Mladen Naletilić alias "Tuta", intended to inflict serious physical and mental suffering on the detainees and a serious attack on their human dignity but also that the units present at the fish farm on 20 April 1993 – members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB²¹³⁶ – who were aware of such treatment and did nothing to stop it, knew that such mistreatment could cause serious physical and mental suffering to the detainees and a serious attack on their human dignity and did not care.

1331. The Chamber thus finds that the treatment meted out to the Muslims held by the HVO at the fish farm constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1332. The Chamber established that some of the men held at the Sovići School and guarded by soldiers belonging to the 3rd *Mijat Tomić* Battalion, members of the KB and members of the HVO

²¹³⁴ See "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³⁵ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

Military Police between 17 April and 5 May 1993, including Nihad Kovač, who was 13 years old at the time, and an ABiH soldier, were forced to do work such as burying the bodies of soldiers who had been killed or "engineering" works at HVO positions.²¹³⁷ While he was being held at the Sovići School, Nihad Kovač was forced by HVO soldiers to dig trenches and carry heavy ammunition cases to a military site about four kilometres from the Sovići School.²¹³⁸ The Chamber is satisfied by a majority, with Judge Trechsel dissenting, that in view of his age, the nature and the duration of the work he was forced to do, the work caused him serious physical and mental suffering. Moreover, the Chamber is satisfied by a majority, with Judge Trechsel dissenting, that the HVO soldiers who forced him to do the work knew that it could cause him serious suffering and did not care.

1333. The Chamber thus finds by a majority, with Judge Trechsel dissenting, that the work done by 13-year-old Nihad Kovač, who was being held at the Sovići School, constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1334. With regard to the ABiH soldier, the Chamber notes that he stated that he had volunteered to bury the bodies of Muslims killed during the HVO attack on the villages of Sovići and Doljani.²¹³⁹ With the exception of this evidence, the Chamber has no further information. As such, it cannot find beyond reasonable doubt that the work done by the soldier held by the HVO at the Sovići School constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

IV. Municipality of Mostar

1335. The Chamber established that on 13 June 1993, soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade as well as Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG, beat a large number of people during operations to forcibly expel Muslims from their houses in the Dum neighbourhood in West Mostar. These people – members of the ABiH or not – fell into the hands of the enemy when the armed HVO soldiers forced them out of their homes. Consequently, these Muslims – civilians

²¹³⁶ See "Organisation of the Fish farm as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³⁷ See "Labour Performed by Detainees from Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³⁸ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²¹³⁹ See "Labour Performed by Detainees from Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

or prisoners of war – were in enemy hands when they suffered this abuse and were therefore protected persons within the meaning of the Geneva Conventions.

1336. The Chamber is satisfied that the brutal treatment inflicted on these Muslims caused them serious physical and mental suffering and that the aforementioned HVO soldiers intended to inflict such suffering on them. The Chamber is therefore able to find that the treatment meted out by soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG, to the Muslims in the Dum neighbourhood of West Mostar on 13 June 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1337. As an initial matter, the Chamber notes that the Muslims imprisoned at the Tobacco Institute and at the Mechanical Engineering Faculty were both civilians and prisoners of war; that most of the Muslims of West Mostar who were the victims of several eviction operations between May 1993 and February 1994 were civilians who had fallen into the hands of the enemy; and that most of the Muslim residents of East Mostar between June 1993 and March 1994 were also civilians besieged by the HVO. All these people were thus protected by the Geneva Conventions.

1338. As the Chamber established, HVO soldiers and in particular Mladen Naletilić and Juka Prazina kicked and beat with rifle butts the Muslim men who were arrested during the fall of the Vranica Building in West Mostar on 10 May 1993 and were held at the Tobacco Institute.²¹⁴⁰ The Chamber is satisfied that the particularly brutal treatment inflicted by HVO soldiers on the Muslim men held at the Tobacco Institute in May 1993 caused serious physical and mental suffering to those detainees. The Chamber is satisfied that the HVO soldiers, including Mladen Naletilić and Juka Prazina, intended to inflict that serious physical and mental suffering on the detainees. The Chamber therefore finds that the treatment meted out by the HVO soldiers to the Muslim men held at the Tobacco Institute after the fall of the Vranica Building on 10 May 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1339. The Chamber also established that the Muslim men held at the Mechanical Engineering Faculty after the attacks of 9 May 1993 and 30 June 1993 were repeatedly and brutally beaten in May and July 1993 by HVO soldiers and military policemen, including members of the 3rd Battalion of the Military Police. The detainees were kicked, beaten with rifle butts, truncheons and

²¹⁴⁰ See "Tobacco Institute" in the Chamber's factual findings with regard to the Municipality of Mostar.

thick cables that caused serious injury and loss of consciousness.²¹⁴¹ One detainee had his ear cut off and several detainees died during these beatings.²¹⁴² The Chamber also established that it did not have evidence to determine whether these beatings continued in August 1993 or if Muslims were imprisoned at the Mechanical Engineering Faculty after July 1993.²¹⁴³

1340. The Chamber is satisfied that the extremely brutal treatment inflicted by HVO soldiers and members of the Military Police on the Muslim men held at the Mechanical Engineering Faculty in May and July 1993 caused them serious physical and mental suffering. The Chamber is satisfied that the HVO soldiers and the military policemen intended to inflict that physical and mental suffering on the detainees. The Chamber therefore finds that the treatment inflicted by the HVO soldiers and the military policemen on the Muslims from West Mostar held at the Mechanical Engineering Faculty in May and July 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1341. The Chamber also established that on 14 July 1993, in the locality of Buna, the HVO Military Police there, including the 5th Battalion of the Military Police, arrested and on several occasions badly beat a Muslim boy and his grandfather, who had both fallen into the hands of the enemy and were therefore protected by the Geneva Conventions, at the Buna Military Police station before being taken to a roadside and shot, with one of them being killed and the other seriously wounded and left there.²¹⁴⁴

1342. The Chamber is satisfied that the particularly brutal treatment inflicted on these two Muslims in Buna on 14 July 1993 by members of the HVO Military Police caused them serious physical and mental suffering. The Chamber is satisfied that by badly beating the two Muslims and firing at them, the members of the HVO Military Police intended to inflict that serious physical and mental suffering on them. In light of the evidence, the Chamber thus finds that the treatment meted out to the Muslim boy and his grandfather from Buna by members of the HVO Military Police on 14 July 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1343. The Chamber also observed that on 24 August 1993, following the HVO attack on Raštani that same day, HVO soldiers subjected women and children – who had fallen into the hands of the

²¹⁴¹ See “Treatment of Detainees at the Mechanical Engineering Faculty”, “Fate of the 12 ABiH Soldiers” and “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴² See “Fate of the 12 ABiH Soldiers” and “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴³ See “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

enemy and were consequently protected by the Geneva Conventions – near one of the houses in the village to physical and psychological violence such as beatings, threats of death and rape, as well as sexual assault.²¹⁴⁵

1344. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the Muslims of Raštani by HVO soldiers on 24 August 1993 caused them serious physical and mental suffering and constituted a serious attack on their dignity. The Chamber is satisfied that by inflicting such treatment on women and children, the HVO soldiers intended to inflict that serious physical and mental suffering on them and attack their dignity. The Chamber thus finds that the treatment meted out to the Muslim women and children from Raštani by the HVO on 24 August 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1345. The Chamber also established that in the course of the operations during which the Muslims of West Mostar were driven from their homes, between May 1993 and February 1994, the HVO soldiers – in particular the *Benko Penavić* ATG in May 1993, the members of the 4th Battalion of the 3rd HVO Brigade and members of the KB in June 1993, the members of the *Vinko Škrobo* and *Benko Penavić* ATGs in September 1993 – threatened and intimidated the Muslims they were evicting from their homes and savagely kicked, punched and beat them with their rifle butts.²¹⁴⁶ The Chamber also established that in June, July and September 1993, sexual attacks were committed during those evictions;²¹⁴⁷ however, it was unable to find that Muslims were victims of sexual attacks during the eviction operations conducted by the HVO in May and August 1993 or from October 1993 to February 1994.²¹⁴⁸

1346. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by members of the armed forces of the HVO on the Muslims of West Mostar while they were being driven out of their homes between May 1993 and February 1994 caused serious physical and mental suffering to those civilians and constituted a serious attack on their dignity. The Chamber is

²¹⁴⁴ See “Crimes Allegedly Committed in Buna around 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴⁵ See “Treatment of Muslim Women and Children During the Attack on the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴⁶ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993” and “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴⁷ See “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁴⁸ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

satisfied that the HVO soldiers intended to inflict that serious physical and mental suffering on the civilians of West Mostar and attack their dignity. The Chamber thus finds that the treatment meted out to the Muslims of West Mostar by the HVO between May 1993 and February 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1347. With regard to the Muslims living in East Mostar, the Chamber established that between June 1993 and March 1994, the HVO shelling and firing on East Mostar and the existence of a real campaign of sniper fire targeting the Muslim civilian population of East Mostar resulted in the killing and injuring of many Muslims living in the eastern part of the town²¹⁴⁹ and the creation of a climate of terror.²¹⁵⁰ The Chamber already established by a majority, with Judge Antonetti dissenting, that women, children and elderly people of East Mostar were targeted by HVO snipers while they were going about their day-to-day activities with no link to combat operations, as were firemen who were helping the population.²¹⁵¹

1348. The Chamber established, moreover, that the HVO shelling and firing on East Mostar was daily, intense and frequent.²¹⁵² It was not limited to specific targets²¹⁵³ although the HVO was able to target and identify its targets by correction fire.²¹⁵⁴ The Chamber observed that although the armed forces of the HVO targeted certain zones and/or buildings in particular, in which military targets might have been found,²¹⁵⁵ the whole of East Mostar, a residential area with a very high population density, was affected by the shelling and firing, including many homes, public buildings and shops.²¹⁵⁶ The Chamber also established that the HVO fired tyres full of explosives at homes in the Donja Mahala neighbourhood as well as napalm bombs from planes.²¹⁵⁷

²¹⁴⁹ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar. See also the part devoted to the 12 incidents highlighted by the Prosecution involving HVO snipers, among which were nine incidents that resulted in inhabitants of East Mostar being wounded: “Sniping Incident no. 1”, “Sniping Incident no. 2”, “Sniping Incident no. 4”, “Sniping Incident no. 6”, “Sniping Incident no. 7”, “Sniping Incident no. 8”, “Sniping Incident no. 9” and “Sniping Incident no. 10” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁰ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵¹ See “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵² See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵³ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁴ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁵ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁶ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁷ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

1349. Finally, as the Chamber established, the Muslim inhabitants of East Mostar lived under extremely harsh and squalid conditions between June 1993 and April 1994.²¹⁵⁸ The Chamber noted in particular that the civilian population was confined to a limited space and was obliged to live in cellars and basements of buildings or in overcrowded apartments, a situation due especially to the influx of Muslims who arrived as a result of HVO operations to evict them from May 1993 onwards.²¹⁵⁹ Throughout this period, they had no access to water,²¹⁶⁰ electricity,²¹⁶¹ food²¹⁶² and medical care.²¹⁶³ The Chamber established that those conditions were made worse and remained over months, and difficulties were enhanced, on the one hand, by the HVO's blocking or hindering the regular provision of humanitarian aid and access of international organisations to East Mostar²¹⁶⁴ and, on the other hand, by the isolation in which the HVO kept the population crowded in an enclave where it was forced to remain.²¹⁶⁵ The HVO shelling, intense fire and sniping not only killed, wounded and terrified the population, but also hindered it from moving about freely and from trying to get food, water and other basic necessities, and forced it to live in squalid conditions in the underground.²¹⁶⁶

1350. The Chamber finds that by shelling and firing on a daily basis between June 1993 and March 1994 at a small area with a heavy concentration of civilians while the population was hemmed in and obliged to remain in the area,²¹⁶⁷ by imposing extremely harsh living conditions on the inhabitants of East Mostar and by causing numerous deaths, injuries and much destruction, the HVO caused serious physical and mental suffering to the inhabitants of East Mostar and a serious attack on their dignity. The Chamber is satisfied that by shelling this small area of East Mostar intensely and on a daily basis with heavy artillery inappropriate for such a zone,²¹⁶⁸ by carrying out a sniping campaign on the civilian population of East Mostar and by imposing and maintaining extremely harsh living conditions for the inhabitants of East Mostar throughout this period, the

²¹⁵⁸ See "Living Conditions for the Population in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁵⁹ See "Living Conditions for the Population in East Mostar" (introductory part) in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁰ See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶¹ See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶² See "Access to Food" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶³ See "Access to Medical Care" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁴ See "Access to Food" and "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁵ See "Access to Food", "Blocking of International Organisations and Humanitarian Aid" and "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁶ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁷ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²¹⁶⁸ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

HVO intended to inflict that serious physical and mental suffering on the inhabitants of East Mostar and attack their dignity. The Chamber therefore finds that the treatment meted out to the Muslims of East Mostar by the HVO between June 1993 and March 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

V. The Heliodrom

1351. As an initial matter, the Chamber notes that the Muslims imprisoned in the Heliodrom were either prisoners of war or civilians and thus protected by the Geneva Conventions.

1352. The Chamber established that between May 1993 and mid-April 1994, members of the Military Police, including those responsible for guarding the detainees, and members of the HVO armed forces – among whom were members of the professional units of the KB and the *Bruno Bušić* Regiment – regularly and brutally beat the Heliodrom detainees, in particular following military losses by the HVO.²¹⁶⁹ Some detainees were beaten for several hours until they lost consciousness. The detainees were beaten with rifle butts, pickaxes and truncheons; they were punched and kicked in the back and the kidneys; they were insulted, threatened and humiliated, and some of them, who had been deprived of food for 36 hours, were given dog food to eat.²¹⁷⁰ The Chamber established as well that on 5 July 1993, between one and three in the morning, HVO soldiers staying at the Heliodrom shot at random at the buildings in which the detainees were being held without the "brigade police" intervening, which they should have done to stop the firing.²¹⁷¹

1353. The Chamber is satisfied that the brutal and degrading treatment inflicted on the Heliodrom detainees in the prison on several occasions for about a year by members of the Military Police, including those responsible for guarding them, and by the armed forces of the HVO, including members of the professional units of the KB and the *Bruno Bušić* Regiment, caused the detainees serious physical and mental suffering and constituted a serious attack on their dignity. The Chamber is satisfied that these members of the Military Police and the armed forces of the HVO intended to inflict that serious physical and mental suffering on the detainees and attack their dignity. Indications of this are, in particular, the brutality, frequency and duration of the beatings inflicted on them for about eight hours without interruption.²¹⁷² The Chamber is also satisfied that those

²¹⁶⁹ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷⁰ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷¹ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷² See in particular "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

responsible for the Heliodrom – in particular Stanko Božić and Josip Praljak, Warden and Deputy Warden respectively, and members of the Military Police – who knew about this treatment and did nothing to stop it,²¹⁷³ knew that such treatment could cause serious physical and mental suffering to the detainees and constitute a serious attack on their dignity, and did not care. The Chamber therefore finds that the treatment meted out to the Muslim detainees in the Heliodrom camp by members of the Military Police and the armed forces of the HVO between May 1993 and mid-April 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1354. The Chamber also established that between May 1993 and March 1994, the HVO took Muslim men held at the Heliodrom to the front line in the Municipality of Mostar to perform labour, such as repairing fortifications and collecting the bodies of soldiers.²¹⁷⁴ The Chamber noted that several dozen detainees who were exposed to the military confrontations were killed or wounded by firing both from the HVO and the ABiH.²¹⁷⁵ The Chamber also established that members of the 2nd Battalion of the 2nd Brigade and the 2nd Battalion of the 3rd Brigade of the HVO, as well as members of the KB and Vinko Martinović's ATG – including Vinko Martinović alias "Štela" himself – hit, beat and insulted the Heliodrom detainees while they were performing labour, also by firing over their heads and putting cigarettes out on their bodies.²¹⁷⁶

1355. The Chamber is satisfied that the brutal treatment inflicted on the detainees taken out of the camp between May 1993 and March 1994 by members of the armed forces of the HVO to perform labour caused them serious physical and mental suffering and an attack on their dignity. The Chamber is satisfied that the members of the armed forces of the HVO who took the detainees to the front line under extremely dangerous conditions and, what is more, deliberately abused them while they were working, intended to inflict serious physical and mental suffering on the detainees and attack their dignity. The Chamber is aware that some attempts were made, in particular by the Warden and the Deputy Warden of the Heliodrom, to restrict the use of forced labour.²¹⁷⁷ However, such attempts did not have any noticeable consequences. The Chamber is satisfied that the various authorities who authorised the use of detainees for work knew that this work could cause them

²¹⁷³ The Chamber recalls in particular that every morning between January and November 1993 a meeting was held at the office of Stanko Božić, sometimes in the presence of Josip Praljak, during which the Heliodrom security commander reported about everything that had happened at the prison the day before. The Chamber also notes that the work of the military policemen responsible for guarding the detainees was done under the authority of the Prison Warden (see "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom).

²¹⁷⁴ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷⁵ See "Use of Heliodrom Detainees for Work" and "Detainees Killed or Wounded during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷⁶ See "Treatment of Detainees during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

serious physical and mental suffering and a serious attack on their dignity and did not care. This is also true for the authorities directly informed about the incidents²¹⁷⁸ and who did nothing to stop them or to prosecute the perpetrators. The authorities knew that labour was being performed on the front line and thus under extremely dangerous conditions, and were informed on several occasions that detainees had already been killed, wounded or beaten during such labour. In light of the evidence, the Chamber therefore finds that the treatment meted out by the HVO to some Muslim detainees at the Heliodrom forced to perform labour on the front line between May 1993 and March 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1356. The Chamber also established that between July and September 1993, Heliodrom detainees were used by the *Vinko Škrobo* ATG as "human shields" on the Mostar front line.²¹⁷⁹ Accordingly, the Chamber noted that the detainees were forced to stand in front of or among the HVO troops to protect them from possible ABiH attacks; that they were sometimes forced to wear HVO uniforms and carry fake wooden rifles while combat was raging and forced to cross the front line to protect the HVO soldiers;²¹⁸⁰ that three detainees were wounded on the front line at Mostar on 17 September 1993 when members of the *Vinko Škrobo* ATG gave them wooden rifles and camouflage HVO uniforms to wear²¹⁸¹ and that on that same day, four other detainees were killed while also being used as "human shields".²¹⁸²

1357. The Chamber is satisfied that the brutal treatment inflicted in July, August and September 1993 by members of the *Vinko Škrobo* ATG under the command of Vinko Martinović on detainees being used as "human shields" on the Mostar front line caused them serious physical and mental

²¹⁷⁷ See "Authorities Informed about Incidents during Work" and "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷⁸ The Chamber recalls that from June 1993 to March 1994, the following persons in particular had power to authorise Heliodrom detainees to be sent out to do work: Marijan Biškić, Deputy Minister for Security in the HR H-B Ministry of Defence from 1 December 1993; Slobodan Praljak; Milivoj Petković; Ante Roso, Commander of the HVO Main Staff from 9 November 1993; Zlatan Mijo Jelić, Commander of the 1st Light Assault Battalion of the Military Police and then Commander of the Central Sector of the defence of the town of Mostar and Commander of the Mostar Defence Sector; Mladen Naletilić, Commander of the KB; Ćeljko Šiljeg, Chief of the Military Police Administration around December 1993; Radoslav Lavrić, Deputy Chief of the Military Police Administration in the summer of 1993; Zvonko Vidović, an official at the Department for Criminal Investigations of the Military Police Administration; Vladimir Primorac, successor of Zlatan Mijo Jelić as Commander of the 1st Light Assault Battalion of the Military Police; and Berislav Pušić (see "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom). The Chamber also recalls that the following persons were informed of incidents during labour performed by Heliodrom detainees: Stanko Bočić and Josip Praljak, Warden and Deputy Warden of the Heliodrom respectively, Jadranko Prlić, Bruno Stojić, Milivoj Petković, Valentin Ćorić and Berislav Pušić (see "Authorities Informed about Incidents during Work" in the Chamber's factual findings with regard to the Heliodrom).

²¹⁷⁹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁸⁰ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁸¹ See "Heliodrom Detainees Wounded while Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliodrom.

suffering and constituted an attack on their dignity. The Chamber is satisfied that by inflicting such treatment on the detainees, the members of the *Vinko Škrobo* ATG under the command of Vinko Martinović intended to inflict serious physical and mental suffering on them and attack their dignity. This is especially evident in all the preparations made for using these detainees as human shields and in the fact that the detainees were given HVO uniforms and wooden rifles.

1358. In light of the evidence, the Chamber therefore finds that the treatment meted out by the members of the *Vinko Škrobo* ATG to some Muslim detainees at the Heliodrom used as "human shields" in July, August and September 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VI. Vojno Detention Centre

1359. As an initial matter, the Chamber notes that paragraphs 141 and 142 of the Indictment allege inhumane acts with regard to events concerning the detention of women and children at the Vojno Detention Centre. As it noted, the Chamber was unable to establish the presence of those persons at the Detention Centre.²¹⁸³ Consequently, the Chamber is unable to reach a finding concerning the allegations of inhuman treatment made in paragraphs 141 and 142 of the Indictment.

1360. The Chamber then notes that the Muslims imprisoned at the Vojno Detention Centre were either men who were not part of any armed force and thus civilians or members of the ABiH and thus prisoners of war, and that they were consequently all protected by the Geneva Conventions.

1361. The Chamber established that between 8 November 1993 and 28 January 1994, the detainees at the Vojno Detention Centre were the victims of violence, serious abuse and humiliation carried out by Mario Mihalj and Dragan Šunjić, both of whom were HVO soldiers.²¹⁸⁴ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by HVO soldiers for almost three months caused them serious physical and mental suffering. The Chamber is satisfied that the people responsible for the Vojno Detention Centre – members of the 2nd HVO Brigade²¹⁸⁵ – who were aware of such treatment and did nothing to stop it, knew that such mistreatment could cause the detainees serious physical and mental suffering and a serious attack on their human dignity and did not care.

²¹⁸² See "Heliodrom Detainees Killed while Being Used as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁸³ See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre.

²¹⁸⁴ See "Authorities Responsible for Operation of the Vojno Detention Centre" and "Treatment of Detainees During Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²¹⁸⁵ See "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

1362. In light of the evidence, the Chamber finds that the treatment inflicted by HVO soldiers on the detainees at the Vojno Detention Centre between 8 November 1993 and 28 January 1994 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1363. The Chamber established that the detainees sent from the Heliodrom to the Vojno Detention Centre between August 1993 and March 1994 to perform labour on the front lines were seriously abused and humiliated by Mario Mihalj and Dragan Šunjić – both HVO soldiers – as well as by other HVO soldiers.²¹⁸⁶ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by HVO soldiers on the Heliodrom detainees sent to the Vojno Detention Centre while they were carrying out forced labour for almost eight months caused them serious physical and mental suffering and constituted a serious attack on their dignity. The Chamber is satisfied that the people responsible for the Vojno Detention Centre – members of the 2nd HVO Brigade²¹⁸⁷ – and the HVO soldiers in charge of guarding them during the work, who knew about such treatment of the Muslim detainees and did nothing to stop it, knew that such mistreatment could cause the detainees serious physical and mental suffering and a serious attack on their human dignity and did not care.

1364. In light of the evidence, the Chamber finds that the treatment inflicted by HVO soldiers on the Heliodrom detainees sent to the Vojno Detention Centre between August 1993 and March 1994 while they were performing labour constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VII. Municipality and Detention Centres of Ljubuški

1365. As an initial matter, the Chamber notes that the Muslims imprisoned in the Municipality of Ljubuški were either men not part of any armed force and thus civilians or members of the ABiH and thus prisoners of war. Consequently all of them were protected by the Geneva Conventions.

1366. With regard to Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the Muslim detainees were regularly insulted, hit and beaten, with some losing consciousness, in the prison and at sites where they were performing forced labour by HVO soldiers, including members of the Military Police attached to the 4th Brigade in charge of guarding

²¹⁸⁶ See “Authorities Responsible for Operation of the Vojno Detention Centre”, “Types and Locations of Labour in the Vojno-Bijelo Polje Area” and “Treatment of Heliodrom Detainees During Labour in the Vojno-Bijelo Polje Area” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²¹⁸⁷ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

the prison.²¹⁸⁸ The Chamber is satisfied that the exceptionally brutal treatment inflicted on the detainees by members of the armed forces of the HVO for almost a year caused them serious physical and mental suffering. The Chamber is satisfied that those responsible for the prison – the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration²¹⁸⁹ – who knew of such treatment and did nothing to stop it, knew that such mistreatment could cause serious physical and mental suffering to the detainees and did not care. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Ljubuški Prison by the HVO constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1367. With regard to the Vitina-Otok Camp, the Chamber recalls that it was unable to determine whether the detainees in this camp were mistreated. It is thus not in a position to find that the treatment meted out to the Muslim detainees at the Vitina-Otok Camp constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

VIII. Municipality of Stolac

1368. The Chamber established that the operations in July and August 1993 during which members of the HVO, including members of the 1st *Knez Domagoj* Brigade and members of the HVO Military Police, expelled the Muslims of the Municipality of Stolac from their homes and took place under threat of arms; that shots were fired over the heads of the people being expelled; that the villagers were threatened with death; that they were forced to walk to their destination and that a mother was forced to leave behind the body of her daughter who was killed by an HVO soldier on 13 July 1993.²¹⁹⁰

1369. The Chamber recalls that the operations conducted by the HVO in July and August 1993 were carried out against women, children and elderly people, that is, civilians protected by the Geneva Conventions.

1370. The Chamber is satisfied that the extremely trying conditions under which the members of the HVO, including members of the 1st *Knez Domagoj* Brigade and the Military Police, expelled the

²¹⁸⁸ See “Factual Findings of the Chamber” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²¹⁸⁹ See “Command Structure in Ljubuški Prison” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²¹⁹⁰ See “Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda” and “Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control” in the Chamber's factual findings with regard to the Municipality of Stolac. See also “Municipality of Stolac” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

Muslim civilians of the Municipality of Stolac from their homes caused them serious physical and mental suffering. The Chamber is furthermore satisfied that the members of the HVO intended to inflict serious physical and mental suffering on the Muslim women, children and elderly people they were expelling. The Chamber thus finds that the treatment meted out by the HVO to the Muslim civilians from the Municipality of Stolac constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1371. The Chamber also established that between May and October 1993, members of the HVO, including members of the Military Police and the MUP, regularly and savagely beat the detainees at Koštana Hospital, punching and kicking them, and beating them with truncheons, rifle butts, belts and chair legs.²¹⁹¹ One detainee was also subjected to electric shocks until he lost consciousness.²¹⁹² Some former detainees are still suffering from the consequences of this violence.²¹⁹³

1372. The Chamber recalls that the Muslims imprisoned at Koštana Hospital were either prisoners of war or civilians and thus protected by the Geneva Conventions.

1373. The Chamber is satisfied that the particularly brutal treatment inflicted on the detainees by members of the HVO, including members of the Military Police and the MUP, caused them great physical and mental suffering. The Chamber is satisfied that by inflicting such treatment on the detainees, the members of the HVO intended to cause them great physical and mental suffering, all the more so since their acts were spaced out over a six-month period. The Chamber thus finds that the treatment meted out to the Muslims from the Municipality of Stolac by the HVO constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

IX. Municipality of Čapljina

1374. The Chamber established that on about 13 July 1993, members of the HVO, including soldiers belonging to the 1st *Knez Domagoj* Brigade, evicted women, children and elderly people from the village of Domanovići and held them for several days, even weeks, in particular at the Čapljina Silos and at Počitelj, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.²¹⁹⁴ The Chamber noted by a majority, with Judge Antonetti dissenting, that during

²¹⁹¹ See “Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks” and “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²¹⁹² See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²¹⁹³ See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²¹⁹⁴ See “Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići”, “Incarceration of Muslims at the Silos”, “Incarceration of Women, Children and Elderly People in Various Houses and

this eviction operation, two young Muslim women aged 17 and 23, Dženita and Sanela Hasić, were shot and killed one after the other by HVO snipers.²¹⁹⁵

1375. The Chamber also established that between 13 and 16 July 1993, members of the HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others to the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their village of Bivolje Brdo and held them for several days, even weeks, at various locations, including the Čapljina Silos, the Sovići School, the Gradina collection centre in the village of Počitelj and Doljani, before forcing them to go to territories under the control of the ABiH, primarily Blagaj.²¹⁹⁶ It noted that during that eviction operation, an ailing 83-year-old man was shot and killed in his home on 14 July 1993 by HVO soldiers,²¹⁹⁷ that the houses in the village were burned down and that there were cases of theft.²¹⁹⁸

1376. The Chamber then noted that on about 13 July 1993 and in early August 1993, members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and sent them by lorry to Buna and Petak where they were subsequently forced to continue on foot to Blagaj.²¹⁹⁹

1377. The Chamber also established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some of them were taken to a house in Tasovčići,²²⁰⁰ before being taken to the Silos on 2 October 1993 and then to Blagaj.²²⁰¹

1378. Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP evicted women, children and elderly people from the town of Čapljina - holding some

Schools in the Municipality of Čapljina” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²¹⁹⁵ See “Death of Two Young Women in the Village of Domanovići” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²¹⁹⁶ See “Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo”, “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards”, “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²¹⁹⁷ See “Death of an 83-Year-Old Person in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²¹⁹⁸ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” and “Thefts of Muslim Property in or around the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²¹⁹⁹ See “Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²²⁰⁰ See “Events in August and September 1993 in the Town of Čapljina” in the Chamber's factual findings with regard to the Municipality of Čapljina.

of them at the Silos - and removed them in lorries, vans and cars to territories under the control of the ABiH.²²⁰²

1379. The Chamber recalls that the eviction operations conducted by the HVO in the Municipality of Čapljina between July and October 1993 were carried out against women, children and elderly people, that is, civilians protected by the Geneva Conventions.

1380. The Chamber is satisfied that all these evictions and the conditions under which they were carried out – detention for several days or even weeks in various locations before being forced to set off for territories under the control of the ABiH, sometimes on foot, and thefts, burnings and deaths during these operation in some villages – caused serious physical and mental suffering to the women, children and elderly people from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina who were driven from their homes. The Chamber is furthermore satisfied that the members of the HVO intended to inflict serious physical and mental suffering on the Muslim women, children and elderly people whom they were expelling. The Chamber thus finds that the treatment meted out by the HVO to the Muslim civilians from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina between July and October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1381. However, the Chamber recalls that it was unable to find that the women, children and elderly people from the villages of Opličići and Lokve were removed by the HVO in July and August 1993.²²⁰³ For this reason, the Chamber is unable to find that the alleged removals and the conditions under which they may have taken place constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

X. Dretelj Prison

1382. As an initial matter, the Chamber notes that the Muslims imprisoned at Dretelj Prison were either men not part of any armed force and thus civilians or members of the ABiH and thus prisoners of war. Consequently they were all protected by the Geneva Conventions.

²²⁰¹ See “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²²⁰² See “Events in August and September 1993 in the Town of Čapljina” and “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²²⁰³ See “Evictions and Removals of Women, Children and Elderly People from the Village of Lokve” in the Chamber's factual findings with regard to the Municipality of Čapljina .

1383. The Chamber established that between July 1993 and early October 1993, the Muslim detainees at Dretelj Prison were hit, beaten and humiliated on a regular basis by the military policemen at Dretelj Prison, by the guards and also by people from outside the prison, including inhabitants of the region, HVO and HV soldiers and even, on occasion, by other Muslim detainees who were forced to do so.²²⁰⁴ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the armed forces and the Military Police of the HVO for almost three months caused them serious physical and mental suffering. The Chamber is satisfied that those responsible for the prison and the units present in the camp – the 3rd Company of the 3rd and then 5th Battalion of the Military Police, the 1st *Knez Domagoj* Brigade and the *Domobrani* unit²²⁰⁵ - who were aware of such treatment and did nothing to stop it, knew that such mistreatment was likely to cause serious physical and mental suffering to the detainees and did not care.

1384. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Dretelj Prison by the HVO between July 1993 and early October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

XI. Gabela Prison

1385. As an initial matter, the Chamber notes that the Muslims imprisoned at Gabela Prison were either men not part of any armed force and thus civilians or members of the ABiH and thus prisoners of war. Consequently they were all protected by the Geneva Conventions.

