

**UNITED
NATIONS**



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

Case No.: IT-95-5/18-T
Date: 24 March 2016
Original: English

IN THE TRIAL CHAMBER

Before: Judge O-Gon Kwon, Presiding Judge
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Judgement of: 24 March 2016

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**PUBLIC REDACTED VERSION OF JUDGEMENT ISSUED ON
24 MARCH 2016**

VOLUME II OF IV

Office of the Prosecutor

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The Accused

Mr. Radovan Karadžić

O.K.

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b. Autonomous Region of Krajina (“ARK”)

i. *Municipal level*

(A) Banja Luka

(1) Charges

1366. In relation to Banja Luka municipality, the Prosecution has limited the allegations in the Indictment to crimes associated with the Manjača camp (“Manjača”).⁴⁷⁰⁷

1367. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Banja Luka as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁴⁷⁰⁸ Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Banja Luka include killings related to Manjača, as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at that facility.⁴⁷⁰⁹ The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁴⁷¹⁰

1368. Other acts of persecution alleged to have been committed in Banja Luka by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse in Manjača as cruel or inhumane treatment,⁴⁷¹¹ (ii) the establishment and perpetuation of inhumane living conditions in Manjača, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁴⁷¹² (iii) unlawful detention in Manjača;⁴⁷¹³ as well as iv) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields.⁴⁷¹⁴

⁴⁷⁰⁷ Indictment, fn. 1; Prosecution Rule 73 *bis* Submission, fn. 14; Pre-Trial Conference, T. 467 (6 October 2009); Rule 73 *bis* Decision, para. 6; Decision on Fourth Adjudicated Facts Motion, para. 28.

⁴⁷⁰⁸ Indictment, paras. 48–49.

⁴⁷⁰⁹ Indictment, para. 60(a)(ii). *See* Scheduled Incidents B.1.1, B.1.2, B.1.3, B.1.4; Scheduled Detention Facility C.1.2.

⁴⁷¹⁰ Indictment, para. 63(b).

⁴⁷¹¹ Indictment, para. 60(b). *See* Scheduled Detention Facility C.1.2.

⁴⁷¹² Indictment, para. 60(d). *See* Scheduled Detention Facility C.1.2.

⁴⁷¹³ Indictment, para. 60(g). *See* Scheduled Detention Facility C.1.2.

⁴⁷¹⁴ Indictment, para. 60(h). *See* Scheduled Detention Facility C.1.2. The Chamber notes that the Prosecution does not allege criminal responsibility for rape and other acts of sexual violence; forcible transfer or deportation; or appropriation or plunder of property in Banja Luka. Indictment, fn. 5, 6, 8.

(2) Lead-up

1369. Banja Luka is the largest municipality in BiH and is located to the east of Prijedor and Sanski Most and to the south of Bosanska Gradiška.⁴⁷¹⁵ According to the 1991 census, Banja Luka municipality had 195,139 inhabitants, of whom about 55% were Bosnian Serbs, 15% were Bosnian Muslims, and 15% were Bosnian Croats.⁴⁷¹⁶

1370. In the multi-party elections of November 1990, the SDS won 64 seats of the 130 seats in the Municipal Assembly while the SDA secured 13 seats only.⁴⁷¹⁷ Predrag Radić, a member of the SDS Main Board, was appointed as the President of Banja Luka Municipal Assembly.⁴⁷¹⁸ Rajko Kasagić was appointed as President of the Executive Board.⁴⁷¹⁹ In 1991, Župljanin was appointed the Chief of Banja Luka CSB.⁴⁷²⁰

1371. On 22 January 1992, the Banja Luka SDS established a Crisis Staff.⁴⁷²¹

1372. The Banja Luka Crisis Staff was established in May 1992 and Radić was appointed as the President of the Crisis Staff.⁴⁷²² By 15 May 1992, the Serbian Defence Forces (“SOS”) and at least three other Serb armed formations led by Nikodin Čavić, Vlado Jotanović, and Brane Palačković respectively operated in Banja Luka.⁴⁷²³

⁴⁷¹⁵ P6135 (Map of BiH); D287 (SDA decision on proclamation of municipality Banja Luka–Stari Grad, September 1991).

⁴⁷¹⁶ D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), pp. 1–2; P5449 (Report of the MUP, Banja Luka RDB, February 1995), p. 2; P783 (Ethnic map of BiH). *But see* P4994 (Addendum to Ewa Tabeau’s expert report entitled “Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997”, 3 February 2009), pp. 21, 23–24, 29, 32, 35, 38 (reporting that in 1991, Banja Luka had 165,140 inhabitants).

⁴⁷¹⁷ D4110 (Article from Bosanska Krajina entitled “Second Round on 9 December”, 27 November 1990), p. 1; D4259 (Witness statement of Duško Jakšić dated 25 January 2014), para. 10 (stating that the SDS won 62 of 130 seats).

⁴⁷¹⁸ D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 3; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7364, 7373; D4036 (Report on Situation in the ARK and Banja Luka, 15 May 1992), p. 2.

⁴⁷¹⁹ P6523 (Excerpt of Minutes of the 69th Banja Luka Executive Board Session, 8 May 1992), p. 1; D4064 (Excerpt of minutes of the 2nd Banja Luka Municipal Assembly session, 31 January 1992), pp. 3, 9; D4036 (Report on Situation in the ARK and Banja Luka, 15 May 1992), p. 1.

⁴⁷²⁰ Christian Nielsen, T. 16301 (7 July 2011); P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 11 (under seal); P1097 (CSB Banja Luka dispatch to SerBiH MUP, 20 July 1992); P2746 (Dispatch of Banja Luka CSB, 10 April 1992); D4071 (Summary of 15th session of ARK Assembly, 4 March 1992), p. 2; D4036 (Report on Situation in the ARK and Banja Luka, 15 May 1992), p. 1.

⁴⁷²¹ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 7.

⁴⁷²² Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7379, 7384; P6524 (Excerpt of Minutes of the 19th Banja Luka Municipal Assembly Session, 23 June 1992), p. 1; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 8; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 2.

⁴⁷²³ D4036 (Report on Situation in the ARK and Banja Luka, 15 May 1992), pp. 1–2. *See also* Adjudicated Fact 2223.

1373. During the republican referendum on independence on 29 February and 1 March 1992, the SOS blockaded the municipality building.⁴⁷²⁴ The SOS in Banja Luka was under the command of Nenad Stevandić and included many well-known criminals from Banja Luka.⁴⁷²⁵ On 3 April 1992, they erected check-points around town and issued a press statement calling on the president of the municipality to establish a crisis staff in order to pursue several goals of the SOS, including the dismissal of JNA Banja Luka Corps officers and public utility managers who voted “against Yugoslavia”.⁴⁷²⁶ The demands of the SOS were adopted by the SDS.⁴⁷²⁷

1374. Upon the establishment of a municipal Serb Crisis Staff in the spring of 1992, Radić announced several measures, including that CSB employees had to pledge loyalty to the SerBiH or lose their jobs; the presidency of the SFRY would be requested to reinforce the JNA Banja Luka Corps and dismiss or transfer JNA officers who had not voted “for Yugoslavia”; and the directors of several public enterprises who pursued “an anti-Serbian policy” would be dismissed.⁴⁷²⁸ Employers in Banja Luka were told to evict non-Serbs from employer-owned apartments in order to make space for families of fallen Serb soldiers.⁴⁷²⁹ Those who attempted to protect non-Serbs in Banja Luka were reprimanded or even replaced.⁴⁷³⁰ To enforce compliance with these orders, mixed patrols of the police, the TO, and the JNA were to take-over control of the roads from the SOS.⁴⁷³¹

(3) Scheduled Detention Facility C.1.2

1375. The Indictment refers to the use of Manjača as a detention facility in Banja Luka municipality between 21 April and 18 December 1992.⁴⁷³²

⁴⁷²⁴ See Adjudicated Fact 2224.

⁴⁷²⁵ P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 4. See also Adjudicated Fact 2223.

⁴⁷²⁶ See Adjudicated Fact 2225.

⁴⁷²⁷ P6522 (Article from Glas entitled “SOS is not an illegal organisation”, 4 April 1992), p. 1. See also Adjudicated Fact 2226.

⁴⁷²⁸ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7379, 7384; P6524 (Excerpt of Minutes of the 19th Banja Luka Municipal Assembly Session, 23 June 1992), p. 1; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 8; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 2; Adjudicated Fact 2226.

⁴⁷²⁹ Adjudicated Fact 2228.

⁴⁷³⁰ Adjudicated Fact 2228.

⁴⁷³¹ Adjudicated Fact 2226.

⁴⁷³² In its Final Brief, the Prosecution notes that the evidence led in relation to Manjača shows that it operated as a detention facility from 15 May 1992 until December 1992. See Prosecution Final Brief, Appendix B, p. 2; fn. 23.

(a) Establishment and control

1376. Manjača was located approximately 35 kilometres to the southwest of the town of Banja Luka and about 15 to 20 kilometres to the east of Ključ.⁴⁷³³ Manjača was part of a large JNA installation called Mika Bosnić Barracks and had previously served as a military exercise field.⁴⁷³⁴ Manjača consisted of farmland, six large stables, called “pavilions” by the guards, and a number of warehouses.⁴⁷³⁵ There were mines, a fence, and several guard towers around Manjača.⁴⁷³⁶

1377. Around 15 September 1991, the Command of the 5th Corps of the JNA began using Manjača as a camp to hold POWs from the conflict in Croatia.⁴⁷³⁷ In mid-May 1992, the 1st Krajina Corps assumed control of Manjača and from this point until its closure, Manjača remained under VRS control.⁴⁷³⁸ In June 1992, the Command of 1st Krajina Corps was entrusted with the task of establishing a POW camp and assessing the needs for prisoner exchanges.⁴⁷³⁹ In July 1992, Colonel Božidar Popović was appointed as commander of Manjača.⁴⁷⁴⁰ Predrag

⁴⁷³³ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5258–5260, 5333–5334; P3729 (Pictures and routes of Manjača camp); P3639 (Map entitled “Betornika-Manjača”). See also Adjudicated Fact 562.

⁴⁷³⁴ P3488 (Witness statement of Atif Džafić undated), para. 100; KDZ026, T. 10392 (17 January 2011) (closed session); P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 107; D1846 (Order of the 5th Corps, 13 September 1991), p. 1.

⁴⁷³⁵ P3488 (Witness statement of Atif Džafić undated), para. 100; P3499 (Drawing of Manjača); P3729 (Pictures and routes of Manjača camp); P3730 (Excerpt of video footage of Manjača camp); P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 7; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5261–5262; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 107.

⁴⁷³⁶ Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7314; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7081; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5258, 5261–5263, 5332; P3499 (Drawing of Manjača); P3488 (Witness statement of Atif Džafić undated), paras. 100, 103; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6184–6185; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 5; D1846 (Order of the 5th Corps, 13 September 1991), p. 1; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 7; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 2; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 107; P3755 (Manjača camp daily report to the 1st Krajina Corps, 9 November 1992), p. 1 (under seal).

⁴⁷³⁷ P534 (ECMM Report, 3 September 1992), p. 5; KDZ026, T. 10392 (17 January 2011) (closed session); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5257, 5264; D1846 (Order of the 5th Corps, 13 September 1991), p. 1; D1847 (Order of the 5th Corps, 7 January 1992), p. 2; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 1.

⁴⁷³⁸ P534 (ECMM Report, 3 September 1992), p. 5; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7614; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5350; Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 8084–8085; Petar Skrbčić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15584; Dragomir Keserović, T. 40993 (8 July 2013); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3375, 3461 (under seal). See also Adjudicated Fact 562.

⁴⁷³⁹ D1848 (Order of the 1st Krajina Corps, 15 June 1992), pp. 1–3.

⁴⁷⁴⁰ KDZ024, P713 (Transcripts from *Prosecutor v. S. Milošević*), T. 30084 (under seal); P3491 (Excerpt of Tode Gajić’s diary), p. 1; P5472 (Daily Report of Manjača Camp Operational Team, 18–20 August 1992), p. 1; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 2; P3724 (Manjača camp report to the 1st Krajina Corps, 8 August 1992), p. 2; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5261, 5264–5266; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 26; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8144; P534 (ECMM Report, 3 September 1992), p. 1; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 39. See also Adjudicated Fact 564.