1386. The Chamber established that at least between June and October 1993, the Muslim detainees were regularly hit, beaten and humiliated, in particular by the prison warden who was a member of the 1st *Knez Domagoj* Brigade, by the *Domobrani* and by members of the Military Police.²²⁰⁶ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the armed forces and the Military Police of the HVO for at least five months caused them serious physical and mental suffering and constituted a serious attack on their dignity. The Chamber is satisfied that those responsible for the prison – the 1st *Knez Domagoj* Brigade, including the Warden and Deputy Warden of the prison who were members thereof, as well as the *Herceg*

²²⁰⁴ See “Treatment of the Detainees” in the Chamber's factual findings with regard to Dretelj Prison.

²²⁰⁵ See “Description of Dretelj Prison”, “3rd Company of the 3rd and then 5th Military Police Battalion”, “1st *Knez Domagoj* Brigade” and “The *Domobrani*” in the Chamber's factual findings with regard to Dretelj Prison.

²²⁰⁶ See “Treatment of Detainees” in the Chamber's factual findings with regard to Gabela Prison.

Stjepan Brigade and a *Domobrani* unit that guarded and maintained security for the detainees²²⁰⁷ – who knew of such treatment and did nothing to stop it, knew that such mistreatment was likely to cause serious physical and mental suffering to the detainees and a serious attack on their dignity and did not care.

1387. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Gabela Prison by the HVO at least between June and October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

XII. Municipality of Vareš

1388. As an initial matter, the Chamber notes that the Muslims arrested and then imprisoned at various locations in the Municipality of Vareš were either men not part of any armed force and thus civilians or members of the ABiH and thus prisoners of war. Consequently they were all protected by the Geneva Conventions.

1389. The Chamber established that after their arrest on 18 October 1993, Ešref Likić, Jakub Likić, Mehmed Likić, Himzo Likić, Rešad Likić and Mufid Likić, six Muslim men four of whom were members of the ABiH and two who were not part of any armed force, were held from 18 to 23 October 1993 at the Military Police prison in Vareš. The Chamber noted that during their detention, the detainees were forced to remain on their knees, with their hands behind their backs, for several hours and were brutally beaten on two occasions by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit.²²⁰⁸ The Chamber noted in particular that one of the detainees had his head covered with a pair of trousers; was handcuffed and then beaten with batons and was punched and kicked. It also noted that one of the detainees was beaten until he lost consciousness.²²⁰⁹ The Chamber is satisfied that the brutal treatment inflicted on the six Muslim men by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit caused them serious physical and mental suffering and constituted a serious attack on their human dignity. The Chamber is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade and the soldiers of the *Maturice* special unit intended to cause serious physical and mental suffering and a serious attack on the human dignity of the six Muslim men held at the Military Police prison in

²²⁰⁷ See “Management of Gabela Prison”, “Authorities Granting Access to Prison for People from Outside”, “Authorities Controlling Detainee Access to Food and Water” and “Authorities Responsible for Organising and Providing Medical Care” in the Chamber's factual findings with regard to Gabela Prison.

²²⁰⁸ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

Vareš when they beat them. In light of the evidence, the Chamber therefore finds that the treatment meted out to the six Muslim men held at the Military Police prison in Vareš by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit between 18 and 23 October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1390. The Chamber also established that from the morning of 23 October 1993 to 24 October 1993, members of the HVO, including some belonging to the *Maturice* special unit, arrested Muslim men in the town of Vareš.²²¹⁰ The Chamber noted in particular that beginning on 23 October 1993 at dawn, the members of the HVO went to the homes of the Muslims and forced the Muslim men, often still in their underwear, out of their houses, and took them away to the Vareš Secondary School, the Vareš School and the prison of Vareš-Majdan, where they were imprisoned. During these arrests, the Muslims were insulted, threatened and beaten with rifle butts.²²¹¹ In particular, the Chamber noted that when the HVO soldiers arrested Salem Ćerenić at his home in the presence of his wife and two children, the soldiers insulted him, put the barrel of a rifle into his mouth demanding gold, money and weapons and that after throwing him out of his house without giving him time to get dressed, he was forced to go from one group of soldiers to another to the Vareš Secondary School with his head bowed down and his hands behind his head, while being pushed around and insulted by groups of soldiers.²²¹²

1391. The Chamber is satisfied that the brutal, humiliating and degrading treatment inflicted by the HVO soldiers on the Muslims of the town of Vareš during their arrest beginning on the morning of 23 October 1993 caused them serious physical and mental suffering and a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including some belonging to the *Maturice* special unit, intended to cause the Muslims serious physical and mental suffering and a serious attack on their human dignity. The Chamber therefore finds that the treatment meted out to the Muslims during their arrest beginning on 23 October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1392. With regard to the Muslim men held at the Vareš Secondary School between 23 October and 4 November 1993, the Chamber established that they received beatings that resulted in serious

²²⁰⁹ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹⁰ See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹¹ See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹² See “Arrests of Muslim Men and Crimes Allegedly Committed during Arrests” in the Chamber's factual findings with regard to the Municipality of Vareš.

injury and were burned and insulted by members of the HVO.²²¹³ The Chamber noted in particular that Salem Ćerenić was beaten by seven HVO soldiers for an hour, during which time he was kicked and struck with batons and rifle butts; that on that occasion he lost two teeth, had his ribs broken, suffered a fractured skull and spinal chord damage, and that he was black and blue with bruises from the beating.²²¹⁴ This detainee testified that he was beaten several times a day for the five or six days of his detention. The Chamber also noted that an HVO soldier put his cigarette out on Muris Arapović's hand while holding a pistol to his head, and that his face was covered in blood.²²¹⁵ The Chamber established that other detainees were insulted, beaten, hit in the face, bore traces of blood from the beatings as well as bruises and were forced to sit all day with the heads between their legs.²²¹⁶

1393. The Chamber is satisfied that the particularly brutal treatment inflicted by members of the HVO upon the Muslim men held at the Vareš Secondary School caused them serious physical and mental suffering and a serious attack on their dignity. The Chamber is satisfied that the members of the HVO who inflicted this treatment intended to cause serious physical and mental suffering and attack the dignity of the detained Muslim men. It is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade in charge of guarding the detainees who knew about such treatment and did nothing to stop it, knew that it was likely to cause serious physical and mental suffering to the detainees and an attack on their dignity and did not care. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from visiting the Vareš Secondary School before 26 October 1993. The Chamber therefore finds that the treatment meted out to the detainees at the Vareš Secondary School by members of the HVO between 23 October and 4 November 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1394. With regard to the Muslim men held at the Vareš School between 23 October and 4 November 1993, the Chamber observed that they were beaten as soon as they arrived at the school;²²¹⁷ that during their detention they were repeatedly subjected to brutal beatings that led to visible injuries; that they were forced by members of the HVO to stand or sit in painful and

²²¹³ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹⁴ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹⁵ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹⁶ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²²¹⁷ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

humiliating positions;²²¹⁸ that during his approximately five-day detention at the Vareš School, Salem Ćerenić was beaten once or twice a day by members of the HVO;²²¹⁹ and that all the detainees were beaten during detention.²²²⁰ The Chamber is satisfied that the Muslim men held at the Vareš School were subjected to brutal treatment that caused them serious physical and mental suffering and a serious attack on their dignity. The Chamber is also satisfied that the members of the HVO who inflicted this treatment intended to cause serious physical and mental suffering and a serious attack on the dignity of the detained Muslim men. It is satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade and later members of that brigade in charge of guarding the detainees who knew about such treatment and did nothing to stop it knew that it could cause serious physical and mental suffering to the detainees and a serious attack on their dignity and did not care. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from visiting the Vareš School until at least 26 October 1993. In light of the evidence, the Chamber finds that the treatment inflicted on the detainees at the Vareš School by members of the HVO between 23 October and 4 November 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1395. With regard to the Muslim men held at Vareš-Majdan Prison between 23 October and 4 November 1993, the Chamber noted that they were subjected to brutal treatment by members of the HVO that led to the hospitalisation of at least one of the detainees.²²²¹ The Chamber established in particular that three drunken HVO soldiers, whose unit it was not able to ascertain, entered the cell containing six detainees, shot over their heads, thrust a knife into the leg of one detainee, Ahmed Likić, and forced another detainee, Nedžad Ćazimović, to eat his own beard that they had cut off.²²²² The Chamber also established that because of the abuse they received during their detention at Vareš-Majdan Prison, Mufid Likić and Himzo Likić had to be taken to Vareš-Majdan hospital by two members of the Vareš MUP.²²²³ The Chamber is satisfied that the brutal treatment inflicted on the detainees at Vareš-Majdan Prison caused them serious physical and mental suffering and a serious attack on their dignity. The Chamber is also satisfied that the members of the HVO who inflicted this treatment intended to cause serious physical and mental suffering and attack the

²²¹⁸ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²²¹⁹ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²²²⁰ See “Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²²²¹ See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²²²² See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber’s factual findings with regard to the Municipality of Vareš.

dignity of the detained Muslim men. It is also satisfied that the members of the Vareš MUP and the Military Police platoon attached to the *Bobovac* Brigade in charge of guarding the detainees, who were aware of such treatment and did nothing to stop it, knew that it was likely to cause serious physical and mental suffering to the detainees and an attack on their dignity. In light of the evidence, the Chamber finds that the treatment inflicted on the detainees at Vareš-Majdan Prison by members of the HVO between 23 October and 4 November 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

1396. With regard to the events during and after the attack on the village of Stupni Do on 23 October 1993 by soldiers of the *Maturice* and *Apostoli* special units of the HVO, the Chamber noted that during the attack three Muslim women, who had fallen into the hands of the enemy and were consequently protected persons within the meaning of the Fourth Geneva Convention, were victims of acts of sexual abuse;²²²⁴ that 38 inhabitants of the village died during the attack;²²²⁵ that 36 of these inhabitants were killed by the *Maturice* and *Apostoli* special units; that among these individuals, 28 Muslim women, children and men were either Muslims not part of any armed force and thus civilians or combatants captured by the enemy after having been arrested and disarmed; that the 28 individuals were either killed with bladed instruments or shot dead at close range, or even burned alive in the burning houses in the village; that all the houses and adjacent buildings such as sheds and stables were destroyed during or after the attack; that the inhabitants were robbed of their possessions by members of the *Maturice* or *Apostoli* special units, and that HVO forces prevented UNPROFOR from gaining access to the village of Stupni Do between 23 and 25 October 1993.²²²⁶

1397. The Chamber holds that all these events caused serious physical and mental suffering to the inhabitants of the village of Stupni Do and a serious attack on their dignity. The Chamber is satisfied that the members of the *Maturice* and *Apostoli* special units that took part in the attack and committed these acts intended to cause serious physical and mental suffering and attack the dignity of the Muslim inhabitants of the village of Stupni Do. The Chamber finds that all the acts inflicted on the Muslim population of the village of Stupni Do by members of the *Maturice* and *Apostoli*

²²²³ See “Treatment of Detainees at Vareš Majdan Prison” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²²⁴ See “Sexual Abuse of Women in the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²²⁵ See “Death of Villagers in and around the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²²²⁶ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” and “Restrictions Imposed on Access by UNPROFOR to Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

special units during the attack of 23 October 1993 constituted inhuman treatment, a crime recognised by Article 2 of the Statute.

Heading 16: Cruel Treatment (Count 17)

I. Municipality of Prozor

1398. As an initial matter, the Chamber recalls that on 24 October 1992, during the HVO takeover of the town of Prozor and the village of Paljike, Muslims not taking part in combat activities and thus protected by Article 3 of the Statute were there. Also in this respect, it recalls that in April 1993, during the HVO takeover of Parcani and Tošćanica, persons not taking part in combat activities and thus protected by Article 3 of the Statute were there. Likewise, between May or June and August 1993, when the HVO attacked the villages of Skrobućani, Gračanica, Lug, Podaniš or Podonis, Prajine and Mount Tolovac, Muslims not taking part in combat activities and thus protected by Article 3 of the Statute were there. Finally, the Chamber recalls that the Muslims held by the HVO in various locations of the Municipality of Prozor were not or were no longer taking part in combat activities and were thus protected by Article 3 of the Statute.

1399. As the Chamber established, during the takeover of the town of Prozor and the village of Paljike by the HVO armed forces beginning on 24 October 1992, the HVO forces destroyed many Muslim houses as well as vehicles belonging to Muslims from the town of Prozor²²²⁷ and set fire to at least one Muslim house in the village of Paljike and killed an elderly man and a woman, both inhabitants of the village.²²²⁸ The Chamber is satisfied that these events caused great physical bodily and mental suffering to the Muslim population of the town of Prozor and the village of Paljike, who were the victims of these acts that constituted a serious attack on their dignity. The Chamber is moreover satisfied that by committing such acts of violence, the HVO forces, who took control of the town of Prozor and the village of Paljike beginning on 24 October 1992, intended to cause such suffering to the Muslim inhabitants of those locations, thus committing cruel treatment, a crime recognised by Article 3 of the Statute.

1400. The Chamber established that after the takeover of the town of Prozor and the village of Paljike, the HVO forces arrested and held a large number of Muslim members of the TO/ABiH

²²²⁷ See “Damage to and Burning of Property and Houses Belonging to Muslims After the Takeover of the Town of Prozor” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²²⁸ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber’s factual findings with regard to the Municipality of Prozor.

from Prozor and Paljike as well as men of military age from Paljike at the Ripci School.²²²⁹ The Chamber was however unable to establish that the detainees at the school were mistreated by the HVO during their detention.²²³⁰ The Chamber is therefore unable to find that the detainees at the Ripci School suffered cruel treatment, a crime recognised by Article 3 of the Statute.

1401. As the Chamber established, during the takeover of the villages of Parcani on 17 April 1993 and Tošćanica on 19 April 1993, the HVO forces destroyed many houses in the two villages and killed two elderly people in the village of Tošćanica.²²³¹ The Chamber is satisfied that the events that occurred during the takeover of Parcani and Tošćanica caused great physical and mental suffering to the entire Muslim population of these villages, who were the victims of such acts, and constituted a serious attack on their dignity. The Chamber is also satisfied that by committing such acts of violence, the HVO forces who took control of the two villages on 17 and 19 April 1993 intended to cause such suffering, thereby committing cruel treatment, a crime recognised by Article 3 of the Statute.

1402. The Chamber is however unable to find that the HVO forces committed crimes during the takeover of the village of Lizoperci on 18 or 19 April 1993²²³² and therefore rejects the count of cruel treatment for the events that took place in that village.

1403. Regarding the restrictions on the movements of the Muslim population of the Municipality of Prozor beginning in the summer of 1993, the Chamber noted that the whole population of Prozor, and not only the Muslim population, was unable to leave the municipality freely without a *laissez-passer*.²²³³ The Chamber also noted that although the Military Police monitored every movement of the inhabitants, they more specifically prevented the Muslim women, children, elderly people and the Imam of Prozor from leaving the town and the municipality at least during the summer of 1993.²²³⁴ On the basis of this evidence alone, however, the Chamber cannot find beyond reasonable doubt that this restriction caused great suffering to the Muslim population of Prozor and therefore rejects the count of cruel treatment, a crime recognised by Article 3 of the Statute, for those events.

²²²⁹ See “Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁰ See “Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³¹ See “Attack on the Village of Parcani on 17 April 1993 and Burning of Houses” and “Attack on the Village of Tošćanica on 19 April 1993, Burning of Homes and Death of Three Residents” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³² See “Attack on the Village of Lizoperci on 18 or 19 April 1993 and Burning of Houses” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³³ See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁴ See “Restrictions on Movement of Muslims in the Municipality of Prozor as of Summer 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

1404. As the Chamber established, during the attack on the village of Skrobućani in May or June 1993, the HVO forces burned down Muslim properties and the village mosque.²²³⁵ In June 1993, HVO soldiers terrorised the population of the village of Gračanica by raiding the village at night and hurling grenades into the forest where part of the population had taken refuge.²²³⁶ HVO soldiers burned down several Muslim houses during the attack on Lug at the end of June 1993.²²³⁷ During the attack by the HVO Military Police or the *Kinder Vod* unit on the village of Podoniš (or Podonis) on 5 July 1993, members of the HVO burned down property belonging to Muslims and killed livestock.²²³⁸ During the attack on the village of Prajine and Mount Tolovac on 19 July 1993, the HVO soldiers beat and killed three people in Prajine and broke into a barn on Mount Tolovac and while threatening a small group of men, women and children who had taken refuge there, forced them out under threat of death and struck and killed a man – Bajro Munikoza, a woman – Saha Munikoza, and a physically-disabled man – Šaban Hodžić, and then set fire to the barn.²²³⁹ The Chamber is satisfied that these events caused great physical and mental suffering to the entire Muslim population of those locations which constituted a serious attack on their dignity. The Chamber is, moreover, satisfied that by committing such acts of violence, the HVO forces who attacked these villages intended to cause them such suffering, thus committing cruel treatment, a crime recognised by Article 3 of the Statute.

1405. The Chamber was however unable to find that crimes and thus cruel treatment were committed by the HVO forces during the attack on the villages of Duge, Lizoperci, Munikoze and Parcani between June and August 1993.²²⁴⁰

1406. With regard to the Prozor Secondary School, the Chamber established that in July and August 1993, Muslim detainees were beaten by military policemen and soldiers of the HVO, including members of the *Kinder Vod*, who came from outside the school to beat the detainees and shoot at them.²²⁴¹ One of the detainees was seriously wounded by a bullet, was taken out of the

²²³⁵ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁶ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁷ See “Attack on the Villages of Duge and Lug and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁸ See “Attack on the Village of Podaniš or Podonis and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²³⁹ See “Death of Six Muslims in the Region of Prajine and Tolovac” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁴⁰ See “Attack on the Villages of Duge and Lug and Damage to Property”, “Attack on the Village of Lizoperci and Damage to Property and the Mosque”, “Attack on the Village of Munikoze and Damage to Property” and “Attack on the Village of Parcani and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁴¹ See “Treatment of Detainees at Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

Secondary School and has been missing ever since.²²⁴² The detainees were beaten on a daily basis, with the beatings beginning late at night and lasting until the next morning.²²⁴³ HVO soldiers slapped the detainees and beat them with their rifle butts.²²⁴⁴ The Chamber thus finds that the military policemen and the soldiers of the HVO, including members of the *Kinder Vod*, caused great physical and mental suffering to the Muslims held at the Secondary School in Prozor which constituted a serious attack on their human dignity. The Chamber is satisfied not only that by committing such acts of violence the military policemen and soldiers of the HVO, including members of the *Kinder Vod*, from outside the school, intended to cause them such suffering but also that the people responsible for the Prozor Secondary School – the *Rama* Brigade, civilian police officers, the *Domobrani* and, from 15 July 1993 onwards, military policemen²²⁴⁵ – who were aware of such treatment and did nothing to stop it, knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Prozor Secondary School by HVO soldiers, including members of the *Kinder Vod*, and military policemen in July and August 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1407. With regard to the Unis Building, the Chamber established that in July 1993, some detainees were beaten by HVO soldiers who came to look for detainees and to interrogate and/or beat them. When they came back, the detainees were crying and screaming.²²⁴⁶ The Chamber therefore finds that HVO soldiers caused great physical and mental suffering to the Muslims held at the Unis Building, constituting a serious attack on their human dignity. The Chamber is satisfied that, by committing such acts of violence, the HVO soldiers intended to cause them such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Unis Building by the HVO soldiers in July 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

²²⁴² See “Treatment of Detainees at Prozor Secondary School” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁴³ See “Treatment of Detainees at Prozor Secondary School” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁴⁴ See “Treatment of Detainees at Prozor Secondary School” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁴⁵ See “Description, Organisation and Operation of Prozor Secondary School as a Detention Site” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁴⁶ See “Detention of Muslim Men at the Unis Building” in the Chamber’s factual findings with regard to the Municipality of Prozor.

1408. The Chamber recalls that it was unable to establish that the detainees at the Prozor Fire Station suffered abuse during their detention.²²⁴⁷ The Chamber recalls that it was unable to establish that detainees at the Tech School were abused at the site of their detention.²²⁴⁸ The Chamber therefore rejects the crime of cruel treatment, a crime recognised by Article 3 of the Statute, for the events that took place in those places.

1409. The Chamber established that in July 1993, HVO soldiers forced the detainees at the MUP station in Prozor to perform labour which consisted of digging trenches at the front line and that the detainees were abused by one of the HVO soldiers while they were doing this work.²²⁴⁹ The detainees had bruises on their backs and bellies, had broken ribs, and their faces were swollen and covered in blood.²²⁵⁰ The Chamber finds that by forcing the detainees to do work of a military nature for the HVO, the enemy army, the HVO soldiers caused them great mental suffering constituting an attack on their dignity. In addition, the detainees who were beaten, as shown by the bruises and scars on their faces, suffered serious bodily and mental harm. The Chamber also finds that the HVO soldiers intended to cause the Muslims held at the MUP station in Prozor great physical and mental suffering constituting a serious attack on their human dignity. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the MUP station by the HVO soldiers in July 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1410. The Chamber established that in the summer of 1993, the HVO soldiers forced the detainees at the Prozor Secondary School to perform labour consisting, in particular, of digging trenches and that the detainees suffered abuse at the hands of the HVO soldiers while they were doing this work.²²⁵¹ Some detainees had broken noses or ribs, and others had bruises on their bodies and faces, particularly around the eyes.²²⁵² The Chamber finds that by forcing the detainees to carry out work of a military nature for the HVO, the enemy army, the HVO soldiers caused them great mental suffering constituting a serious attack on their dignity. Moreover, the Chamber considers that the detainees who were beaten suffered serious bodily and mental harm and that this constitutes a

²²⁴⁷ See “Detention of Muslim Men at the Prozor Fire Station” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁴⁸ See “Detention of Muslim Men at the Tech School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁴⁹ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁵⁰ See “Treatment of Detainees at Prozor MUP Buildings” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁵¹ See “Treatment of Detainees at Prozor Secondary School” and “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁵² See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

serious attack on their dignity. The Chamber is satisfied that the HVO soldiers intended to cause the detainees great physical and mental suffering constituting a serious attack on their dignity. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at the Prozor Secondary School by the HVO soldiers while they were working constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1411. The Chamber established that on 31 July 1993, about 50 detainees from the Prozor Secondary School were taken to the front line at Crni Vrh and were forced to walk barefoot while being insulted before being tied to one another by HVO soldiers using telephone cables.²²⁵³ The Chamber also already noted that the HVO soldiers opened fire on the detainees and that, because of the cables with which the detainees were tied, they suffocated when some of them were shot and fell to the ground.²²⁵⁴ The Chamber therefore finds that the HVO soldiers caused great physical and mental suffering to the detainees at the Prozor Secondary School whom they had taken to the front line at Crni Vrh, constituting a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers intended to cause such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees from the Prozor Secondary School at Crni Vrh by the HVO soldiers constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1412. The Chamber established that in July and August 1993, the Muslim population being held by the HVO in Podgraĉe, Lapsunj and Duge was living in very harsh conditions²²⁵⁵ and had been victim of verbal and physical abuse by HVO soldiers of the *Rama* Brigade and by military policemen.²²⁵⁶ It also established that women and girls had been beaten and humiliated – some of them had their skulls shaven or were undressed in front of their fathers and *vice versa*.²²⁵⁷ The Chamber is satisfied that the treatment inflicted on the Muslims held in the Podgraĉe neighbourhood and in the villages of Lapsunj and Duge or on their relatives caused great physical and mental suffering, which constituted a serious attack on their human dignity. The Chamber is satisfied that by inflicting such brutal and humiliating treatment on them, the HVO soldiers and the military policemen intended to inflict such suffering. The Chamber therefore finds that the

²²⁵³ See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁵⁴ See “50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁵⁵ See “Conditions of Confinement of the Muslims Collected in Podgraĉe”, “Conditions of Confinement of the Muslims Collected in the Village of Lapsunj” and “Conditions of Confinement of the Muslims Collected in the Village of Duge” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²²⁵⁶ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber’s factual findings with regard to the Municipality of Prozor.

treatment meted out to the Muslim population held by the HVO in Podgraĉe, Lapsunj and Duge in July and August 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1413. The Chamber established that on 28 August 1993, the HVO soldiers moved the women, children and elderly people being held in Podgraĉe, Lapsunj and Duge to ABiH territories and fired on and wounded some of them at that time.²²⁵⁸ Having encircled the village of Duge, the HVO soldiers shot in the air to force the Muslims to get into the lorries.²²⁵⁹ They did not give any water to these Muslims during transportation even though it was very hot, and some of them were suffocating and fainting.²²⁶⁰ When they arrived at Kuĉani, they were forced to continue on foot, escorted by HVO soldiers, and were warned by the soldiers that there were land mines along the path.²²⁶¹ The Chamber therefore finds that the brutal treatment meted out by the HVO soldiers to the Muslim women, children and elderly people held in Podgraĉe, Lapsunj and Duge during their removal to the village of Kuĉani and ABiH-held territories caused them serious physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that the HVO soldiers present during the removal, including a member of the *Kinder Vod*,²²⁶² intended to cause them such suffering. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims by HVO soldiers during their removal from Podgraĉe, Lapsunj and Duge to ABiH-held territories constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1414. The Chamber already established that from late August 1993 to December 1993, women, children and elderly people were held in the village of Duge where they were abused by members of the HVO, in particular by those from the *Kinder Vod*, that is, they were threatened with death, insulted and beaten.²²⁶³ Some members of the HVO harassed the Muslims – in particular the oldest among them – including an elderly man who was struck by an HVO soldier with a chair that was smashed over his head.²²⁶⁴ The Chamber therefore finds that the treatment inflicted by members of the HVO on the Muslim population held in the village of Duge caused them serious physical and

²²⁵⁷ See “Treatment of Women, Children and Elderly People in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁵⁸ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁵⁹ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶⁰ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶¹ See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶² See “Removal to Kuĉani in Late August 1993 of Women, Children and Elderly People Held in Podgraĉe, Lapsunj and Duge” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶³ See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶⁴ See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

mental suffering constituting a serious attack on their human dignity. The Chamber is satisfied not only that by inflicting such treatment on them, the HVO soldiers, including members of the *Kinder Vod*, intended to cause them such suffering but also that the people responsible for guarding the village of Duge – members of the HVO Military Police²²⁶⁵ – who were aware of that treatment and did nothing to stop it knew that such mistreatment was likely to cause such suffering and accepted this.

1415. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslims in the village of Duge by HVO soldiers, including members of the *Kinder Vod*, between late August 1993 and December 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

II. Municipality of Gornji Vakuf

1416. As an initial matter, the Chamber recalls that on 18 January 1993 when the HVO attacked the town of Gornji Vakuf and the villages of Duša, Uzričje, Țdrimci and Hrasnica, women, children and elderly people not taking part in combat were present in those various villages. They thus enjoyed the protection of Article 3 of the Statute. Moreover, due to their detention, the Muslims held in various locations in the Municipality of Gornji Vakuf were not or were no longer taking part in combat activities, and were persons protected by Article 3 of the Statute.

1417. As the Chamber already established, during the HVO attack of 18 January 1993 on the town of Gornji Vakuf and the villages of Duša, Uzričje, Țdrimci and Hrasnica, the HVO forces destroyed part of the town of Gornji Vakuf and houses in the villages of Duša, Hrasnica, Uzričje and Țdrimci.²²⁶⁶ In the village of Duša, women, children and elderly people were wounded and seven others were killed by an HVO shell fired at the house in which they had taken refuge.²²⁶⁷ The Chamber also recalls that once the HVO forces took control of these villages, they systematically placed the civilian population there in detention.²²⁶⁸ The Chamber is satisfied that all these events

²²⁶⁵ See “Treatment of Muslims in the Municipality from Late August to December 1993” in the Chamber's factual findings with regard to the Municipality of Prozor.

²²⁶⁶ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack”, “Attack on the Village of Duša”, “Attack on the Village of Hrasnica”, “Attack on the Village of Uzričje” and “Attack on the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁶⁷ See “Attack on the Village of Duša” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf. Concerning the seven people killed by a shell that landed in the house in which they had taken refuge, see “Municipality of Gornji Vakuf” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

²²⁶⁸ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša”, “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Hrasnica”, “Detention of Villagers from the Village of Țdrimci” and “Allegations Regarding Detention and Removal of

caused great physical and mental suffering to the civilian Muslim population, the victims of such acts, constituting a serious attack on their dignity. The Chamber is moreover satisfied that the HVO forces who attacked the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Tđrimci intended to cause great physical and mental suffering to the inhabitants, constituting a serious attack on their dignity, thus committing cruel treatment, a crime recognised by Article 3 of the Statute.

1418. The Chamber established that after the HVO attack of 18 January 1993, HVO soldiers hit and beat Muslim inhabitants of the village of Uzričje held in two houses in the village and forced one of them to undress during interrogation.²²⁶⁹ The Chamber also found that in February 1993, members of the HVO forced the inhabitants of the village of Uzričje out of their homes and made them stand in the cold for a long time, while insulting them, threatening to kill them and firing into the air over their heads.²²⁷⁰

1419. The Chamber is satisfied that the brutal and degrading treatment inflicted on the inhabitants of Uzričje who were held for about one and a half months²²⁷¹ caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that by inflicting such treatment on the villagers being held, and doing so several times, the HVO soldiers intended to cause them great physical and mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the inhabitants of Uzričje by the HVO soldiers beginning on 19 January 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1420. With regard to the men of the villages of Duša and Hrasnica held at the Trnovača Furniture Factory for about two weeks from 18 January 1993, the Chamber established that HVO soldiers from outside kicked and punched them and beat them with truncheons, rifle butts, batons and iron bars; that they forced them to beat one another and to undress; that HVO soldiers cut off the ear of one of them, Hasan Behlo, and then poured alcohol onto it and beat the wound with shoes.²²⁷²

Women and Children from the Village of Tđrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁶⁹ See “Detention of Villagers from the Village of Uzričje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁰ See “Detention of Villagers from the Village of Uzričje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷¹ See “Detention of Villagers from the Village of Uzričje” and “Removal of Villagers from the Village of Uzričje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷² See “Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1421. The Chamber is satisfied that the brutal treatment inflicted on the detainees at the Furniture Factory by HVO soldiers on several occasions for about two weeks caused great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied not only that by inflicting such treatment on the detainees, the HVO soldiers intended to cause them great physical and mental suffering constituting a serious attack on their dignity but also that the soldiers in charge of guarding the detainees –members of the *Ante Starčević* Brigade²²⁷³ – who were aware of such treatment and did nothing to stop it, knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on the detainees’ human dignity, and accepted this. The Chamber therefore finds that the treatment meted out to the detainees at the Trnovača Furniture Factory by the HVO soldiers for about two weeks after 18 January 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1422. The Chamber also established that the women of the village of Țdrimci held in three or four houses in the village after the attack on 18 January 1993 were forced by HVO soldiers to recite Christian prayers in front of the *Mekteb* which the soldiers threatened to burn down.²²⁷⁴ The Chamber is satisfied that such treatment caused them great mental suffering constituting a serious attack on their dignity. The Chamber is also satisfied that by forcing them to recite such prayers and threatening to burn down an institution dedicated to religion, the HVO soldiers intended to cause great mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the women of the village of Țdrimci constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1423. Finally, the Chamber established that the women, children and elderly people from the village of Hrasnica held from 18 January 1993 and removed to Volari that same evening²²⁷⁵ were insulted and "provoked" by two of the HVO soldiers escorting them, although no further details were given.²²⁷⁶ The Chamber is not satisfied that these insults, threats and provocations caused serious bodily or mental harm or constituted an attack on the dignity of the women, children and elderly people from the village of Hrasnica. The Chamber is thus unable to find that the treatment of these women, children and elderly people constituted cruel treatment recognised by Article 3 of the Statute.

²²⁷³ See “Organisation and Operation of the Trnovača Furniture Factory as a Detention Facility” and “Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁴ See “Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁵ See “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁶ See “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

1424. With regard to the women, children and elderly people from the village of Hrasnica held from 19 January 1993 in houses in Trnovača after their detention in Volari and at the Furniture Factory, the Chamber observed that the HVO did not mistreat them.²²⁷⁷ Concerning the women, children and elderly people from the villages of Duša and Țdrimci, the Chamber recalls that it was unable to determine how they were treated at the various sites where they were detained.²²⁷⁸ It is thus unable to find that the treatment meted out to the Muslim detainees in these various detention locations constituted cruel treatment, a crime recognised by Article 3 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1425. As an initial matter, the Chamber notes that due to their detention, the Muslims held at the Sovići School were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1426. The Chamber determined that in the course of their detention at the Sovići School between 17 April and 5 May 1993, some Muslim detainees, including women, were beaten and mistreated by HVO soldiers, including KB soldiers.²²⁷⁹ For example, the Chamber noted that between 17 and 19 April 1993, two women were beaten and then forced to beat one another with truncheons; that one male detainee was punched and kicked several times and was beaten with a rifle butt without receiving any medical attention thereafter; and that one detainee was knifed in the thigh.²²⁸⁰ The Chamber is satisfied that the brutal treatment inflicted on these detainees by HVO soldiers, including members of the KB, caused them great suffering and physical and mental pain constituting a serious attack on their human dignity. The Chamber is satisfied not only that the HVO soldiers, including soldiers of the KB, intended to mistreat the detainees by causing them great suffering and physical and mental pain but also that the people responsible for guarding the detainees at the Sovići School – members of the 3rd *Mijat Tomić* Battalion, members of the KB and members of the Military Police²²⁸¹ – who were aware of such treatment and did nothing to stop it knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on the human dignity of the detainees and accepted this.

²²⁷⁷ See “Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁸ See “Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša” and “Allegations Regarding Detention and Removal of Women and Children from the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²²⁷⁹ See “The Chamber's Findings about Alleged Criminal Events at Sovići School” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸⁰ See “Conditions of Confinement and Treatment of Detainees at Sovići School” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸¹ See “Organisation and Operation of the Sovići School as a Detention Site” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1427. The Chamber therefore finds that the treatment meted out to the Muslims held at the Sovići School by the HVO between 17 April and 5 May 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1428. The Chamber determined that during the transport from the Sovići School to Ljubuški Prison on 18 April 1993, HVO soldiers, including soldiers of the KB, beat Muslim men and ABiH soldiers they were holding and humiliated them, for instance by demanding that one detainee strip to the waist and clean the shoes of the officers with the clothes he had taken off.²²⁸² The Chamber received evidence showing that these detainees bore signs of the beatings when they arrived at Ljubuški.²²⁸³ The Chamber is satisfied that the brutal and degrading treatment inflicted on the Muslims by HVO soldiers, including soldiers of the KB, on 18 April 1993 caused them great suffering and physical and mental pain constituting a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including soldiers of the KB, intended to cause this great physical and mental suffering constituting a serious attack on their human dignity.

1429. The Chamber therefore finds that the treatment meted out to the Muslims held at the Sovići School during their transport to Ljubuški Prison by the HVO on 18 April 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1430. The Chamber established that between 19 April and 4 or 5 May 1993, women, children and elderly people held by HVO soldiers, including "Tuta"s" soldiers and former members of the HOS, in six or seven houses in Junuzovići were regularly beaten and suffered other abuse such as insults, death threats and shots fired at the houses by HVO soldiers, including "Tuta"s" soldiers, to frighten them.²²⁸⁴ The Chamber also noted that, generally speaking, there was a real climate of fear among the detainees.²²⁸⁵ The Chamber is satisfied that the brutal treatment inflicted on the Muslims by the HVO soldiers, including members of the KB, for almost three weeks, caused great suffering and physical and mental pain constituting a serious attack on their human dignity. The Chamber is satisfied not only that the HVO soldiers, including "Tuta"s" soldiers, intended to mistreat the detainees, causing them great suffering and physical and mental pain, but also that the authorities responsible for guarding the detainees in the hamlet of Junuzovići – members of the KB and HVO

²²⁸² See "Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸³ See "Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸⁴ See "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

soldiers, former members of the HOS – who were aware of such treatment and did nothing to stop it knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1431. The Chamber therefore finds that the treatment meted out to the Muslims held in the hamlet of Junuzovići by the HVO between 19 April and 4 or 5 May 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1432. The Chamber established that on 20 April 1993, ABiH soldiers held at the Fish Farm by members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB were beaten, humiliated, insulted and threatened with death by HVO soldiers, including "Tuta".²²⁸⁶ The Chamber is satisfied that the brutal and degrading treatment inflicted on the ABiH soldiers by the HVO soldiers and Mladen Naletilić alias "Tuta" that day caused great suffering and physical and mental pain constituting a serious attack on the detainees' human dignity. The Chamber is satisfied not only that the HVO soldiers, including Mladen Naletilić alias "Tuta", intended to mistreat the detainees by causing them great suffering and physical and mental pain, but also that the units present at the Fish Farm on 20 April 1993 – members of the 3rd *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB²²⁸⁷ – who were aware of such treatment and did nothing to stop it knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1433. The Chamber therefore finds that the treatment meted out to the Muslims held at the Fish Farm by the HVO on 20 April 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1434. The Chamber established that some of the men held at the Sovići School between 17 April and 5 May 1993, including Nihad Kovač, who was 13 years old at the time, and an ABiH soldier, were forced to do work such as burying the bodies of soldiers who had been killed or "engineering" work at the HVO positions.²²⁸⁸ While he was being held at the Sovići School, Nihad Kovač was forced by HVO soldiers to dig trenches and carry heavy ammunition cases to a military site about

²²⁸⁵ See "Organisation of Houses in Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸⁶ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸⁷ See "Organisation of the Fish Farm as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁸⁸ See "Labour Performed by Detainees from Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

four kilometres from the Sovići School.²²⁸⁹ The Chamber is satisfied by a majority, with Judge Trechsel dissenting, that in view of the detainee's age and the nature and duration of the work he was forced to do, the work caused him great physical and mental suffering constituting a serious attack on human dignity. Moreover, the Chamber is satisfied by a majority, with Judge Trechsel dissenting, that the HVO soldiers who forced him to do this work understood the nature of the work to be done, knew that the probable consequences of that work would be great physical and mental suffering constituting a serious attack on human dignity and accepted this.

1435. The Chamber therefore finds by a majority, with Judge Trechsel dissenting, that the work done by the 13-year-old Nihad Kovač, held at the Sovići School, constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1436. With regard to the ABiH soldier, the Chamber notes that he stated that he had volunteered to bury the bodies of Muslims killed during the HVO attack on the villages of Sovići and Doljani.²²⁹⁰ With the exception of this evidence, the Chamber has no further information. As such, it cannot find that the work done by the soldier during his detention by the HVO at the Sovići School constituted cruel treatment, a crime recognised by Article 3 of the Statute.

IV. Municipality of Mostar

1437. The Chamber established that on 13 June 1993, soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", members of the *Vinko Škrobo* ATG, beat a large number of people during operations to expel Muslims forcibly from their homes in the Dum neighbourhood in West Mostar.

1438. The Chamber holds that these persons were not taking part in hostilities at the moment of their eviction and were thus protected by Article 3 of the Statute.

1439. The Chamber is moreover satisfied that by forcibly expelling them from their homes and beating them, the HVO soldiers caused these Muslims great physical and mental suffering and did so intentionally. The Chamber therefore finds that the treatment meted out to the Muslim people of the Dum neighbourhood in West Mostar on 13 June 1993 by soldiers of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade and the members of the *Vinko Škrobo* ATG, Vinko Martinović

²²⁸⁹ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²²⁹⁰ See "Labour Performed by Detainees from Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Tęga", constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1440. As an initial matter, the Chamber notes that the Muslims imprisoned at the Tobacco Institute and at the Mechanical Engineering Faculty were not or were no longer taking part in the combat; that the Muslims of West Mostar who were the subject of several eviction operations between May 1993 and February 1994 were not or were no longer taking part in the combat operations and that the same was true for the majority of the Muslims living in East Mostar between June 1993 and March 1994. All these people thus enjoyed the protection of Article 3 of the Statute.

1441. As the Chamber established, HVO soldiers and in particular Mladen Naletilić and Juka Prazina, using their feet and rifle butts, beat the Muslim men who were arrested during the fall of the Vranica Building in West Mostar on 10 March 1993 and detained at the Tobacco Institute.²²⁹¹ The Chamber is satisfied that the particularly brutal treatment inflicted by HVO soldiers on the Muslim men held at the Tobacco Institute in May 1993 caused the detainees great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that the HVO soldiers, including Mladen Naletilić and Juka Prazina, intended to cause this great physical and mental suffering to the detainees constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out by the HVO soldiers to the Muslim men held at the Tobacco Institute after the fall of the Vranica Building on 10 May 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1442. The Chamber also established that the Muslim men held at the Mechanical Engineering Faculty after the attacks of 9 May 1993 and 30 June 1993 were victims of severe and repeated beatings in May and July 1993 by HVO soldiers and military policemen, including the members of the 3rd Battalion of the Military Police. The detainees were kicked and beaten with rifle butts, truncheons and thick cables that caused serious injury and loss of consciousness.²²⁹² One detainee even had his ear cut off and several detainees died as a result of the beatings.²²⁹³ The Chamber also established that it did not have evidence allowing it to determine whether these beatings continued

²²⁹¹ See "Tobacco Institute" in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹² See "Treatment of Detainees at the Mechanical Engineering Faculty", "Fate of the 12 ABiH Soldiers" and "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹³ See "Fate of the 12 ABiH Soldiers" and "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

in August 1993 or whether the Muslims were imprisoned at the Mechanical Engineering Faculty after July 1993.²²⁹⁴

1443. The Chamber is satisfied that the extremely brutal treatment inflicted by members of the HVO armed forces and Military Police on the Muslim men held at the Mechanical Engineering Faculty in May and July 1993 caused the detainees great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that the HVO soldiers and military policemen intended to cause this great physical and mental suffering to the detainees constituting a serious attack on their dignity. The Chamber therefore finds that the treatment inflicted by the HVO soldiers and military policemen on the Muslims from West Mostar held at the Mechanical Engineering Faculty in May and July 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1444. The Chamber also established that on 14 July 1993, in the village of Buna, the HVO Military Police there, including the 5th Battalion of the Military Police, arrested and on several occasions badly beat a Muslim boy and his grandfather at the Buna Military Police station before taking them to a roadside and shooting them in the back killing one of them and seriously wounding the other and leaving him on site.²²⁹⁵

1445. The Chamber is satisfied that the particularly brutal treatment inflicted in Buna on 14 July 1993 by members of the HVO Military Police on these two Muslims who were not taking part in the fighting and were thus protected by Article 3 of the Statute caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that by beating and shooting at the two Muslims, the members of the HVO Military Police intended to cause them this great physical and mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the Muslim boy and his grandfather from Buna by the members of the HVO Military Police on 14 July 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

²²⁹⁴ See "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹⁵ See "Crimes Allegedly Committed in Buna around 14 July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

1446. The Chamber also observed that on 24 August 1993, after the HVO attack on Raštani that same day, HVO soldiers subjected the women and children near one of the houses in the village to physical and psychological abuse such as beatings, threats of death and rape, and sexual assault.²²⁹⁶

1447. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by HVO soldiers in Raštani on 24 August 1993 on Muslims who were not taking part in the fighting and were thus protected by Article 3 of the Statute caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that by inflicting such treatment on women and children, the HVO soldiers intended to cause them great physical and mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the Muslim women and children from Raštani by the HVO on 24 August 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1448. The Chamber also established that in the course of the operations during which the Muslims of West Mostar were driven from their homes, between May 1993 and February 1994, HVO soldiers – in particular the *Benko Penavić* ATG in May 1993, the members of the 4th Battalion of the 3rd HVO Brigade and members of the KB in June 1993, the members of the *Vinko Škrobo* and *Benko Penavić* ATGs in September 1993 – threatened and intimidated the Muslims they were evicting from their homes and savagely kicked, punched and beat them with their rifle butts.²²⁹⁷ The Chamber also established that in June, July and September 1993, sexual attacks were committed in the course of the said evictions;²²⁹⁸ however, it was unable to find that Muslims were victims of sexual attacks during the eviction operations conducted by the HVO in May and August 1993 and from October 1993 to February 1994.²²⁹⁹

1449. The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by members of the armed forces of the HVO on the Muslims of West Mostar while they were driving them out of their homes between May 1993 and February 1994 caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that the

²²⁹⁶ See “Treatment of Muslim Women and Children During the Attack on the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹⁷ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993” and “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹⁸ See “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²²⁹⁹ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

HVO soldiers intended to cause them great physical and mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the Muslims of West Mostar by the HVO between May 1993 and February 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1450. With regard to the Muslims living in East Mostar, the Chamber established that between June 1993 and March 1994, HVO shelling and firing on East Mostar and the existence of a real campaign of sniper fire against the Muslim civilian population of East Mostar resulted in the killing and wounding of many Muslims living in the eastern part of the town²³⁰⁰ and in the creation of a climate of terror.²³⁰¹ The Chamber already established by a majority, with Judge Antonetti dissenting, that the women, children and elderly people of East Mostar were targeted by HVO snipers while they were going about their day-to-day activities with no link to combat operations, as were firemen who were helping the population.²³⁰²

1451. The Chamber established, moreover, that the HVO shelling and firing on East Mostar was daily, intense and frequent.²³⁰³ It was not limited to specific targets²³⁰⁴ although the HVO was able to target and identify its targets by correction fire.²³⁰⁵ The Chamber deemed that although the armed forces of the HVO in particular targeted certain zones and/or buildings where military targets might have been found,²³⁰⁶ the whole of East Mostar, a small residential area with a very high population density, was affected by the shelling and firing, including many homes, public buildings and shops.²³⁰⁷ The Chamber also established that the HVO fired tyres full of explosives on homes in the Donja Mahala neighbourhood, as well as napalm bombs dropped from planes.²³⁰⁸

²³⁰⁰ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar. See also the part devoted to the 12 incidents highlighted by the Prosecution involving HVO snipers, among which were nine incidents that resulted in inhabitants of East Mostar being wounded: “Sniping Incident no. 1”, “Sniping Incident no. 2”, “Sniping Incident no. 4”, “Sniping Incident no. 6”, “Sniping Incident no. 7”, “Sniping Incident no. 8”, “Sniping Incident no. 9” and “Sniping Incident no. 10” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰¹ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰² See “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰³ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰⁴ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰⁵ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰⁶ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰⁷ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²³⁰⁸ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

1452. Finally, as the Chamber established, the Muslim inhabitants of East Mostar lived through extremely harsh and squalid conditions between June 1993 and April 1994.²³⁰⁹ The Chamber established in particular that the civilian population was confined to a limited space and was obliged to live in cellars and basements of buildings or in overcrowded apartments, a situation due especially to the influx of Muslims who arrived as a result of HVO operations to evict them from May 1993 onwards.²³¹⁰ Throughout this period, they had no access to water,²³¹¹ electricity,²³¹² food²³¹³ and medical care.²³¹⁴ The Chamber observed that those conditions were made worse and remained as such over months, and difficulties were compounded both by the HVO's blocking and depriving the population of regular humanitarian aid and by their blocking and depriving the international organisations of access to East Mostar,²³¹⁵ and by the isolation in which the HVO kept the population crowded in an enclave which it was not allowed to leave.²³¹⁶ Finally, the HVO shelling, intense fire and sniping not only killed, wounded and terrified the population, but also hindered it from moving about freely and from trying to get food, water and other basic necessities, and forced it into squalid living conditions in the underground.²³¹⁷

1453. The Chamber finds that by shelling and firing on a daily basis from June 1993 to March 1994 on a small area with a high civilian population density while the population was caught and forced to remain there,²³¹⁸ and by imposing extremely harsh living conditions on the inhabitants of East Mostar and causing numerous deaths and injuries and much destruction, the HVO caused great physical and mental suffering to the inhabitants of East Mostar constituting a serious attack on their dignity. The Chamber is satisfied that by intensely and daily shelling this small area of East Mostar with heavy artillery unsuitable for an area such as this,²³¹⁹ by undertaking a campaign of sniper fire against the civilian population of East Mostar and by imposing and maintaining extremely harsh living conditions for the inhabitants of East Mostar throughout this period, the HVO intended to

²³⁰⁹ See "Living Conditions for the Population in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁰ See "Living Conditions for the Population in East Mostar" (introductory part) in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹¹ See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹² See "Access to Water and Electricity" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹³ See "Access to Food" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁴ See "Access to Medical Care" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁵ See "Access to Food" and "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁶ See "Access to Food", "Blocking of International Organisations and Humanitarian Aid" and "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁷ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁸ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²³¹⁹ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

cause them great physical and mental suffering constituting a serious attack on their dignity. The Chamber therefore finds that the treatment meted out to the Muslims of East Mostar by the HVO between June 1993 and March 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

V. The Heliodrom

1454. As an initial matter, the Chamber notes that, due to their detention, the Muslim men held at the Heliodrom were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1455. The Chamber established that between May 1993 and mid-April 1994, members of the Military Police, including those who were responsible for guarding the detainees, and members of the HVO armed forces – among whom were members of the professional units of the KB and of the *Bruno Bušić* Regiment – regularly and brutally beat the Heliodrom detainees, in particular following military losses by the HVO.²³²⁰ Some detainees were beaten for several hours until they lost consciousness. The detainees were beaten with rifle butts, pickaxes and truncheons; they were punched and kicked in the back and the kidneys; they were insulted, threatened and humiliated, and some of them who had been deprived of food for 36 hours were given dog food to eat.²³²¹ The Chamber established as well that on 5 July 1993, between one and three in the morning, HVO soldiers staying at the Heliodrom shot at random at the buildings in which the detainees were being held without the "brigade police" intervening, which they should have done to stop the firing.²³²²

1456. The Chamber is satisfied that the brutal and degrading treatment inflicted on the Heliodrom detainees within the prison on several occasions for almost a year by members of the Military Police, including those responsible for guarding them, and the armed forces of the HVO, including members of the professional units of the KB and the *Bruno Bušić* Regiment, caused great physical and mental suffering to the detainees constituting a serious attack on their dignity. The Chamber is satisfied that these members of the Military Police and the armed forces of the HVO intended to cause the detainees this great physical and mental suffering constituting a serious attack on their dignity. Indications of this are, in particular, the brutality, the frequency and the duration of the

²³²⁰ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²³²¹ See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²³²² See "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

beatings inflicted on them which could last for almost eight hours without interruption.²³²³ The Chamber is also satisfied that the people responsible for the Heliodrom – in particular Stanko Božić and Josip Praljak, Warden and Deputy Warden respectively, and members of the Military Police – who were aware of this treatment and did nothing to stop it,²³²⁴ knew that the consequences of this treatment would be great physical and mental suffering constituting a serious attack on the dignity of the detainees and accepted this. The Chamber therefore finds that the treatment meted out to the Muslim detainees within the Heliodrom prison by members of the Military Police and the armed forces of the HVO between May 1993 and mid-April 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1457. The Chamber also established that between May 1993 and March 1994, the HVO took Muslim men held at the Heliodrom to the front line in the Municipality of Mostar to perform labour, such as repairing fortifications or collecting the bodies of soldiers.²³²⁵ The Chamber observed that several dozen detainees who were exposed to the military confrontations were killed or wounded by firing both from the HVO and the ABiH.²³²⁶ The Chamber also established that members of the 2nd Battalion of the 2nd Brigade and the 2nd Battalion of the 3rd Brigade of the HVO, as well as members of the KB and Vinko Martinović's ATG – including Vinko Martinović alias "Štela" himself – hit, beat and insulted the Heliodrom detainees while they were working, also by firing over their heads and putting their cigarettes out on their bodies.²³²⁷

1458. The Chamber is satisfied that the brutal treatment inflicted on the detainees taken out of the camp between May 1993 and March 1994 by members of the armed forces of the HVO to perform labour caused great physical and mental suffering constituting a serious attack on the dignity of the detainees. The Chamber is satisfied that the members of the armed forces of the HVO who took the detainees to the front line under extremely dangerous conditions and who, what is more, deliberately abused them while they were working intended to inflict on them great physical and mental suffering constituting an attack on their dignity. The Chamber is not unaware of the fact that some attempts were made, in particular by the Warden and Deputy Warden of the Heliodrom, to

²³²³ See in particular "Treatment of Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

²³²⁴ The Chamber recalls in particular that every morning between January and November 1993 a meeting was held at the office of Stanko Božić, sometimes in the presence of Josip Praljak, during which the Heliodrom security commander reported about everything that had happened at the prison the day before. The Chamber also notes that the work of the military policemen responsible for guarding the detainees was done under the authority of the Prison Warden (see "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom).

²³²⁵ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

²³²⁶ See "Use of Heliodrom Detainees for Work" and "Detainees Killed or Wounded During Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

restrict the use of forced labour.²³²⁸ However, those attempts did not have any notable consequences. The Chamber is satisfied that the various authorities that authorised the use of detainees for labour were knew that the probable consequences of such treatment would be great physical and mental suffering constituting a serious attack on the dignity of the detainees and accepted this. This is also true for the authorities who were directly informed about the incidents²³²⁹ and who did nothing to stop them or to prosecute the perpetrators. The authorities knew that labour was being performed on the front line and, as such, under extremely dangerous conditions, and were informed on several occasions that detainees had been killed, wounded or beaten up during such labour. In light of the evidence, the Chamber therefore finds that the treatment meted out by the HVO to some Muslim detainees at the Heliodrom who were forced to work on the front line between May 1993 and March 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

²³²⁷ See “Treatment of Detainees During Forced Labour” in the Chamber's factual findings with regard to the Heliodrom.

²³²⁸ See “Authorities Informed about Incidents during Work” and “Attempts to Restrict Use of Heliodrom Detainees for Work” in the Chamber's factual findings with regard to the Heliodrom.

²³²⁹ The Chamber recalls that from June 1993 to March 1994, the following persons in particular had power to authorise Heliodrom detainees to be sent out to do work: Marijan Biškić, Deputy Minister for Security in the HR H-B Ministry of Defence from 1 December 1993; Slobodan Praljak; Milivoj Petković; Ante Roso, Commander of the HVO Main Staff from 9 November 1993; Zlatan Mijo Jelić, Commander of the 1st Light Assault Battalion of the Military Police and then Commander of the Central Sector of the defence of the town of Mostar and Commander of the Mostar Defence Sector; Mladen Naletilić, Commander of the KB; Teljko Šiljeg, Chief of the Military Police Administration around December 1993; Radoslav Lavrić, Deputy Chief of the Military Police Administration in the summer of 1993; Zvonko Vidović, an official at the Department for Criminal Investigations of the Military Police Administration; Vladimir Primorac, successor of Zlatan Mijo Jelić as Commander of the 1st Light Assault Battalion of the Military Police; and Berislav Pušić (see “Attempts to Restrict Use of Heliodrom Detainees for Work” in the Chamber's factual findings with regard to the Heliodrom). The Chamber also recalls that the following persons were informed of incidents during labour by Heliodrom detainees: Stanko Božić and Josip Praljak, Warden and Deputy Warden of the Heliodrom respectively, Jadranko Prlić, Bruno Stojić, Milivoj Petković, Valentin Ćorić and Berislav Pušić (see “Authorities Informed about Incidents during Work” in the Chamber's factual findings with regard to the Heliodrom).

1459. The Chamber also established that between July and September 1993, Heliodrom detainees were used by the *Vinko Škrobo* ATG as "human shields" on the Mostar front line.²³³⁰ Accordingly, the Chamber noted in particular that the detainees were forced to stand in front of or among the HVO troops to protect them from possible ABiH attacks; that they were sometimes forced to wear HVO uniforms and carry fake wooden rifles while combat was raging and compelled to cross the front line to protect the HVO soldiers;²³³¹ that three detainees were wounded on the Mostar front line on 17 September 1993 when members of the *Vinko Škrobo* ATG gave them wooden rifles and camouflage HVO uniforms to wear²³³² and that on the same day, four other detainees were killed while they were also being used as "human shields".²³³³

1460. The Chamber is satisfied that the brutal treatment inflicted in July, August and September 1993 by members of the *Vinko Škrobo* ATG under the command of Vinko Martinović on detainees being used as "human shields" on the Mostar front line caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that by inflicting such treatment on the detainees, the members of the *Vinko Škrobo* ATG under the command of Vinko Martinović intended to inflict on them great physical and mental suffering constituting a serious attack on their dignity. This is especially evident in all the preparations made for using these detainees as human shields and, in particular, in providing the detainees with HVO uniforms and wooden rifles.

1461. In light of the evidence, the Chamber therefore finds that the treatment meted out to some Muslim detainees at the Heliodrom used as "human shields" in July, August and September 1993 constituted cruel treatment, a crime recognised by Article 2 of the Statute.

VI. Vojno Detention Centre

1462. As an initial matter, the Chamber notes that paragraphs 141 and 142 of the Indictment allege inhumane acts with regard to events concerning the detention of women and children at the Vojno Detention Centre. As it already noted, the Chamber was unable to confirm the presence of these

²³³⁰ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²³³¹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

²³³² See "Heliodrom Detainees Wounded while Being Used as Human Shields in Mostar" in the Chamber's factual findings with regard to the Heliodrom.

²³³³ See "Heliodrom Detainees Killed while Being Used as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

persons at that Detention Centre.²³³⁴ Consequently, the Chamber is unable to reach a finding concerning the allegations of cruel treatment for paragraphs 141 and 142 of the Indictment.

1463. Furthermore, the Chamber notes that, due to their detention, the Muslims held at the Vojno Detention Centre were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1464. The Chamber established that the detainees at the Vojno Detention Centre were victims of violence, severe abuse and humiliation between 8 November 1993 and 28 January 1994 by Mario Mihalj and Dragan Šunjić, both of whom were HVO soldiers.²³³⁵ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by HVO soldiers for almost three months caused great suffering and physical and mental pain constituting a serious attack on human dignity. The Chamber is satisfied that those responsible for the Vojno Detention Centre – members of the 2nd Brigade of the HVO²³³⁶ – who were aware of the treatment meted out to the Muslim detainees and did nothing to stop it knew that the probable consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1465. In light of the evidence, the Chamber finds that the treatment inflicted by HVO soldiers on the detainees during their detention at the Vojno Detention Centre between 8 November 1993 and 28 January 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1466. The Chamber established that the detainees sent from the Heliodrom to the Vojno Detention Centre between August 1993 and March 1994 to perform labour on the front lines were seriously abused and humiliated by Mario Mihalj and Dragan Šunjić – both HVO soldiers – as well as by other HVO soldiers.²³³⁷ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted by HVO soldiers on the Heliodrom detainees sent to the Vojno Detention Centre while they were doing forced labour for almost eight months caused them great suffering and physical and mental pain constituting a serious attack on human dignity. The Chamber is satisfied that those responsible for the Vojno Detention Centre – members of the 2nd Brigade of the HVO²³³⁸

²³³⁴ See the introductory part in the Chamber's factual findings with regard to the Vojno Detention Centre..

²³³⁵ See “Authorities Responsible for Operation of the Vojno Detention Centre” and “Treatment of Detainees During Detention at the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³³⁶ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³³⁷ See “Authorities Responsible for Operation of the Vojno Detention Centre”, “Types and Locations of Labour in the Vojno-Bijelo Polje Area” and “Treatment of Heliodrom Detainees During Labour in the Vojno-Bijelo Polje Area” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³³⁸ See “Authorities Responsible for Operation of the Vojno Detention Centre” in the Chamber's factual findings with regard to the Vojno Detention Centre.

– and the HVO soldiers in charge of guarding them during labour, who were aware of the treatment meted out to the Muslim detainees and did nothing to stop it knew that the probable consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1467. In light of the evidence, the Chamber finds that the treatment inflicted by the HVO on the Heliodrom detainees sent to the Vojno Detention Centre during labour between August 1993 and March 1994 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

VII. Municipality and Detention Centres of Ljubuški

1468. As an initial matter, the Chamber notes that, due to their detention, the Muslims held in the Municipality of Ljubuški were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1469. With regard to Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the detainees were regularly insulted, hit and beaten in the prison and at the sites where they were performing forced labour by HVO soldiers, including members of the Military Police attached to the 4th Brigade in charge of guarding the prison.²³³⁹ The Chamber is satisfied that the particularly brutal treatment inflicted on the detainees by members of the HVO armed forces for almost a year caused great suffering and physical and mental pain constituting a serious attack on their human dignity. The Chamber is satisfied that those responsible for the prison – the platoon of the Military Police attached to the 4th Brigade, the 4th Brigade and the Military Police Administration²³⁴⁰ – who were aware of the treatment meted out to the Muslim detainees and did nothing to stop it knew that the probable consequences of such treatment would be great physical and mental suffering and a serious attack on the detainees' human dignity and accepted this. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Ljubuški Prison by the HVO constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1470. With regard to the Vitina-Otok Camp, the Chamber recalls that it was unable to determine whether detainees in this camp were victims of mistreatment. It is thus unable to find that the

²³³⁹ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²³⁴⁰ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

treatment meted out to the Muslim detainees at the Vitina-Otok Camp constituted cruel treatment, a crime recognised by Article 3 of the Statute.

VIII. Municipality of Stolac

1471. As an initial matter, the Chamber notes that, due to their detention, the Muslims expelled from their villages or held at Koštana Hospital were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslims were persons protected by Article 3 of the Statute.

1472. The Chamber established that the operations in July and August 1993 during which members of the HVO, including members of the 1st *Knez Domagoj* Brigade and members of the Police, expelled the Muslims of the Municipality of Stolac from their homes took place under threat of arms; that shots were fired over the heads of the people being expelled; that the villagers were threatened with death; that they were forced to walk to their destination; and that a mother was forced to leave behind the body of her daughter who was killed by an HVO soldier on 13 July 1993.²³⁴¹

1473. The Chamber is satisfied that the extremely trying conditions under which the members of the HVO expelled the Muslim civilians of the Municipality of Stolac from their homes caused them great physical and mental suffering constituting a serious attack on their human dignity. The Chamber is also satisfied that the members of the HVO intended to cause great physical and mental suffering constituting a serious attack on the human dignity of the women, children and elderly people they were expelling. The Chamber therefore finds that the treatment meted out to the Muslims from the Municipality of Stolac by the HVO constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1474. The Chamber also established that between May and October 1993, members of the HVO, including members of the Military Police and the MUP, regularly and savagely beat the detainees at Koštana Hospital, punching and kicking them, and beating them with truncheons, rifle butts, belts

²³⁴¹ See “Removal of the Muslim Population and Death of a Young Woman in Pješivac Greda” and “Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control” in the Chamber's factual findings with regard to the Municipality of Stolac. See also “Municipality of Stolac” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

and chair legs.²³⁴² One detainee was also subjected to electric shocks until he lost consciousness.²³⁴³ Some former detainees are still suffering from the consequences of such violence.²³⁴⁴

1475. The Chamber is satisfied that the particularly brutal treatment inflicted on the detainees by members of the HVO, including members of the Military Police and the MUP, caused great physical and mental suffering constituting a serious attack on their human dignity. The Chamber is satisfied that by inflicting such treatment, the members of the HVO intended to cause great physical and mental suffering constituting a serious attack on the human dignity of the detainees, all the more so because those acts took place over a six-month period. The Chamber therefore finds that the treatment meted out to the Muslims from the Municipality of Stolac by the HVO constituted cruel treatment, a crime recognised by Article 3 of the Statute.

IX. Municipality of Čapljina

1476. As an initial matter, the Chamber notes that the eviction operations in the Municipality of Čapljina in July and August 1993 were directed against women, children and elderly people not taking part in the combat. These persons thus enjoyed the protection of Article 3 of the Statute.

1477. The Chamber established that on about 13 July 1993, members of the HVO, including soldiers belonging to the 1st *Knez Domagoj* Brigade, evicted women, children and elderly people from the village of Domanovići and held them for several days, even weeks, in particular at the Čapljina Silos and at Počitelj, before forcing them to move to territories under the control of the ABiH, primarily Blagaj.²³⁴⁵ The Chamber observed by a majority, with Judge Antonetti dissenting, that during this eviction operation, two young Muslim women aged 17 and 23, Dženita and Sanela Hasić, were shot and killed one after the other by HVO snipers.²³⁴⁶

1478. The Chamber also established that between 13 and 16 July 1993, members of the HVO, including some belonging to the 1st *Knez Domagoj* Brigade and others from the 3rd Company of the 5th Battalion of the Military Police, expelled women, children and elderly people from their village

²³⁴² See “Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks” and “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²³⁴³ See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²³⁴⁴ See “Severe Beatings at Koštana Hospital” in the Chamber's factual findings with regard to the Municipality of Stolac.