Kovačević, nicknamed Špaga, was Popović's personal assistant; Kovačević was also in charge of the prison guards.⁴⁷⁴¹ Generally, military policemen guarded the detainees inside the camp whereas members of the MUP protected the external boundaries of the camp.⁴⁷⁴² However, the 1st Krajina Corps Commander and the Ključ and Sanski Most SJBs also agreed that members of the MUP be sent inside Manjača for short periods to assist.⁴⁷⁴³ MUP members who were in Manjača were placed under the command of Popović.⁴⁷⁴⁴

1378. The authorities in Manjača drafted reports for the superior command on a weekly basis or more frequently when necessary.⁴⁷⁴⁵

1379. The number of detainees held at Manjača ranged from approximately 140 to 3,600 at a given time.⁴⁷⁴⁶ In total, 4,403 detainees passed through the camp.⁴⁷⁴⁷ The majority of the detainees

⁴⁷⁴¹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6188; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2386–2388; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 10; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 10; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 31; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 11; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4798.

⁴⁷⁴² KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5265; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 32; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7081–7082; KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*), T. 3878 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30085 (under seal).

⁴⁷⁴³ P3734 (Report of Ključ SJB, 24 June 1992); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5267; KDZ163, P3716 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5274 (under seal). These civilian police officers would spend two or three days at Manjača and then return to their SJBs. KDZ163, P3716 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5274 (under seal). [REDACTED]. Likewise, Radomir Radinković stated that the civilian police was not allowed inside the camp. However, Radinković, later in his statement, conceded that members of civilian police interrogated the detainees in the camp. See D4204 (Witness statement of Radomir Radinković dated 8 December 2013), pp. 2, 4. The Chamber notes the reliable documentary evidence which indicates that inspectors from Ključ SJB and Sanski Most SJB were sent to Manjača in order to "process" the detainees. See P3734 (Report of Ključ SJB, 24 June 1992); P3736 (Manjača camp daily report to the 1st Krajina Corps, 27 June 1992) (under seal); D3912 (Manjača camp daily report to 1st Krajina Corps, 2 July 1992); D4170 (Witness statement of Mile Dobrijević dated 2 December 2013), para. 14. The Chamber also notes that according to a report compiled by the authorities in Manjača, Radenko Kaurin, who was a policeman, slapped two detainees because they had taken bread from the bread baskets which they had been forced to carry. See P3754 (Manjača camp daily report to the 1st Krajina Corps, 1 November 1992) (under seal). Given this evidence and in light of the inconsistencies displayed by [REDACTED] and Radinković during their respective testimonies, the Chamber rejects their assertion that the civilian police only entered the camp in situations of emergency.

⁴⁷⁴⁴ [REDACTED].

⁴⁷⁴⁵ D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 3.

⁴⁷⁴⁶ P534 (ECMM Report, 3 September 1992), p. 2; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3374; Radomir Radinković, T. 45312 (18 December 2013); P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 6–8, 10; P3735 (Manjača camp daily report to the 1st Krajina Corps, 26 June 1992), p. 1 (under seal); P3736 (Manjača camp daily report to the 1st Krajina Corps, 27 June 1992) (under seal); P3737 (Manjača camp daily report to the 1st Krajina Corps, 1 July 1992), p. 1 (under seal); P3746 (Manjača camp daily report to the 1st Krajina Corps, 22 July 1992), p. 2 (under seal); P3751 (Manjača camp daily report to the 1st Krajina Corps, 10 August 1992), p. 1 (under seal); P3755 (Manjača camp daily report to the 1st Krajina Corps, 9 November 1992) (under seal); P3725 (ICRC Communication to the Press, 14 November 1992); P3723 (Manjača camp report to 1st Krajina Corps, 14 November 1992), p. 2 (under seal); P3726 (List of detainees at Manjača, 23 November 1992); P3727 (Manjača camp daily report to 1st Krajina Corps, 14 December 1992), e-court p. 2; see Adjudicated Fact 2229.

at Manjača were Bosnian Muslims, though some Bosnian Croats and very few Bosnian Serbs were also held there.⁴⁷⁴⁸ For the most part, the detainees were aged between 18 and 60, but there were also a number of minors and elderly individuals.⁴⁷⁴⁹ On several occasions, those in charge of the security and intelligence at the camp proposed that individuals under 18 and over 60 as well as the seriously ill be released; these proposals, however, were largely ignored.⁴⁷⁵⁰ Several Imams as well as a Catholic priest were also detained in Manjača.⁴⁷⁵¹

1380. During mop-up operations in Bosnian Muslim villages, VRS detained the male population and handed them over to the Serb civilian authorities; the majority of such detainees were later brought to Manjača by Serb policemen.⁴⁷⁵² In some instances detainees were brought to the camp by the MP.⁴⁷⁵³ Often, detainees were taken and held at Manjača without any reason for their detention having been recorded.⁴⁷⁵⁴ The camp authorities distributed old JNA uniforms to some of

⁴⁷⁴⁷ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5345, 5353; KDZ163, T. 20748 (1 November 2011), T. 20769 (2 November 2011).

⁴⁷⁴⁸ P534 (ECMM Report, 3 September 1992), para. 21; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), para. 22; P3755 (Manjača camp daily report to the 1st Krajina Corps, 9 November 1992), p. 1 (under seal); see Adjudicated Facts 563, 566.

⁴⁷⁴⁹ Radomir Radinković, T. 45317–45319 (18 December 2013); P3750 (Manjača camp daily report to the 1st Krajina Corps, 7 August 1992), p. 2 (under seal); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 5; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5282, 5289, 5298, 5357, 5387; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7761, 7808 (under seal). P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 116; P3733 (Manjača camp daily report to the 1st Krajina Corps, 22 June 1992), p. 1 (under seal); P3737 (Manjača camp daily report to the 1st Krajina Corps, 1 July 1992), p. 2 (under seal); P3739 (Manjača camp daily report to the 1st Krajina Corps, 5 July 1992), p. 1 (under seal).

⁴⁷⁵⁰ P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 1 (under seal); P3739 (Manjača camp daily report to the 1st Krajina Corps, 5 July 1992) (under seal); P3733 (Manjača camp daily report to the 1st Krajina Corps, 22 June 1992), p. 1 (under seal); P3737 (Manjača camp daily report to the 1st Krajina Corps, 1 July 1992), p. 2 (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5289, 5291; P3738 (Manjača camp daily report to the 1st Krajina Corps, 4 July 1992), p. 1 (under seal); P3751 (Manjača camp daily report to the 1st Krajina Corps, 10 August 1992) (under seal); D1852 (Report of Manjača camp sent to 1st Krajina Corps, 12 August 1992) (under seal); D1862 (Manjača camp daily report to 1st Krajina Corps, 3 July 1992) (under seal).

⁴⁷⁵¹ Radomir Radinković, T. 45329 (18 December 2013); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1905 (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5360; P3738 (Manjača camp daily report to the 1st Krajina Corps, 4 July 1992) (under seal); P3751 (Manjača camp daily report to the 1st Krajina Corps, 10 August 1992), p. 1 (under seal).

⁴⁷⁵² KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5275; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7; KW545, T. 46955–46957 (12 February 2014) (closed session); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3377–3378, 3386, 3388, 3392–3393 (under seal).

⁴⁷⁵³ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5335; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7.

⁴⁷⁵⁴ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5276, 5311, 5354; KDZ163, T. 20737–20738 (1 November 2011) (private session); P3723 (Manjača camp report to 1st Krajina Corps, 14 November 1992), p. 2 (under seal); Christian Nielsen, T. 16285 (7 July 2011). Colonel Stevilović, a military police officer at Manjača, attempted to stop the influx of undocumented detainees from Ključ. [REDACTED]. On 19 August 1992, Župljanin ordered SJBs to create a file on every individual that had been transferred to Manjača by the police. D1864 (Order of Banja Luka CSB, 19 August 1992). On 23 August 1992, the Chief of the Prijedor SJB reported that the documentation for the detainees transferred from Omarska to Manjača had been forwarded to the commander of Manjača. D1866 (Prijedor SJB dispatch to Banja Luka CSB, 23 August

the detainees.⁴⁷⁵⁵ While both the VRS and the Bosnian Serb civilian authorities described Manjača as a camp for POWs,⁴⁷⁵⁶ documents sent from Manjača to the Command of 1st Krajina Corps do not refer to the detainees as combatants.⁴⁷⁵⁷

1381. In mid-1992, detention facilities such as Omarska were closed and the detainees were sent to Manjača.⁴⁷⁵⁸

1382. Sometime during the first week of June 1992, members of the Sanski Most SJB and around ten SOS members transported a group of approximately 140 male detainees from Hasan Kikić sports hall, in Sanski Most municipality, to Manjača.⁴⁷⁵⁹ On or about 7 June 1992, Serb members of the reserve police took approximately 400 detainees from Sitnica School, in Ključ municipality, to Manjača on foot.⁴⁷⁶⁰ Sometime before 13 June 1992, the VRS transferred about 900 individuals, most of them Bosnian Muslims, from a prison in Stara Gradiška, in Croatia, to Manjača.⁴⁷⁶¹ On or about 25 June 1992, Bosnian Serb policemen from Ključ, took a number of detainees from Ključ SJB to Manjača.⁴⁷⁶²

1992). On 27 August 1992, the Chief of the Sanski Most SJB sent to Manjača a list of detainees as well as official notes in relation to some of them. D1867 (Sanski Most SJB dispatch, 27 August 1992).

⁴⁷⁵⁵ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5318–5319; P3500 (Photograph of detainees at Manjača); P3488 (Witness statement of Atif Džafić undated), para. 113; P3756 (Excerpt from video clip from Banja Luka TV, with transcript), p. 1. Džafić who had been detained in Manjača, stated that the distribution of old JNA uniforms was a ploy by the camp authorities to make the detainees look as if they had been Bosnian Muslim soldiers. P3488 (Witness statement of Atif Džafić undated), para. 113.

⁴⁷⁵⁶ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7923; KDZ474, T. 19335 (21 September 2011) (closed session); P534 (ECMM Report, 3 September 1992), p. 1; Dragomir Keserović, T. 42158 (29 July 2013); D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 39; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26203 (under seal).

⁴⁷⁵⁷ P3747 (Manjača camp daily report to the 1st Krajina Corps, 23 July 1992), p. 1 (under seal); P3741 (Manjača camp daily report to the 1st Krajina Corps, 9 July 1992), p. 1 (under seal); P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 1 (under seal); P3746 (Manjača camp daily report to the 1st Krajina Corps, 22 July 1992), p. 1 (under seal); P3753 (Manjača camp daily report to the 1st Krajina Corps, 22 August 1992), p. 1 (under seal).

⁴⁷⁵⁸ Christian Nielsen, T. 16285 (7 July 2011); Atif Džafić, T. 19747 (30 September 2011).

⁴⁷⁵⁹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6164, 6252–6253; P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 5–6; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8105, 8122–8123, 8131–8132; P3327 (Order of Sanski Most Crisis Staff, 6 June 1992); Faik Biščević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5537; Faik Biščević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7095; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 39; Dušan Mudrinić, T. 47393 (19 February 2014); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 8, 16. *See also* Adjudicated Fact 583. *See* para. 2003.

⁴⁷⁶⁰ P3488 (Witness statement of Atif Džafić undated), paras. 95–96; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10354–10355; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5259, 5333–5334. It took the detainees seven or eight hours to reach Manjača from Sitnica school. P3488 (Witness statement of Atif Džafić undated), paras. 96–101.

⁴⁷⁶¹ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5279; P3718 (1st Krajina Corps combat report, 13 June 1992), p. 2; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4795–4796.

⁴⁷⁶² KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9158, 9162–9163, 9216 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30084–30085 (under seal).

1383. On 7 July 1992, under the escort of the civilian police from Sanski Most, a convoy of trucks with approximately 500 detainees from Betonirka factory garage, Krings Hall, and Hasan Kikić sports hall, arrived at Manjača.⁴⁷⁶³

1384. On 6 August 1992, the 1st Krajina Corps received reports that up to 1,000 detainees were going to be transferred from Omarska, in Prijedor municipality, to Manjača and that they were expected to arrive in the afternoon.⁴⁷⁶⁴ That same day, at around 10 p.m., about 20 *Autoprevoz* buses, transporting approximately 1,300 detainees arrived at the gates of Manjača; they were escorted by two armoured personnel carriers.⁴⁷⁶⁵ During their transportation from Omarska to Manjača, the prisoners had been guarded by members of the intervention squad from Prijedor SJB.⁴⁷⁶⁶ However, Popović did not allow the detainees to enter the camp and instead ordered that they stay on the buses for the night.⁴⁷⁶⁷ That same day, Lieutenant Colonel Stevan Bogojević, the Chief of Intelligence and Security at Manjača, complained that a great number of the detainees from Omarska could not be characterised as “prisoners of war” and requested that such individuals be selected and eventually released.⁴⁷⁶⁸ In the morning of 7 August 1992, the detainees from

⁴⁷⁶³ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7096; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5537; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6175; P3747 (Manjača camp daily report to the 1st Krajina Corps, 23 July 1992), p. 1 (under seal); P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992) (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5293–5294; P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 28 (under seal); Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2999, 3019; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; Ahmet Zulić, T. 1030 (13 April 2010); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26130 (under seal); D4170 (Witness statement of Mile Dobrijević dated 2 December 2013), para. 14. [REDACTED].