²³⁴⁵ See “Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići”, “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards”, “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

of Bivolje Brdo and held them for several days, even weeks, at various locations — in particular at the Čapljina Silos, the Sovići School, the Gradina collection centre in the village of Počitelj and at Doljani – before forcing them to move to territories under the control of the ABiH, primarily Blagaj.²³⁴⁷ It noted that during this eviction operation, a disabled 83-year-old man was shot and killed at his home on 14 July 1993 by HVO soldiers,²³⁴⁸ that the houses in the village were burned down and that there were cases of theft.²³⁴⁹

1479. The Chamber then noted that on about 13 July 1993 and in early August 1993, members of the HVO, including soldiers from the 1st *Knez Domagoj* Brigade, expelled Muslim women, children and elderly people from the village of Počitelj and moved them by lorry to Buna and Petak where they were subsequently forced to continue on foot to Blagaj.²³⁵⁰

1480. The Chamber also established that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some of them were taken to a house in Tasovčići²³⁵¹ before being taken to the Silos on 2 October 1993 and then to Blagaj.²³⁵²

1481. Finally, the Chamber established that in August and September 1993, members of the HVO and the MUP expelled women, children and elderly people from the town of Čapljina - holding some of them at the Silos - and removed them in lorries, vans and cars to territories under the control of the ABiH.²³⁵³

1482. The Chamber is satisfied that all these evictions and the conditions under which they were carried out – detention for several days or even weeks in various locations before being forced to set off for territories under the control of the ABiH, sometimes on foot, and thefts, burnings and

²³⁴⁶ See “Death of Two Young Women in the Village of Domanovići” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁴⁷ See “Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo”, “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards”, “Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁴⁸ See “Death of an 83-Year-Old Man in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁴⁹ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” and “Thefts of Muslim Property in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁵⁰ See “Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁵¹ See “Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁵² See “Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards” and “Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries” in the Chamber's factual findings with regard to the Municipality of Čapljina.

deaths during these operation in some villages – caused great physical and mental suffering constituting a serious attack on the dignity of the women, children and elderly people from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina who were driven from their homes. The Chamber is also satisfied that the members of the HVO intended to inflict great physical and mental suffering constituting a serious attack on the dignity of the Muslim women, children and elderly people they were expelling. The Chamber therefore finds that the treatment meted out by the HVO to the Muslim civilians from Domanovići, Bivolje Brdo, Počitelj, Višići and Čapljina between July and October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1483. The Chamber recalls however that it was unable to find that the women, children and elderly people from the villages of Opličići and Lokve were removed by the HVO in July and August 1993²³⁵⁴ and is thus unable to find that the alleged removals and the conditions under which they took place constituted cruel treatment, a crime recognised by Article 3 of the Statute.

X. Dretelj Prison

1484. As an initial matter, the Chamber notes that, due to their detention, the Muslims held in Dretelj Prison were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1485. The Chamber established that between July 1993 and early October 1993, Muslim detainees at Dretelj Prison were hit, beaten and humiliated on a regular basis by the military policemen in Dretelj Prison, by the guards and also by persons from outside the prison, including inhabitants of the region, HVO and HV soldiers and even, on occasion, by other Muslim detainees forced to do so.²³⁵⁵ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the armed forces and Military Police of the HVO for almost three months caused them great suffering and physical and mental pain constituting a serious attack on the dignity of these Muslim detainees. The Chamber is satisfied that those responsible for the prison and the units in the camp – the 3rd Company of the 3rd and then of the 5th Battalion of the Military Police, the 1st *Knez Domagoj* Brigade and the *Domobrani* unit²³⁵⁶ – who were aware of the treatment being meted out to the Muslim detainees and did nothing to stop it knew that the probable

²³⁵³ See “Events in August and September 1993 in the Town of Čapljina” and “Incarceration of Muslims at the Silos” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁵⁴ See “Evictions and Removals of Women, Children and Elderly People from the Village of Lokve” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²³⁵⁵ See “Treatment of Detainees” in the Chamber's factual findings with regard to Dretelj Prison.

²³⁵⁶ See “Description of Dretelj Prison”, “3rd Company of the 3rd and then 5th Battalion of the Military Police”, “1st *Knez Domagoj* Brigade” and “The *Domobrani*” in the Chamber's factual findings with regard to Dretelj Prison.

consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1486. In light of the evidence, the Chamber therefore finds that the treatment inflicted on the Muslim detainees at Dretelj Prison by the HVO between July 1993 and early October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

XI. Gabela Prison

1487. As an initial matter, the Chamber notes that, due to their detention, the Muslims held in Gabela Prison were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1488. The Chamber established that from at least June to October 1993, the Muslim detainees were regularly hit, beaten and humiliated, in particular by the Prison Warden who was a member of the 1st *Knez Domagoj* Brigade, members of the Military Police and the *Domobrani*.²³⁵⁷ The Chamber is satisfied that the particularly brutal and degrading treatment inflicted on the detainees by members of the HVO armed forces and Military Police for at least five months caused them great suffering and physical and mental pain constituting a serious attack on the dignity of these Muslim detainees. The Chamber is satisfied that those responsible at the prison – the 1st *Knez Domagoj* Brigade, including the Warden and Deputy Warden of the prison who were members of the brigade, as well as the *Herceg Stjepan* Brigade and a *Domobrani* unit guarding and maintaining security for the detainees²³⁵⁸ – who were aware of the treatment meted out to the Muslim detainees and did nothing to stop it, knew that the probable consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their human dignity and accepted this.

1489. In light of the evidence, the Chamber therefore finds that the treatment meted out to the Muslim detainees at Gabela Prison by the HVO at least between June and October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

²³⁵⁷ See “Treatment of Detainees” in the Chamber's factual findings with regard to Gabela Prison.

²³⁵⁸ See “Management of Gabela Prison”, “Authorities Granting Access to Prison for People from Outside”, “Authorities Controlling Detainee Access to Food and Water” and “Authorities Responsible for Organising and Providing Medical Care” in the Chamber's factual findings with regard to Gabela Prison.

XII. Municipality of Vareš

1490. As an initial matter, the Chamber notes that during and after the attack on the village of Stupni Do, there were women, children and elderly people among the inhabitants of the village who were not taking part in combat. The Chamber also observes that, due to their arrest and detention, the Muslims arrested and held in the Municipality of Vareš were not or were no longer taking part in combat. All these persons thus enjoyed the protection of Article 3 of the Statute.

1491. The Chamber established that after their arrest on 18 October 1993, six Muslim men, Ešref Likić, Jakub Likić, Mehmed Likić, Himzo Likić, Rešad Likić and Mufid Likić, were held from 18 to 23 October 1993 at the Military Police prison in Vareš. The Chamber noted that during their detention, they were forced to remain on their knees, with their hands behind their backs for several hours and were brutally beaten on two occasions by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit.²³⁵⁹ The Chamber noted in particular that one of the detainees had his head covered with a pair of trousers, was handcuffed and then, beaten with truncheons, punched and kicked. It also noted that one of the detainees was beaten until he lost consciousness.²³⁶⁰ The Chamber is satisfied that the brutal treatment inflicted on the six Muslim men by members of the Military Police platoon attached to the *Bobovac* Brigade and by soldiers of the *Maturice* special unit caused them great physical and mental suffering constituting a serious attack on their human dignity. The Chamber is also satisfied that when they beat them, the members of the Military Police platoon attached to the *Bobovac* Brigade and the soldiers of the *Maturice* special unit intended to cause great physical and mental suffering constituting a serious attack on the human dignity of the six Muslim men held at the Military Police prison in Vareš. In light of the evidence, the Chamber therefore finds that the treatment meted out to the six Muslim men held at the Military Police prison in Vareš between 18 and 23 October 1993 by members of the Military Police platoon attached to the *Bobovac* Brigade and soldiers of the *Maturice* special unit constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1492. The Chamber also established that from the morning of 23 October 1993 to 24 October 1993, members of the HVO, including some belonging to the *Maturice* special unit, arrested the

²³⁵⁹ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁰ See “Arrest of ABiH Members in Pajtov Han on 18 October 1993 and their Detention” in the Chamber's factual findings with regard to the Municipality of Vareš.

Muslim men in the town of Vareš.²³⁶¹ The Chamber noted in particular that, beginning on 23 October 1993 at dawn, the members of the HVO entered the homes of the Muslims and forced the Muslim men, sometimes still in their underwear, out of their houses, and took them to the Vareš High School, the Vareš Elementary School and Vareš-Majdan Prison, where they were imprisoned. During these arrests, the Muslims were insulted, threatened and beaten with rifle butts.²³⁶² In particular, the Chamber noted that while the HVO soldiers were arresting Salem Ćerenić at his home in the presence of his wife and two children, the soldiers insulted him, put the barrel of a rifle into his mouth demanding gold, money and weapons and that after they threw him out of his house without giving him time to get dressed, he was forced to go from one group of soldiers to another to the Vareš High School with his head bowed down and his hands behind his head, while being pushed around and insulted by groups of soldiers.²³⁶³

1493. The Chamber is satisfied that the brutal, humiliating and degrading treatment inflicted by the HVO soldiers on the Muslims of the town of Vareš during their arrest beginning on the morning of 23 October 1993 caused them great physical and mental suffering constituting a serious attack on their human dignity. The Chamber is satisfied that the HVO soldiers, including some belonging to the *Maturice* special unit, intended to cause this great physical and mental suffering constituting a serious attack on the Muslims' human dignity. The Chamber therefore finds that the treatment meted out to the Muslims during their arrest beginning on 23 October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1494. With regard to the Muslim men held at the Vareš High School between 23 October and 4 November 1993, the Chamber previously found that they had received beatings that resulted in serious wounds and had been burned and insulted by members of the HVO.²³⁶⁴ The Chamber established in particular that Salem Ćerenić was beaten by seven HVO soldiers for an hour, during which time he was kicked and hit with truncheons and rifle butts; that on that occasion he lost two teeth, had his ribs broken, suffered a fractured skull and spinal chord damage, and that he was black and blue with bruises from the beating.²³⁶⁵ The detainee himself testified that he was beaten several times a day for the five or six days of his detention. The Chamber also noted that an HVO soldier

²³⁶¹ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶² See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶³ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁴ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁵ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

put his cigarette out on Muris Arapović's hand, while holding a pistol to his head, and that his face was covered in blood.²³⁶⁶ The Chamber established that other detainees were insulted, beaten, hit in the face, bore traces of blood and of the blows received as well as bruises and were forced to sit all day with their heads between their legs.²³⁶⁷

1495. The Chamber is satisfied that the particularly brutal treatment inflicted by members of the HVO on the Muslim men held at the Vareš High School caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is satisfied that the members of the HVO who inflicted such treatment intended to cause this great physical and mental suffering constituting a serious attack on the dignity of the detained Muslim men. It is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade in charge of guarding the detainees who were aware of such treatment and did nothing to stop it knew that the consequences of such treatment would be great physical and mental suffering constituting a serious attack on their dignity and accepted this. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from visiting the Vareš High School before 26 October 1993. The Chamber therefore finds that the treatment inflicted on the detainees at the Vareš High School by members of the HVO between 23 October and 4 November 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1496. With regard to the Muslim men held at the Vareš Elementary School between 23 October and 4 November 1993, the Chamber found that they were beaten as soon as they arrived at the school;²³⁶⁸ that during their detention they were repeatedly the objects of brutal beatings that led to visible injuries; that they were forced by members of the HVO to stand or sit in painful and humiliating positions;²³⁶⁹ that while he was held at the Vareš Elementary School for about five days, Salem Ćerenić was beaten once or twice a day by members of the HVO;²³⁷⁰ and that all the detainees were beaten during their detention.²³⁷¹ The Chamber is satisfied that the Muslim men held at the Vareš Elementary School were subjected to brutal treatment that caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is also satisfied

²³⁶⁶ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁷ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš High School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁸ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁶⁹ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁷⁰ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁷¹ See "Treatment of Detainees and Alleged Obstruction of Access by UNPROFOR to the Vareš Elementary School" in the Chamber's factual findings with regard to the Municipality of Vareš.

that the members of the HVO who inflicted such treatment intended to cause this great physical and mental suffering constituting a serious attack on the dignity of the detained Muslim men. It is also satisfied that the members of the Military Police platoon attached to the *Bobovac* Brigade, and later the members of that brigade in charge of guarding the detainees, who were aware of such treatment and did nothing to stop it, knew that the consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their dignity and accepted this. This is especially evident in the fact that the members of UNPROFOR were prevented by the HVO from visiting the Vareš Elementary School until at least 26 October 1993. In light of the evidence, the Chamber finds that the treatment inflicted on the detainees at the Vareš Elementary School by members of the HVO between 23 October and 4 November 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1497. With regard to the Muslim men held at Vareš-Majdan Prison between 23 October and 4 November 1993, the Chamber established that they were subjected to violent treatment by members of the HVO that led to the hospitalisation of at least one of the detainees.²³⁷² The Chamber established in particular that three drunken HVO soldiers, whose unit it was not able to ascertain, entered the cell containing six detainees, shot over their heads and thrust a knife into the leg of one detainee, Ahmed Likić, and forced another detainee, Nedžad Čazimović, to eat his own beard that they had just cut off.²³⁷³ The Chamber also established that because of the abuse they suffered during their detention at Vareš-Majdan Prison, Mufid Likić and Himzo Likić had to be taken to Vareš-Majdan hospital by two members of the Vareš MUP.²³⁷⁴ The Chamber is satisfied that the brutal treatment inflicted on the detainees at Vareš-Majdan Prison caused them great physical and mental suffering constituting a serious attack on their dignity. The Chamber is also satisfied that the members of the HVO who inflicted such treatment intended to cause great physical and mental suffering constituting a serious attack on the dignity of the detained Muslim men. It is also satisfied that the members of the Vareš MUP and the Military Police platoon attached to the *Bobovac* Brigade in charge of guarding the detainees, who were aware of such treatment and did nothing to stop it, knew that the consequences of such treatment for the detainees would be great physical and mental suffering constituting a serious attack on their dignity and accepted this. In light of the evidence, the Chamber finds that the treatment inflicted on the detainees at Vareš-Majdan Prison by

²³⁷² See “Treatment of Detainees at Vareš-Majdan Prison” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²³⁷³ See “Treatment of Detainees at Vareš-Majdan Prison” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²³⁷⁴ See “Treatment of Detainees at Vareš-Majdan Prison” in the Chamber’s factual findings with regard to the Municipality of Vareš.

members of the HVO between 23 October and 4 November 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

1498. With regard to the events that took place during and after the attack on the village of Stupni Do on 23 October 1993 by soldiers of the HVO *Maturice* and *Apostoli* special units, the Chamber noted that three Muslim women were the victims of acts of sexual abuse;²³⁷⁵ that 38 inhabitants of the village died during the attack;²³⁷⁶ that 36 of these inhabitants were killed by the *Maturice* and *Apostoli* special units; that 28 Muslim women, children and men were killed with bladed weapons or shot to death at close range, or even burned alive in the burning houses of the village; that all the houses and adjacent buildings such as sheds and stables were destroyed during or after the attack; that the inhabitants were robbed of their possessions by members of the *Maturice* or *Apostoli* special units, and that the HVO forces prevented UNPROFOR from gaining access to the village of Stupni Do between 23 and 25 October 1993.²³⁷⁷

1499. The Chamber holds that all these events caused great physical and mental suffering constituting a serious attack on the dignity of the inhabitants of the village of Stupni Do. The Chamber is satisfied that the members of the *Maturice* and *Apostoli* special units who took part in the attack and committed these acts intended to cause this great physical and mental suffering constituting a serious attack on the dignity of the Muslim inhabitants of the village of Stupni Do. The Chamber finds that all the acts inflicted on the Muslim population of the village of Stupni Do by members of the *Maturice* and *Apostoli* special units during the attack of 23 October 1993 constituted cruel treatment, a crime recognised by Article 3 of the Statute.

Heading 17: Unlawful Labour (Count 18)

I. Municipality of Prozor

1500. As an initial matter, the Chamber notes that, due to their detention, the Muslims held at the Prozor Secondary School were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

²³⁷⁵ See “Sexual Abuse of Women in the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁷⁶ See “Death of Villagers in and around the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²³⁷⁷ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” and “Restrictions Imposed on Access by UNPROFOR to Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

1501. The Chamber established that in the summer of 1993, the detainees at the Prozor School did different kinds of work on orders from the HVO, despite their status as prisoners of war or as civilians.

1502. Accordingly, some detainees at the Prozor Secondary School volunteered to do various types of non-dangerous work for Prozor companies in exchange for extra meals, and other detainees were forced to do so without gaining any advantage or remuneration.²³⁷⁸ The Chamber recalls that this type of work might be lawful for interned civilians who volunteered to do so or for prisoners of war other than officers. The Chamber was, however, unable to determine the status of the detainees taken out for work and is unable to find that it was unlawful labour. It therefore rejects the count of unlawful labour for this work.

1503. The Chamber also established that Muslims detainee held at the Prozor Secondary School were forced to build military fortifications and dig trenches on the front line for the HVO, and that some of them were killed or wounded while doing this work.²³⁷⁹ The Chamber finds that the HVO forced the detainees to perform labour; that the work in question was clearly linked to the military operations of the HVO, and that it was carried out under dangerous conditions such that some of the detainees were wounded and others killed while performing this labour.

1504. The Chamber is satisfied that the authorities in charge of the Prozor Secondary School – civilian police, *Domobrani* and, as of 15 July 1993, members of the HVO Military Police²³⁸⁰ – as well as the authorities authorising the use of detainees for labour – the Commander of the *Rama* Brigade, the Head of the SIS of the *Rama* Brigade and the Commander of the HVO Military Police²³⁸¹ – sent detainees out to perform labour that was prohibited and even dangerous in many cases. The Chamber is, moreover, satisfied that these authorities intended to have these detainees perform prohibited labour. In light of the evidence, the Chamber therefore finds that in the summer of 1993, the HVO forced detainees from the Prozor Secondary School to perform unlawful labour, in violation of Article 3 of the Statute.

1505. The Chamber established that in June and July 1993, HVO soldiers took detainees from the Prozor Fire Station to perform labour on the front line, which consisted in particular of digging

²³⁷⁸ See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²³⁷⁹ See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

²³⁸⁰ See “Description, Organisation and Operation of Prozor Secondary School as a Detention Site” in the Chamber's factual findings with regard to the Municipality of Prozor.

²³⁸¹ See “Labour Performed by Detainees from Prozor Secondary School” in the Chamber's factual findings with regard to the Municipality of Prozor.

trenches and fortifying lines.²³⁸² The Chamber finds that the HVO forced the detainees to perform labour and that this work was clearly linked to the military operations of the HVO. The Chamber is, moreover, satisfied that the HVO soldiers intended to have these detainees perform prohibited labour. The Chamber therefore finds that in June and July 1993, HVO soldiers forced detainees from the Prozor Fire Station to perform unlawful labour, in violation of Article 3 of the Statute.

1506. The Chamber established that between 19 August and 9 September 1993, HVO soldiers took detainees from the Tech School out to perform labour on the front line between Prozor and Gornji Vakuf and in the Trnovača area.²³⁸³ The Chamber finds that the HVO forced the detainees to perform labour and that this work was clearly linked to the military operations of the HVO. The Chamber is, moreover, satisfied that the HVO soldiers intended to have these detainees perform prohibited labour. The Chamber therefore finds that between 19 August and 9 September 1993, HVO soldiers forced detainees from the Tech School in Prozor to perform unlawful labour, in violation of Article 3 of the Statute.

1507. Finally, the Chamber notes that it was unable to establish that detainees at the Unis Building and the MUP station at Prozor were forced to perform labour. It therefore rejects the count of unlawful labour for these detention sites.

II. Municipality of Jablanica (Sovići and Doljani)

1508. As an initial matter, the Chamber notes that, due to their detention, the Muslims held in the Municipality of Jablanica were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1509. The Chamber established that some of the men held at the Sovići School between 17 April and 5 May 1993, including Nihad Kovač, a 13-year old child, and an ABiH soldier, were forced by HVO soldiers to do work such as burying bodies of soldiers who had been killed or "engineering" work at HVO positions.²³⁸⁴

²³⁸² See "Detention of Muslim Men at the Prozor Fire Station" in the Chamber's factual findings with regard to the Municipality of Prozor.

²³⁸³ See "Detention of Muslim Men at the Tech School" in the Chamber's factual findings with regard to the Municipality of Prozor.

²³⁸⁴ See "Labour Performed by Detainees from Sovići School" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1510. About 30 detainees at the Sovići School, including Nihad Kovač, who was 13 years old at the relevant time, were forced by HVO soldiers to dig trenches for three weeks and to lug heavy cases of ammunition to a military site about four kilometres from the Sovići School.²³⁸⁵ The Chamber finds that the HVO soldiers forced about 30 detainees, including the young Nihad Kovač, to perform labour that was clearly linked to the military operations of the HVO and did so for three weeks. The Chamber is also satisfied that, in view of the nature of the labour the detainees were forced to perform and the very young age of some detainees, the HVO soldiers, who must have known about those circumstances, necessarily intended to have them do prohibited work.

1511. The Chamber therefore finds that the work performed by the approximately 30 detainees, including Nihad Kovač, who was 13 years old when they were being held at the Sovići School by the HVO, constituted unlawful labour, a crime recognised by Article 3 of the Statute.

1512. With regard to the ABiH soldier, the Chamber notes that he stated that he volunteered to bury the bodies of Muslims killed during the HVO attack on the villages of Sovići and Doljani.²³⁸⁶ With the exception of this evidence, the Chamber has no further information. As such, it cannot find beyond reasonable doubt that the work done by that soldier during his detention by the HVO at the Sovići School constituted unlawful labour, a crime recognised by Article 3 of the Statute.

III. The Heliodrom

1513. As an initial matter, the Chamber notes that, due to their detention, the Muslim men held at the Heliodrom were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1514. The Chamber established that between May 1993 and March 1994, the HVO took Muslim men held at the Heliodrom to the front line in the Municipality of Mostar to perform labour, such as repairing fortifications and shelters or collecting bodies of soldiers.²³⁸⁷ The Chamber also established that several dozen of those detainees who were exposed to the military confrontations were killed or wounded by firing both from the HVO and the ABiH.²³⁸⁸ The Chamber finds that the HVO forced both prisoners of war and civilian detainees to perform labour; that this work was

²³⁸⁵ See “Labour Performed by Detainees from Sovići School” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sović and Doljani).

²³⁸⁶ See “Labour Performed by Detainees from Sovići School” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sović and Doljani).

²³⁸⁷ See “Use of Heliodrom Detainees for Work” in the Chamber’s factual findings with regard to the Heliodrom.

²³⁸⁸ See “Use of Heliodrom Detainees for Work” and “Detainees Killed or Wounded During Forced Labour” in the Chamber’s factual findings with regard to the Heliodrom.

clearly linked to the military operations of the HVO, and that it was done under extremely dangerous conditions for almost a year.

1515. The Chamber is satisfied that the HVO forces who directly used and controlled the detainees for labour, that is, Vinko Martinović's ATG, the KB, the 2nd Battalion of the 2nd Brigade and the 3rd and 4th Battalions of the 3rd Brigade of the HVO, were aware of the nature of the labour and the conditions under which it was performed, and intended to have protected persons do prohibited labour on the front line. The Chamber is also satisfied, despite some attempts to restrict the use of detainees for labour, in particular by the Warden and Deputy Warden of the Heliodrom,²³⁸⁹ that the various authorities who regularly authorised the use of detainees for labour were aware of the nature of the work involved, knew that it was being performed on the front lines and intended to have the Muslim detainees, civilians and prisoners of war do prohibited labour. In light of the evidence, the Chamber therefore finds that the HVO forced the Heliodrom detainees to perform unlawful labour, in violation of Article 3 of the Statute.

IV. Vojno Detention Centre

1516. As an initial matter, the Chamber notes that, due to their detention, the Muslims held at the Vojno Detention Centre and/or from the Heliodrom were not or were no longer taking part in the combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1517. The Chamber established that between August 1993 and late January 1994 several dozen Heliodrom detainees, prisoners of war and civilians, were sent to the Vojno Detention Centre to work in the Vojno area.²³⁹⁰ The Chamber also noted that these detainees were forced by those responsible for the Vojno Detention Centre – soldiers of the 2nd Brigade of the HVO²³⁹¹ – to do work such as constructing fortifications on the front lines for the needs of the 2nd Brigade of the HVO while combat was ongoing between the ABiH and the HVO.²³⁹²

1518. The detainees from the Heliodrom or who were already at the Vojno Detention Centre were forced to do fortification work on the front lines. The work sometimes led to injuries and indeed to

²³⁸⁹ See "Authorities Informed about Incidents during Work" and "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

²³⁹⁰ See "Detainees Sent from the Heliodrom for Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³⁹¹ See "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³⁹² See "Types and Locations of Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

the death of prisoners.²³⁹³ The Chamber is satisfied that both the authorities responsible for the Vojno Detention Centre, that is. the soldiers of the 2nd Brigade of the HVO and the HVO soldiers for whom the work was being done on the front line, intended to have protected persons do prohibited work.

1519. In light of the evidence, the Chamber therefore finds that the HVO forced the detainees of the Vojno Detention Centre, including Heliodrom detainees, to perform unlawful labour, in violation of Article 3 of the Statute.

V. Municipality and Detention Centres of Ljubuški

1520. As an initial matter, the Chamber notes that, due to their detention, the Muslims held in the Municipality of Ljubuški were not or were no longer taking part in combat activities. The Chamber therefore finds that the Muslim detainees were persons protected by Article 3 of the Statute.

1521. As regards Ljubuški Prison, the Chamber established that between April 1993 and March 1994, the HVO forced the Muslim detainees, whether civilians or prisoners of war, to perform labour on the front lines, thus taking part in strengthening the various front lines in the region and in preparing front line installations for winter, and that this work sometimes resulted in injuries.²³⁹⁴ The Chamber finds that the HVO forced both prisoners of war and civilian detainees to perform labour; that this work was clearly linked to the military operations of the HVO, and that it was done under dangerous conditions for almost a year. The Chamber is satisfied that the authorities in charge of Ljubuški Prison – the Military Police platoon attached to the 4th Brigade, the 4th Brigade and the Military Police Administration²³⁹⁵ – intended to have the Muslim detainees, civilians and prisoners of war, do prohibited work. In light of the evidence, the Chamber therefore finds that the HVO forced the detainees of Ljubuški Prison to perform unlawful labour, in violation of Article 3 of the Statute.

²³⁹³ See “Detainees from the Heliodrom and the Vojno Detention Centre Injured While Working” and “Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working” in the Chamber's factual findings with regard to the Vojno Detention Centre.

²³⁹⁴ See “Work Performed by Detainees” and “The Chamber's Factual Findings” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²³⁹⁵ See “Command Structure in Ljubuški Prison” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

1522. With regard to the Vitina-Otok Camp, the Chamber established that in July and August 1993, the HVO forced the Muslim detainees, whether civilians or prisoners of war, to work on the front lines, thus taking part in strengthening the various front lines in the region.²³⁹⁶ The Chamber finds that the HVO forced both prisoners of war and civilian detainees to perform labour; that the work was clearly linked to the military operations of the HVO, and is satisfied that this work, in particular the strengthening of the front lines, was done under dangerous conditions for the length of their detention. The Chamber is satisfied that the authorities in charge of the Vitina-Otok Camp – the *Domobrani* Company on site, the 4th Brigade of the HVO, the SIS and the Military Police platoon attached to the 4th Brigade²³⁹⁷ – intended to make the Muslim detainees do prohibited work. In light of the evidence, the Chamber therefore finds that the HVO forced the detainees from the Vitina-Otok Camp to perform unlawful labour, in violation of Article 3 of the Statute.

Heading 18: Extensive Destruction of Property, Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly (Count 19)

I. Municipality of Prozor

1523. As the Chamber established, between 24 and at least 30 October 1992, when there were no combat activities, HVO soldiers and members of the HVO Military Police destroyed about 75 Muslim houses in the town of Prozor that they burned down using jerry cans filled with gasoline and destroyed other property such as vehicles belonging to Muslims, whereas not one of the houses belonging to Croats was burned down or damaged.²³⁹⁸ In view of the circumstances surrounding this destruction, the Chamber is satisfied that it was not justified by military necessity. It finds that houses and other property such as vehicles, real and personal property belonging individually to private persons were destroyed while the HVO was occupying the town. The Chamber therefore finds that property protected under the Fourth Geneva Convention was destroyed. In view of the number of properties burned down or destroyed within a few days, the Chamber finds that the destruction was extensive. The Chamber is also satisfied that because only Muslim property was destroyed, the HVO soldiers and the members of the Military Police intended to destroy Muslim property in the town of Prozor.

²³⁹⁶ See “Work Performed by Detainees” and “The Chamber's Factual Findings” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²³⁹⁷ See “Organisation of Vitina-Otok Camp” in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²³⁹⁸ See “Damage to and Burning of Property and Houses Belonging to Muslims After the Takeover of the Town of Prozor” in the Chamber's factual findings with regard to the Municipality of Prozor.

1524. In light of the evidence, the Chamber therefore finds that the destruction of Muslim houses and property belonging to Muslims from the town of Prozor – including vehicles – by the HVO soldiers and the members of the HVO Military Police between 24 and at least 30 October 1992 once the HVO had occupied the town, constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1525. The Chamber also established that in the village of Paljike, consisting of 25 houses, HVO soldiers set fire to at least one Muslim house on 24 October 1992.²³⁹⁹ The Chamber notes that shots were fired when the HVO soldiers broke down the door of the house. However, the evidence did not establish the origin of the shots. The Chamber can therefore not exclude the possibility that Muslims inside the house took part in the combat activities, thus making the house a legitimate military target for the HVO soldiers. The Chamber can therefore not find that the house was property protected by the Fourth Geneva Convention. The Chamber can therefore not find that the destruction of the house in Paljike on 24 October 1992 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1526. The Chamber also established that on 17 April 1993, after occupying the village of Parcani – where there were no ABiH military units –, the Military Police and members of HVO special units, in cooperation with the *Rama* Brigade, set fire to nine Muslim houses out of a total of about 26 houses on the ground that the people hiding in the woods did not respond to the HVO order to surrender their weapons.²⁴⁰⁰ The Chamber finds that houses, that is, real property belonging individually to private persons, were destroyed while the HVO was occupying the village. The Chamber therefore finds that property protected by the Fourth Geneva Convention was destroyed. Since the Chamber found that on 17 April 1993, nine out of the 26 houses in the village of Parcani were destroyed, it considers that the destruction was extensive. Moreover, the HVO destroyed the houses in retaliation against the villagers hiding in the woods. The Chamber thus finds that the destruction of the houses was not justified by military necessity.

1527. The Chamber finds finally that by burning down the houses as retaliation, the Military Police and members of the special units of the HVO, in cooperation with the *Rama* Brigade, intended to destroy the Muslim houses of the village of Parcani.

²³⁹⁹ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁰ See “Attack on the Village of Parcani on 17 April 1993 and Burning of Houses” in the Chamber's factual findings with regard to the Municipality of Prozor.

1528. In light of the evidence, the Chamber finds that the destruction of the Muslim houses in the village of Parcani on 17 April 1993 by the Military Police and members of HVO special units, in cooperation with the *Rama* Brigade, constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1529. The Chamber also found that on 19 April 1993, the Military Police based in Prozor, in cooperation with a Military Police platoon of the HVO, burned down Muslim houses in the village of Tošćanica during the attack on that village.²⁴⁰¹ Since the property was not in occupied territory when it was destroyed, it did not have the status of protected property within the meaning of the Fourth Geneva Convention. The Chamber can therefore not find that the destruction caused in the village of Tošćanica during the attack on 19 April 1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1530. Likewise, the Chamber found that from May or June to July 1993, during attacks or "raids" carried out often at night against several Muslim villages of the Municipality of Prozor, in particular Skrobućani, Lug and Podaniš (or Podonis), members of the armed forces and the Military Police of the HVO burned down houses and barns belonging to Muslims and slaughtered livestock²⁴⁰² and that in May or June 1993, HVO soldiers also burned down the mosque of Skrobućani during the attack on the village of the same name.²⁴⁰³ The Chamber recalls that insofar as the property was not in occupied territory when it was destroyed, it did not have the status of protected property within the meaning of the Fourth Geneva Convention. The Chamber can therefore not find that the destruction caused in the villages of Skrobućani, Lug and Podaniš (or Podonis) during HVO attacks between May and July 1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1531. Finally, the Chamber recalls that it was unable to establish that the HVO damaged and/or burned down houses belonging to Muslims in the village of Lizoperci on 18 or 19 April 1993;²⁴⁰⁴

²⁴⁰¹ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Homes and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰² See "HVO Attack on about a Dozen Villages in Prozor Municipality from June to mid-August 1993, Damage to Property and Mosques and Death of Six Muslims", "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque", "Attack on the Villages of Duge and Lug and Damage to Property" and "Attack on the Village of Podaniš or Podonis and Damage to Property" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰³ See "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁴ See "Attack on the Village of Lizoperci on 18 or 19 April 1993 and Burning of Houses" in the Chamber's factual findings with regard to the Municipality of Prozor.

destroyed homes in the villages of Gračanica,²⁴⁰⁵ Duge,²⁴⁰⁶ Munikoze,²⁴⁰⁷ Lizoperci²⁴⁰⁸ and Parcani²⁴⁰⁹ or destroyed the mosque of Lizoperci and the mosque in the town of Prozor between June and mid-August 1993.²⁴¹⁰ The Chamber can therefore not find that the HVO committed the crime of extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute, at that time and at those locations.

II. Municipality of Gornji Vakuf

1532. The Chamber established that after the HVO attack on the town of Gornji Vakuf on 18 January 1993, the Muslim part of the town was severely damaged, that a good number of shells had fallen on houses and that serious damage was done to the town, with homes bearing signs of artillery shots, roofs damaged and walls destroyed.²⁴¹¹

1533. With regard to the villages of Duša, Hrasnica, Țdrimci and Uzričje, the Chamber noted that several houses in each of these villages were damaged or destroyed because of the attack by HVO forces on 18 January 1993.²⁴¹²

1534. The Chamber recalls that property destroyed during the attack of 18 January 1993, at a date when the HVO had not yet occupied the Gornji Vakuf region, is not protected under the Geneva Conventions. The Chamber can therefore not find that the destruction of the Muslim part of the town of Gornji Vakuf and houses in the villages of Duša, Hrasnica, Țdrimci and Uzričje during the attack on those localities on 18 January 1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

²⁴⁰⁵ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁶ See “Attack on the Villages of Duge and Lug and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁷ See “Attack on the Village of Munikoze and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁸ See “Attack on the Village of Lizoperci and Damage to Property and the Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁰⁹ See “Attack on the Village of Parcani and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴¹⁰ See “Attack on the Village of Lizoperci and Damage to Property and the Mosque” and “Damage to the Islamic Community Building of Prozor Town” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴¹¹ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹² See “Attack on the Village of Hrasnica”, “Attack on the Village of Uzričje” and “Attack on the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1535. With regard to the days that followed the attack of 18 January 1993, while the HVO was occupying the villages of Duša, Hrasnica, Țdrimci and Uzriĉje, property in each of these four villages was set on fire by HVO soldiers.²⁴¹³ The Chamber therefore finds that the property belonging to the inhabitants of those villages, including houses located in territory occupied by the HVO, was protected within the meaning of the Fourth Geneva Convention.

1536. Insofar as the destruction took place in four villages of the Municipality of Gornji Vakuf; since in Duša at least 16 houses were burned down;²⁴¹⁴ since in Hrasnica no Muslim houses were left standing;²⁴¹⁵ since in Uzriĉje at least 22 houses were burned down²⁴¹⁶ and since the Muslim sector of Țdrimci was virtually wiped out,²⁴¹⁷ the Chamber finds that the destruction was extensive.

1537. Since the houses were burned down once the HVO had taken control of the villages, the Chamber is also satisfied that they did not constitute a military target.

1538. Finally, the Chamber finds that by deliberately setting this property on fire, as several eyewitnesses who saw members of the HVO setting fire to the houses testified,²⁴¹⁸ the members of the HVO demonstrated their intention to destroy the property in question.

1539. The Chamber therefore finds that the HVO destruction of property belonging to the Muslim residents of the villages of Duša, Hrasnica, Țdrimci and Uzriĉje in the days following the attack of 18 January 1993 and the takeover of the villages by the HVO constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

III. Municipality of Jablanica (Soviĉi and Doljani)

1540. The Chamber established that between 18 and 24 April 1993, when combat activities had ended, HVO soldiers – including members of the KB – and HV soldiers destroyed all the Muslim

²⁴¹³ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzriĉje” and “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁴ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁵ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁶ See “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁷ See “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁸ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim

homes and two mosques in Sovići and Doljani.²⁴¹⁹ The Chamber also noted that the HVO order to burn down all the Muslim houses in Sovići and Doljani as well as the two mosques was given at a time when combat activities were over.²⁴²⁰ The Chamber finds that houses and mosques, real property belonging individually to private persons and real property belonging collectively to private persons or to the State or to other public authorities or to social and cooperative organisations, located in occupied territory and not constituting military targets, were destroyed. The Chamber therefore finds that property protected by the Fourth Geneva Convention was destroyed.

1541. Insofar as the Chamber noted that on 4 May 1993, all the Muslim houses in the village of Sovići, excluding the Croatian houses, were destroyed or burned down, and that in Doljani the village was totally destroyed,²⁴²¹ the Chamber finds that the destruction was extensive.

1542. The Chamber also established that the Muslim houses and the mosques in Sovići and Doljani were burned down after combat activities had come to an end;²⁴²² that orders were issued following the fighting to destroy the houses and the mosques;²⁴²³ that the HVO and HV soldiers were singing and shouting while they burned the houses down²⁴²⁴ and that the mosques were mined or blown up.²⁴²⁵ No evidence indicates that these buildings might have been used against HVO forces for any military purposes. The Chamber therefore finds that the HVO soldiers – including members of the KB – and HV soldiers intended to destroy the Muslim homes and the mosques in the villages of Sovići and Doljani.

1543. The Chamber therefore finds that the destruction of the Muslim homes and mosques in the villages of Sovići and Doljani by HVO soldiers in the days following the HVO attack of 17 April

Property in the Village of Uzričje” and “Burned Houses and Theft of Muslim Property in the Village of Ťdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴¹⁹ See “Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993” and “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²⁰ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²¹ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” and “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²² See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²³ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²⁴ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴²⁵ See “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

IV. Municipality of Mostar

1544. The Chamber established that between June and December 1993, because of the constant HVO firing on and shelling of East Mostar from West Mostar, Mount Hum and Stotina Hill, the armed forces of the HVO seriously damaged or destroyed ten mosques located in East Mostar: the *Sultan Selim Javuz Mosque*, the *Hadži Mehmed-Beg Karadžoz Mosque*, the *Koski Mehmed-Paša Mosque*, the *Nesuh Aga Vučjaković Mosque*, the *Čejvan Čehaja Mosque*, the *Hadži Ahmed Aga Lakišić Mosque*, the *Roznamedžija Ibrahim Efendija Mosque*, the *Ćosa Jahja Hodža Mosque*, the *Hadži Kurto or Tabačica Mosque* and the *Hadži Memija Cernica Mosque*.²⁴²⁶ The Chamber also noted that on 8 November 1993, an HVO tank positioned on Stotina Hill fired at the Old Bridge of Mostar all day long.²⁴²⁷ The Chamber therefore considered that the Bridge was destroyed on the evening of 8 November 1993, insofar as it was on the point of collapse.²⁴²⁸

1545. The Chamber notes, however, that the ten mosques and the Old Bridge of Mostar were in East Mostar, that is, territory not occupied by the HVO between June and December 1993. This property, therefore, does not enjoy the protection of the Geneva Conventions. Consequently, the Chamber cannot find that the destruction of the ten mosques of East Mostar and the destruction of the Old Bridge of Mostar constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

V. Municipality of Stolac

1546. As the Chamber established, during their operations to expel the Muslims from the village of Borojevići at the end of July 1993, HVO soldiers, after taking over the village, burned and destroyed many houses of Muslims living in the village of Borojevići.²⁴²⁹ The Chamber finds that HVO soldiers destroyed real property belonging to Muslim villagers, who were private persons. In addition, nothing indicates that they could have been military targets, in particular since the property was destroyed at a time when there were no combat activities in the village of Borojevići.

²⁴²⁶ See “Alleged Destruction of Religious Institutions in East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴²⁷ See “Attack on the Old Bridge by an HVO Tank on 8 November 1993” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴²⁸ See “Destruction of the Old Bridge as of the Evening of 8 November 1993”, “Collapse of the Old Bridge on 9 November 1993” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

The Chamber therefore finds that property protected within the meaning of the Fourth Geneva Convention was destroyed. The Chamber is also satisfied that the destruction of such property on the scale of an entire village such as Borojevići was extensive and that by burning down the houses, the HVO soldiers intended to destroy the property in question.

1547. The Chamber finds that the destruction by HVO soldiers of houses belonging to the Muslim villagers of the village of Borojevići at the end of July 1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1548. The Chamber also established that HVO soldiers burned down the *Sultan Selim* Mosque in the town of Stolac in mid-July 1993 at a time when there was no shelling in the town, that only HVO units were on patrol in Stolac and that HVO soldiers were present near the scene.²⁴³⁰ The Chamber finds that HVO soldiers destroyed the *Sultan Selim* Mosque, real property belonging collectively to private persons or to the State or to other public authorities or to social and cooperative organisations, and nothing indicates that it was a military target – in particular since it was destroyed on a day when there was no fighting between the opposing armed forces in the town of Stolac.²⁴³¹ The Chamber therefore finds that property protected by the Fourth Geneva Convention was destroyed. In view of the cultural and religious significance of such a building and the impact its destruction had on the Muslim population of the town of Stolac, the Chamber holds that the destruction of the *Sultan Selim* Mosque was extensive. The Chamber is also satisfied that by burning down the *Sultan Selim* Mosque, the HVO soldiers intended to destroy it.

1549. The Chamber finds that HVO soldiers destroyed the *Sultan Selim* Mosque in the town of Stolac in mid-July 1993, extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1550. The Chamber recalls, however, that it had no evidence concerning the damage caused to homes in the villages of Aladinići and Rotimlja in July 1993.²⁴³² The Chamber also recalls that it was unable to establish that members of the HVO set fire to the Aladinići Mosque on 14 July

²⁴²⁹ See “Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁰ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³¹ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³² See “Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići” and “Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja” in the Chamber's factual findings with regard to the Municipality of Stolac.

1993²⁴³³ or destroyed the Rotimlja Mosque.²⁴³⁴ Furthermore, the Chamber recalls that it was unable to establish that members of the HVO destroyed the Muslim homes,²⁴³⁵ the Begovina complex²⁴³⁶ or the three old mosques of the town of Stolac²⁴³⁷ in early August 1993. Finally, the Chamber recalls that it had no evidence concerning damage in August 1993 to Muslim homes and property or to the mosque in the village of Prenj.²⁴³⁸ The Chamber is therefore unable to find that the HVO committed the crime of extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute, in the villages of Aladinići and Rotimlja in July 1993, in the town of Stolac in early August 1993 or in the village of Prenj in August 1993.

VI. Municipality of Čapljina

1551. The Chamber established that around 13 July 1993, while the HVO was in the village of Bivolje Brdo, while there was no combat activity and while it was expelling Muslim women, children and elderly people,²⁴³⁹ members of the HVO set fire to several houses belonging to Muslims in that village.²⁴⁴⁰ The Chamber finds that the HVO was holding and occupying the village when the houses were set on fire. It then notes that houses, real property belonging individually to private persons, were destroyed and that these houses could not constitute military targets since they were destroyed at a time when there were no combat activities in the village of Bivolje Brdo and when the HVO was already occupying the village. The Chamber therefore finds that this property was protected by the Geneva Conventions. The Chamber is also satisfied that the destruction of several houses in a village like Bivolje Brdo made up of small hamlets²⁴⁴¹ was extensive. Finally, the Chamber is satisfied that by deliberately setting fire to the houses, as *Witness*

²⁴³³ See "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁴ See "Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁵ See "Damage to Houses in the Town of Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁶ See "Damage to Cultural Property and Mosques in the Town of Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁷ See "Damage to Cultural Property and Mosques in the Town of Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁸ See "Damage to Houses, Property and the Mosque in Prenj" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁴³⁹ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴⁰ See "Destruction of Muslim Houses in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴¹ See "Demographic Situation in the Municipality" in the Chamber's factual findings with regard to the Municipality of Čapljina.

CI - who saw members of the HVO enter his house and then saw it on fire shortly thereafter - testified,²⁴⁴² the members of the HVO intended to destroy the property in question.

1552. The Chamber finds that the destruction by members of the HVO of Muslim houses in the village of Bivolje Brdo around 13 July 1993 constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1553. The Chamber recalls, however, that although it noted that the Lokve Mosque and houses in that village were destroyed after 13 July 1993, it was unable to establish who caused this destruction.²⁴⁴³ The Chamber can therefore not find that the destruction of the mosque and the houses of this village constituted the crime of extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute. In addition, the Chamber recalls that it had no evidence that would have enabled it to rule on the allegations of destruction of Muslim houses and buildings in the village of Opličići.²⁴⁴⁴ Consequently, the Chamber cannot find that the destruction in that village was the work of the HVO.

VII. Municipality of Vareš

1554. The Chamber established that after the attack by members of the *Maturice* and *Apostoli* special units on the village of Stupni Do on 23 October 1993, all the houses belonging to the Muslim inhabitants of the village, that is, about 70 houses, as well as adjacent buildings such as stables and sheds were destroyed by fire.²⁴⁴⁵ The Chamber notes that many houses were burned down after the occupation of the village by the HVO beginning at ten o'clock on the morning of 23 October. At that time, the HVO arrested about 50 of the 220-250 inhabitants of the village who had not managed to escape and who had taken refuge in houses not destroyed during the attack. The assailants arrested and then killed some of the villagers. Their charred bodies were found later, in particular in and around the houses which had also been burned down. The Chamber therefore finds that the houses were burned after the villagers had fallen into the hands of members of the *Maturice* and *Apostoli* special units and after those units had occupied the village. The burnt-out houses were

²⁴⁴² See "Destruction of Muslim Houses in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴³ See "Destruction of the Mosque in the Village of Lokve on 14 July 1993 and of the Houses of Muslim Inhabitants of the Village of Lokve on 16 July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴⁴ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in the Village of Opličići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴⁵ See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

not military targets. The Chamber therefore finds that property protected by the Fourth Geneva Convention was destroyed. Inasmuch as all the houses and adjacent buildings in the village were totally destroyed, the Chamber finds that the destruction was extensive.

1555. Finally, the Chamber finds that by deliberately setting fire to the houses,²⁴⁴⁶ in particular in order to put the bodies of the villagers they had just killed or living persons in them, the members of the *Maturice* and *Apostoli* special units occupying the village at the time intended to destroy the property in question.

1556. The Chamber therefore finds that the destruction of the property belonging to the Muslim inhabitants of the village of Stupni Do by the members of the *Maturice* and *Apostoli* special units after the attack on the village constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

Heading 19: Wanton Destruction of Cities, Towns or Villages, or Devastation Not Justified by Military Necessity (Count 20)

I. Municipality of Prozor

1557. As the Chamber established, from 24 to at least 30 October 1992, when there were no longer any combat activities, HVO soldiers and members of the HVO Military Police destroyed about 75 Muslim houses in the town of Prozor that they burned down using jerry cans filled with gasoline, and destroyed other property such as vehicles belonging to Muslims, whereas not one of the houses belonging to Croats was burned down or damaged.²⁴⁴⁷ In view of the circumstances surrounding this destruction, the Chamber is satisfied that this was not justified by military necessity. In view of the number of properties burned down or destroyed within a few days, the Chamber finds that the destruction was extensive. The Chamber is also satisfied that because only Muslim houses were destroyed, the HVO soldiers and the military policemen intended to destroy the Muslim property in the town of Prozor. In light of the evidence, the Chamber therefore finds that the destruction of Muslim houses and property belonging to Muslims from the town of Prozor – including vehicles – by the HVO soldiers and the members of the HVO Military Police in the days following the HVO attack on 24 October 1992 constituted wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

²⁴⁴⁶ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” in the Chamber’s factual findings with regard to the Municipality of Vareš.

²⁴⁴⁷ See “Damage to and Burning of Property and Houses Belonging to Muslims After the Takeover of the Town of Prozor” in the Chamber’s factual findings with regard to the Municipality of Prozor.

1558. The Chamber also established that in the village of Paljike consisting of 25 houses, HVO soldiers set fire to at least one Muslim house on 24 October 1992.²⁴⁴⁸ The Chamber thus noted that on 24 October 1992, 18 HVO soldiers went in search of Muslim houses and took one inhabitant of the village hostage, and having broken into one of the houses occupied by a woman and an elderly man, the soldiers threw in grenades and set it on fire several minutes later.²⁴⁴⁹ The Chamber notes that shots were fired when the HVO soldiers broke down the door of the house. However, the evidence did not establish the origin of the shots. The Chamber can therefore not exclude the possibility that the destruction of the house was justified by military necessity. The Chamber is thus unable to find that on 24 October 1992, the HVO engaged in the wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1559. The Chamber also established that on 17 April 1993, after occupying the village of Parcani – where there were no ABiH military units – the Military Police and members of the HVO special units, in cooperation with the *Rama* Brigade, set fire to nine Muslim homes out of a total of about 26 houses on the ground that the population hiding in the woods had not responded to the HVO order to surrender their weapons.²⁴⁵⁰ Moreover, the HVO destroyed the houses in retaliation against the villagers hiding in the woods. The Chamber thus finds that the destruction of the houses was not justified by military necessity.

1560. Insofar as the Chamber already observed that on 17 April 1993, nine of the 26 houses in the village of Parcani were destroyed, it finds that the destruction was extensive.

1561. Finally, the Chamber finds that by burning down the houses in retaliation, the Military Police and members of the special units of the HVO, in cooperation with the *Rama* Brigade, intended to destroy the Muslim houses of the village of Parcani.

1562. In light of the evidence, the Chamber finds that the destruction of Muslim homes in the village of Parcani by the Military Police and members of the HVO special units, in cooperation with the *Rama* Brigade, on 17 April 1993 constituted wanton destruction of cities, towns or villages not justified by military necessity, a crime recognised by Article 3 of the Statute.

²⁴⁴⁸ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²⁴⁴⁹ See “Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents” in the Chamber’s factual findings with regard to the Municipality of Prozor.

²⁴⁵⁰ See “Attack on the Village of Parcani on 17 April 1993 and Burning of Houses” in the Chamber’s factual findings with regard to the Municipality of Prozor.

1563. The Chamber also established that on 19 April 1993, the Military Police based in Prozor, in cooperation with a Military Police platoon of the HVO, set fire to Muslim homes in the village of Tošćanica during the attack on that village; that the village had about 200 people and 35 houses belonging to Muslims, some of which belonged to Muslim members of the HVO, and that the houses belonging to the Muslim members of the HVO were not touched.²⁴⁵¹ It notes, however, that on 19 April 1993, after a unit of the Military Police based in Prozor, in cooperation with a Military Police platoon of the HVO, issued an ultimatum calling on the inhabitants of the village of Tošćanica to surrender their weapons and then launched an attack on the village, some Muslims in the village who had infantry arms and mortars offered resistance.²⁴⁵² Consequently, the information the Chamber has does not allow excluding the possibility that the destruction caused during the attack was justified by military necessity. The Chamber is thus unable to find that this destruction constituted wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1564. Finally, the Chamber established that from May or June to July 1993, during attacks or "raids" often carried out at night on several Muslim villages in the Municipality of Prozor, in particular Skrobućani, Lug and Podaniš (or Podonis), members of the armed forces and the Military Police of the HVO burned down houses and barns belonging to Muslims²⁴⁵³ and that in May or June 1993, HVO soldiers also burned down the mosque of Skrobućani during the attack carried out on the village of the same name.²⁴⁵⁴ Accordingly, the Chamber noted that all the houses and stables belonging to Muslims in the village of Skrobućani were burned down in May or June 1993 – although the property belonging to Croats was left untouched,²⁴⁵⁵ that several houses in the village of Lug, that is, those belonging to the Muslims, were burned down at the end of June 1993;²⁴⁵⁶ and that at least nine houses and eight barns belonging to Muslims in the village of Podaniš (ou

²⁴⁵¹ See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵² See "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵³ See "HVO Attack on about a Dozen Villages in Prozor Municipality from June to mid-August 1993, Damage to Property and Mosques and Death of Six Muslims", "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque", "Attack on the Villages of Duge and Lug and Damage to Property" and "Attack on the Village of Podaniš or Podonis and Damage to Property" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵⁴ See "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵⁵ See "HVO Attack on about a Dozen Villages in Prozor Municipality from June to mid-August 1993, Damage to Property and Mosques and Death of Six Muslims", "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵⁶ See "Attack on the Villages of Duge and Lug and Damage to Property" in the Chamber's factual findings with regard to the Municipality of Prozor.

Podonis) were burned down on 5 July 1993.²⁴⁵⁷ The Chamber notes that the HVO forces encountered no resistance from the Muslims during any of their attacks or raids. Moreover, the fact that all or most of the houses and barns belonging to Muslims were set on fire indicates that the destruction was wilful. The Chamber thus finds that the destruction was not justified by military necessity.

1565. Insofar as the Chamber noted that from May or June to early July 1993 a very large proportion of the Muslim houses in the villages of Skrobućani, Lug and Podaniš (or Podonis) and the mosque of the village of Skrobućani were destroyed, it finds that the destruction was extensive. The Chamber is also satisfied that by setting fire to most of the Muslim houses and to the mosque of the village of Skrobućani while there was no combat activity between the opposing armed forces in those villages at the time of the attacks, the HVO soldiers intended to destroy the property in question even though they had no military justification for doing so.

1566. In light of the evidence, the Chamber finds that the destruction of the property belonging to the Muslims in the villages of Skrobućani, Lug and Podaniš (or Podonis) and of the mosque of Skrobućani between May and early July 1993 constituted wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1567. However, the Chamber recalls that it was unable to establish that the HVO damaged and/or burned down houses belonging to the Muslims in the village of Lizoperci on 18 or 19 April 1993;²⁴⁵⁸ destroyed homes in the villages of Gračanica,²⁴⁵⁹ Duge,²⁴⁶⁰ Munikoze,²⁴⁶¹ Lizoperci²⁴⁶² and Parcani²⁴⁶³ or destroyed the mosque in Lizoperci and the mosque in the town of Prozor between June and mid-August 1993.²⁴⁶⁴ The Chamber can therefore not find that the HVO committed the

²⁴⁵⁷ See “Attack on the Village of Podaniš or Podonis and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵⁸ See “Attack on the Village of Lizoperci on 18 or 19 April 1993 and Burning of Houses” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁵⁹ See “Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁶⁰ See “Attack on the Villages of Duge and Lug and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁶¹ See “Attack on the Village of Munikoze and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁶² See “Attack on the Village of Lizoperci and Damage to Property and the Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁶³ See “Attack on the Village of Parcani and Damage to Property” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁶⁴ See “Attack on the Village of Lizoperci and Damage to Property and the Mosque” and “Damage to the Islamic Community Building of Prozor Town” in the Chamber's factual findings with regard to the Municipality of Prozor.

crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute, at that time and at those locations.

II. Municipality of Gornji Vakuf

1568. The Chamber established that after the HVO attack on the town of Gornji Vakuf on 18 January 1993, the Muslim part of the town was severely damaged, that many shells landed on houses and that serious damage was done, with homes bearing signs of artillery shots, roofs damaged and walls destroyed.²⁴⁶⁵ With regard to the villages of Duša, Hrasnica, Țdrimci and Uzriĉje, the Chamber noted that several houses in each of these villages were damaged or destroyed by the attack of the HVO forces on 18 January 1993. Insofar as on that same day, 18 January 1993, a great many houses were destroyed in several localities of the Municipality of Gornji Vakuf, the Chamber finds that the destruction was extensive.

1569. The Chamber received evidence that members of the ABiH were present in the town of Gornji Vakuf and in the villages of Duša, Hrasnica, Țdrimci and Uzriĉje at the time of the HVO attack and the destruction of the houses.²⁴⁶⁶ Some armed Muslim men were even hidden inside the houses from time to time.²⁴⁶⁷ The Chamber established that the shelling of these villages was an indiscriminate attack.²⁴⁶⁸ Indeed, the destruction of these houses was wanton and not justified by military necessity.

1570. The Chamber therefore finds that the destruction of the houses belonging to the Muslim inhabitants of the town of Gornji Vakuf and the villages of Duša, Hrasnica, Țdrimci and Uzriĉje during the attack of 18 January 1993 constituted wanton destruction of cities, towns or villages not justified by military necessity, a crime recognised by Article 3 of the Statute.

1571. With regard to the period after the attack of 18 January 1993 and the takeover by the HVO forces of the villages of Duša, Hrasnica, Țdrimci and Uzriĉje, the Chamber established that property belonging to inhabitants of the villages – including houses – was set on fire by HVO soldiers in each of the four villages.²⁴⁶⁹ Since the destruction took place in four villages of the

²⁴⁶⁵ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁶⁶ See “Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack”, “Attack on the Village of Duša”, “Attack on the Village of Hrasnica”, “Attack on the Village of Uzriĉje” and “Attack on the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁶⁷ See “Attack on the Village of Țdrimci” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁶⁸ See “Municipality of Gornji Vakuf” in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

²⁴⁶⁹ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim

Municipality of Gornji Vakuf, since in Duša at least 16 houses were burned down,²⁴⁷⁰ since in Hrasnica there were no Muslim houses left standing,²⁴⁷¹ since in Uzričje at least 22 houses were burned down²⁴⁷² and since the Muslim sector of Țdrimci was virtually wiped out,²⁴⁷³ the Chamber finds that this destruction was extensive.

1572. Since these houses were burned down once the HVO had taken control of the villages, the Chamber is also satisfied that the destruction was not justified by military necessity.

1573. Finally, the Chamber finds that by deliberately setting this property on fire, as attested to by several eyewitnesses who saw members of the HVO setting fire to houses,²⁴⁷⁴ the members of the HVO demonstrated their intent to destroy the property in question.

1574. The Chamber therefore finds that the HVO destruction of the houses belonging to the inhabitants of the villages of Duša, Hrasnica, Țdrimci and Uzričje in the days following the attack of 18 January 1993 and the takeover of the villages by the HVO constituted wanton destruction of villages not justified by military necessity, a crime recognised by Article 3 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1575. The Chamber established that between 18 and 24 April 1993, when combat activities had ended, HVO soldiers – including members of the KB – and HV soldiers destroyed all the Muslim homes and two mosques in Sovići and Doljani.²⁴⁷⁵ The Chamber also noted that the HVO order to burn down all the Muslim houses in Sovići and Doljani as well as the two mosques was given at a time when combat activities were finished.²⁴⁷⁶ The Chamber therefore finds that the destruction was not justified by military necessity.

Property in the Village of Uzričje” and “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷⁰ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷¹ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷² See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷³ See “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷⁴ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje” and “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁴⁷⁵ See “Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993” and “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁷⁶ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

1576. Insofar as the Chamber noted that on 4 May 1993, all the Muslim houses in the village of Sovići, except for the Croatian houses, were destroyed or burned down and that in Doljani the village was totally destroyed,²⁴⁷⁷ the Chamber finds that the destruction was extensive.

1577. The Chamber also established that the Muslim houses and the mosques in Sovići and Doljani were burned down after combat activities had come to an end;²⁴⁷⁸ that orders were issued following the fighting to destroy the houses and the mosques;²⁴⁷⁹ that the HVO and HV soldiers were singing and shouting while they burned down the houses²⁴⁸⁰ and that the mosques were mined or blown up.²⁴⁸¹ The Chamber therefore finds that the HVO soldiers – including members of the KB – and HV soldiers intended to destroy the Muslim homes and the mosques in the villages of Sovići and Doljani.

1578. The Chamber therefore finds that the destruction by HVO soldiers of Muslim homes and the mosques in the villages of Sovići and Doljani in the days following the attack of 17 April 1993 constituted wanton destruction of cities, towns or villages or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

IV. Municipality of Mostar

1579. The Chamber established that between June and December 1993, because of the constant HVO firing and shelling of East Mostar from West Mostar, Mount Hum and Stotina Hill, the armed forces of the HVO seriously damaged or destroyed ten mosques in East Mostar: the *Sultan Selim Javuz* Mosque, the *Hadži Mehmed-Beg Karadžoz* Mosque, the *Koski Mehmed-Paša* Mosque, the *Nesuh Aga Vučjaković* Mosque, the *Čejvan Čehaja* Mosque, the *Hadži Ahmed Aga Lakišić* Mosque, the *Roznamedžija Ibrahim Efendija* Mosque, the *Ćosa Jahja Hodža* Mosque, the *Hadži Kurto* or *Tabačica* Mosque and the *Hadži Memija Cernica* Mosque.²⁴⁸² The Chamber finds that the HVO armed forces destroyed the ten mosques or damaged them to an extent equivalent to destruction and that nothing indicates that the destruction was justified by military necessity. In light of the number

²⁴⁷⁷ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁷⁸ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁷⁹ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁸⁰ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁸¹ See “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁴⁸² See “Alleged Destruction of Religious Institutions in East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

of mosques destroyed in East Mostar, the cultural and religious significance of such buildings and the impact their destruction might have had on the Muslim population of the town of Mostar, the Chamber considers that the destruction of these institutions dedicated to religion in the town of Mostar was extensive. The Chamber also established that the armed forces of the HVO deliberately targeted the ten mosques, and therefore intended to destroy them.²⁴⁸³

1580. The Chamber finds that between June and December 1993, the armed forces of the HVO destroyed ten mosques in East Mostar, thereby committing the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1581. The Chamber also established that on 8 November 1993, as part of the offensive on Mostar ordered by Milivoj Petković and carried out by Miljenko Lasić,²⁴⁸⁴ an HVO tank positioned on Stotina Hill fired on the Old Bridge of Mostar all day long. It noted that on the evening of 8 November 1993, the Old Bridge could be considered destroyed since it was on the point of collapse.²⁴⁸⁵

1582. The Chamber established that the Old Bridge, real property normally used by civilians, was used by both the ABiH and the inhabitants of the right and left banks of the Neretva between May and November 1993 as a means of communication and supply.²⁴⁸⁶ In this respect, it considers that the Old Bridge was essential to the ABiH for combat activities of its units on the front line, for evacuations, for the sending of troops, food and material, and that it was indeed utilised to this end.²⁴⁸⁷ Furthermore, the ABiH was holding positions in the immediate vicinity of the Old Bridge.²⁴⁸⁸ For this reason, the armed forces of the HVO had a military interest in destroying this

²⁴⁸³ See “Alleged Destruction of Religious Institutions in East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁸⁴ See “Order of Milivoj Petković Dated 8 November 1993”, “Collapse of the Old Bridge on 9 November 1993” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁸⁵ See “Attack on the Old Bridge by an HVO Tank on 8 November 1993”, “Destruction of the Old Bridge as of the Evening of 8 November 1993”, “Proceedings Brought Against the Tank Crew by the HVO” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁸⁶ See “Use of the Old Bridge by the ABiH” and “Use of the Old Bridge by the Inhabitants of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁸⁷ See “Use of the Old Bridge by the ABiH” and “Use of the Old Bridge by the Inhabitants of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁸⁸ See “Use of the Old Bridge by the ABiH” in the Chamber's factual findings with regard to the Municipality of Mostar.

structure since its destruction cut off practically all possibilities for the ABiH to continue its supply operations.²⁴⁸⁹ Consequently, at the time of the attack, the Old Bridge was a military target.

1583. The Chamber, however, also noted that the destruction of the Old Bridge put the residents of Donja Mahala, the Muslim enclave on the right bank of the Neretva, in virtually total isolation, making it impossible for them to get food and medical supplies resulting in a serious deterioration of the humanitarian situation for the population living there.²⁴⁹⁰ The Chamber determined that there were very few supply routes available to the inhabitants, other than the Old Bridge; that between May and November 1993, in addition to the Old Bridge, they could only use the *Kamenica* bridge, a makeshift bridge constructed by the ABiH in March 1993 and used until November 1993, or a path over the mountain from the neighbourhood of Donja Mahala to Jablanica, which was considered very dangerous;²⁴⁹¹ and that, as such, the destruction of the *Kamenica* bridge by the armed forces of the HVO on 10, 11 or 17 November 1993, that is, only a few days after the destruction of the Old Bridge, cut off all access across the Neretva River in Mostar definitively.²⁴⁹² The Chamber also determined that the destruction of the Old Bridge had a very significant psychological impact on the Muslim population of Mostar.²⁴⁹³

1584. The Chamber therefore holds that although the destruction of the Old Bridge by the HVO may have been justified by military necessity, the damage to the civilian population was indisputable and substantial. It therefore holds by a majority, with Judge Antonetti dissenting, that the impact on the Muslim civilian population of Mostar was disproportionate to the concrete and direct military advantage expected by the destruction of the Old Bridge.

1585. The Chamber also holds that the destruction of the Old Bridge, in view of its immense cultural, historical and symbolic value for the Muslims in particular,²⁴⁹⁴ was extensive.

²⁴⁸⁹ See “Use of the Old Bridge by the Inhabitants of East Mostar”, “Reaction of the International Actors Holding the HVO Armed Forces Responsible for the Destruction of the Old Bridge”, “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁰ See “Use of the Old Bridge by the Inhabitants of East Mostar” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹¹ See “Use of the Old Bridge from 9 May 1993 Onwards”, “Use of the Old Bridge by the Inhabitants of East Mostar” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹² See “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹³ See “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁴ See “The Old Bridge of Mostar” (introductory part), “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” and “General Findings of the

1586. Finally, the Chamber recalls that it already established that the HVO command knew that the ABiH was using the structure for military purposes;²⁴⁹⁵ that it was perfectly aware of the major consequences the destruction of the Old Bridge would have on the morale of the population of Mostar;²⁴⁹⁶ that despite this, the HVO continued to shell the Old Bridge between June and 9 November 1993²⁴⁹⁷ and more specifically fired on the Old Bridge with a tank for two days until the bridge collapsed on 9 November 1993.²⁴⁹⁸ The Chamber therefore finds that the HVO command intended to destroy the Old Bridge of Mostar, thereby sapping the morale of the Muslim population of Mostar.