⁴⁷⁶⁴ P3757 (Official note from the Security Centre in Banja Luka, 10 August 1992), p. 1 (under seal).

⁴⁷⁶⁵ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2749–2750 (under seal); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3370, 3376, 3500; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9218 (under seal); KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2340–2341; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 9; P3757 (Official note from the Security Centre in Banja Luka, 10 August 1992), p. 1 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1839, 1928, 1940 (under seal); KDZ026, T. 10323, 10391, 10393, 10421 (17 January 2011) (closed session); P3719 (1st Krajina Corps combat report, 7 August 1992), p. 2; P2 (Predrag Radić’s interview with OTP, 16 July 2001), p. 28; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 6; P3502 (Photograph of Manjača’s main entrance); Mevludin Sejmenović, T. 20496 (27 October 2011); P636 (ECMM Report, 3 September 1992), p. 2; KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16770–16771; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 90; Željko Mejakić, T. 44216, 44259, 44273, 44281 (29 November 2013). *See also* Adjudicated Fact 2489.

⁴⁷⁶⁶ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3370; KDZ026, T. 10322, 10329 (17 January 2011) (closed session); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5309; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 12. For further detail on the intervention squad, *see* para. 1587.

⁴⁷⁶⁷ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3373; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 9; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932 (under seal); KDZ026, T. 10322–10323 (17 January 2011) (closed session).

⁴⁷⁶⁸ P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 27 (under seal); P3720 (1st Krajina Corps report re selection of war prisoners in Manjača camp, 6 August 1992); KDZ163, T. 20737, 20739–20740 (1 November 2011) (private session). On 17 August 1992, the Chief of Prijedor SJB forwarded the personal details of 402 detainees and promised that the details of the remaining detainees would be sent to Manjača within a week. *See* P3752 (Report of Prijedor SJB, 17 August 1992).

Omarska were taken from the buses, and made to sit in a nearby field.⁴⁷⁶⁹ Subsequently a roll call of the detainees was made and they were taken inside Manjača and registered.⁴⁷⁷⁰ Two weeks later, between 170 and 180 additional individuals were transferred from Omarska to Manjača.⁴⁷⁷¹

1385. On or about 28 August 1992, policemen in blue uniforms transferred 13 detainees from the SJB building and prison in Sanski Most and 36 detainees from Krings Hall to Manjača.⁴⁷⁷²

1386. Apart from these instances, detainees continued to be brought to Manjača from detention facilities in Sanski Most and Ključ; detainees were also brought to Manjača from detention facilities in Bosanska Dubica, Doboј, Derventa, Glamoč, Kotor Varoš, and Jajce.⁴⁷⁷³

(b) Conditions of detention and treatment of detainees

1387. The food provided to the detainees in Manjača was insufficient and consisted for the most part of a thin broth and a slice of bread twice a day.⁴⁷⁷⁴ As a result, many detainees lost a

⁴⁷⁶⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932, 1940 (under seal).

⁴⁷⁷⁰ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3498; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932 (under seal); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7.

⁴⁷⁷¹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3371; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 10; KDZ026, T. 10421 (17 January 2011) (closed session); Željko Mejakić, T. 44281–44282 (29 November 2013). *But see* KDZ163's assertion that after 7 August 1992, no more detainees were transferred from Omarska to Manjača. KDZ163, T. 20736 (1 November 2011).

⁴⁷⁷² Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6182–6183, 6258; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5536; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7077–7081; KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*), T. 3858 (under seal).

⁴⁷⁷³ D3911 (Report on the work of Sanski Most SJB, July 1992), p. 7; P3507 (List of Ključ SJB of persons being sent to Manjača, 22 July 1992); Radomir Radinković, T. 45312–45313 (18 December 2013); P3753 (Manjača camp daily report to the 1st Krajina Corps, 22 August 1992), p. 1 (under seal); P3749 (Manjača camp daily report to the 1st Krajina Corps, 29 July 1992), p. 2 (under seal); P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 1 (under seal); P3739 (Manjača camp daily report to the 1st Krajina Corps, 5 July 1992) (under seal); P3736 (Manjača camp daily report to the 1st Krajina Corps, 27 June 1992) (under seal); P3732 (List of detainees from Ključ Municipality, 19 June 1992); P3735 (Manjača camp daily report to the 1st Krajina Corps, 26 June 1992), p. 1 (under seal); P3737 (Manjača camp daily report to the 1st Krajina Corps, 1 July 1992), p. 1 (under seal); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 5; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8138; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 28; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5279; P3718 (1st Krajina Corps combat report, 13 June 1992), p. 2; P4258 (Map of ARK); P722 (Third book of Ahmet Zulić's diary), p. 18; D1868 (Report of Kotor Varoš Military Post to Manjača camp, 10 December 1992); P3723 (Manjača camp report to 1st Krajina Corps, 14 November 1992), p. 2 (under seal); D1861 (Manjača camp daily report to 1st Krajina Corps, 24 June 1992), p. 2; D1863 (List of persons sent to the Manjača camp, 20 July 1992); Dragomir Keserović, T. 42015 (25 July 2013). *See also* Adjudicated Fact 565.

⁴⁷⁷⁴ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9166 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 102; P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 5; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8142; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; Ahmet Zulić, T. 1032 (13 April 2010); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5400, 5402; D1858 (Manjača camp daily report to 1st Krajina Corps, 18 June 1992), p. 2; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7084–7086; Dragomir Keserović, T. 42015 (25 July 2013); *see* Adjudicated Fact 569. *But see* Radinković's claim that adequate food was provided to the detainees. D4204 (Witness statement of Radomir Radinković dated 8 December 2013), pp. 7, 10, 11; Radomir Radinković, T. 45316 (18 December 2013).

substantial amount of weight.⁴⁷⁷⁵ Some became so thin that they were unable to walk or even stand.⁴⁷⁷⁶ Some detainees resorted to eating grass.⁴⁷⁷⁷ With assistance from the ICRC and Merhamet, a local Bosnian Muslim humanitarian organisation, the food and the general situation improved slightly sometime after August 1992.⁴⁷⁷⁸

1388. There was also insufficient potable water at Manjača.⁴⁷⁷⁹ During July and August 1992, twice each day, cups of water were provided; however, four detainees would have to divide one cup among themselves.⁴⁷⁸⁰ There was no water for the purposes of personal hygiene.⁴⁷⁸¹ If they tried to collect rain water, the camp guards would beat them.⁴⁷⁸² At one point, camp authorities refused to provide diesel for trucks that pumped water and transported it to the camp.⁴⁷⁸³ From this point on,

⁴⁷⁷⁵ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9166, 9169 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 123; P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 6; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8144; P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 8–9; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5400; P3695 (Excerpt from video clip of Manjača camp and interview with Radovan Karadžić); see Adjudicated Fact 569. One detainee lost approximately 50 kilograms. Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8144; P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 8–9. On 23 September 1992, the ICRC reported that in Manjača there were 300 detainees whose body mass index was below 17. D1874 (ICRC Work Report, 23 September 1992), p. 3.

⁴⁷⁷⁶ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6186.

⁴⁷⁷⁷ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 9; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 32; P722 (Third book of Ahmet Zulić's diary), pp. 6, 10; see Adjudicated Fact 569. According to a report drawn up by the authorities in Manjača, a prisoner suffered from mushroom poisoning. P3755 (Manjača camp daily report to the 1st Krajina Corps, 9 November 1992) (under seal).

⁴⁷⁷⁸ Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7316; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6189; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5346, 5350; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8141; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7083–7084; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7615; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9166 (under seal). On several occasions, Merhamet delivered meat to the camp but the guards took the meat home. Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7085. If the camp guards at Manjača wanted to demonstrate to a delegation that the detainees were well-fed, they would slaughter calves and present them as meals for the detainees; however, the detainees would not actually receive such meals, which would instead be served to the command staff. Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8143.

⁴⁷⁷⁹ P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P721 (Second book of Ahmet Zulić's diary), p. 8; P722 (Third book of Ahmet Zulić's diary), p. 9; Dragomir Keserović, T. 42015 (25 July 2013). *But see* D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7. Given the large body of accepted evidence to the contrary, the Chamber rejects Radinković's assertion that "sufficient quantities of drinking water were provided" to the detainees.

⁴⁷⁸⁰ Ahmet Zulić, T. 1032 (13 April 2010); P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P721 (Second book of Ahmet Zulić's diary), p. 8; P722 (Third book of Ahmet Zulić's diary), p. 9; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 30; P3488 (Witness statement of Atif Džafić undated), para. 102.

⁴⁷⁸¹ P3488 (Witness statement of Atif Džafić undated), para. 102; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6186; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7.

⁴⁷⁸² Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6187; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7.

⁴⁷⁸³ D1876 (ICRC Work Report, 5–18 November 1992), p. 1.

the only available water originated from a nearby lake, and its poor quality caused intestinal and stomach problems among the detainees.⁴⁷⁸⁴

1389. Initially, there were a number of barrels in each stable which served as toilets; later, however, the detainees dug holes outside and used them as toilets.⁴⁷⁸⁵

1390. Faik Bišćević who was a dentist and three detainees who were doctors by profession, namely, Emir Kapetanović, Enis Šabanović and Mehmed Derviškadić, as well as a Serb nurse, staffed a medical clinic; this clinic, however, suffered from a severe shortage of medicine and supplies and could not provide adequate medical care to the detainees.⁴⁷⁸⁶ At times, the guards refused to allow the sick detainees to go to the clinic for up to a week.⁴⁷⁸⁷ Some detainees did not receive any medical treatment for their pre-existing conditions or the injuries they sustained from the beatings.⁴⁷⁸⁸

1391. Initially, the detainees were unable to contact their families; later however, the ICRC facilitated the sending and receiving of messages between the detainees and their family members.⁴⁷⁸⁹

⁴⁷⁸⁴ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4799; D1876 (ICRC Work Report, 5–18 November 1992), p. 1; P722 (Third book of Ahmet Zulić's diary), pp. 8, 16; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 11; Radomir Radinković, T. 45316–45317 (18 December 2013); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7086–7087. See Adjudicated Facts 570, 571. Diarrhoea and constipation were rife in the camp. P722 (Third book of Ahmet Zulić's diary), pp. 8, 16. On 27 July 1992, the 1st Krajina Corps Assistant Commander for Logistics was informed that the bacteriological tests of water in Manjača had shown unsatisfactory results and that repairs needed to be conducted. P3748 (Request of 1st Krajina Corps, 27 July 1992).

⁴⁷⁸⁵ P3488 (Witness statement of Atif Džafić undated), para. 102.

⁴⁷⁸⁶ P534 (ECMM Report, 3 September 1992), p. 3; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9163, 9167 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 104; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4826; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6184; D1874 (ICRC Work Report, 23 September 1992), p. 4; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5276–5277; P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 7; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7087–7088; see Adjudicated Fact 572.

⁴⁷⁸⁷ P3488 (Witness statement of Atif Džafić undated), para. 105.

⁴⁷⁸⁸ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8137–8138; P534 (ECMM Report, 3 September 1992), p. 4; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9166 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 105; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5400; D1862 (Manjača camp daily report to 1st Krajina Corps, 3 July 1992) (under seal); P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court pp. 6–7; D1869 (Logbook of patients at the Manjača camp, 11 June–23 August 1992).

⁴⁷⁸⁹ D1858 (Manjača camp daily report to 1st Krajina Corps, 18 June 1992), p. 2; P5472 (Daily Report of Manjača Camp Operational Team, 18–20 August 1992), p. 1 (reporting that ICRC delegates were informed that “in the future we would not allow messages to be received or sent, only when they are carrying out their regular camp inspection.”).

1392. The detainees were kept in large, crowded stables meant for livestock, where they sat or laid down for most of the day.⁴⁷⁹⁰ Generally, detainees could not leave the stables freely, and the stable doors were kept closed.⁴⁷⁹¹

1393. During the initial period after the establishment of the camp, there were not enough blankets in the stables for all of the detainees and some had to sleep on concrete; however, ICRC provided everyone with blankets in August 1992.⁴⁷⁹² Except for some old JNA uniforms referred to above, the camp authorities at Manjača did not provide clothing; detainees normally wore the same clothes they arrived in throughout their detention.⁴⁷⁹³ Furthermore, Manjača had insufficient hygiene and was infested with lice.⁴⁷⁹⁴ Leaking roofs, wet blankets, and persistent cold became part of the detainees' lives in the later months of 1992.⁴⁷⁹⁵

1394. Detainees were also forced to work.⁴⁷⁹⁶ They usually worked for eight to ten hours daily.⁴⁷⁹⁷

⁴⁷⁹⁰ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7082–7083; Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7314, 7317; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5262; KDZ026, T. 10325 (17 January 2011) (closed session); P3322 (Photograph of interior of Manjača); Radomir Radinković, T. 45313–45314 (18 December 2013); P3488 (Witness statement of Atif Džafić undated), para. 129; Atif Džafić, T. 19743 (30 September 2011); P604 (Photograph of detainees in Manjača); P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 7–8; Ahmet Zulić, T. 1031 (13 April 2010); Adjudicated Fact 567.

⁴⁷⁹¹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 9.

⁴⁷⁹² P5472 (Daily Report of Manjača Camp Operational Team, 18–20 August 1992), p. 1; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6186, 6259; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2395; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8169; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 5; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7615. See also Adjudicated Fact 567.

⁴⁷⁹³ Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7317, 7335; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5319, 5400; P3758 (Letter from Radovan Karadžić to Branko Đerić re ICRC visit, 7 August 1992), e-court p. 6. Between 17 September and 5 October 1992, the ICRC provided socks, shoes, hats, and underwear for all the detainees. D1875 (ICRC Work Report, 6 October 1992), p. 4.

⁴⁷⁹⁴ P3488 (Witness statement of Atif Džafić undated), para. 106; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6186; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5402; P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 5. See also Adjudicated Fact 568.

⁴⁷⁹⁵ D1876 (ICRC Work Report, 5–18 November 1992), p. 1.

⁴⁷⁹⁶ P5549 (Request of 1st Krajina Corps for POW's from Manjača camp, 24 September 1992); P534 (ECMM Report, 3 September 1992), p. 2; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9167, 9228 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7093; P3488 (Witness statement of Atif Džafić undated), paras. 111, 128; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 127; P722 (Third book of Ahmet Zulić's diary), pp. 5–6, 9, 11, 17–18; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 6; D4205 (Order of 1st Krajina Corps, 10 October 1992); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5263–5264, 5305, 5351. On 22 September 1992, Colonel Vukelić authorised the daily use of 60 detainees in Manjača for work on a co-operative farm in Banja Luka. See D1873 (Order of the 1st Krajina Corps to the Manjača camp command, 22 September 1992). Though the Chamber received evidence that the detainees in Manjača were forced to work, this work is not covered by the Indictment as it was not conducted at the frontlines and did not include the digging of trenches.

1395. On arrival at Manjača, the detainees were ordered to lower their heads and keep their arms behind their backs with hands clasped, a camp rule that remained in effect throughout their detention.⁴⁷⁹⁸ The detainees were also made to hand in their money, gold, and other valuables.⁴⁷⁹⁹ The guards searched the stables and detainees frequently, appropriating any valuables they found while beating the detainees.⁴⁸⁰⁰

1396. The detainees were required to stand up whenever Kovačević entered the stables; these visits at times lasted a few hours and caused the weaker detainees to faint and fall to the ground.⁴⁸⁰¹

1397. During the transfer of approximately 1,300 detainees from Omarska to Manjača on 6 August 1992, some of those detainees were severely beaten and humiliated by the guards who had accompanied them on the buses.⁴⁸⁰² On one occasion, one of the buses stopped in front of a café at which point a number of drunken soldiers boarded the bus and beat the detainees inside.⁴⁸⁰³ The detainees were forced to sing “Chetnik songs”.⁴⁸⁰⁴ They were also prevented from opening the windows of the buses.⁴⁸⁰⁵ Due to the intense heat, an elderly detainee died on the way to Manjača.⁴⁸⁰⁶ Upon arriving at Manjača, the detainees were forced to stay on the buses; despite the high temperature outside, the guards kept the heating on and closed the doors of the buses.⁴⁸⁰⁷ During the entire night, the guards called out the names of detainees, took them outside and

⁴⁷⁹⁷ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 127; D4205 (Order of 1st Krajina Corps, 10 October 1992).

⁴⁷⁹⁸ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9163 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 124; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1940 (under seal); Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 3000; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5317–5318; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 97; Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7317–7318; P3756 (Excerpt from video clip from Banja Luka TV, with transcript).

⁴⁷⁹⁹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6184–6185.

⁴⁸⁰⁰ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7081; P3488 (Witness statement of Atif Džafić undated), para. 101; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6188; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2387.

⁴⁸⁰¹ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2386–2387.

⁴⁸⁰² KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2342; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 9; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1930–1931, 1941 (under seal); KDZ026, T. 10323 (17 January 2011) (closed session); P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 8; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1930–1932 (under seal); see Adjudicated Fact 574.

⁴⁸⁰³ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3490.

⁴⁸⁰⁴ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2381.

⁴⁸⁰⁵ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3375; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 9; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2341.

⁴⁸⁰⁶ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3375. This killing is not charged in Schedule B of the Indictment. See fn. 13.

⁴⁸⁰⁷ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932, 1941 (under seal); KDZ026, T. 10322–10324 (17 January 2011) (closed session).

severely beat them.⁴⁸⁰⁸ The beating of KDZ026 stopped only when Popović, upon hearing KDZ026's cries after he was stabbed in the stomach, came outside and shouted at the guards to stop.⁴⁸⁰⁹

1398. On another occasion, an officer from the security service of the 1st Krajina Corps went outside the camp and saw that policemen were beating two detainees "sadistically".⁴⁸¹⁰

1399. The detainees were forced to run the gauntlet on arrival into the camp.⁴⁸¹¹ Once inside, they were regularly beaten by members of the MP and the MUP.⁴⁸¹² Detainees were beaten with bare hands, batons, wooden poles, rifle butts, and electric cables.⁴⁸¹³ They were regularly interrogated about their involvement in military matters.⁴⁸¹⁴ During the interrogations, the guards beat the detainees, sometimes to the point that the detainees could no longer move.⁴⁸¹⁵ During the night, detainees were called out and beaten; at least five to ten detainees were called out every night.⁴⁸¹⁶

⁴⁸⁰⁸ P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 9; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1931, 1941 (under seal); KDZ026, T. 10323–10324, 10329 (17 January 2011) (closed session). According to KDZ163, the members of the MP inside Manjača were unable to stop the beatings carried out directly outside of Manjača by those who brought the detainees to the camp. KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5300.

⁴⁸⁰⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932 (under seal); KDZ026, T. 10308, 10324, 10405 (17 January 2011) (closed session).

⁴⁸¹⁰ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5308; P3757 (Official note from the Security Centre in Banja Luka, 10 August 1992) (under seal), p. 2; P3750 (Manjača camp daily report to the 1st Krajina Corps, 7 August 1992), p. 1 (under seal).

⁴⁸¹¹ Radomir Radinković, T. 45331–45332 (18 December 2013).

⁴⁸¹² KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9163–9165, 9219–9220, 9222 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7091–7092; P3488 (Witness statement of Atif Džafić undated), paras. 103, 108–109, 128; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4796; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6187; D1862 (Manjača camp daily report to 1st Krajina Corps, 3 July 1992) (under seal); P3754 (Manjača camp daily report to the 1st Krajina Corps, 1 November 1992) (under seal); P3747 (Manjača camp daily report to the 1st Krajina Corps, 23 July 1992), p. 1 (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5300, 5400; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 123–126; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 3; Dragomir Keserović, T. 42015 (25 July 2013); Radomir Radinković, T. 45331–45332 (18 December 2013) (testifying that beatings and mistreatments occurred only during the initial period after the establishment of the camp); *see* Adjudicated Fact 573.

⁴⁸¹³ P718 (Witness statement of Ahmet Zulić dated 22 February 2010); paras. 123–126; *see* Adjudicated Fact 576.

⁴⁸¹⁴ P534 (ECMM Report, 3 September 1992), p. 4; P3488 (Witness statement of Atif Džafić undated), paras. 103, 107; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 118–119; P3733 (Manjača camp daily report to the 1st Krajina Corps, 22 June 1992) (under seal); P3735 (Manjača camp daily report to the 1st Krajina Corps, 26 June 1992), p. 1 (under seal); P3736 (Manjača camp daily report to the 1st Krajina Corps, 27 June 1992) (under seal); D1855 (Report of Manjača camp sent to 1st Krajina Corps), p. 1; D1856 (Manjača camp daily report to 1st Krajina Corps, 15 June 1992); D1857 (Manjača camp daily report to 1st Krajina Corps, 16 June 1992); D1859 (Manjača camp daily report to 1st Krajina Corps, 20 June 1992). [REDACTED].

⁴⁸¹⁵ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6188; P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 119. [REDACTED].

⁴⁸¹⁶ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9168 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 104; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8139; P721 (Second

Detainees were also placed in isolation cells and on one occasion, the ICRC observed the traces of fresh human blood in one of those cells.⁴⁸¹⁷

1400. Kovačević was in charge of the beatings; he was present and many times personally beat the detainees.⁴⁸¹⁸ He prepared lists of detainees to be beaten—a detainee could not be beaten until Kovačević ordered it.⁴⁸¹⁹ Because of his brutality, both the guards and the detainees feared Kovačević.⁴⁸²⁰ Popović and Talić were aware of the mistreatment.⁴⁸²¹ On one occasion, Popović came to the scene and angrily dispersed the military policemen who had been beating the detainees.⁴⁸²²

1401. On 3 July 1992, the Command of the 1st Krajina Corps was informed that efforts to stamp out the wilful mistreatment of prisoners at the hands of MP were proving increasingly difficult.⁴⁸²³ On 11 July 1992, during a meeting with senior MUP officials, Stojan Župljanin, Chief of Banja Luka CSB, stated that the conditions in Manjača were bad and that something had to be done.⁴⁸²⁴ On 16 July 1992, one of the camp authorities complained to the 1st Krajina Corps Command that the MP and the security commander, Staff Sergeant Mesar, “just don’t understand that the prisoners are humans and that they are protected by international regulations while in the camp”.⁴⁸²⁵ In a separate report filed a week later, the same individual warned the VRS MP commander that Manjača was “not a torture house but a camp of war prisoners”.⁴⁸²⁶ Furthermore, the ICRC reported that the beating of two detainees by the guards during a visit by the ICRC on 16 July 1992 resulted in the ICRC prematurely terminating its visit to the camp and that there were “frequent and widespread traces of recent and often severe beatings”.⁴⁸²⁷ In the same report, the ICRC criticised the living conditions in Manjača and recommended that Manjača be closed down.⁴⁸²⁸ This report

book of Ahmet Zulić’s diary), p. 10; Faik Biščević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7090–7091.

⁴⁸¹⁷ P3744 (Manjača camp daily report to the 1st Krajina Corps, 16 July 1992), p. 1 (under seal); P3745 (Report of 1st Krajina Corps, 16 July 1992), p. 1.

⁴⁸¹⁸ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 10; P692 (Witness statements of Rajif Begić to Sanski Most Court, 16 April 1995), e-court p. 21.

⁴⁸¹⁹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 10.

⁴⁸²⁰ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2386; P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 10.

⁴⁸²¹ See Adjudicated Facts 578–580.

⁴⁸²² KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9221 (under seal).

⁴⁸²³ D1862 (Manjača camp daily report to 1st Krajina Corps, 3 July 1992) (under seal).

⁴⁸²⁴ Čedomir Kljajić, T. 42212–42213 (30 July 2013).

⁴⁸²⁵ P3744 (Manjača camp daily report to the 1st Krajina Corps, 16 July 1992), p. 1 (under seal).

⁴⁸²⁶ P3747 (Manjača camp daily report to the 1st Krajina Corps, 23 July 1992), pp. 1–2 (under seal).

⁴⁸²⁷ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 5.

⁴⁸²⁸ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court pp. 5–6.

was provided to the Accused on 25 July 1992.⁴⁸²⁹ On 7 August 1992, the Accused forwarded to Branko Đerić, the RS Prime Minister at the time, a copy of the ICRC's report; the Accused also requested that Đerić take prompt action with a view to improving the living conditions in prisons on RS held territory.⁴⁸³⁰

(c) Visits to Manjača and transfer of detainees

1402. On 18 June 1992, representatives from Merhamet, the VRS and the MUP as well as SDS officials from Banja Luka visited Manjača.⁴⁸³¹ Omer Filipović, a Bosnian Muslim detainee, told the visitors that the detainees had been taken from their homes and described the poor living conditions in the camp.⁴⁸³² On 24 June 1992, representatives of Merhamet delivered food and medical supplies to Manjača but were barred from having contact with the detainees.⁴⁸³³ On 6 July 1992, the Presidents of municipal, district and military courts in Banja Luka, together with prosecutors and the Military Legal Officer of the 1st Krajina Corps visited Manjača and discussed the possibility of instituting judicial proceedings against the detainees.⁴⁸³⁴ In response to a written request to the command of the 1st Krajina Corps by Merhamet, approximately 100 minors, elderly, and sick detainees were released around 10 July 1992.⁴⁸³⁵

1403. In mid-July 1992, representatives from the ICRC, accompanied by medical personnel, visited Manjača.⁴⁸³⁶ All of the detainees were registered and weighed by the ICRC.⁴⁸³⁷ The process lasted a number of days.⁴⁸³⁸ At the end of July 1992, Vojo Kuprešanin, the President of the ARK Assembly, visited Manjača and promised the detainees that the majority of them would be

⁴⁸²⁹ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 4.