1587. The Chamber finds by a majority, with Judge Antonetti dissenting, that the armed forces of the HVO destroyed the Old Bridge of the town of Mostar, thereby committing the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

V. Municipality of Stolac

1588. As the Chamber established, during their operations to expel the Muslims from the village of Borojevići in late July 1993, the HVO soldiers who took over the village burned and destroyed many houses belonging to Muslims living in the village of Borojevići.²⁴⁹⁹ In addition, since there was no combat activity between the opposing armed forces in the village of Borojevići at that time, the Chamber finds that the destruction was not justified by military necessity. Finally, the Chamber considers that the destruction of these houses, on the scale of a village like Borojevići, was extensive and that by burning down the houses, the HVO soldiers intended to destroy the property in question.

1589. The Chamber therefore finds that in late July 1993, HVO soldiers destroyed houses belonging to Muslim villagers in the village of Borojevići, thereby committing the crime of wanton

Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁵ See “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁶ See “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁷ See “Damage to the Old Bridge before 8 November 1993” and “Attempt by the HVO Authorities to Minimise or Conceal their Responsibility for the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁸ See “Collapse of the Old Bridge on 9 November 1993” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁴⁹⁹ See “Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići” in the Chamber's factual findings with regard to the Municipality of Stolac.

destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1590. The Chamber also established that HVO soldiers burned down the *Sultan Selim* Mosque in the town of Stolac in mid-July 1993 at a time when there was no shelling in the town, that only HVO units were on patrol in Stolac and that HVO soldiers were present near the scene.²⁵⁰⁰ The Chamber finds that this destruction was not justified by military necessity since there was no combat activity between the opposing armed forces in the town of Stolac on that day.²⁵⁰¹ In view of the cultural and religious significance of such a building and the impact its destruction might have had on the Muslim population of the town of Stolac, the Chamber holds that the destruction of the *Sultan Selim* Mosque was extensive. The Chamber is also satisfied that by burning down the *Sultan Selim* Mosque, the HVO soldiers intended to destroy it.

1591. The Chamber finds that HVO soldiers destroyed the *Sultan Selim* Mosque in the town of Stolac, thereby committing the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1592. The Chamber recalls, however, that it received no evidence concerning the damage caused to the homes in the villages of Aladinići and Rotimlja in July 1993.²⁵⁰² The Chamber also recalls that it was unable to establish that members of the HVO set fire to the Aladinići Mosque on 14 July 1993²⁵⁰³ or that they destroyed the Rotimlja Mosque.²⁵⁰⁴ Moreover, the Chamber recalls that it was unable to establish that members of the HVO destroyed the Muslim homes,²⁵⁰⁵ the Begovina complex²⁵⁰⁶ or the three old mosques in the town of Stolac²⁵⁰⁷ in early August 1993. Finally, the Chamber recalls that it received no evidence about damage to Muslim homes and property or to the

²⁵⁰⁰ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰¹ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰² See “Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići” and “Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰³ See “Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰⁴ See “Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰⁵ See “Damage to Houses in the Town of Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰⁶ See “Damage to Cultural Property and Mosques in the Town of Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰⁷ See “Damage to Cultural Property and Mosques in the Town of Stolac” in the Chamber's factual findings with regard to the Municipality of Stolac.

mosque in the village of Prenj in August 1993.²⁵⁰⁸ The Chamber is therefore unable to find that the HVO committed the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, recognised by Article 3 of the Statute, in the villages of Aladinići and Rotimlja in July 1993, in the town of Stolac in early August 1993 or in the village of Prenj in August 1993.

VI. Municipality of Čapljina

1593. The Chamber established that around 13 July 1993, while the HVO was in the village of Bivolje Brdo, while there were no combat activities and while it was expelling the Muslim women, children and elderly people,²⁵⁰⁹ members of the HVO set fire to several houses belonging to Muslims in that village.²⁵¹⁰ Since the houses were burned down while there were no combat activities in the village, the Chamber finds that the houses did not constitute military targets and that their destruction was not justified by military necessity. The Chamber also holds that the destruction of these houses, on the scale of a village like Bivolje Brdo, was extensive and that by burning down the houses while there were no combat activities, the HVO soldiers intended to destroy the property in question, as *Witness CI*, who saw members of the HVO enter his house and saw it on fire shortly thereafter, testified.²⁵¹¹

1594. In light of the evidence, the Chamber finds that the destruction of Muslim homes in the village of Bivolje Brdo by members of the HVO around 13 July 1993 constituted wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute.

1595. The Chamber recalls, however, that although it noted that the Lokve Mosque and houses in that village were destroyed after 13 July 1993, it was unable to establish who caused this destruction.²⁵¹² The Chamber is thus unable to find that the destruction of the mosque and the houses of the village constituted the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity, a crime recognised by Article 3 of the Statute. In

²⁵⁰⁸ See “Damage to Houses, Property and the Mosque in Prenj” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁰⁹ See “Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo” and “Events in or around the Village of Bivolje Brdo around 13 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵¹⁰ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵¹¹ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵¹² See “Destruction of the Mosque in the Village of Lokve on 14 July 1993 and of the Houses of Muslim Inhabitants of the Village of Lokve on 16 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

addition, the Chamber recalls that it received no evidence allowing it to rule on the allegations of destruction of Muslim houses and buildings in the village of Oplići.²⁵¹³ Consequently, the Chamber cannot find that the destruction in that village was the work of the HVO.

VII. Municipality of Vareš

1596. The Chamber previously established that following the attack by members of the *Maturice* and/or *Apostoli* special units on the village of Stupni Do on 23 October 1993, all the houses belonging to the Muslim inhabitants of the village, that is, about 70 houses, as well as the adjacent buildings such as stables and sheds, were destroyed by fire.²⁵¹⁴ The Chamber notes that many houses were burned down after the HVO took control of the village and occupied it. The members of the *Maturice* and *Apostoli* special units were in fact able to enter the village at ten o'clock in the morning. At that time, they arrested about 50 of the 220-250 inhabitants of the village who had not managed to escape and who had taken refuge in houses not destroyed during the attack. The assailants arrested and then killed some of the villagers. Their charred bodies were found later, in particular in and around the houses which had also been burned down. The Chamber therefore finds that the houses were burned after the villagers had fallen into the hands of members of the *Maturice* and *Apostoli* special units and after those units had occupied the village. The Chamber therefore finds that the destruction was not justified by military necessity.

1597. Insofar as all the houses in the village were destroyed by fire, the Chamber finds that the destruction was extensive.

1598. Finally, the Chamber finds that by deliberately setting fire to the houses,²⁵¹⁵ in particular in order to put the bodies of the villagers they had just killed or living persons in them, the members of the *Maturice* and *Apostoli* special units holding and occupying the village at the time intended to destroy the property in question.

1599. The Chamber therefore finds that the destruction by the HVO of the property belonging to the Muslim residents of the village of Stupni Do after the attack on the village constituted wanton destruction of a village not justified by military necessity, a crime recognised by Article 3 of the Statute.

²⁵¹³ See “Events that Took Place between 13 and 16 July 1993 in or around the Village of Lokve” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵¹⁴ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵¹⁵ See “Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.

Heading 20: Destruction or Wilful Damage to Institutions Dedicated to Religion or Education (Count 21)

I. Municipality of Prozor

1600. The Chamber established that the mosque of Skrobućani was destroyed in May or June 1993 by members of the HVO.²⁵¹⁶ The Chamber notes that nothing indicates that the mosque was a military target. The Chamber is moreover satisfied that by setting the mosque on fire, the HVO intended to destroy it.

1601. In light of the evidence, the Chamber therefore finds that the destruction of the mosque of Skrobućani in May or June 1993 by members of the HVO constituted wilful destruction of an institution dedicated to religion, a crime recognised by Article 3 of the Statute.

1602. The Chamber established that the Mosque of Prozor was damaged on several occasions, but it was unable to determine precisely whether this took place between June and mid-August 1993 and who was responsible for the damage.²⁵¹⁷ Consequently, the Chamber is unable to find beyond all reasonable doubt that the HVO committed the crime of destruction or wilful damage to institutions dedicated to religion in the town of Prozor, recognised by Article 3 of the Statute.

1603. The Chamber noted that it was unable to find that the mosque of Lizoperci was damaged by the HVO.²⁵¹⁸ Consequently, the Chamber is unable to find that the HVO committed the crime of destruction or wilful damage to institutions dedicated to religion in the village of Lizoperci, recognised by Article 3 of the Statute.

II. Municipality of Gornji Vakuf

1604. The Chamber established that after the attack on the village of Țdrimci on 18 January 1993, the village *Mekteb*, a centre of Muslim education, was burned down, but, in the absence of evidence, it was unable to find that members of the HVO were responsible for this.²⁵¹⁹

²⁵¹⁶ See “Attack on the Villages of Skrobućani and Graćanica and Damage to Property and the Skrobućani Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵¹⁷ See “Damage to the Islamic Community Building of Prozor Town” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵¹⁸ See “Attack on the Village of Lizoperci and Damage to Property and the Mosque” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵¹⁹ See “Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1605. Consequently, the Chamber is unable to find that the HVO wilfully destroyed an institution dedicated to religion and education, a crime recognised by Article 3 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1606. The Chamber established that between 18 and 24 April 1993, when combat activities had ended, HVO soldiers – including members of the KB – and HV soldiers destroyed two mosques in Sovići and Doljani.²⁵²⁰ The Chamber notes that no evidence was introduced indicating that the two mosques in Sovići and Doljani were military targets. Insofar as the destruction of the mosques was clearly ordered, and since one was mined and the other was blown up, the Chamber is satisfied that the HVO soldiers intended to destroy these two properties dedicated to religion.

1607. The Chamber therefore finds that the HVO destruction of the two mosques in Sovići and Doljani after the attack on the villages of Sovići and Doljani on 17 April 1993 constituted wilful destruction of institutions dedicated to religion, a crime recognised by Article 3 of the Statute.

IV. Municipality of Mostar

1608. The Chamber established that the HVO blew up the *Baba Besir* Mosque in West Mostar around 10 May 1993.²⁵²¹ It was, however, unable to establish whether and how the *Hadži Ali-Beg Lafo* Mosque was destroyed around 11 May 1993.²⁵²² The Chamber finds that the HVO destroyed the *Baba Besir* Mosque and nothing indicates that the mosque was a military target. The Chamber is satisfied that by blowing up the mosque, the HVO intended to destroy it. The Chamber therefore finds that around 10 May 1993, the HVO destroyed the *Baba Besir* Mosque, although this was not justified by military necessity, thereby committing the crime of wilful destruction of an institution dedicated to religion, recognised by Article 3 of the Statute.

1609. The Chamber established that between June and December 1993, because of the constant HVO firing and shelling of East Mostar from West Mostar, Mount Hum and Stotina Hill, the armed forces of the HVO seriously damaged or destroyed ten mosques in East Mostar: the *Sultan Selim Javuz* Mosque, the *Hadži Mehmed-Beg Karadjoz* Mosque, the *Koski Mehmed-Paša* Mosque, the *Nesuh Aga Vučjaković* Mosque, the *Ćejvan Ćehaja* Mosque, the *Hadži Ahmed Aga Lakišić* Mosque,

²⁵²⁰ See “Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993” and “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵²¹ See “Destruction of Two Mosques in West Mostar around 9 and 11 May 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵²² See “Destruction of Two Mosques in West Mostar around 9 and 11 May 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

the *Roznamedžija Ibrahim Efendija Mosque*, the *Ćosa Jahja Hodža Mosque*, the *Hadži Kurto* or *Tabačica Mosque* and the *Hadži Memija Cernica Mosque*.²⁵²³ The Chamber finds that the HVO armed forces destroyed the ten mosques or damaged them to an extent equivalent to destruction, and nothing indicates that the mosques were military targets. The Chamber also established that the armed forces of the HVO deliberately targeted the ten mosques and, as such, they intended to destroy them.²⁵²⁴

1610. The Chamber finds that between June and December 1993, the armed forces of the HVO destroyed ten mosques in East Mostar, although this was not justified by military necessity, thereby committing the crime of wilful destruction of an institution dedicated to religion, recognised by Article 3 of the Statute.

1611. The Chamber notes that the destruction of the Old Bridge of Mostar is referred to in paragraph 116 of the Indictment and is alleged in particular under Count 21. The Chamber notes, however, that in Count 21 the Prosecution chose to keep only "destruction or wilful damage to institutions dedicated to religion or education". It notes that the Prosecution did not mention the destruction of "historic monuments" as provided for in Article 3 (d) of the Statute. The Chamber notes that the Praljak Defence submits that the Accused Praljak was charged with the destruction of the Old Bridge under Count 19 (extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly) and under Count 20 (wanton destruction of cities, towns or villages, or devastation, not justified by military necessity), but makes no mention of Count 21.²⁵²⁵ The Chamber therefore considers that the Defence teams were not sufficiently informed that the destruction of the Old Bridge of Mostar could be alleged under Count 21.²⁵²⁶ As such, the Chamber holds that it is unable to take into account the destruction of the Old Bridge of Mostar – an historic monument of major historical and symbolic value, in particular for the Muslim community – under Count 21 which deals only with the destruction or wilful damage to institutions dedicated to religion or education.

²⁵²³ See "Alleged Destruction of Religious Institutions in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵²⁴ See "Alleged Destruction of Religious Institutions in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵²⁵ Praljak Defence Final Trial Brief, paras 345 and 352.

²⁵²⁶ Admittedly, the Chamber notes that in its 65 *ter* List, the Praljak Defence mentioned that Expert Witness Janković would be testifying about the alleged destruction of the Old Bridge of Mostar with particular reference to Count 21. Nonetheless, the Chamber holds that the mere reference by one of the Defence teams is not enough to make up for the lack of an official Prosecution notice of the allegation of the destruction of the Old Bridge under Count 21.

V. Municipality and Detention Centres of Ljubuški

1612. The Chamber recalls that it was unable to establish that the Gradska Mosque was indeed destroyed by the HVO in September 1993.²⁵²⁷ The Chamber can therefore not find that the HVO in fact wilfully destroyed or damaged an institution dedicated to religion, in violation of Article 3 of the Statute.

VI. Municipality of Stolac

1613. As the Chamber established, HVO soldiers burned down the *Sultan Selim* Mosque in the town of Stolac in mid-July 1993 at a time when there was no shelling in the town, when only HVO units were on patrol in Stolac and when HVO soldiers were present near the scene.²⁵²⁸ In addition, no evidence shows that this mosque was a military target, in particular since this institution dedicated to religion was destroyed in the town of Stolac at a time when there was no combat activity between the opposing armed forces there.²⁵²⁹ The Chamber is also satisfied that by burning the *Sultan Selim* Mosque the HVO soldiers intended to destroy it.

1614. The Chamber finds that in mid-July 1993, the HVO soldiers destroyed the *Sultan Selim* Mosque in the town of Stolac, although this was not justified by military necessity, thereby committing the crime of wilful destruction of an institution dedicated to religion, recognised by Article 3 of the Statute.

1615. The Chamber recalls, however, that it was unable to establish that the members of the HVO set fire to the Aladinići Mosque on 14 July 1993²⁵³⁰ or destroyed the Rotimlja Mosque.²⁵³¹ The Chamber also recalls that it was unable to establish that members of the HVO destroyed the Begovina complex²⁵³² or the three old mosques of the town of Stolac²⁵³³ in early August 1993. Finally, the Chamber recalls that it did not receive any evidence about damage to the mosque in the

²⁵²⁷ See “The Evidence” in the Chamber’s factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²⁵²⁸ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber’s factual findings with regard to the Municipality of Stolac.

²⁵²⁹ See “Removal of the Population, Damage to the Mosque and Theft of Property in Stolac” in the Chamber’s factual findings with regard to the Municipality of Stolac.

²⁵³⁰ See “Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići” in the Chamber’s factual findings with regard to the Municipality of Stolac.

²⁵³¹ See “Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja” in the Chamber’s factual findings with regard to the Municipality of Stolac.

²⁵³² See “Damage to Cultural Property and Mosques in the Town of Stolac” in the Chamber’s factual findings with regard to the Municipality of Stolac.

²⁵³³ See “Damage to Cultural Property and Mosques in the Town of Stolac” in the Chamber’s factual findings with regard to the Municipality of Stolac.

village of Prenj in August 1993.²⁵³⁴ The Chamber can therefore not find that the HVO wilfully destroyed or damaged institutions dedicated to religion or education in the villages of Aladinići and Rotimlja in July 1993 or in the town of Stolac and the village of Prenj in August 1993, in violation of Article 3 of the Statute.

VII. Municipality of Čapljina

1616. The Chamber established moreover that members of the HVO destroyed the mosque in the village of Višići on about 19 or 20 July 1993 at a time when there was no combat activity in the village.²⁵³⁵ The Chamber notes that no evidence was introduced indicating that this mosque was a military target. In addition, insofar as the mosque in Višići was destroyed by fire in the middle of the night,²⁵³⁶ at a time when there was no combat activity, the Chamber is satisfied that the members of the HVO intended to destroy this property dedicated to religion.

1617. The Chamber therefore finds that the destruction of the mosque of Višići by the HVO on about 19 or 20 July 1993 constituted wilful destruction of an institution dedicated to religion, a crime recognised by Article 3 of the Statute.

1618. The Chamber recalls, however, that although it noted that the Lokve mosque was destroyed after 13 July 1993, it was unable to establish who caused this destruction.²⁵³⁷ It is thus unable to find that the HVO destroyed the Lokve mosque thereby committing the crime of wilful destruction of an institution dedicated to religion, a crime recognised by Article 3 of the Statute. In addition, the Chamber recalls that it received no evidence allowing it to rule on the crimes which the Prosecution alleges were committed in the village of Opličići.²⁵³⁸ As a result, the Chamber is unable to find that the HVO destroyed the Opličići mosque on 7 August 1993.

²⁵³⁴ See “Damage to Houses, Property and the Mosque in Prenj” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵³⁵ See “Destruction of the Mosque in Višići on or about 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵³⁶ See “Destruction of the Mosque in Višići on or about 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵³⁷ See “Destruction of the Mosque in the Village of Lokve on 14 July 1993 and of the Houses of Muslim Inhabitants of the Village of Lokve on 16 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵³⁸ See “Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in or around the Village of Opličići” in the Chamber's factual findings with regard to the Municipality of Čapljina.

Heading 21: Appropriation of Property, Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly (Count 22)

I. Municipality of Prozor

1619. The Chamber established that on 23 and 24 October 1992, HVO soldiers and members of the Military Police stole property in the houses and shops of Muslims and Croats in the town of Prozor which they had just taken over, and that members of the Military Police also stole at least thirty vehicles.²⁵³⁹ The Chamber finds that this property, located in territory occupied by the HVO, was protected by the Geneva Conventions. However, the Chamber has no information as to the nature and quantity of the property stolen in the houses and shops. In addition, the Chamber holds that for a town the size of Prozor, the theft of about thirty vehicles does not constitute extensive appropriation. The Chamber therefore rejects the count of extensive, unlawful and wanton appropriation of property, not justified by military necessity, in the town of Prozor on 23 and 24 October 1992.

1620. The Chamber also established that in August 1993, HVO soldiers and members of the HVO Military Police stole property belonging to Muslims from Prozor and the surrounding villages held in Podgraĉe. The Chamber thus noted that HVO soldiers, who had free access to Podgraĉe, would regularly come around, extorting and robbing the Muslims of their property, particularly their money and jewellery.²⁵⁴⁰ The Chamber finds that this property belonging to civilians held by the HVO enjoyed the protection of the Geneva Conventions. Since the thefts were frequent, the Chamber finds that the appropriation of the property belonging to the Muslims held by HVO soldiers in Podgraĉe was extensive. Moreover, the Chamber is satisfied that by focusing on the money and jewellery of the Muslim population held in the neighbourhood of Podgraĉe and since these thefts were frequent, these appropriations could not under any circumstances, constitute requisitioning for the needs of the forces and the administration of the HVO. The Chamber is thus satisfied that HVO soldiers appropriated Muslim property unlawfully and wantonly. The Chamber is also satisfied that by stealing the money and jewellery belonging to the Muslims held in the neighbourhood of Podgraĉe, the HVO soldiers intended to appropriate the property in question unlawfully.

²⁵³⁹ See "Thefts of Property Belonging to Muslims After the Takeover of the Town of Prozor" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵⁴⁰ See "Treatment of Muslims Collected in Podgraĉe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

1621. In light of the evidence, the Chamber therefore finds that the appropriation of the property belonging to Muslims from Prozor and the surrounding villages held in Podgraĉe in August 1993 constituted extensive appropriation of property not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1622. Nevertheless, although the Chamber was able to establish in general terms that thefts were committed by HVO soldiers and members of the HVO Military Police against Muslims from Prozor and the surrounding villages held in Lapsunj and Duge in August 1993,²⁵⁴¹ it has no evidence allowing it to find that these appropriations were extensive. As a result, it is unable to find beyond all reasonable doubt that in August 1993, the HVO committed the crime of appropriation of property not justified by military necessity and carried out unlawfully and wantonly, recognised by Article 2 of the Statute.

II. Municipality of Gornji Vakuf

1623. While the Chamber noted that, during their arrest in the villages of Hrasnica, Uzriĉje and Ťdrimci, the Muslims were not robbed of their valuables, it did establish that after the attack of 18 January 1993 while these three villages were being held by the HVO, property belonging to the Muslims of these villages was stolen by members of the HVO.²⁵⁴² The Chamber finds that this property, located in territory occupied by the HVO, was protected by the Geneva Conventions.

1624. The Chamber noted that HVO soldiers searched the houses of the Muslims and stole their property, in particular radios and televisions, as well as tractors and cars.²⁵⁴³

1625. Since property was stolen from the three villages and, in particular, since all the cars and tractors belonging to the Muslims in the village of Hrasnica were stolen, the Chamber finds that the appropriation by HVO soldiers of property belonging to the Muslims of the three villages of the Municipality of Gornji Vakuf was extensive.

²⁵⁴¹ See “Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks” and “Treatment of Muslims Collected in Duge, Tefts, Forced Sexual Relations and Sexual Attacks” in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵⁴² See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzriĉje” and “Burned Houses, Thefts of Muslim Property in the Village of Ťdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁵⁴³ See “Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica”, “Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzriĉje” and “Burned Houses, Thefts of Muslim Property in the Village of Ťdrimci and Burning of the *Mekteb*” in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

1626. The Chamber is, moreover, satisfied that, since these appropriations took place as part of operations to expel the Muslim inhabitants, they did not constitute requisitioning for the needs of the forces and the administration of the HVO. The Chamber is therefore satisfied that the HVO soldiers appropriated property belonging to the Muslim residents of the villages of Hrasnica, Uzriêje and Ŧdrimci unlawfully and wantonly. In like fashion, the Chamber is also satisfied that by stealing this property as part of those expulsion operations, these HVO soldiers intended to appropriate the property in question unlawfully.

1627. The Chamber therefore finds that the appropriation of the Muslim property by the HVO soldiers after the attack on the villages of Hrasnica, Uzriêje and Ŧdrimci on 18 January 1993 when these villages were under HVO control constituted extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1628. As to the village of Duša, the Chamber established that, for lack of evidence, it could not find that members of the HVO stole property belonging to the Muslim inhabitants of the village or robbed the villagers of their valuables during their arrest.²⁵⁴⁴ The Chamber can therefore not find that in the village of Duša, the HVO committed the crime of appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1629. The Chamber established that HVO soldiers, some of whom were under "Tuta's" command, took property belonging to Muslims in the days that followed the attack of 17 April 1993 on the villages of Sovići and Doljani.²⁵⁴⁵ HVO soldiers searched the Muslim houses and stole property, in particular all the cars of the Muslims held at the Sovići School, and their livestock.²⁵⁴⁶ In addition, in a decision of 13 May 1993, the Head of the Jablanica HVO Defence Office ordered that all the personal and real property belonging to the Muslims of the two villages who had "emigrated" was to be considered as war booty and became property of the HVO of the HZ H-B.²⁵⁴⁷ The Chamber

²⁵⁴⁴ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzriêje" and "Burned Houses, Thefts of Muslim Property in the Village of Ŧdrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁵⁴⁵ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵⁴⁶ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵⁴⁷ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

finds that the property, located in territory occupied by the HVO, was protected by the Geneva Conventions. The Chamber finds, in addition, that the appropriation by the HVO soldiers of the property belonging to the Muslims of Sovići and Doljani was extensive.

1630. The Chamber has no evidence to show that these appropriations took place as part of requisitioning for the needs of the forces and the administration of the HVO. The Chamber is thus satisfied that HVO soldiers, some of whom were under "Tuta's" command, appropriated the Muslim property unlawfully and wantonly. Since the HVO soldiers appropriated the Muslim property as part of operations to expel the Muslims from the villages of Sovići and Doljani, the Chamber is also satisfied that these HVO soldiers and members of the local HVO intended to appropriate the property in question unlawfully.

1631. The Chamber therefore finds that the appropriation by the HVO of the property of the Muslims from the villages of Sovići and Doljani after the attack on the villages of Sovići and Doljani on 17 April 1993 constituted extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

IV. Municipality of Mostar

1632. The Chamber established that in May and June 1993, and then from August 1993 to February 1994, during operations in which the Muslims of West Mostar were expelled from their apartments, the HVO soldiers – and in particular members of the KB, the *Benko Penavić* ATG and the *Vinko Škrobo* ATG – as well as the 1st Light Assault Battalion of the Military Police in September 1993 took all the valuables that the Muslims of West Mostar had on them and also appropriated property in the apartments from which they were expelling the Muslims.²⁵⁴⁸ Following the eviction operations, the apartments of the Muslims who had been expelled were reassigned to HVO soldiers, members of the Military Police and sometimes even to Croatian families.²⁵⁴⁹

²⁵⁴⁸ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵⁴⁹ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

1633. The Chamber recalls that the HVO occupied West Mostar between May 1993 and February 1994. Consequently, the property belonging to the Muslims of West Mostar was protected by the Geneva Conventions.

1634. In view of the number of Muslims robbed of their personal and real property and the fact that this occurred over a period of several months in successive waves, the Chamber considers that the appropriation of the property in question was extensive.

1635. The Chamber is, moreover, satisfied that since the appropriations took place as part of operations to expel the Muslims from their apartments, the appropriations of valuables and other personal property did not constitute requisitioning for the needs of the forces and the administration of the HVO. It is also satisfied that the appropriation of apartments, which resulted in the Muslim residents being deprived of their homes, cannot be considered legitimate requisitioning.

1636. Finally, the Chamber is satisfied that by stealing the valuables and other personal property and by appropriating the apartments during or following eviction operations, the members of the HVO intended to appropriate the property in question unlawfully.

1637. The Chamber therefore finds that between May 1993 and February 1994 – the Chamber has no information about the month of July 1993 – HVO soldiers and members of the Military Police extensively, unlawfully and wantonly appropriated property belonging to the Muslims of West Mostar without this being justified by military necessity, thereby committing the crime recognised by Article 2 of the Statute.

1638. The Chamber also established that on 24 August 1993, HVO soldiers stole property, in particular jewellery and money, that belonged to Muslims in the village of Raštani while they were expelling them from their village.²⁵⁵⁰ The Chamber recalls that it previously found that the Muslims of the village of Raštani were persons protected by the Geneva Conventions. As a result, the property belonging to them also had the status of property protected by the Conventions.

1639. Considering the fact that the HVO soldiers searched the women systematically and took all their valuables from them before expelling them, the Chamber holds that the appropriation of the property in question was extensive.

1640. The Chamber is, moreover, satisfied that these thefts of personal property could not be for the needs of the armed forces or the administration of the HVO. Finally, the Chamber is satisfied

²⁵⁵⁰ See “Allegations of Thefts of Property Belonging to Muslims in the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

that by stealing the property in question from the Muslim inhabitants of the village of Raštani while they were expelling them from the village, the HVO soldiers intended to appropriate the property unlawfully.

1641. The Chamber therefore finds that on 24 August 1993, the HVO extensively, unlawfully and wantonly appropriated property belonging to the Muslims of Raštani without this being justified by military necessity, thereby committing the crime recognised by Article 2 of the Statute.

V. Municipality of Stolac

1642. As the Chamber established, between 2 and 13 July 1993, as part of their operations to expel the Muslims from the municipality, soldiers of the HVO unit stationed in the village of Pješivac Greda stole property belonging to the Muslim inhabitants of that village, in particular their cars, tractors and all the stores of food in the houses of the hamlets of Dulić and Kaplan.²⁵⁵¹ The Chamber finds that this property, located in territory occupied by the HVO, was protected by the Geneva Conventions. The Chamber has no evidence to show that these appropriations of property, which the villagers needed, took place as part of requisitioning for the needs of the forces and the administration of the HVO. In addition, the Chamber holds that, on the scale of a village, the appropriation of the cars and tractors belonging to the Muslims and all the stores of food in some hamlets was extensive. The Chamber is also satisfied that by stealing the property in question from the Muslim inhabitants of the village of Pješivac Greda while they were expelling them from the village, the HVO soldiers intended to appropriate their property unlawfully.

1643. The Chamber therefore finds that in July 1993, HVO soldiers extensively, unlawfully and wantonly appropriated the property belonging to the Muslim inhabitants of the village of Pješivac Greda without this being justified by military necessity, thereby committing the crime recognised by Article 2 of the Statute.

1644. The Chamber also established that in July 1993, during their operations to expel the Muslims of the municipality, the HVO soldiers robbed many houses belonging to the Muslim inhabitants of the village of Borojevići.²⁵⁵² However, the Chamber has no evidence about the nature or quantity of the property stolen. Under such conditions, the Chamber is unable to evaluate the extent or the consequences of those thefts for the Muslim inhabitants of the village of Borojevići. The Chamber can therefore not find that in July 1993, HVO soldiers committed the crime of

²⁵⁵¹ See “Theft of Property Belonging to the Muslims of the Village of Pješivac Greda” in the Chamber's factual findings with regard to the Municipality of Stolac.

extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1645. The Chamber recalls in addition that it did not receive any evidence concerning thefts allegedly committed during or after the operations in which Muslim civilians were expelled from the villages of Prenj, Rotimlja and Aladinići in July 1993.²⁵⁵³ The Chamber also recalls that it was unable to observe that the HVO in fact committed thefts in Stolac in July 1993.²⁵⁵⁴ The Chamber is therefore unable to find that the HVO committed the crime of extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute, in the villages of Aladinići, Rotimlja and Prenj in July 1993 as well as in the town of Stolac in July 1993.

VI. Municipality of Čapljina

1646. The Chamber established that between 13 and 16 July 1993, while the HVO was in the village of Bivolje Brdo, while there was no combat activity and while it was expelling Muslim women, children and elderly people,²⁵⁵⁵ members of the HVO stole property belonging to Muslims in that village.²⁵⁵⁶ The Chamber finds that the property, located in territory occupied by the HVO, was protected by the Geneva Conventions. Accordingly, the Chamber noted that on about 13 July 1993, three members of the HVO stole objects from a house in the hamlet of Selo; that on about 14 July 1993, "uniformed soldiers" stole livestock in the hamlet of Kevčići, and that on about 16 July 1993, during the removal of a group of some fifty people expelled from the hamlet of Selo, a member of the HVO snatched the bag of one of the displaced women.²⁵⁵⁷ In light of this evidence alone, the Chamber is not satisfied that the appropriation of Muslim property in the village of Bivolje Brdo by the members of the HVO was extensive. The Chamber can therefore not find that the HVO committed the crime of extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

²⁵⁵² See "Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁵³ See "Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property", "Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići" and "Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁵⁴ See "Removal of the Population, Damage to the Mosque and Theft of Property in Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁵⁵ See "Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁵⁶ See "Thefts of Muslim Property in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁵⁷ See "Thefts of Muslim Property in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

1647. The Chamber also established that on the evening of 23 August 1993, members of the HVO Military Police and the MUP took personal property belonging to the Muslim women, children and elderly people who had been taken from the town of Čapljina by lorry to the Silos during the day of 23 August 1993.²⁵⁵⁸ Having fallen into the hands of the enemy and while being held at the Silos, before leaving the Silos and before being removed to Vrda, the Muslim civilians were ordered under threat to place their money and jewellery in cardboard boxes set up on each side of the exit from the Silos.²⁵⁵⁹ Since the women, children and elderly people held at the Silos were protected by the Geneva Conventions, their property was also protected by those Conventions. The Chamber is also satisfied that the money and personal property were not requisitioned for the needs of the forces and the administration of the HVO. In addition, insofar as all the Muslims being transferred to Vrda were forced to give up their money and personal property, the Chamber considers that the appropriation of this property by members of the HVO Military Police and the MUP was extensive. Finally, since the members of the HVO appropriated the Muslim property as part of operations to expel the Muslims to ABiH-occupied territories, the Chamber is also satisfied that these members of the Military Police and the MUP intended to appropriate the property in question unlawfully.

1648. The Chamber therefore finds that the HVO appropriation of property belonging to the Muslims in the town of Čapljina while they were being held by members of the HVO, including members of the Military Police and the MUP, at the Silos and while they were leaving for Vrda on the evening of 23 August 1993 constituted extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

1649. The Chamber recalls, however, that it was unable to establish that members of the HVO stole property belonging to the Muslims during the eviction operations and the removal of the women, children and elderly people from the villages of Domanovići around 13 July 1993,²⁵⁶⁰ Počitelj around 13 July 1993 and in early August 1993,²⁵⁶¹ Lokve around 13 July 1993²⁵⁶² and Višići on 11 August 1993.²⁵⁶³ Finally, it did not receive any evidence enabling it to rule on the

²⁵⁵⁸ See “Detention Conditions at the Silos” and “Events in August and September 1993 in the Town of Čapljina” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

²⁵⁵⁹ See “Detention Conditions at the Silos” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

²⁵⁶⁰ See “Thefts of Muslim Property in the Village of Domanovići” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

²⁵⁶¹ See “Thefts of Muslim Property in the Village of Počitelj” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

²⁵⁶² See “Thefts of Muslim Property in the Village of Lokve” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

²⁵⁶³ See “Thefts of Muslim Property in the Village of Višići” in the Chamber’s factual findings with regard to the Municipality of Čapljina.

crimes the Prosecution alleges were committed in the village of Opličići.²⁵⁶⁴ The Chamber can therefore not find that in July and August 1993, the HVO was responsible for extensive appropriation of property not justified by military necessity and carried out unlawfully and wantonly in the villages of Domanovići, Počitelj, Lokve, Višići and Opličići, a crime recognised by Article 2 of the Statute.

VII. Municipality of Vareš

1650. The Chamber established that during the arrests of the Muslim men on 23 October 1993 in the town of Vareš by HVO soldiers, including some belonging to the *Maturice* special unit, the soldiers stole property and money belonging to the Muslim inhabitants of the town.²⁵⁶⁵ The Chamber noted that the HVO occupied the town of Vareš after 23 October 1993. As a result, the property belonging to the Muslims also had the status of protected property within the meaning of the Geneva Conventions.²⁵⁶⁶ The Chamber noted in particular that the HVO soldiers stole Salem Ćerenić's wedding ring²⁵⁶⁷ and money, about 5,000 or 6,000 Deutschmarks, from the Muslims they had arrested.²⁵⁶⁸ The Chamber also noted that before 1 November 1993, HVO soldiers plundered Muslim apartments and shops and stole money and gold from *Witness DF*.²⁵⁶⁹ Finally, the Chamber established that on 23 October 1993 as well, during and after the attack on the village of Stupni Do, the members of the *Maturice* and/or *Apostoli* special units systematically stole property from the houses in the villages and confiscated livestock, money, jewellery and other valuables.²⁵⁷⁰ In this connection, the Chamber recalls that it established that the village of Stupni Do was occupied by the HVO after 23 October 1993.²⁵⁷¹ It therefore finds that the property belonging to the Muslims in the village was protected by the Geneva Conventions.

1651. Since these thefts of property were committed both in the town of Vareš and in the village of Stupni Do, where the thefts were systematic, the Chamber finds that the appropriation of the

²⁵⁶⁴ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in or around the Village of Opličići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁶⁵ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵⁶⁶ See the general findings on the existence of a state of occupation in the part of the Judgement concerning the review of the general requirements for the application of Articles 2, 3 and 5 of the Statute.

²⁵⁶⁷ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵⁶⁸ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵⁶⁹ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵⁷⁰ See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁵⁷¹ See the general findings on the existence of a state of occupation in the Chamber's review of the general requirements for the application of Articles 2, 3 and 5 of the Statute.

Muslim property in the town of Vareš and the village of Stupni Do by HVO soldiers, including some belonging to the *Maturice* and/or *Apostoli* units, was extensive.

1652. Moreover, as the Chamber did not receive any evidence enabling it to show that the appropriations were carried out as part of requisitioning for the needs of the forces and the administration of the HVO, it is satisfied that the HVO soldiers, including some belonging to the *Maturice* and/or *Apostoli* units, appropriated property belonging to the Muslim inhabitants of the town of Vareš and the village of Stupni Do unlawfully and wantonly. The Chamber is also satisfied that by stealing this property as part of operations to arrest the Muslim inhabitants of the town of Vareš and to take control of the village of Stupni Do, the members of the HVO intended to appropriate the property in question unlawfully.

1653. The Chamber therefore finds that the appropriation of the Muslim property by HVO soldiers, including some belonging to the *Maturice* and/or *Apostoli* units, during and after the arrests of the Muslims in the town of Vareš between 23 October and 1 November 1993 and during and after the attack on the village of Stupni Do on 23 October 1993 constituted extensive appropriation of property not justified by military necessity and carried out unlawfully and wantonly, a crime recognised by Article 2 of the Statute.

Heading 22: Plunder of Public or Private Property (Count 23)

I. Municipality of Prozor

1654. The Chamber established that on 23 and 24 October 1992, HVO soldiers and members of the Military Police stole property from the houses and shops of the Muslims and Croats in the town of Prozor which they had just taken over and that members of the Military Police also stole at least thirty vehicles.²⁵⁷² However, the Chamber has no information about the nature and quantity of the property stolen from the houses and shops. It is therefore unable to evaluate the impact of these thefts on the victims or on the Muslim population of Prozor. As to the stolen vehicles, the Chamber is satisfied that this property had great monetary value for its owners and was indispensable for their daily lives. The Chamber therefore holds that the appropriation of this property by the HVO had grave consequences for its owners. The Chamber also observed that the HVO itself noted in a report by Țeljko Šiljeg on 25 October 1992 that the HVO military policemen had appropriated the

²⁵⁷² See “Thefts of Property Belonging to Muslims After the Takeover of the Town of Prozor” in the Chamber's factual findings with regard to the Municipality of Prozor.

vehicles unlawfully.²⁵⁷³ The Chamber holds that the military policemen intended to appropriate them unlawfully. In light of the evidence, the Chamber finds that the appropriation of the Muslim property in the town of Prozor on 23 and 24 October 1992 constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1655. The Chamber already established that in August 1993, HVO soldiers and members of the HVO Military Police stole property belonging to Muslims from Prozor and the surrounding villages held in Podgraĉe. The Chamber thus noted that HVO soldiers, who had free access to Podgraĉe, would regularly come around, extorting and robbing the Muslims of their property, particularly their money and their jewellery.²⁵⁷⁴ Insofar as the Muslims were being held by the HVO away from their homes and were thus deprived of all their property, the Chamber is satisfied that the property had great monetary value for them and was indispensable for their daily lives. In view of the value of the property for the people held in the Podgraĉe neighbourhood and the frequency of the thefts, the Chamber holds that its appropriation by the HVO had grave consequences for these people. The Chamber is also satisfied that by stealing the money and jewellery belonging to the Muslims held in the neighbourhood of Podgraĉe, the HVO soldiers intended to appropriate the property in question unlawfully. In light of the evidence, the Chamber therefore finds that the appropriation in August 1993 of the property belonging to Muslims from Prozor and the surrounding villages held in Podgraĉe constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1656. However, although the Chamber was able to establish in general terms that thefts were in fact committed by HVO soldiers and members of the HVO Military Police against Muslims from Prozor and the surrounding villages held in Lapsunj and Duge in August 1993,²⁵⁷⁵ it has no evidence enabling it to determine the value of the property and to know if it was indispensable to its owners or if its appropriation had grave consequences for the Muslims held in Lapsunj and Duge. As a result, it is unable to find beyond all reasonable doubt that in August 1993, the HVO committed the crime of plunder of private property, recognised by Article 3 of the Statute.

II. Municipality of Gornji Vakuf

1657. While the Chamber noted that during their arrest in the villages of Hrasnica, Uzriĉje and Ťdrimci the Muslims were not robbed of their valuables, it did establish that after the attack of 18

²⁵⁷³ See "Thefts of Property Belonging to Muslims After the Takeover of the Town of Prozor" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵⁷⁴ See "Treatment of Muslims Collected in Podgraĉe, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

January 1993 while these three villages were being held by the HVO, property belonging to the Muslims of these villages was stolen by members of the HVO.²⁵⁷⁶ The Chamber noted that the HVO soldiers searched the houses of the Muslims and stole their property, in particular radios and televisions, as well as tractors and cars.²⁵⁷⁷

1658. The Chamber holds that the stolen property had great monetary value for the inhabitants of the villages and, for some of them, with particular regard to the tractors and cars, it was indispensable for their daily lives. In view of the value of the property for the villagers, the Chamber holds that its appropriation by the HVO had grave consequences for the villagers. The Chamber is also satisfied that by stealing the property in question from the Muslim inhabitants during operations to expel them, the HVO soldiers intended to appropriate their property unlawfully.

1659. The Chamber therefore finds that the appropriation of the Muslim property by the HVO soldiers after the attack on the villages of Hrasnica, Uzričje and Țdrimci on 18 January 1993 when the villages were under HVO control constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1660. As to the village of Duša, the Chamber established that, for lack of evidence, it could not find that members of the HVO stole property belonging to the Muslim inhabitants of the village or robbed the villagers of their valuables during their arrest.²⁵⁷⁸ The Chamber can therefore not find that the HVO committed the crime of plunder of private property in the village of Duša, a crime recognised by Article 3 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1661. The Chamber established that HVO soldiers, some of whom were under "Tuta's" command, took property belonging to Muslims in the days that followed the attack of 17 April 1993 on the

²⁵⁷⁵ See "Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks" and "Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁵⁷⁶ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica" and "Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁵⁷⁷ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica" and "Burned Houses, Thefts of Muslim Property in the Village of Țdrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁵⁷⁸ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the

villages of Sovići and Doljani.²⁵⁷⁹ HVO soldiers searched the Muslim houses and stole property, in particular all the cars of the Muslims held at the Sovići School and their livestock.²⁵⁸⁰ In addition, in a decision of 13 May 1993, the Head of the Jablanica HVO Defence Office ordered that all the personal and real property belonging to the Muslims in the two villages who had "emigrated" was to be considered war booty and became property of the HVO of the HZ H-B.²⁵⁸¹

1662. The Chamber is therefore satisfied that HVO soldiers, some of whom were under "Tuta"s" command, intentionally and unlawfully appropriated the property belonging to the Muslim inhabitants of the villages of Sovići and Doljani, including cars and livestock, that this property had great monetary value for the inhabitants of the villages and that it was indispensable for their daily lives. In view of the value of this property for the villagers, the Chamber holds that its appropriation by the HVO had grave consequences for the inhabitants of the villages of Sovići and Doljani. Insofar as the HVO soldiers appropriated the Muslim property as part of operations to expel the Muslims from the villages of Sovići and Doljani, the Chamber is also satisfied that these HVO soldiers intended to appropriate the property in question unlawfully.

1663. The Chamber therefore finds that the HVO appropriation of property belonging to the Muslims of the villages of Sovići and Doljani after the attack on the villages of Sovići and Doljani on 17 April 1993 constituted plunder of private property, a crime recognised by Article 3 of the Statute.

IV. Municipality of Mostar

1664. The Chamber established that in May and June 1993, and then from August 1993 to February 1994, during operations in which the Muslims of West Mostar were expelled from their apartments, the HVO soldiers – and in particular members of the KB, the *Benko Penavić* ATG and the *Vinko Škrobo* ATG – as well as the 1st Light Assault Battalion of the Military Police in September 1993 took all the valuables that the Muslims of West Mostar had on them and also appropriated property in the apartments from which they were expelling the Muslims.²⁵⁸² The

Village of Tđrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

²⁵⁷⁹ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵⁸⁰ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵⁸¹ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁵⁸² See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged

members of the HVO thus robbed the Muslims of West Mostar of their money, jewellery, electronic and household equipment, cars and even appropriated their apartments.²⁵⁸³ Following these eviction operations, the apartments of the Muslims who were expelled from them were reassigned to HVO soldiers, members of the Military Police and sometimes even to Croatian families.²⁵⁸⁴

1665. The Chamber holds that the real and personal property stolen had great value for the Muslims and was sometimes even indispensable for their daily lives. It considers that the appropriation of this property thus had grave consequences for the Muslim inhabitants of West Mostar who were driven from their homes. The Chamber is, moreover, satisfied that by stealing the property in question from the Muslim inhabitants of West Mostar while they were evicting or had already evicted them, the members of the HVO intended to appropriate the property unlawfully.

1666. The Chamber therefore finds that the appropriation by the HVO of the real and personal property of the Muslims of West Mostar in May and June 1993, and then from August 1993 to February 1994 constituted the crime of plunder of private property, a crime recognised by Article 3 of the Statute.

1667. Finally, the Chamber established that on 24 August 1993, the HVO soldiers stole property, in particular jewellery and money, that belonged to the Muslim inhabitants of the village of Raštani while they were expelling them from their village.²⁵⁸⁵ The Chamber holds that the stolen property had great monetary value for the inhabitants of the village and its appropriation by the HVO had grave consequences for them. The Chamber is furthermore satisfied that by systematically searching all the women for their valuables before expelling them, the HVO intended to appropriate this property unlawfully.

1668. The Chamber finds that on 24 August 1993, the HVO unlawfully and wantonly appropriated property of the Muslims of Raštani, thereby committing the crime of plunder of private property, recognised by Article 3 of the Statute.

to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵⁸³ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵⁸⁴ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁵⁸⁵ See “Allegations of Thefts of Property Belonging to Muslims in the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

V. Municipality of Stolac

1669. As the Chamber established, between 2 and 13 July 1993, as part of their operations to expel the Muslims from the municipality, soldiers of the HVO unit stationed in the village of Pješivac Greda stole property belonging to the Muslim inhabitants of that village, in particular their cars, tractors and all the stores of food in the houses of the hamlets of Dulić and Kaplan.²⁵⁸⁶

1670. The Chamber finds that in July 1993, HVO soldiers unlawfully appropriated the property of the Muslim villagers, that this property had great monetary value for them and that it was indispensable for their daily lives. The Chamber holds that the appropriation of this property thus had grave consequences for the inhabitants of the village of Pješivac Greda. The Chamber is also satisfied that by stealing the property in question from the Muslim inhabitants of the village of Pješivac Greda during the operation to expel them from the village, the HVO soldiers intended to appropriate their property unlawfully.

1671. The Chamber therefore finds that the appropriation by HVO soldiers of the property belonging to the Muslims of the village of Pješivac Greda in July 1993 constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1672. The Chamber also established that in July 1993, during their operations to expel the Muslims of the municipality, the HVO soldiers committed thefts in many houses belonging to the Muslim inhabitants of the village of Borojevići.²⁵⁸⁷ However, the Chamber has no evidence about the nature or quantity of the property stolen. Under such conditions, the Chamber is unable to evaluate the extent or the individual and collective consequences of those thefts for the Muslim inhabitants of the village of Borojevići. The Chamber is therefore unable to find that the appropriation by HVO soldiers of property belonging to the Muslims of the village of Borojevići in July 1993 constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1673. The Chamber recalls in addition that it received no evidence concerning thefts allegedly committed during or after the operations in which Muslim civilians were expelled from the villages of Prenj, Rotimlja and Aladinići in July 1993.²⁵⁸⁸ The Chamber also recalls that it was unable to

²⁵⁸⁶ See “Theft of Property Belonging to the Muslims of the Village of Pješivac Greda” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁸⁷ See “Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići” in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁸⁸ See “Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property”, “Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići” and “Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja” in the Chamber's factual findings with regard to the Municipality of Stolac.

note that the HVO committed thefts in Stolac in July 1993.²⁵⁸⁹ The Chamber is therefore unable to find that the HVO committed the crime of plunder of public or private property, recognised by Article 3 of the Statute, in the villages of Aladinići, Rotimlja and Prenj in July 1993 and in the town of Stolac in July 1993.

VI. Municipality of Čapljina

1674. The Chamber previously established that between 13 and 16 July 1993, members of the HVO took property belonging to Muslims in the village of Bivolje Brdo during operations to evict the inhabitants of the village carried out by members of the HVO, including those of the 1st *Knez Domagoj* Brigade and the 3rd Company of the 5th Battalion of the Military Police.²⁵⁹⁰ The Chamber thus noted that around 13 July 1993, three HVO "soldiers" stole objects from a house in the hamlet of Selo; that around 14 July 1993, uniformed "soldiers" stole livestock in the hamlet of Kevčići, and that around 16 July 1993, during the removal of a group of some fifty people expelled from the hamlet of Selo, one of the soldiers snatched a bag from one of the displaced women.²⁵⁹¹

1675. The Chamber is satisfied that the members of the HVO unlawfully appropriated the property belonging to the Muslim inhabitants of the village of Bivolje Brdo, including objects in a house, livestock and a bag and its contents. With regard to the livestock in particular, the Chamber is satisfied that this property, which no doubt had great value for its owners, was indispensable for their daily lives. The Chamber holds that the appropriation of this property by the members of the HVO thus had grave consequences for the inhabitants of the village of Bivolje Brdo. The Chamber is also satisfied that by stealing the property in question from the Muslim inhabitants of the village of Bivolje Brdo during the operation to expel them from the village, the members of the HVO intended to appropriate the property in question unlawfully.

1676. The Chamber therefore finds that the HVO appropriation of property belonging to the Muslims in the village of Bivolje Brdo between 13 and 16 July 1993, after the attack on that village, constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1677. The Chamber also established that on the evening of 23 August 1993, members of the HVO Military Police and the MUP took personal property belonging to the Muslim women, children and elderly people who had been taken in great numbers from the town of Čapljina to the Silos during

²⁵⁸⁹ See "Removal of the Population, Damage to the Mosque and Theft of Property in Stolac" in the Chamber's factual findings with regard to the Municipality of Stolac.

²⁵⁹⁰ See "Thefts of Muslim Property in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

the day of 23 August 1993.²⁵⁹² Indeed, on the evening of 23 August 1993, before leaving the Silos and being removed to Vrda, the women, children and elderly people were ordered under threat – although the Chamber does not know who issued the order – to place their money and jewellery in cardboard boxes set up on each side of the exit from the Silos.²⁵⁹³

1678. The Chamber notes that all the Muslims who had to leave for Vrda were forced under threat to hand over their money and personal possessions. The Chamber therefore finds that on the evening of 23 August 1993, members of the HVO Military Police and the MUP unlawfully appropriated the property, that is, money and jewellery belonging to the Muslim inhabitants of the town of Čapljina, that this property had great monetary value for the Muslims who were arrested and sent to the Silos, and that the appropriation of this property by the HVO had grave consequences for those Muslims. The Chamber is equally satisfied that by stealing the property from the Muslims after arresting them and sending them to the Silos, the members of the HVO intended to appropriate it unlawfully.

1679. The Chamber therefore finds that the HVO appropriation on 23 August 1993 of the property belonging to the Muslims of the town of Čapljina held at the Silos constituted plunder of private property, a crime recognised by Article 3 of the Statute.

1680. The Chamber recalls, however, that it was unable to establish that members of the HVO stole property belonging to Muslims during eviction operations and the removal of the women, children and elderly people from the villages of Domanovići around 13 July 1993,²⁵⁹⁴ Počitelj around 13 July 1993 and in early August 1993,²⁵⁹⁵ Lokve around 13 July 1993²⁵⁹⁶ and Višići on 11 August 1993.²⁵⁹⁷ Finally, it received no evidence that would have enabled it to rule on the Prosecution's allegations of crimes committed in the village of Oplići.²⁵⁹⁸ The Chamber can

²⁵⁹¹ See "Thefts of Muslim Property in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹² See "Alleged Thefts of Property Belonging to the Muslims" and "Events in August and September 1993 in the Town of Čapljina" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹³ See "Alleged Thefts of Property Belonging to the Muslims Incarcerated at the Silos" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹⁴ See "Thefts of Muslim Property in the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹⁵ See "Thefts of Muslim Property in the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹⁶ See "Thefts of Muslim Property in the Village of Lokve" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹⁷ See "Thefts of Muslim Property in the Village of Višići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁵⁹⁸ See "Events that Took Place around 13 July 1993 and between 27 July and 7 August 1993 in or around the Village of Oplići" in the Chamber's factual findings with regard to the Municipality of Čapljina.

therefore not find that the HVO plundered private property in the villages of Domanovići, Počitelj, Lokve, Višići and Oplićići in July and August 1993, a crime recognised by Article 3 of the Statute.

VII. Municipality of Vareš

1681. The Chamber established that during the arrests of the Muslim men in the town of Vareš on 23 October 1993 by HVO soldiers, including some belonging to the *Maturice* special unit, soldiers stole property and money belonging to the Muslim inhabitants of the town.²⁵⁹⁹ The Chamber established in particular that the HVO soldiers stole Salem Ćerenić's wedding ring²⁶⁰⁰ and money, about 5,000 or 6,000 Deutschmarks, from the Muslims they had arrested.²⁶⁰¹ The Chamber also noted that before 1 November 1993, HVO soldiers plundered Muslim apartments and shops and stole money and gold from *Witness DF*.²⁶⁰² Finally, the Chamber established that on 23 October 1993 as well, during and after the attack on the village of Stupni Do, members of the *Maturice* and/or *Apostoli* special units systematically stole property from the houses in the villages and confiscated livestock, money, jewellery and other valuables.²⁶⁰³

1682. The Chamber is satisfied that the stolen property had great monetary value for the inhabitants and that the livestock and the property in the houses were indispensable for their daily lives. In view of the value of the property for the inhabitants of the town of Vareš and the village of Stupni Do, the Chamber holds that its appropriation by the HVO had grave consequences for the villagers. The Chamber is also satisfied that by stealing this property as part of operations to arrest the Muslim inhabitants of the town of Vareš and to take control of the village of Stupni Do, the members of the HVO intended to appropriate the property in question unlawfully.

1683. The Chamber therefore finds that the appropriation of the Muslim property by HVO soldiers, including some belonging to the *Maturice* and/or *Apostoli* units, during and after the arrests of the Muslims in the town of Vareš between 23 October and 1 November 1993, and during the attack on the village of Stupni Do on 23 October 1993, constituted plunder of private property, a crime recognised by Article 3 of the Statute.

²⁵⁹⁹ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁰⁰ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁰¹ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁰² See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁰³ See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

Heading 23: Unlawful Attack on Civilians (Municipality of Mostar) (Count 24)

1684. The Chamber established that between June 1993 and March 1994, East Mostar was subjected to intense HVO shelling and firing.²⁶⁰⁴ The shelling and firing – including sniper fire – had as a direct consequence that many Muslims living in the eastern part of the town of Mostar were killed and wounded, people who, as the Chamber already established, were for the most part civilians.²⁶⁰⁵ The Chamber recalls that it established that the HVO shelling and firing were daily, intense and frequent,²⁶⁰⁶ that the shelling and firing were not limited to specific targets²⁶⁰⁷ although the HVO was able to target and identify its targets by correction fire;²⁶⁰⁸ that although the armed forces of the HVO specifically targeted certain zones and/or buildings, in which there may have been military targets,²⁶⁰⁹ all of East Mostar, a small residential area with a very high population density, was affected by the shelling and firing, and many homes, public buildings and shops where there were no military units or structures were destroyed;²⁶¹⁰ that the HVO forces, who were better equipped than those of the ABiH, used mostly heavy artillery to this end²⁶¹¹ and that tyres filled with explosives were fired on homes in Donja Mahala, as well as napalm bombs dropped from planes.²⁶¹² The Chamber determined that the weapons used prevented precise and exclusive identification of military targets.²⁶¹³ In particular, it noted that East Mostar Hospital, near which the ABiH had set up mobile and temporary mortar positions, was hit frequently by artillery fire and shelling, especially between September 1993 and February 1994.²⁶¹⁴ With regard to the HVO sniper fire, the Chamber determined by a majority, with Judge Antonetti dissenting, that its use of snipers showed that the HVO was clearly targeting the inhabitants of East Mostar while they were going

²⁶⁰⁴ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁰⁵ See “Shelling and Artillery Fire Targeting East Mostar” and “Sniping in Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁰⁶ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁰⁷ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁰⁸ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁰⁹ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹⁰ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹¹ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹² See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹³ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹⁴ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

about their daily business and had no link to combat operations as well as the firemen assisting the population.²⁶¹⁵

1685. In addition, the Chamber established that between June 1993 and March 1994, the HVO's blocking or hindering the regular provision of humanitarian aid and access of international organisations to East Mostar as well as the isolation in which the HVO kept the population crowded in an enclave where it was forced to remain, not only perpetuated but also aggravated and heightened the appalling living conditions of the Muslim inhabitants of East Mostar.²⁶¹⁶ The Chamber also noted by a majority, with Judge Antonetti dissenting, that, in particular between June 1993 and April 1994, the members of the international organisations in Mostar were deliberately targeted by HVO snipers and HVO artillery fire and mortars, and that some of them died or were wounded as a result of this fire.²⁶¹⁷

1686. Based on these determinations, the Chamber finds by a majority, with Judge Antonetti dissenting, that the HVO used means and methods of warfare that prevented it from aiming or directing its attacks exclusively at military targets. It is of the view that the weapons used and, most of all, how they were used – intensity, frequency, lasting over several months – were not suited to the destruction of military targets alone. In particular, the zone in which obviously military targets, such as the headquarters of the ABiH, were located was a small residential area with a high population density into which the HVO had forcibly transferred a large number of Muslims from West Mostar. It was thus a zone in which the military targets were not distinctly separated from the public buildings, including homes. As a result, repeated heavy artillery attacks would have to result in the loss of human life among the civilian population, in civilians being wounded and in damage to property. This damage, which was substantial and which had an undeniable affect on the physical integrity and health of the inhabitants of East Mostar, was excessive in relation to the concrete and direct military advantage anticipated. The Chamber, moreover, holds that the HVO sniper fire and the HVO's blocking or hindering the regular provision of humanitarian aid and access of the international organisations to East Mostar – including the fact that the HVO targeted members of international organisations – considerably aggravated the living conditions of the inhabitants of East Mostar.

²⁶¹⁵ See “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹⁶ See “Access to Food”, “Isolation of the Population of East Mostar” and “Blocking of International Organisations and Humanitarian Aid” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹⁷ See “Targeting Members of International Organisations” in the Chamber's factual findings with regard to the Municipality of Mostar.

1687. The Chamber finds that between June 1993 and March 1994, the HVO intentionally subjected the civilian population of East Mostar to serious deprivation and acts of violence that led to death or caused serious injury to body or health.

1688. The Chamber therefore finds that by shelling and firing at the civilian population of East Mostar, by consolidating the population by means of forcible transfer and keeping it in a small residential area, by blocking or hindering humanitarian aid and access of the humanitarian organisations to East Mostar and by deliberately targeting the members of the international organisations, the HVO intentionally subjected the civilian population of East Mostar to serious deprivations and acts of violence that led to death or caused serious injury to body or health of civilians, thereby committing the crime of an unlawful attack on civilians, a crime recognised by Article 3 of the Statute.

Heading 24: Unlawful Infliction of Terror on Civilians (Municipality of Mostar) (Count 25)

1689. The Chamber established that between June 1993 and March 1994, the HVO subjected the civilian population of East Mostar to intense, daily and frequent shelling and firing which resulted in the death and injury of a large number of Muslim civilians.²⁶¹⁸ The Chamber considers that these attacks were indiscriminate particularly in view of the fact that they were intense and uninterrupted over a period of nine months; of the fact that they were not limited to specific targets, that they were launched with heavy artillery in an area with a high population density and that, as a consequence, the damage caused to property and persons was substantial and excessive in relation to the direct and concrete military advantage anticipated.²⁶¹⁹ It also established that the civilian inhabitants of East Mostar were subjected to a real campaign of HVO sniper fire in which, according to the majority of the Chamber, with Judge Antonetti dissenting, throughout the day the snipers targeted women, children and elderly people who were going about their daily business, including firemen aiding and assisting the population.²⁶²⁰ The Chamber previously determined that the shelling and firing – including sniper fire – terrified the population of East Mostar,²⁶²¹ that the people lived

²⁶¹⁸ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶¹⁹ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar. See also the more detailed analysis on this point in “Municipality of Mostar” in the Chamber's legal findings with regard to Count 24 (unlawful attack on civilians, a violation of the laws or customs of war).

²⁶²⁰ See “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar. See also “The 12 Sniping Incidents Specifically Described in the Confidential Annex to the Indictment” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²¹ See “Shelling and Artillery Fire Targeting East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

under constant shelling and gunfire in deafening noise and under the constant threat of being hit, and thus killed or wounded, by sniper fire which also prevented them from carrying out some activities that were indispensable for their daily lives and thus for their survival.

1690. In addition, the Chamber also established by a majority, with Judge Antonetti dissenting, that between June and December 1993, the HVO deliberately destroyed ten mosques in East Mostar,²⁶²² which had no military value, as well as the Old Bridge of Mostar on 8 November 1993,²⁶²³ whose destruction had a major psychological impact on the morale of the population;²⁶²⁴ that the HVO had to be aware of that impact – as well as of the impact of the destruction of ten institutions dedicated to religion – in particular because of its great symbolic, cultural and historical value.²⁶²⁵

1691. In addition, the Chamber established that by blocking or hindering the regular provision of humanitarian aid or access of the international organisations to East Mostar,²⁶²⁶ including by deliberately attacking the members of the international organisations,²⁶²⁷ and by deliberately keeping the civilian population, which was caught in a vice, in an enclave as small and overcrowded as East Mostar²⁶²⁸ from June 1993 to April 1994, the HVO aggravated and heightened the appalling living conditions to which the Muslim inhabitants of East Mostar were subjected.²⁶²⁹ The Chamber is satisfied that the deliberate isolation of a population in an area as small as East Mostar for several months – and doing so after forcibly transferring a large part of the population there – and thus the exacerbation of their distress and difficult living conditions is part of the same plan and demonstrates the specific intention of the HVO to spread terror among the civilian population of East Mostar.

²⁶²² See “Alleged Destruction of Religious Institutions in East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²³ See “Destruction of the Old Bridge as of the Evening of 8 November 1993” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁴ See “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁵ With regard to the value of the Old Bridge, see “The Old Bridge of Mostar” (introductory part), “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁶ See “Blocking of International Organisations and Humanitarian Aid” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁷ See “Targeting Members of International Organisations” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁸ See “Isolation of the Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶²⁹ See “Access to Food”, “Blocking of International Organisations and Humanitarian Aid” and “Isolation of the Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

1692. In light of these observations, the Chamber finds that the HVO committed acts of violence, the main aim of which was to inflict terror on the population, thereby committing the crime in question, recognised by Article 3 of the Statute.

Heading 25: Cruel Treatment (Mostar Siege) (Count 26)

1693. The Chamber observes that the Prosecution chose to allege the events in East Mostar between June 1993 and April 1994²⁶³⁰ both as "cruel treatment" recognised by Article 3 of the Statute under Count 17 and as "cruel treatment (Mostar siege)" recognised by Article 3 of the Statute under Count 26. The Chamber notes that neither the Statute nor Tribunal case-law provides for the crime of cruel treatment specifically linked to a siege. Therefore, the only factor distinguishing Count 17 from Count 26 would be the existence or not of a siege in Mostar, which does not constitute an element of the crime of cruel treatment but is a factual issue. The Chamber therefore decides not to deal with Count 26 "cruel treatment (Mostar siege)".