⁴⁸³⁰ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 1.

⁴⁸³¹ D1858 (Manjača camp daily report to 1st Krajina Corps, 18 June 1992).

⁴⁸³² P3488 (Witness statement of Atif Džafić undated), para. 112.

⁴⁸³³ D1861 (Manjača camp daily report to 1st Krajina Corps, 24 June 1992), p. 1; D1870 (Record of medical supplies and medicines received at the Manjača camp, 24 June 1992); D1871 (Logbook of patients at the Manjača camp, 23 August 1992).

⁴⁸³⁴ P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 2 (under seal).

⁴⁸³⁵ P3743 (List of detainees to be released from the Manjača camp, 10 July 1992); P3741 (Manjača camp daily report to the 1st Krajina Corps, 9 July 1992), p. 1 (under seal); P3742 (1st Krajina Corps combat report, 10 July 1992), p. 1; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5297–5298; see Adjudicated Fact 582.

⁴⁸³⁶ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court p. 4; P3488 (Witness statement of Atif Džafić undated), para. 113; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 121–122; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 8; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5299, 5306; P3744 (Manjača camp daily report to the 1st Krajina Corps, 16 July 1992), pp. 1–2 (under seal); P3745 (Report of 1st Krajina Corps, 16 July 1992), p. 1; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9221 (under seal).

⁴⁸³⁷ P3488 (Witness statement of Atif Džafić undated), para. 118; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 8; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 121; P3746 (Manjača camp daily report to the 1st Krajina Corps, 22 July 1992), p. 2 (under seal).

⁴⁸³⁸ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 8.

released promptly; this did not materialise and it caused unrest and anxiety amongst the detainees.⁴⁸³⁹ Sometime at the end of July or in early August, Župljanin and a number of other Serb officials visited Manjača and went to the stables, where they talked with some of the detainees.⁴⁸⁴⁰

1404. The ICRC representatives again visited Manjača on 28 July 1992; during this visit, they distributed mail and cigarettes to the detainees and conducted a number of interviews.⁴⁸⁴¹ In early August, the ICRC once again visited Manjača and this time demanded that more water be provided to the detainees.⁴⁸⁴² Prior to this visit, pursuant to an order issued by Mladić on 3 August 1992, Major General Talić had ordered the authorities in Manjača to, *inter alia* (i) ensure cleanliness and medical care for the detainees; (ii) prepare accurate records of the detainees' arrival and release as well as records of deaths and findings on their causes; and (iii) select a number of prisoner representatives.⁴⁸⁴³ On 8 August 1992, journalists, including members of foreign news agencies, were allowed to visit Manjača.⁴⁸⁴⁴ During this visit, the journalists requested to see the detainees who had arrived from Omarska two days prior but were not allowed to see them.⁴⁸⁴⁵ On 12 and 19 August 1992, foreign journalists again visited Manjača.⁴⁸⁴⁶ On 22 August 1992, the Prijedor SJB reported the transfer of a number of individuals from Manjača to Trnopolje.⁴⁸⁴⁷ On 24 August 1992, Milovanović ordered the authorities in Manjača to provide a list of the detainees and their places of residence so that such information could be forwarded to the ICRC.⁴⁸⁴⁸ On 31 August, a delegation from CSCE visited the camp and the ICRC brought food from Zagreb.⁴⁸⁴⁹

⁴⁸³⁹ P3488 (Witness statement of Atif Džafić undated), para. 125; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4806; P3724 (Manjača camp report to 1st Krajina Corps, 8 August 1992), p. 2; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5310; KDZ163, T. 20740–20741 (1 November 2011); P3751 (Manjača camp daily report to the 1st Krajina Corps, 10 August 1992), p. 1 (under seal); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 10; Dragomir Keserović, T. 40992–40994 (8 July 2013).

⁴⁸⁴⁰ P3488 (Witness statement of Atif Džafić undated), paras. 121–124.

⁴⁸⁴¹ P3749 (Manjača camp daily report to the 1st Krajina Corps, 29 July 1992), p. 1 (under seal).

⁴⁸⁴² P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 7; P5460 (Order of 1st Krajina Corps, 3 August 1992), p. 1.

⁴⁸⁴³ P5461 (VRS Main Staff Order, 3 August 1992); P5460 (Order of 1st Krajina Corps, 3 August 1992), p. 1; KDZ163, T. 20735–20736 (1 November 2011).

⁴⁸⁴⁴ P3724 (Manjača camp report to 1st Krajina Corps, 8 August 1992); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 8; P3488 (Witness statement of Atif Džafić undated), para. 127.

⁴⁸⁴⁵ P3724 (Manjača camp report to 1st Krajina Corps, 8 August 1992), p. 2.

⁴⁸⁴⁶ D1852 (Report of Manjača camp sent to 1st Krajina Corps, 12 August 1992) (under seal); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 8; P5472 (Daily Report of Manjača Camp Operational Team, 18–20 August 1992), pp. 2–3; P3488 (Witness statement of Atif Džafić undated), para. 127.

⁴⁸⁴⁷ D1865 (Prijedor SJB dispatch to Banja Luka CSB, 22 August 1992).

⁴⁸⁴⁸ D1853 (Request for information on prisons from Manojlo Milovanović, 24 August 1992). The requested list was forwarded to the VRS Main Staff the following day. See D1854 (1st Krajina Corps dispatch, 25 August 1992).

⁴⁸⁴⁹ P5577 (Note to RS MUP and Radovan Karadžić, 31 August 1992); P722 (Third book of Ahmet Zulić's diary), p. 14.

On the same day, a group of RS government representatives who had approval from Đerić took a tour of the camp in order to compile a report.⁴⁸⁵⁰ In late August 1992, representatives from the Bosanska Dubica, Ključ, Banja Luka, Prijedor, and Mrkonjić Grad CSBs came to Manjača in order to discuss “tasks and instructions for joint work”.⁴⁸⁵¹ In August and September 1992, more minors and elderly were released.⁴⁸⁵²

1405. On or about 1 September 1992, the ECMM visited Manjača.⁴⁸⁵³ During this visit, Popović insisted that the camp authorities adhered to all provisions of the Geneva Conventions while the detainees told the visitors that they were entirely civilians and that all soldiers had already been shot.⁴⁸⁵⁴ In early September 1992, RS civilian and military officials and ICRC representatives discussed the steps needed for the exchange of the detainees and the closure of Manjača.⁴⁸⁵⁵ On 11 September 1992, the Accused issued a decree, “granting amnesty from criminal prosecution” to 69 detainees at Manjača and Trnopolje.⁴⁸⁵⁶ On 16 September 1992, the ICRC visited Manjača for the seventh time; during this visit, Popović stated that the camp administration had taken steps to guarantee the mental and physical integrity of the detainees.⁴⁸⁵⁷ ICRC representatives, however, were of the view that Manjača should be closed as soon as possible, its civilian detainees released and the imprisoned soldiers transferred to suitable prisons.⁴⁸⁵⁸ On 19 September 1992, detainees were taken out of Manjača and exchanged.⁴⁸⁵⁹ Additional visits by the ICRC took place on 23 September and 30 September 1992.⁴⁸⁶⁰

⁴⁸⁵⁰ D1852 (Report of Manjača camp sent to 1st Krajina Corps, 12 August 1992) (under seal). On one occasion, KDZ026 saw the Chief of Prijedor SJB, Simo Drljača, in Manjača. KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 2047 (under seal).

⁴⁸⁵¹ P5472 (Daily Report of Manjača Camp Operational Team, 18-20 August 1992), p. 4.

⁴⁸⁵² Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7080; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6259; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 133; P534 (ECMM Report, 3 September 1992), p. 4; see Adjudicated Fact 582. In late August 1992, camp authorities compiled a list of 92 ill or underage detainees whose imprisonment they believed was attracting attention from the media and humanitarian organisations. P3491 (Excerpt of Tode Gajić’s diary); Radomir Radinković, T. 45328 (18 December 2013).

⁴⁸⁵³ P634 (ECMM Report, 1 September 1992), p. 1; P635 (ECMM Report, 1 September 1992), p. 1; P636 (ECMM Report, 3 September 1992), p. 1; P534 (ECMM Report, 3 September 1992), p. 1.

⁴⁸⁵⁴ Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7316; P534 (ECMM Report, 3 September 1992), p. 7.

⁴⁸⁵⁵ D1872 (Report of 1st Krajina Corps, 2 September 1992).

⁴⁸⁵⁶ P3721 (Report of 1st Krajina Corps re decision by Radovan Karadžić, 11 September 1992); D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 55; KDZ163, T. 20741–20742 (1 November 2011) (private session).

⁴⁸⁵⁷ D1874 (ICRC Work Report, 23 September 1992), p. 1.

⁴⁸⁵⁸ D1874 (ICRC Work Report, 23 September 1992), p. 2. ICRC reiterated its position again on 6 October 1992. See D1875 (ICRC Work Report, 6 October 1992), p. 3.

⁴⁸⁵⁹ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2750, 2766 (under seal).

⁴⁸⁶⁰ D1875 (ICRC Work Report, 6 October 1992), p. 1.

1406. On 1 October 1992, Kuprešanin wrote to the RS Presidency, requesting the pardon and release of 13 detainees held at Manjača.⁴⁸⁶¹ On 3 and 4 October 1992, the ICRC visited Manjača and brought letters for the detainees, and visited again on 7 October in order to obtain a list of sick detainees.⁴⁸⁶² On 12 October 1992, the ICRC arrived with a list of sick persons; these detainees were released and taken abroad for treatment.⁴⁸⁶³ On 30 October 1992, the ICRC started working in the camp every day.⁴⁸⁶⁴ In addition to the ICRC, other organisations and renowned individuals such as Bernard Kouchner and Elie Wiesel visited the detainees.⁴⁸⁶⁵

1407. On 31 October 1992, about 60 detainees were exchanged.⁴⁸⁶⁶ Starting in November, preparatory measures were taken for the release and eventual transfer of all the detainees to third countries.⁴⁸⁶⁷ On 13 November, the Accused ordered the release of approximately 700 individuals from Manjača.⁴⁸⁶⁸ In the early hours of 14 November 1992, minors, elderly detainees, as well as those who were not considered to be “extremists” or “war criminals” by the camp authorities, were lined up; these detainees were told to sign a document which barred them from the territory of BiH and placed them under the authority of UNHCR for the purpose of their relocation to a Western European country.⁴⁸⁶⁹ Prior to this, Popović told the detainees that if they were ever captured in the territory of BiH, they would be killed instantly.⁴⁸⁷⁰ With the assistance of the ICRC, these detainees were released and taken to Karlovac in Croatia.⁴⁸⁷¹

⁴⁸⁶¹ P3722 (Request sent from Vojo Kuprešanin to Radovan Karadžić, 1 October 1992); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 10.

⁴⁸⁶² P722 (Third book of Ahmet Zulić’s diary), pp. 15–17; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 135.

⁴⁸⁶³ P722 (Third book of Ahmet Zulić’s diary), pp. 17–18; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 9; Radomir Radinković, T. 45318 (18 December 2013).

⁴⁸⁶⁴ P722 (Third book of Ahmet Zulić’s diary), p. 18.

⁴⁸⁶⁵ P3488 (Witness statement of Atif Džafić undated), para. 127; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7766 (under seal); P722 (Third book of Ahmet Zulić’s diary), p. 10; D1877 (Manjača camp report to 1st Krajina Corps, 29 November 1992), p. 1; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 8.

⁴⁸⁶⁶ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6260; Mirzet Karabeg, T. 18700 (13 September 2011).

⁴⁸⁶⁷ KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5316, 5362; P3723 (Manjača camp report to 1st Krajina Corps, 14 November 1992), p. 1 (under seal). According to KDZ163, many detainees relocated to Belgium and Germany. KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5362. See also P692 (Witness statement of Rajif Begić to Sanski Most Court, 16 April 1996), e-court p. 21 (stating that he was resettled in Germany).

⁴⁸⁶⁸ D956 (RS President’s Decision on Amnesty, 13 November 1992) (under seal); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 9.

⁴⁸⁶⁹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3377; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1934–1935, 1951 (under seal); KDZ026, T. 10392–10393 (17 January 2011) (closed session); KDZ163, T. 2074420745 (1 November 2011) (closed session).

⁴⁸⁷⁰ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2343; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5539–5540.