Heading 26: Persecutions on Political, Racial and Religious Grounds (Count 1)

I. Municipality of Prozor

1694. The Chamber found that the HVO had committed several murders and wilful killings during its campaign to take over the Municipality of Prozor. For example, the HVO killed two elderly people during its attack on the village of Toščanica on 19 April 1993; three men, one of whom was captured and two elderly people; one ailing and disabled person in the village of Prajine on 19 July 1993; and three Muslims captured with a group of men, women and children, on Mount Tolovac on 19 July 1993. Following these attacks, the HVO committed unlawful destruction in the town of Prozor on 24 October 1992, in the village of Parcani on 17 April 1993 and in the villages of Skrobućani – including the wilful destruction of an institution dedicated to religion – Lug and Podaniš (or Podonis) between May and July 1993, thereby committing the crime of extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly, and the crime of wanton destruction of cities, towns or villages, or devastation not justified by military necessity. The Chamber also established that the HVO unlawfully appropriated property belonging to the Muslims in the town of Prozor on 24 October 1992, thereby committing the crimes of appropriation of property not justified by military necessity and carried out unlawfully and wantonly, and plunder of private property.

²⁶³⁰ See paras 110 to 117 of the Indictment.

1695. The Chamber already found that in the second half of 1993 (between July and December 1993), the HVO imprisoned and unlawfully held several thousand Muslim civilians from the Municipality of Prozor – including women, children, and elderly people – at various detention centres/facilities, namely the Prozor Secondary School in the summer of 1993, the Unis Building in July 1993, the Tech School from 19 August to at least 9 September 1993, the Podgraĉe neighbourhood and the village of Lapsunj from late July to early August 1993 and the village of Duge from July to December 1993. Many of the Muslim detainees were victims of inhumane acts, inhuman treatment and cruel treatment in view of the mistreatment they suffered. The detainees at the Prozor Secondary School were forced to perform unlawful labour during which they were victims of inhumane acts, inhuman treatment and cruel treatment in view of the abuse inflicted on them and of inhuman treatment in view of sexual assaults. Some of them who were sent to the Crni Vrh front line on 31 July 1993 were victims of murder and wilful killing. The Muslims held in the Podgraĉe neighbourhood, in Lapsunj in July and August 1993 and in Duge up to December 1993 were also victims of inhumane acts, inhuman treatment and cruel treatment in view of the conditions of their confinement. Some women and girls were victims of rape and/or sexual assault. Finally, the Muslims held in the Podgraĉe neighbourhood were victims of the crimes of appropriation of property not justified by military necessity and carried out unlawfully and wantonly, and plunder of private property.

1696. In addition, the Chamber already established that on 28 August 1993, the HVO forcibly moved Muslim women, children and elderly people who had till then been held in Podgraĉe and the villages of Lapsunj and Duge to territories held by the ABiH, thereby committing the crime of an inhumane act in view of the forcible transfer and unlawful transfer of civilians, and that these Muslims were victims of inhumane acts, inhuman treatment and cruel treatment in view of the treatment inflicted on them during their removal.

1697. The Chamber is moreover satisfied that by committing the above-mentioned crimes against Muslims in the Municipality of Prozor, the HVO specifically targeted these people because they were Muslims. All the crimes committed against the Muslims of Prozor resulted in de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1698. The Chamber therefore finds that, as part of the operations to take over the Municipality of Prozor in October 1992 and then between April and December 1993, the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Prozor and denying them their basic rights to life, freedom and human dignity, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

II. Municipality of Gornji Vakuf

1699. The Chamber found that, during the HVO attack on the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Țdrimci on 18 January 1993, Muslim civilians in the village of Duša who were not taking part in combat activities were victims of murder and wilful killings by members of the HVO; and that the extensive destruction of houses belonging to the Muslim inhabitants of the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Țdrimci not justified by military necessity was carried out unlawfully and wantonly.

1700. The Chamber also found that, after the attack of 18 January 1993, the Muslim inhabitants of the villages of Duša, Hrasnica, Uzričje and Țdrimci were victims of inhumane acts due to forcible transfers; the unlawful transfer of civilians; imprisonment; unlawful confinement of civilians; inhumane acts, inhuman treatment and cruel treatment due to the conditions of confinement at the Trnovača Furniture Factory; inhumane acts, inhuman treatment and cruel treatment. In addition, the Chamber found that the HVO destroyed and appropriated property belonging to Muslims, not justified by military necessity and carried out unlawfully and wantonly, and plundered private property belonging to Muslims, while leaving the Croatian property untouched.

1701. The Chamber is satisfied that by committing the above-mentioned crimes against the inhabitants of the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Țdrimci, the HVO specifically targeted these people because they were Muslims. All the crimes committed against the Muslims of the Municipality of Gornji Vakuf introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1702. The Chamber finds that as part of its operations to take over the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Țdrimci between 18 January and late February-early March 1993, when the HVO carried out the last unlawful transfer of civilians, the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Gornji Vakuf and denying them their basic rights to life, freedom and human dignity, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

III. Municipality of Jablanica (Sovići and Doljani)

1703. The Chamber established that after the HVO attacks on the villages of Sovići and Doljani on 17 April 1993, Muslim men – including members of the ABiH – women, children and elderly

people were held at the Sovići School between 17 April and 5 May 1993, in the hamlet of Junuzovići between 19 April and 4 or 5 May 1993, and at the Fish Farm on 20 April 1993;²⁶³¹ that some Muslim detainees were mistreated during their detention and/or were forced to perform unlawful labour;²⁶³² that the conditions of confinement at the Sovići School were very harsh,²⁶³³ and that four detainees at the school were killed during their detention on 20 or 21 April 1993.²⁶³⁴ In addition, on 5 May 1993, women, children and elderly people held at the Sovići School and in the hamlet of Junuzovići were removed to Gornji Vakuf.²⁶³⁵

1704. The Chamber also established that between 18 and 24 April 1993, the Muslim houses in the villages of Sovići and Doljani were set on fire, but no Croatian houses were touched,²⁶³⁶ and that the HVO destroyed the two mosques in Sovići and Doljani respectively in the days following the attack of 17 April 1993.²⁶³⁷ Finally, the Chamber noted that the HVO stole the property of the Muslim inhabitants of these two villages in the days following the attack of 17 April 1993.²⁶³⁸

1705. In light of the evidence, the Chamber found that the Muslims of the villages of Sovići and Doljani were victims of: murder; wilful killing; inhumane acts due to forcible transfer; unlawful transfer of a civilian; imprisonment; unlawful confinement of a civilian; inhumane acts, inhuman treatment and cruel treatment, all three due to the conditions of confinement; inhumane acts; inhuman treatment; cruel treatment; unlawful labour; extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly; wanton destruction of cities, towns or villages, or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to religion; extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; and plunder of private property. The Chamber is

²⁶³¹ See “The Chamber’s Findings about Alleged Criminal Events at Sovići School”, “Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići” and “Detention of Muslim Men at the Fish Farm Near Doljani and Death of Some of Them” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³² See “The Chamber’s Findings about Alleged Criminal Events at Sovići School”, “Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići” and “Treatment of Detainees at the Fish Farm” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³³ See “The Chamber’s Findings about Alleged Criminal Events at Sovići School” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³⁴ See “Death of Muslim Men Detained at Sovići School” and “The Chamber’s Findings about Alleged Criminal Events at Sovići School” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³⁵ See “Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³⁶ See “Burning and Destruction of Muslim Houses in Sovići and Doljani Between 18 and 24 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³⁷ See “Destruction of Two Buildings Dedicated to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani Between 18 and 22 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

also satisfied that, in committing these crimes, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims of the villages of Sovići and Doljani introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1706. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the villages of Sovići and Doljani and violating their basic rights to life, freedom and human dignity as well as to their property between 17 April and 5 May 1993, and that these crimes constitute the crime of persecution, recognised by Article 5 of the Statute.

IV. Municipality of Mostar

1707. The Chamber established that between May 1992 and May 1993, the Mostar municipal HVO, assisted by the HVO of the HZ-HB, took control of the Municipality of Mostar and implemented policies that aimed at introducing a distinction between the Croats and Muslims and disadvantaging the Muslims in the municipality.²⁶³⁹ The Chamber thus noted that the Muslims lost their place in the political organs of the municipality;²⁶⁴⁰ that Croatian flags were raised on public buildings; that the Croatian dinar was introduced in the municipality;²⁶⁴¹ that the municipal HVO gradually made the work of firemen in East Mostar much more difficult than in West Mostar until they were done away with entirely on 3 May 1993;²⁶⁴² that the Mostar municipal HVO, supported by the HVO of the HZ H-B, favoured the Croatian language and Croatian symbols in the education system although the Chamber was unable to establish that Croatian professors and teachers in schools were given priority during recruitment;²⁶⁴³ that the municipal HVO started implementing a legal provision concerning the taking in of "refugees and displaced persons and access to humanitarian aid", in particular in its decision of 15 April 1993, as amended on 29 April 1993,

²⁶³⁸ See "Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

²⁶³⁹ See "Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴⁰ See "Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴¹ See "Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴² See "Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴³ See "Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

which, although it was not specifically aimed at Muslims, greatly disadvantaged them in respect of housing and access to humanitarian aid, and, as a consequence, forced them to leave Mostar.²⁶⁴⁴

1708. The Chamber is satisfied that by those actions the HVO targeted the Muslims specifically. Nonetheless, the Chamber recalls that in the part referring to the general requirements for the applicability of Articles 2, 3 and 5 of the Statute, it found that it had no authority to rule on crimes against humanity and thus crimes of persecutions which may have been committed before October 1992 in the municipalities covered by the Indictment.²⁶⁴⁵ As a consequence, the Chamber will consider only the above-mentioned acts committed in the Municipality of Mostar from October 1992 onwards. In this connection, the Chamber notes that all these acts introduced de facto discrimination and violated the basic rights of the Muslims to human dignity, freedom and property, and that these acts were committed deliberately with the intention of discriminating against the Muslims. The Chamber finds that all these acts reached the same level of severity as the crimes set out in Article 5 of the Statute. The Chamber therefore finds that the HVO committed all these acts with the intention of discriminating against the Muslims of the Municipality of Mostar and violating their basic rights to life, human dignity, freedom and property between October 1992 and May 1993, and that these acts constitute the crime of persecution recognised by Article 5 of the Statute.

1709. The Chamber is satisfied that by these actions, the HVO targeted the Muslims specifically. Nonetheless, the Chamber recalls that in the part referring to the general requirements for the applicability of Articles 2, 3 and 5 of the Statute, it found that it had no authority to rule on crimes against humanity and thus crimes of persecutions which may have been committed between May and October 1992 in the municipalities covered by the Indictment.²⁶⁴⁶ As a consequence, the Chamber will consider only the above-mentioned acts committed in the Municipality of Mostar from October 1992 onwards.

1710. The Chamber also found that the HVO intentionally caused the deaths of Muslim civilians living in East Mostar between June 1993 and March 1994,²⁶⁴⁷ of Muslims held at the Mechanical

²⁶⁴⁴ See “Taking Over Political Control and the „Croatisation“ of the Municipality by the HVO” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴⁵ See “Nexus Between the Attack and the Armed Conflict” in the Chamber's examination of the general requirements for the application of Articles 2, 3 and 5.

²⁶⁴⁶ See “Other General Requirements for the Application of Article 5 of the Statute: Widespread or Systematic Attack Directed Against a Civilian Population” in the Chamber's examination of the general requirements for the application of Articles 2, 3 and 5.

²⁶⁴⁷ See “Sniping Incident No. 3”, “Sniping Incident No. 13”, “Sniping Incident No. 14” and “Campaign of Sniping Affecting the Entire Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

Engineering Faculty on 10 and 11 May 1993 and between 8 and 11 July 1993²⁶⁴⁸ and of Muslims arrested on 14 July 1993 in Buna²⁶⁴⁹ and on 24 August 1993 in Raštani.²⁶⁵⁰ In addition, the Chamber found that the Muslims arrested and/or held at the Tobacco Institute in May 1993,²⁶⁵¹ at the Mechanical Engineering Faculty in May and July 1993,²⁶⁵² at Buna on 14 July 1993²⁶⁵³ and at Raštani on 24 August 1993²⁶⁵⁴ were victims of inhumane acts, inhuman treatment and cruel treatment. It also found that in July and September 1993, the HVO expelled the civilian population of the Municipality of Mostar from BiH territory;²⁶⁵⁵ that between May 1993 and February 1994, the HVO forcibly removed the civilian population of the Municipality of Mostar, in particular of West Mostar and Raštani, to transfer them forcibly to East Mostar or other territories held by the ABiH;²⁶⁵⁶ that during these eviction operations, the Muslims were victims of rapes,²⁶⁵⁷ inhumane acts, inhuman treatment – including sexual assaults – and cruel treatment²⁶⁵⁸ and that they were robbed of their real and personal property;²⁶⁵⁹ that some of the Muslim civilians driven out of their

²⁶⁴⁸ See “The Fate of the 12 ABiH Soldiers” and “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁴⁹ See “Crimes Allegedly Committed in Buna around 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵⁰ See “Deaths of Four Muslim Men During the Attack on the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵¹ See “Tobacco Institute” in “Crimes Allegedly Committed at the HVO Detention Centres in Mostar in May 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵² See “Tobacco Institute” and “Fate of the 12 ABiH Soldiers” in “Crimes Allegedly Committed at the HVO Detention Centres in Mostar in May 1993” and “Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵³ See “Crimes Allegedly Committed in Buna around 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵⁴ See “Treatment of Muslim Women and Children During the Attack on the Village of Raštani” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵⁵ See “Release of Muslim Detainees from the Helilodrom in Mid-July 1993 in Exchange for Their Leaving BiH with Their Families” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵⁶ See “Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993”, “Removal of 300 Muslims to East Mostar at the End of May 1993”, “Crimes Allegedly Committed in June 1993”, “Removal around 30 June 1993 of Muslim Families Living in West Mostar”, “Eviction and Transfer of Muslims to East Mostar or Other Countries from Mid-July to August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁵⁷ See “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar. See also “Municipality of Mostar” in the Chamber's legal findings with regard to Count 4 (rape, a crime against humanity).

²⁶⁵⁸ See “Violence and Thefts against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar. See also “Municipality of Mostar” in the Chamber's legal findings with regard to Count 5 (inhuman treatment (sexual assault), a grave breach of the Geneva Conventions), Count 15 (inhumane acts, a crime against humanity), Count 16 (inhuman treatment, a grave breach of the Geneva Conventions) and Count 17 (cruel treatment, a violation of the laws or customs of war).

²⁶⁵⁹ See “Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993”, “Crimes Allegedly Committed in June 1993”, “Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993” and “Crimes Alleged to Have Been Committed from September 1993 to April 1994” in the Chamber's factual findings with regard to the Municipality of Mostar.

homes were also held in various HVO detention centres between 9 and 11 May 1993,²⁶⁶⁰ in the second half of May 1993²⁶⁶¹ and after the attack of 30 June 1993.²⁶⁶²

1711. The Chamber also found that the Muslim civilians confined in the eastern part of the town of Mostar, many of whom found themselves there as a result of forcible transfer from West Mostar, were victims of inhumane acts, inhuman treatment and cruel treatment, in particular due to the HVO shelling and gunfire – including sniper fire – on East Mostar that caused death and injury in the population.²⁶⁶³ They also lived under extremely harsh conditions made even worse by the isolation in which the HVO kept them and by the HVO's blocking or hindering of the provision of humanitarian aid.²⁶⁶⁴ The Chamber also found that the HVO wilfully destroyed ten mosques²⁶⁶⁵ and the Old Bridge of Mostar²⁶⁶⁶ which had undeniable cultural, historical and symbolic value for the Muslims.²⁶⁶⁷ Finally, the Chamber found that the HVO unlawfully attacked the civilians of East Mostar and committed acts of violence against them with a view to spreading terror among them.

1712. The Chamber is satisfied that by committing the above-mentioned crimes against the Muslims of the Municipality of Mostar, the HVO specifically targeted these people because they were Muslims. All the crimes committed against the Muslims of the Municipality of Mostar introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

²⁶⁶⁰ See “Fall of the Vranica Building on 10 May 1993”, “Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993”, “Tobacco Institute”, “Fate of the 12 ABiH Soldiers” and “MUP Building” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶¹ See “Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶² See “Arrests and Detention of Muslim Men Following the Attack on 30 June 1993” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶³ See “Shelling and Artillery Fire Targeting East Mostar” and “Campaign of Sniping Affecting the Entire Population of East Mostar”. See also the part devoted to the 12 incidents highlighted by the Prosecution involving HVO snipers, among which were nine incidents that resulted in inhabitants of East Mostar being wounded: “Sniping Incident No. 1”, “Sniping Incident No. 2”, “Sniping Incident No. 4”, “Sniping Incident No. 6”, “Sniping Incident No. 7”, “Sniping Incident No. 8”, “Sniping Incident No. 9” and “Sniping Incident No. 10” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶⁴ See “Access to Food”, “Blocking of International Organisations and Humanitarian Aid” and “Isolation of the Population of East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶⁵ See “Alleged Destruction of Religious Institutions in East Mostar” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶⁶ See “Attack on the Old Bridge by an HVO Tank on 8 November 1993”, “Destruction of the Old Bridge as of the Evening of 8 November 1993”, “Collapse of the Old Bridge on 9 November 1993”, “Proceedings Brought Against the Tank Crew by the HVO” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁶⁶⁷ See “The Old Bridge of Mostar” (introductory part), “Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva” and “General Findings of the Chamber on the Destruction of the Old Bridge” in the Chamber's factual findings with regard to the Municipality of Mostar.

1713. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Mostar and violating their basic rights to life, human dignity, freedom and property between May 1993 and April 1994, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

V. The Heliodrom

1714. The Chamber established that the detainees at the Heliodrom were, with a very few exceptions, all Muslims.²⁶⁶⁸ It also noted that they were arrested and held in waves, massively and indiscriminately, simply because they were Muslims.²⁶⁶⁹ As the Chamber has just found, these Muslim detainees were victims of murder; wilful killing; deportation; unlawful deportation of civilians; inhumane acts due to forcible transfer; unlawful transfer of civilians; imprisonment; unlawful confinement of civilians; inhumane acts, inhuman treatment and cruel treatment - all three due to the conditions of confinement; inhumane acts; inhuman treatment; cruel treatment and unlawful labour.

1715. In light of the evidence, the Chamber is also satisfied that, in the commission of these various crimes, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims held at the Heliodrom introduced de facto discrimination of these detainees; by committing these crimes, the HVO violated the Muslim detainees' basic rights to life, freedom and dignity.

1716. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims held at the Heliodrom and violating their basic rights to life, human dignity and freedom between 9 May 1993 and 18 or 19 April 1994, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

VI. Vojno Detention Centre

1717. The Chamber established that members of the ABiH, thus Muslim men who were prisoners of war, and civilians of unknown origin were held at the Vojno Detention Centre.²⁶⁷⁰ Nevertheless, the Chamber notes that the Muslim men were mistreated during their detention and while they were

²⁶⁶⁸ See "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" and "Arrival of Detainees Following Waves of Arrests in the Second Half of May 1993" in the Chamber's factual findings with regard to the Heliodrom.

²⁶⁶⁹ See "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993", "Arrival of Detainees Following Waves of Arrests in the Second Half of May 1993" and "Arrival of Detainees Following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom.

performing labour on the front lines; that some of them died as a result and that the conditions of confinement at the Vojno Detention Centre were very harsh.

1718. The Chamber also found previously that the Muslim detainees at the Vojno Detention Centre and the detainees from the Heliodrom sent to Vojno were victims of murder, wilful killing, inhumane acts, inhuman treatment, cruel treatment and unlawful labour. The Chamber is also satisfied that, in the commission of these various crimes, the HVO specifically targeted the Muslims. All the crimes committed against the Muslims held at the Vojno Detention Centre introduced de facto discrimination of these Muslims; by committing these crimes, the HVO violated the Muslim detainees' basic rights to life, freedom and dignity.

1719. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims held at the Vojno Detention Centre and violating their basic rights to life, human dignity and freedom, and that these crimes constitute the crime of persecution, recognised by Article 5 of the Statute.

VII. Municipality and Detention Centres of Ljubuški

1720. With regard to the Municipality of Ljubuški, the Chamber notes that it established that between May and July 1993, the HVO proceeded to disarm and compile a register of all the Muslim men between 18 and 60 years of age and that in July, the HVO restricted the movements of men of military age and of "refugees" in the Municipality of Ljubuški.²⁶⁷¹ The Chamber notes that the Prosecution alleged these acts specifically and only as crimes of persecution. The Chamber nonetheless considers that they do not constitute a crime of the same severity as those set out in Article 5 of the Statute. The Chamber can therefore not find that the disarmament and register of the Muslim men and the restriction on their freedom of movement in general constitute acts of persecution within the meaning of Article 5 of the Statute.

1721. The Chamber nevertheless noted that the HVO took the decision to arrest all the Muslim men in the Municipality of Ljubuški on 14 and 15 August 1993 and arranged for their expulsion with all their family members.²⁶⁷² The Chamber also observed that in mid-August and in October 1993 respectively, Croats and members of the Military Police set up in property belonging solely to

²⁶⁷⁰ See "Status of Detainees at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²⁶⁷¹ See "Disarming, Identification and Restrictions on Liberties of Muslims in the Municipality of Ljubuški" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

²⁶⁷² See "Arrests of Muslims in Ljubuški Municipality in August 1993" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

the expelled Muslims²⁶⁷³ which, in the Chamber's view, constitutes a level of severity equivalent to that of the crimes set out in Article 5 of the Statute. The Chamber is also satisfied that, in the commission of these various acts, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims of the Municipality of Ljubuški introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1722. The Chamber finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Ljubuški and violating their basic rights to life, human dignity and freedom, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

1723. With regard to Ljubuški Prison and the Vitina-Otok Camp, the Chamber found previously that the HVO unlawfully held Muslims, arrested in waves, massively and indiscriminately, simply because they were Muslims.²⁶⁷⁴ The conditions under which the Muslims were held at these two detention centres were equivalent to inhumane acts, inhuman treatment and cruel treatment. The HVO mistreated the Muslim detainees and used them unlawfully to perform labour. The Chamber is also satisfied that, in the commission of these various crimes, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslim detainees introduced de facto discrimination of these individuals; by committing these crimes, the HVO violated the Muslim detainees' basic rights to life, freedom and dignity.

1724. The Chamber therefore finds that the HVO committed these crimes with the intention of discriminating against the Muslims held in the Municipality of Ljubuški and violating their basic rights to life, human dignity and freedom, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

VIII. Municipality of Stolac

1725. The Chamber established that beginning on 20 April 1993, the HVO arrested prominent Muslims in the Municipality of Stolac and, in early July 1993, arrested all the Muslim men in that municipality, massively and indiscriminately, simply because they were Muslims; that in July and August 1993, the HVO evicted hundreds of Muslim women, children and elderly people from their homes in various villages and towns of the Municipality of Stolac; that between April and

²⁶⁷³ See "Vacant Muslim Apartments in the Municipality Made Available in October 1993" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

November 1993, a large number of these Muslims who had been arrested and evicted were held in various detention centres under harsh conditions; that the Muslims who were evicted and/or held were victims of murder, wilful killing, inhumane acts due to forcible transfer, unlawful transfer of civilians; inhumane acts, inhuman treatment and cruel treatment due to the conditions of confinement in some of the detention sites and inhumane acts, inhuman treatment and cruel treatment; that during these operations to arrest and evict Muslim civilians, the HVO also robbed some of them of their possessions, destroyed their homes and property, and destroyed the *Sultan Selim* Mosque in the town of Stolac in mid-July 1993.²⁶⁷⁵ The Chamber is moreover satisfied that by committing the above-mentioned crimes against the Muslims of the Municipality of Stolac, the HVO specifically targeted these people because they were Muslims. All the crimes committed against the Muslims of the Municipality of Stolac introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1726. The Chamber finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Stolac and violating their basic rights to life, freedom, human dignity and property between April and November 1993, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

IX. Municipality of Čapljina

1727. The Chamber recalls that the HVO massively and indiscriminately arrested Muslim men in the Municipality of Čapljina simply because they were Muslims; that these men were then held unlawfully in April 1993²⁶⁷⁶ and between 30 June 1993 and mid-July 1993 at Dretelj and Gabela prisons and at the Heliodrom;²⁶⁷⁷ that between August and October 1993, the HVO systematically evicted Muslim women, children and elderly people in the Municipality of Čapljina by driving them out of their homes and holding them unlawfully for several days and sometimes for several weeks under very harsh conditions at various sites in the municipality before forcibly removing them to ABiH-held territories; it recalls by a majority, with Judge Antonetti dissenting, that during these operations, the HVO killed two young women in the village of Domanovići on 13 July

²⁶⁷⁴ The Chamber recalls that for very short periods of time the HVO held at Ljubuški Prison Croats who were the subjects of disciplinary proceedings and detained only Muslims at the Vitina-Otok Camp.

²⁶⁷⁵ See all the Chamber's factual findings with regard to the Municipality of Stolac.

²⁶⁷⁶ See "Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁶⁷⁷ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

1993²⁶⁷⁸ and an 83-year-old man in the village of Bivolje Brdo on 14 July 1993;²⁶⁷⁹ that on about 16 July 1993, the HVO was also responsible for the death in the village of Bivolje Brdo of 12 Muslim men, at least half of whom were over the age of 60;²⁶⁸⁰ that during these eviction operations, the HVO robbed some of the Muslim civilians of the municipality of their possessions, burned down Muslim homes in the village of Bivolje Brdo²⁶⁸¹ and destroyed two mosques.²⁶⁸²

1728. The Chamber found that the Muslims of the Municipality of Čapljina were victims of: murder; wilful killing; deportation; unlawful deportation of civilians; inhumane acts due to forcible transfer; unlawful transfer of civilians; imprisonment; unlawful confinement of civilians; inhumane acts, inhuman treatment and cruel treatment, all three due to the conditions of confinement; inhumane acts; inhuman treatment; cruel treatment; extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly; wanton destruction of cities, towns or villages, or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to religion; extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; and plunder of private property. The Chamber is satisfied that, in the commission of these various crimes, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims of the Municipality of Čapljina introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1729. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the Municipality of Čapljina and violating their basic rights to life, human dignity, freedom and property between April and October 1993, and that these crimes constitute the crime of persecution, recognised by Article 5 of the Statute.

X. Dretelj Prison

1730. The Chamber established that, with very few exceptions, the men held at Dretelj Prison were Muslims. It also noted that they were arrested and held in waves, massively and

²⁶⁷⁸ See “Death of Two Young Women” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁶⁷⁹ See “Death of an 83-Year-Old Person in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁶⁸⁰ See “Disappearance of 12 Muslims from Bivolje Brdo on 16 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁶⁸¹ See “Destruction of Muslim Houses in the Village of Bivolje Brdo” in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁶⁸² See “Destruction of the Mosque in Višići on or about 14 July 1993” in the Chamber's factual findings with regard to the Municipality of Čapljina.

indiscriminately, simply because they were Muslims.²⁶⁸³ As the Chamber previously set out, these Muslim men held at Dretelj Prison were victims of murders, wilful killings, deportation, unlawful deportation of civilians, imprisonment, unlawful confinement of a civilian, inhumane acts, inhuman treatment and cruel treatment. The Chamber is also satisfied that, in the commission of these various crimes, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims held at Dretelj Prison introduced de facto discrimination of these Muslims; by committing these crimes, the HVO violated the Muslim detainees' basic rights to life, freedom and dignity.

1731. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims held at Dretelj Prison and violating their basic rights to life, human dignity and freedom, and that these crimes constitute the crime of persecution, recognised by Article 5 of the Statute.

XI. Gabela Prison

1732. The Chamber established that the men held at Gabela Prison were all Muslims, with the exception of some Croatian HVO soldiers who had committed disciplinary offences and who were kept in separate locations from the Muslims.²⁶⁸⁴ It recalls that it found that the Muslims were arrested and held massively and indiscriminately simply because they were Muslims.²⁶⁸⁵ The Chamber also found that the Muslims held at Gabela Prison were victims of murders wilful killings; deportation; unlawful deportation of civilians; forcible transfer; unlawful transfer of civilians; imprisonment; unlawful confinement of civilians; inhumane acts; inhuman treatment and cruel treatment. The Chamber is satisfied that by committing the above-mentioned crimes against the men held at Gabela Prison, the HVO specifically targeted these men because they were Muslims. All the crimes committed against the Muslims held at Gabela Prison introduced de facto discrimination of these Muslims; by committing these crimes, the HVO violated the Muslim detainees' basic rights to life, freedom and dignity.

²⁶⁸³ See “Arrivals of Detainees at Dretelj Prison” and “Status of Detainees at Dretelj Prison” in the Chamber's factual findings with regard to Dretelj Prison. Concerning the fact that almost all the detainees were Muslims, see “Status of Detainees at Dretelj Prison” in the Chamber's factual findings with regard to Dretelj Prison.

²⁶⁸⁴ See “Number and Status of Detainees at Gabela Prison” in the Chamber's factual findings with regard to Gabela Prison.

²⁶⁸⁵ See “Arrival of Detainees at Gabela Prison” and “Number and Status of Detainees at Gabela Prison” in the Chamber's factual findings with regard to Gabela Prison. Concerning the fact that almost all the detainees were Muslims, see “Number and Status of Detainees at Gabela Prison” in the Chamber's factual findings with regard to Gabela Prison.

1733. The Chamber finds that the HVO committed all these crimes with the intention of discriminating against the Muslims held at Gabela Prison and denying them their basic rights to life, freedom and human dignity, and that these crimes constitute the crime of persecution recognised by Article 5 of the Statute.

XII. Municipality of Vareš

1734. The Chamber found that during and after the attack on the village of Stupni Do by members of the *Maturice* and/or *Apostoli* special units, 28 Muslims were victims of murder and wilful killing. It also noted that four Muslim women from Vareš and Stupni Do were victims of rapes and/or sexual assaults constituting inhuman treatment. The Chamber also found that the Muslim inhabitants of Stupni Do were victims of inhumane acts, inhuman treatment and cruel treatment as a result of the events during and after the attack on the village.

1735. The Chamber found that the Muslims who were arrested in Vareš beginning on the morning of 23 October 1993 were victims of inhumane acts, inhuman treatment and cruel treatment as a result of the treatment inflicted on them during their arrest.

1736. The Chamber also found that at the Military Police prison in Vareš, the Vareš High School, the Vareš Elementary School and Vareš-Majdan Prison, the HVO held Muslims who were victims of imprisonment and the unlawful confinement of civilians. The Chamber further found that the Muslim men held at the Vareš High School, the Vareš Elementary School and Vareš-Majdan Prison were victims of inhumane acts, inhuman treatment and cruel treatment as a result of the conditions under which they were confined. It considered that the Muslims held at these three sites and at the Military Police prison in Vareš were also victims of inhumane acts, inhuman treatment and cruel treatment as a result of the mistreatment inflicted on them during their detention.

1737. Furthermore, the Chamber found that the destruction on 23 October 1993 of all the houses and adjacent buildings belonging to the Muslim inhabitants of the village of Stupni Do by members of the *Maturice* and/or *Apostoli* special units constituted extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, and wanton destruction of a village not justified by military necessity.

1738. In addition, the Chamber found that the appropriation of the Muslim property in the town of Vareš and the village of Stupni Do by HVO soldiers, some of whom belonged to the *Maturice* and/or *Apostoli* special units, constituted extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly and plunder of private property.

1739. Finally, the Chamber recalls that there was no evidence enabling a finding that investigations into the events that took place, in particular in Stupni Do, were actually carried out.²⁶⁸⁶ Furthermore, the Chamber noted that Ivica Rajić continued to exercise his functions under the pseudonym of Viktor Andrić and was never investigated or punished by the HVO for his responsibility concerning the events in Stupni Do.²⁶⁸⁷ In this same fashion, the Chamber noted that HVO forces prevented UNPROFOR from entering the village of Stupni Do between 23 and 25 October 1993.²⁶⁸⁸

1740. The Chamber is satisfied that by committing and then concealing the above-mentioned crimes against the inhabitants of the town of Vareš and the village of Stupni Do, the HVO specifically and exclusively targeted the Muslims. All the crimes committed against the Muslims of the town of Vareš and the village of Stupni Do introduced de facto discrimination of that population; by committing these crimes, the HVO violated the Muslim population's basic rights to life, freedom and dignity.

1741. The Chamber therefore finds that the HVO committed all these crimes with the intention of discriminating against the Muslims of the town of Vareš and the village of Stupni Do and violating their basic rights to life, human dignity, freedom and property, and that these crimes constitute the crime of persecution, recognised by Article 5 of the Statute.

²⁶⁸⁶ See “Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁸⁷ See “Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić” in the Chamber's factual findings with regard to the Municipality of Vareš.

²⁶⁸⁸ See “Restrictions Imposed on Access by UNPROFOR to Stupni Do” in the Chamber's factual findings with regard to the Municipality of Vareš.