⁴⁸⁷¹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3376–3378; D1876 (ICRC Work Report, 5–18 November 1992), p. 1; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5539–5540; Faik

1408. On 4 December 1992, the Accused indicated that he would order the release of all detainees held in Manjača provided that they be transferred to third countries.⁴⁸⁷²

1409. On 13 December 1992, a group of 532 detainees was transferred from Manjača to Batković camp.⁴⁸⁷³ From Batković camp, some of these detainees were transferred to Kula Prison.⁴⁸⁷⁴ On 14 December 1992, a number of local journalists visited Manjača.⁴⁸⁷⁵ However, the detainees had been warned not to speak to the visitors for their own safety.⁴⁸⁷⁶ The remainder of the detainees in Manjača, after signing documents which required them to leave for third countries, were released on 14, 16, or 18 December 1992 and taken to Karlovac.⁴⁸⁷⁷ Manjača was then closed down.⁴⁸⁷⁸

(d) Conclusion

1410. Based on the above, the Chamber finds that during the period between 15 May and 18 December 1992, Serb Forces detained a large number of Bosnian Muslim and Bosnian Croat men, including minors, sick, and elderly, at Manjača and regularly subjected them to beatings and mistreatment. The Chamber further finds that the detainees were held in poor conditions. These included lack of food and water, insufficient sanitary facilities and inadequate medical care.

Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7004, 7093–7094; KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30084–30085 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9165, 9169–9170 (under seal); Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7334; P3726 (List of detainees at Manjača, 23 November 1992).

⁴⁸⁷² D1851 (Letter from Radovan Karadžić to Daniel Shiffer, 4 December 1992).

⁴⁸⁷³ P3727 (Manjača camp daily report to 1st Krajina Corps, 14 December 1992), e-court p. 3; KDZ163, T. 20749 (1 November 2011); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 9; Asim Egrlić, T. 19980 (5 October 2011); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4796; Dragomir Keserović, T. 42026 (25 July 2013).

⁴⁸⁷⁴ Dragomir Keserović, T. 42026 (25 July 2013).

⁴⁸⁷⁵ P3727 (Manjača camp daily report to the 1st Krajina Corps, 14 December 1992), e-court p. 1.

⁴⁸⁷⁶ P722 (Third book of Ahmet Zulić's diary), p. 11; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 131.

⁴⁸⁷⁷ The ICRC assisted detainees in transferring from Manjača to Karlovac, Croatia, where they were handed over to UNHCR officials. P3725 (ICRC Communication to the Press, 14 November 1992); P692 (Witness statements of Rajif Begić dated 15 March 2000), e-court p. 8; Ahmet Zulić, T. 1035–1036 (13 April 2010); KDZ026, T. 10329 (17 January 2011) (closed session); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5362; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 3001; P3727 (Manjača camp report to 1st Krajina Corps, 14 December 1992), e-court pp. 1–2; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2343, 2371, 2396; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 3000–3001; P3488 (Witness statement of Atif Džafić undated), para. 128; P3931 (Report of 1st Krajina Corps, 16 December 1992), p. 1; Dragomir Keserović, T. 42026 (25 July 2013); P5468 (ICRC press release, 18 December 1992).

⁴⁸⁷⁸ P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), p. 109; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3374; P5468 (ICRC press release, 18 December 1992); see Adjudicated Fact 582.

(e) Scheduled Incident B.1.1

1411. The Indictment refers to the killing of at least six men in front of Manjača after their transportation from Hasan Kikić Elementary School in Sanski Most on or about 3 June 1992.⁴⁸⁷⁹

1412. As mentioned earlier, sometime in the first week of June 1992, members of Sanski Most SJB and SOS loaded approximately 140 non-Serb detainees held at Hasan Kikić School, in Sanski Most municipality, onto two trucks and departed for Manjača. The trucks were extremely crowded with approximately 70 detainees standing in each truck.⁴⁸⁸⁰

1413. Approximately six to seven hours later, the trucks stopped on the road next to the entrance gate of Manjača but the detainees were not allowed to exit.⁴⁸⁸¹ After waiting for 30 to 60 minutes standing beneath tarpaulins, the detainees were ordered to exit the trucks one by one.⁴⁸⁸² A group of 20 armed men in mixed and camouflage military uniforms, including Daniluško Kajtez, waited outside the trucks as the detainees exited.⁴⁸⁸³ The armed men beat the detainees with batons, wooden handles of shovels, and wooden planks as they exited the truck.⁴⁸⁸⁴ Six of the detainees, all Bosnian Muslim men, were subsequently separated from the rest.⁴⁸⁸⁵ Two of these six detainees were handcuffed and taken near a small truck.⁴⁸⁸⁶ The other four detainees were taken to different points approximately 15 metres away.⁴⁸⁸⁷ Subsequently, three to five armed men surrounded each of the detainees and beat them for approximately 20 minutes with multiple objects; all six detainees

⁴⁸⁷⁹ Indictment, Scheduled Incident B.1.1. In Annex B to its Final Trial Brief, p. 1, the Prosecution refers to 6 June 1992 as the date of Scheduled Incident B.1.1.

⁴⁸⁸⁰ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8122–8123; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 6; see Adjudicated Fact 583.

⁴⁸⁸¹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 6.

⁴⁸⁸² P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 6; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8124.

⁴⁸⁸³ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8127–8128, 8130; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 7. Daniluško Kajtez was a member of the SOS. Members of the SOS, including Daniluško Kajtez, were later integrated into the 6th Krajina Brigade. See P3634 (Witness statement of KDZ490, undated) (under seal), pp. 20–22, 27, 30; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3315–3317 (under seal); P3519 (Indictment of the 1st Krajina Corps Military Prosecutor's Office, 2 June 1993), p. 1; P6542 (Report of Sanski Most SDS Municipal Board, 10 September 1993); P3520 (Decision of Banja Luka Military Court, 9 July 1993), p. 1. In a letter to Vlado Vrkeš, the President of Sanski Most SDS, Kajtez admitted to killing 12 individuals from Manjača on two separate occasions. See P6556 (Letter from Daniluško Kajtez to "Vlado"), p. 1.

⁴⁸⁸⁴ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 6.

⁴⁸⁸⁵ P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 6–7; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8124, 8126. According to Muhić, the six detainees were: Ermin Bahtić, Jasmin Jelečević, Medin Hadžiahmetović (a.k.a. Hapač), Neron Mehadžić, Haris Biščević, and Fajko Pašić. P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 6–7; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8125–8126.

⁴⁸⁸⁶ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8125–8126; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 7.

⁴⁸⁸⁷ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 7; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8129.

were killed.⁴⁸⁸⁸ The six bodies were then thrown into the small truck, and the rest of the detainees were taken to Manjača.⁴⁸⁸⁹

1414. The Chamber received forensic evidence which identifies six bodies as related to this incident.⁴⁸⁹⁰

1415. Based on the above, the Chamber finds that on 6 June 1992, Serb Forces killed six Bosnian Muslim men in front of the gates of Manjača.

(f) Scheduled Incident B.1.2

1416. The Indictment refers to the deaths of a number of prisoners who suffocated in trucks while being transported from Betonirka detention facility in Sanski Most to Manjača on 7 July 1992.

1417. In the morning of 7 July 1992, Serb policemen took approximately 64 detainees, most of them Bosnian Muslims, from the Betonirka factory garage, in Sanski Most municipality, and loaded them into a truck with tarpaulin cover.⁴⁸⁹¹ The detainees were crammed.⁴⁸⁹² The Serb policemen then pulled down and locked the tarpaulin cover, hermetically sealing the back of the truck.⁴⁸⁹³ Under escort of the Sanski Most civilian police, the truck joined a convoy of trucks transporting several hundred detainees from Krings Hall and Hasan Kikić sports hall, and together they headed for Manjača.⁴⁸⁹⁴

⁴⁸⁸⁸ P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 5, 7; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8125, 8127; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3408–3409 (under seal); see Adjudicated Fact 584.

⁴⁸⁸⁹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 7–8; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8125, 8136.

⁴⁸⁹⁰ These individuals were exhumed from the mass grave at Stričići-Manj, in Banja Luka municipality on 23 May 2007. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 73.

⁴⁸⁹¹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5537–5538; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 86–88, 96; P721 (Second book of Ahmet Zulić's diary), p. 5; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5294; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26131 (under seal); see Adjudicated Fact 585. [REDACTED].

⁴⁸⁹² P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 88; P721 (Second book of Ahmet Zulić's diary), p. 5; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5294; see Adjudicated Fact 587.

⁴⁸⁹³ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 88.

⁴⁸⁹⁴ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7096; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5537; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6175; P3747 (Manjača camp daily report to the 1st Krajina Corps, 23 July 1992), p. 1 (under seal); P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992) (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5293–5294; P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 28 (under seal); Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2999, 3019; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7; Ahmet Zulić, T. 1030 (13 April 2010); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26130 (under seal); D4170 (Witness statement of Mile Dobrijević dated 2 December 2013), para. 14. [REDACTED].

1418. The journey to Manjača lasted approximately 10 or 11 hours.⁴⁸⁹⁵ It was very hot that day, and there was no ventilation for the detainees beneath the sealed canvas tarpaulin of the truck from Betonirka factory garage.⁴⁸⁹⁶ During the journey, fumes from the exhaust pipe of the truck flowed in, making it difficult for the detainees to breathe.⁴⁸⁹⁷ The detainees squeezed their shoes in between the tarpaulin and the truck frame in order to allow air in, but the policemen hit the shoes back inside the truck at the check-points.⁴⁸⁹⁸ By the time the truck stopped a second time at a check-point in Vrhpolje, the detainees had finished the six litres of water given to them at the beginning of the journey, and the guards refused to provide them additional water.⁴⁸⁹⁹ A detainee resorted to drinking his own urine.⁴⁹⁰⁰ As the journey continued, a number of detainees began to faint and die.⁴⁹⁰¹ When the truck finally reached Manjača around sunset, the detainees were called out one by one by name.⁴⁹⁰² Of the detainees, 24 did not respond and remained lying on the floor of the truck.⁴⁹⁰³ As the camp officials refused to take the dead and unwell detainees, they were taken back to Sanski Most along with Edin Bišćević, a detained Bosnian Muslim doctor who had

⁴⁸⁹⁵ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5538; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7; Ahmet Zulić, T. 1030–1031 (13 April 2010) (testifying that the journey from Betonirka to Manjača should normally last two hours).

⁴⁸⁹⁶ P3634 (Witness statement of KDZ490, undated), p. 118 (under seal); P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 87–88; P721 (Second book of Ahmet Zulić's diary), p. 5; KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5294; Radomir Radinković, T. 45334 (18 December 2013); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3419 (under seal). See also Adjudicated Fact 587.

⁴⁸⁹⁷ Ahmet Zulić, T. 1031 (13 April 2010).

⁴⁸⁹⁸ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 88–91; see KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5294.

⁴⁸⁹⁹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5538; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 89; P721 (Second book of Ahmet Zulić's diary), p. 5. See also Adjudicated Fact 587. An unknown woman tried to give the detainees water, but the guards prevented her from doing so. P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 89.

⁴⁹⁰⁰ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 92.

⁴⁹⁰¹ P721 (Second book of Ahmet Zulić's diary), p. 6; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5538; Dragomir Keserović, T. 41999 (25 July 2013).

⁴⁹⁰² Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 3000; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 94; P721 (Second book of Ahmet Zulić's diary), p. 6.

⁴⁹⁰³ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 3000; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 94; P721 (Second book of Ahmet Zulić's diary), p. 6; P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), pp. 1–2 (under seal); P3744 (Manjača camp daily report to the 1st Krajina Corps, 16 July 1992), p. 2 (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5294, 5336–5337; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 5; Radomir Radinković, T. 45334 (18 December 2013); P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 28 (under seal). See also Adjudicated Fact 588. According to a report compiled by two Bosnian Serb doctors, 20 detainees died from asphyxia during the transfer from Betonirka to Manjača. P724 (List of civilians killed during transport to Manjača), pp. 1–2. In light of this evidence, the Chamber finds that four of the detainees did not suffocate in the tarpaulin covered truck and were taken back to Sanski Most alive. The Indictment limits the victims of Scheduled Incident B.1.2 to "prisoners who suffocated in trucks while being transported from Betonirka detention facility to Manjača".

volunteered to resuscitate those who were unwell.⁴⁹⁰⁴ Edin Bišćević and the unwell detainees who were taken back to Sanski Most have never been seen alive again.⁴⁹⁰⁵

1419. The Chamber received forensic evidence which identifies a number of bodies as being related to this incident.⁴⁹⁰⁶ Furthermore, the Manjača authorities reported to the 1st Krajina Corps Command on 8 and 9 July 1992 that 24 individuals had died during transportation to Manjača.⁴⁹⁰⁷

1420. Based on the above, the Chamber finds that on 7 July 1992, Serb Forces forced a number of Bosnian Muslim and Bosnian Croat men detained at Betonirka factory garage to board a tarpaulin covered truck which was bound for Manjača and that due to the lack of sufficient ventilation, 20 detainees suffocated during transportation.

⁴⁹⁰⁴ KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*), T. 3861 (under seal); D4214 (Witness statement of Vinko Nikolić dated 13 January 2014), para. 23; P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 1 (under seal); P3741 (Manjača camp daily report to the 1st Krajina Corps, 9 July 1992), p. 1 (under seal); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5293–5295; P724 (List of civilians killed during transport to Manjača); P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 94–105; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 5; Radomir Radinković, T. 45334 (18 December 2013); P3634 (Witness statement of KDZ490, undated), p. 118 (under seal); P6466 (Article from Sanski Most Online entitled “Nedim Caressed the Bones of His Twin Brother Edin”, 20 April 2007); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26287 (under seal); D4170 (Witness statement of Mile Dobrijević dated 2 December 2013), para. 14; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3418–3419 (under seal); Dragomir Keserović, T. 41996–41999 (25 July 2013); D4387 (Witness statement of Dušan Mudrinić dated 15 February 2014), para. 20. According to a report compiled by two Bosnian Serb doctors, the detainees who died from asphyxia during the transfer from Betonirka to Manjača were Sevdaga Hukanović, Josip Mlinar, Vinko Matanović, Hivzo Hodžić, Ismet Memić, Fadil Kamić, Mirsad Halimović, Kemo Talić, Nedžad Muhić, Dževad Muhić, Ibro Mušić, Mustafa Hodžić, Mirhad Delić, Ramo Jusić, Atif Kerić, Nenad Ćorak, Ivan Tutić, Ismet Hidžić, Muharem Pršić, and Zijad Mujadžić. P724 (List of civilians killed during transport to Manjača), pp. 1–2. [REDACTED].

⁴⁹⁰⁵ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5538; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7098. As noted above, the Indictment limits the scope of Scheduled Incident B.1.2 to “prisoners who suffocated in trucks while being transported from Betornika detention facility to Manjača”.

⁴⁹⁰⁶ According to Mašović, the remains of 21 victims of Scheduled Incident B.1.2 have been identified. These victims are Jasmin Bajrektarević, Adam Delić, Mirsad Halimović, Hivzo Hodžić, Ismet Hodžić, Sevdaga Hukanović, Adem Jakupović, Ramo Jusić, Fadil Kamić, Vinko Matanović, Izet Mehić, Josip Mlinar, Dževad Muhić, Nedžad Muhić, Zijad Mujadžić, Kelo Talić, Edin Bišćević, Enver Burnić, Mirhad Delić, Ibrahim Mušić, and Ivica Tutić. The first 16 victims were exhumed from the Ušće Dabra mass grave, in Sanski Most municipality, on 17 July 2001 whereas the last five victims were exhumed from the Dragoraj mass grave, in Mrkonjić Grad municipality on 19 April 2000. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 48, 73. See also P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), pp. 71–73; P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), e-court p. 206; P4408 (Death certificate for Zijad Mujadžić); P6466 (Article from Sanski Most Online entitled “Nedim Caressed the Bones of His Twin Brother Edin”, 20 April 2007). The Chamber, however, notes that from the 21 victims referred to by Mašović, only 15 are included in P724 (List of civilians killed during transport to Manjača). These individuals are Sevdaga Hukanović, Josip Mlinar, Vinko Matanović, Hivzo Hodžić, Fadil Kamić, Mirsad Halimović, Kemo Talić, Nedžad Muhić, Dževad Muhić, Ibrahim Mušić, Mirhad Delić, Ramo Jusić, Ivica Tutić, Ismet Hodžić, and Zijad Mujadžić.

⁴⁹⁰⁷ P3740 (Manjača camp daily report to the 1st Krajina Corps, 8 July 1992), p. 1 (under seal); P3741 (Manjača camp daily report to the 1st Krajina Corps, 9 July 1992), p. 1 (under seal).

(g) Scheduled Incident B.1.3

1421. The Indictment refers to the killings of a number of men in front of Manjača upon their arrival from Omarska camp on or about 6 August 1992.

1422. As mentioned earlier, on the night of 6 August 1992, approximately 1,300 detainees were brought to the gates of Manjača from Omarska and made to spend the night in the buses in which they had travelled.⁴⁹⁰⁸ At one point, members of the Prijedor SJB's intervention squad took out a number of detainees, including Dedo Crnalić and Jasko Alisić, from the buses, took them behind some agricultural machines nearby and slit their throats.⁴⁹⁰⁹ One of the guards who killed Crnalić wiped his bloody knife on Crnalić's shirt.⁴⁹¹⁰ The next day, during the roll call of the detainees, Dedo Crnalić's name was called first.⁴⁹¹¹ Members of the intervention squad who at that time were standing next to the bus began laughing and said: "There he is on top of that pile."⁴⁹¹² Later, the detainees heard that in addition to Crnalić and Alisić, the members of the intervention squad had killed six or seven detainees in front of the gates of Manjača, including Nezir Krak, Nihad Basić, and a man by the name Djuzin.⁴⁹¹³ After Popović refused to accept the dead bodies into the camp, members of the Prijedor SJB loaded them on the buses and drove off in the direction of Banja Luka.⁴⁹¹⁴

1423. The Chamber has received forensic evidence which identifies a number of bodies as related to this incident.⁴⁹¹⁵

⁴⁹⁰⁸ See para. 1384.

⁴⁹⁰⁹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*, T. 3375; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9169, 9218 (under seal); KDZ074, P708 (Transcript from *Prosecutor v. Stakić*), T. 2385 (under seal); P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 10; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1933 (under seal).

⁴⁹¹⁰ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3373–3374.

⁴⁹¹¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932 (under seal).

⁴⁹¹² KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932, 1944 (under seal).

⁴⁹¹³ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1932, 1944 (under seal); KDZ163, T. 20738–20739 (1 November 2011) (private session); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), pp. 6, 8–9, 12; Radomir Radinković, T. 45334, 45339 (18 December 2013); P711 (Witness statement of KDZ074 dated 23 September 1994 and 16 May 2001), p. 10 (stating that approximately 15 persons were killed on the night of 6 August 1992 in front of Manjača). See also P3719 (1st Krajina Corps combat report, 7 August 1992), p. 2 (reporting that "there were deaths during transport to the camp"); P3757 (Official note from the Security Centre in Banja Luka, 10 August 1992), p. 2 (under seal) (reporting that eight prisoners had died during transportation to Manjača and that four of those prisoners "were probably killed in a cruel and inhumane manner"); P3750 (Manjača camp daily report to the 1st Krajina Corps, 7 August 1992), p. 1 (under seal) (reporting that a total of eight prisoners died on the way to Manjača and that three of them had most probably been killed because they displayed visible signs of violence).

⁴⁹¹⁴ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3374; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 7; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9169 (under seal).

⁴⁹¹⁵ According to Mašović and Sébire, six victims of Scheduled Incident B.1.3 have been identified. These victims who were exhumed from the mass grave Novo Groblje, in Banja Luka municipality, on 4 July 2002, are Said

1424. Based on the above, the Chamber finds that on 6 August 1992, Serb Forces separated at least eight or nine Bosnian Muslims and Bosnian Croats from the group of detainees who had arrived at the gates of Manjača from Omarska and killed them.

(h) Scheduled Incident B.1.4

1425. The Indictment refers to the killings of at least 10 men in Manjača between 1 June and 18 December 1992.

1426. On 10 July 1992, the guards at Manjača beat Emir Mulalić to death.⁴⁹¹⁶ The guards then called in a detainee who was also a doctor.⁴⁹¹⁷ Since Popović had ordered that the cause of death of the detainees who died from beatings be falsified, the doctor confirmed Mulalić's death but reported that he had died from a heart attack.⁴⁹¹⁸

1427. On 24 June 1992, Zlatan Miškić was taken to Manjača and died some hours later.⁴⁹¹⁹ On the night of 29 July 1992, Željko Bulatović called out Omer Filipović and Esad Bender to the isolation rooms where they were severely beaten.⁴⁹²⁰ Filipović died as a result of the beatings that night, but Bender was brought back around midnight. He crawled into the stable, bleeding and crying for help; no one assisted him out of fear of the guards.⁴⁹²¹ Around 7 a.m. the next morning,

Babić, Dedo Crnalić, Nezir Krak, Nihad Bašić, Kemal Jakupović, and Zvonko Tokmadžić. P4853, (Updated Table 2 to the Report of Amor Mašović), p. 73; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002) (under seal), pp. 79, 94. See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 111, Annex A, pp. 1–2; P4869 (Record of identification for Kemal Jakupović and Nezir Krak, 29 July 2003); P4873 (Letter from BiH Commission for Missing Persons to the OTP re exhumations at Novo Groblje, 11 September 2006); P4874 (Bihać Cantonal Court record of Novo Groblje exhumation, 4 October 2002); P4875 (Autopsy reports of persons exhumed at Novo Groblje, 22 July 2002).

⁴⁹¹⁶ P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 118.

⁴⁹¹⁷ P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7.

⁴⁹¹⁸ P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 7; see Adjudicated Fact 593.

⁴⁹¹⁹ D1861 (Manjača camp daily report to 1st Krajina Corps, 24 June 1992), p. 3. The Chamber has not received sufficient evidence as to the circumstances of the death of Zlatan Miškić to make a finding in relation thereto.

⁴⁹²⁰ P3749 (Manjača camp daily report to the 1st Krajina Corps, 29 July 1992) (under seal); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4800; P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 8–10; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8139; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), pp. 31–32; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), pp. 6, 12; D4235 (Witness statement of Jevto Janković dated 24 January 2014), para. 7. The camp officials considered Filipović to be the leader of SDA in Ključ and an organiser of “armed rebellion”. See D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 5.

⁴⁹²¹ P3488 (Witness statement of Atif Džafić undated), para. 126; Asim Egrlić, T. 19969 (5 October 2011); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4800; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8139–8140, 8168; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 9; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 32; Ahmet Zulić, T. 1034 (13 April 2010); KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5348; D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 12; D4235 (Witness statement of Jevto Janković dated 24 January 2014), para. 7.

Dr. Eniz Šabanović checked Bender's pulse and confirmed he was dead.⁴⁹²² Later that morning, the bodies of Filipović and Bender were wrapped in blankets and loaded into a vehicle with a JNA license plate.⁴⁹²³ The guards called out at least eleven other detainees, including a minor, at night and beat them to death.⁴⁹²⁴

1428. Around 10 p.m. on 3 August 1992, guards began beating a detainee named Stipo.⁴⁹²⁵ Stipo fought back and Bulatović subsequently shot him dead.⁴⁹²⁶

1429. The Chamber took judicial notice between June and November 1992, at least 10 detainees died inside Manjača as a result of beatings or of sporadic killings.⁴⁹²⁷ The Chamber also took judicial notice of the fact that Popović ordered that death certificates, giving a false account of the cause of death of detainees who were killed as a result of beatings inside Manjača, be issued.⁴⁹²⁸ In addition, the Chamber received forensic evidence which identifies two bodies as related to this incident.⁴⁹²⁹

1430. Based on the above, the Chamber finds that between 1 June and 18 December 1992, Serb Forces killed at minimum 15 Bosnian Muslim men detained in Manjača.

⁴⁹²² Atif Džafić, T. 19698 (30 September 2011); P3488 (Witness statement of Atif Džafić undated), para. 126; Asim Egrlić, T. 19968–19969 (5 October 2011); P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 9; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8168; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), p. 32; Ahmet Zulić, T. 1034 (13 April 2010); D4204 (Witness statement of Radomir Radinković dated 8 December 2013), p. 12; D4235 (Witness statement of Jevto Janković dated 24 January 2014), para. 7.

⁴⁹²³ P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 9–10; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8169.

⁴⁹²⁴ According to Zulić and Muhić, these detainees were Zijo Avdić, Fadil Kamić, Hukanović, Adem Jakupović, Ivo Mlinar, Milić, Mirso Hlimović, Zikrija Talić, Senad, Supuk, and Ruski. P721 (Second book of Ahmet Zulić's diary), p. 10; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8139–8140, 8168.

⁴⁹²⁵ P722 (Third book of Ahmet Zulić's diary), p. 1.

⁴⁹²⁶ P722 (Third book of Ahmet Zulić's diary), p. 1.

⁴⁹²⁷ See Adjudicated Fact 592. *But see* KDZ163's claim that only five detainees died in Manjača and that of these deaths, only two were caused by violence. KDZ163, P3717 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5348, 5353.

⁴⁹²⁸ See Adjudicated Fact 593.

⁴⁹²⁹ P4853 (Updated Table 2 to the Report of Amor Mašović), p. 73; P533 (Autopsy reports for Esad Bender and Omer Filipović); P4872 (Ključ Municipal Court's record of exhumation of Kazaferija cemetery, 17 November 1998); P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), pp. 41–42; Nicolas Sébire, P694 (Transcripts from *Prosecutor v. Brđanin*), T. 16718–16719.

(B) Bosanski Novi

(1) Charges

1431. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Bosanski Novi as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁴⁹³⁰

1432. Acts of persecution alleged to have been committed in Bosanski Novi by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse, during and after the take-over as well as in the Mlakve football stadium, as cruel or inhumane treatment;⁴⁹³¹ (ii) the establishment and perpetuation of inhumane living conditions in the Mlakve football stadium, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁴⁹³² (iii) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁴⁹³³ (iv) unlawful detention in the Mlakve football stadium;⁴⁹³⁴ (v) the appropriation or plunder of property, during and after the take-over in Bosanski Novi, during arrests and detention, and in the course of or following acts of deportation or forcible transfer;⁴⁹³⁵ (vi) the wanton destruction of private property, including homes and business premises, and public property, including cultural monuments and sacred sites;⁴⁹³⁶ and (vii) the imposition and maintenance of restrictive and discriminatory measures.⁴⁹³⁷

1433. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁴⁹³⁸ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Bosanski Novi in which they had been lawfully present.⁴⁹³⁹ It is alleged that from March 1992, restrictive and discriminatory

⁴⁹³⁰ Indictment, paras. 48–49.

⁴⁹³¹ Indictment, para. 60(b). *See* Scheduled Detention Facility C.4.1

⁴⁹³² Indictment, para. 60(d). *See* Scheduled Detention Facility C.4.1.

⁴⁹³³ Indictment, para. 60(f).

⁴⁹³⁴ Indictment, para. 60(g). *See* Scheduled Detention Facility C.4.1.

⁴⁹³⁵ Indictment, para. 60(i).

⁴⁹³⁶ Indictment, para. 60(j). *See* Scheduled Incident D.4.

⁴⁹³⁷ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services. The Chamber notes that the Prosecution does not allege criminal responsibility for rape and other acts of sexual violence or for forced labour at the frontlines in Bosanski Novi. Indictment, fns. 5, 7.

⁴⁹³⁸ Indictment, paras. 68–75.

⁴⁹³⁹ Indictment, paras. 69, 72.

measures, arbitrary arrest and detention, harassment, torture, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁴⁹⁴⁰

(2) Lead-up

1434. Bosanski Novi is a municipality in northwest BiH bordered by the municipalities of Bosanski Krupa, Sanski Most, Prijedor, and Bosanski Dubica.⁴⁹⁴¹ The Una River runs along the northwestern edge of the municipality, also forming part of the border between BiH and Croatia.⁴⁹⁴² In 1991, the population of Bosanski Novi was approximately 42,000, consisting of 33.7% Muslims, 60.2% Serbs, and approximately 6% other ethnicities.⁴⁹⁴³ The Japra valley area in particular, including Suhača and Blagaj, was inhabited predominantly by Bosnian Muslims, while the villages of Maslovare, Gvozdeni, Vitasovci, and Radomirovac had large Serb populations, and the village of Jošava was exclusively a Serb village.⁴⁹⁴⁴ The village of Blagaj is divided by the Sana River into Blagaj Japra and Blagaj Rijeka.⁴⁹⁴⁵

1435. Following the multi-party elections in 1990, the SDS won the majority of seats in Bosanski Novi.⁴⁹⁴⁶ Gavro Bogić was elected as President of the SDS and Radomir Pašić was elected as President of the Municipal Assembly.⁴⁹⁴⁷

1436. Prior to the 1990 elections and the start of the war in Croatia, inter-ethnic relations between Bosnian Serbs and Bosnian Muslims in Bosanski Novi were generally good.⁴⁹⁴⁸ However, following the start of the war in Croatia, there were increasing inter-ethnic tensions between

⁴⁹⁴⁰ Indictment, para. 71.

⁴⁹⁴¹ D484 (Map of BiH).

⁴⁹⁴² D484 (Map of BiH).

⁴⁹⁴³ P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 23, 104 (citing to the 1991 RS Population Census). See also P5449 (Report of the MUP, Banja Luka RDB, February 1995), pp. 8–9 (referring to Bosanski Novi as Novi Grad); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 6. But see D1913 (Intelligence report re review of security in Bosanski Novi municipality, undated), p. 1. The Chamber shall rely on the statistics for the ethnic composition of Bosanski Novi in 1991 from Tabeau's report which are based on the 1991 RS Population Census.

⁴⁹⁴⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13959; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 9; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 18; P3802 (Map of Bosanski Novi with photographs).

⁴⁹⁴⁵ See Adjudicated Fact 657.

⁴⁹⁴⁶ D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 2.

⁴⁹⁴⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 9; D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 2–3.

⁴⁹⁴⁸ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 9; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13959.

them.⁴⁹⁴⁹ When the war broke out in Croatia, border points were closed in Bosanski Novi, among other areas, and movement was restricted.⁴⁹⁵⁰

1437. As early as 1991 and at the beginning of 1992, Bosnian Muslims began to be dismissed from their employment.⁴⁹⁵¹ In mid-April 1992, the newly appointed Serb police chief dismissed all Muslim police officers in Bosanski Novi because they refused to sign an oath of loyalty to the Serb authorities; however, even the Muslims who signed this paper were fired and sent home as well.⁴⁹⁵² The remaining police officers were issued with a new camouflage uniform with a Serb flag on the epaulette.⁴⁹⁵³ Bosnian Muslims who worked in companies, administrative organs, and institutions in Bosanski Novi were required to sign an oath and were also dismissed from their jobs.⁴⁹⁵⁴

1438. In April 1992, check-points manned by Bosnian Serb soldiers wearing JNA uniforms were established, including between Hozíci and Donji Agíci and between Suhača and Jošava.⁴⁹⁵⁵ Movement was also restricted.⁴⁹⁵⁶ The soldiers at these specific check-points only checked the papers of Bosnian Muslims.⁴⁹⁵⁷

1439. Pašić received the Variant A/B Instructions from the SDS Main Board,⁴⁹⁵⁸ pursuant to which the SDS formed the Bosanski Novi Crisis Staff in April 1992.⁴⁹⁵⁹ Bosanski Novi was a Variant A municipality as Bosnian Serbs were the majority in the municipality.⁴⁹⁶⁰ After receiving the RS government instructions on the work of the Crisis Staffs, the Bosanski Novi Crisis Staff re-

⁴⁹⁴⁹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13959; KDZ011, T. 21214 (10 November 2011).

⁴⁹⁵⁰ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 10; KDZ011, T. 21199–21201 (10 November 2011). See also D1911 (Report of Banja Luka CSB, 11 July 1991).

⁴⁹⁵¹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13961. See also KDZ011, T. 21215–21216 (10 November 2011).

⁴⁹⁵² Adjudicated Fact 2279; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 9–10. See also P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 50.

⁴⁹⁵³ Adjudicated Fact 2279.

⁴⁹⁵⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13961, 14025; P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 3–4. See Adjudicated Fact 2279. The Chamber received contrary evidence from Radimir Pašić that Muslims were not dismissed from employment and that such ultimatum did not occur and that moreover, it was still relatively peaceful in April 1992. He also testified that Bosnian Muslims “refused to work at the police station, although we asked them to”. D3849 (Witness statement of Radimir Pašić dated 5 July 2013), p. 20; Radimir Pašić, T. 41020 (9 July 2013). However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber considered that Pašić's evidence in this regard was marked with contradictions.

⁴⁹⁵⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13961–13962, 13966; KDZ011, T. 21200 (10 November 2011).

⁴⁹⁵⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13961–13962, 13966; KDZ011, T. 21200 (10 November 2011).

⁴⁹⁵⁷ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13962.

⁴⁹⁵⁸ Radimir Pašić, T. 41011–41014 (9 July 2013).

⁴⁹⁵⁹ Radimir Pašić, T. 41014 (9 July 2013); P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 9; KDZ011, T. 21202 (10 November 2011). See also P2632 (Report of Bosanski Novi's Crisis Staff, undated), p. 1.

⁴⁹⁶⁰ Radimir Pašić, T. 41014 (9 July 2013).

organised itself on 20 May 1992 to “take over the prerogatives and functions” of the Municipal Assembly.⁴⁹⁶¹ As a result, Pašić, who was President of the Bosanski Novi Municipal Assembly, became President of the Bosanski Novi Crisis Staff.⁴⁹⁶²

1440. In the Muslim village of Suhača, in particular, discussions with SDS representatives from the village of Jošava about the handover of Muslim weapons began in late March 1992.⁴⁹⁶³ At the end of April 1992, the SDA President in Suhača informed the villagers that he had reached an agreement with the SDS members in Bosanski Novi, including Ranko Balaban, President of the SDS in Jošava, that if they surrendered their weapons to the Serbs, they would be allowed to go on living as before.⁴⁹⁶⁴ The next day, the Bosnian Muslims of Suhača surrendered their weapons to the Serb MP at a check-point between Suhača and Jošava.⁴⁹⁶⁵ Following the surrender of weapons, the villagers were instructed to go to a field in Jošava while they waited for all of the houses in Suhača to be searched by Serb soldiers, accompanied by two Bosnian Muslim civilians.⁴⁹⁶⁶

1441. On 4 May 1992, the SDS in Bosanski Novi held talks with representatives from the SDA in an attempt to find a compromise that would compel all citizens, Serbs, Muslims, and Croats, in Bosanski Novi to hand in illegally held weapons to the TO or to the Bosanski Novi SJB; on the same day, the ARK government issued an order for mobilisation, instructing the surrender of weapons by 11 May 1992, and imposed a curfew for all citizens in the ARK.⁴⁹⁶⁷ In line with this order, on or around 9 May 1992, the Bosanski Novi Crisis Staff under Radomir Pašić issued an ultimatum over Bosanski Novi radio for Bosnian Muslims in the municipality to hand in their

⁴⁹⁶¹ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992); P2632 (Report of Bosanski Novi's Crisis Staff, undated), p. 7.

⁴⁹⁶² Radomir Pašić, T. 41021–41023 (9 July 2013); P2632 (Report of Bosanski Novi's Crisis Staff, undated), p. 7.

⁴⁹⁶³ See Adjudicated Fact 2280.

⁴⁹⁶⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13962–13964.

⁴⁹⁶⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13962–13966; see Adjudicated Fact 2281. Sifet Barjaktarević organised the surrender of weapons in Suhača, which included approximately 300 weapons in total and were primarily hunting rifles, and pistols. KDZ011, T. 21228–21229 (10 November 2011). See also P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 1.

⁴⁹⁶⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13967–13968, 14025–14026; KDZ011, T. 21239–21240 (10 November 2011); see Adjudicated Fact 2281. See also P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 1.

⁴⁹⁶⁷ D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 4–5, 19; P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992). See also P2819 (Dispatch from Banja Luka CSB to all SJBs, 4 May 1992); P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 3–5; Ewan Brown, T. 21598–21599 (18 November 2011); D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 1.

weapons within 24 hours.⁴⁹⁶⁸ However, according to Pašić, a number of citizens ignored these orders and refused to turn in weapons and military equipment.⁴⁹⁶⁹

(3) Attacks against Bosnian Muslim villages

(a) Blagaj village

1442. After the deadline for the surrender of weapons expired on 11 May 1992, conflict started in the Blagaj area.⁴⁹⁷⁰ At 1 a.m. on 14 May 1992, pursuant to orders from Pašić, Serb soldiers fired 13 shells on Blagaj from Izba, a hill overlooking Bosanski Novi.⁴⁹⁷¹ Shells were fired into the village for two days, wounding civilians.⁴⁹⁷² The shelling caused damage to houses of Bosnian Muslims but did not kill anyone.⁴⁹⁷³

1443. On 14 May 1992, a Bosnian Muslim delegation went to speak with Drago Ninić, the SDS president of the neighbouring village of Petkovac, to tell the Bosnian Serbs that Bosnian Muslims in Blagaj did not have weapons.⁴⁹⁷⁴ The meeting with Ninić also included Bogić, Bosanski Novi SDS President.⁴⁹⁷⁵ The Serbs did not want to speak to this delegation and demanded that three Bosnian Muslim men in particular be brought to them because they had weapons.⁴⁹⁷⁶ These men went to talk to the Bosnian Serbs again, when they were also told that “Serbs and Muslims could

⁴⁹⁶⁸ D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 1; Milorad Sajić, T. 44134–44135 (27 November 2013); Adjudicated Fact 2283. *See also* P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

⁴⁹⁶⁹ D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 6. *See also* P3819 (UNPROFOR Memo, 29 May 1992), p. 4; D1921 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1, 5.

⁴⁹⁷⁰ P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 4–5. *See also* P3819 (UNPROFOR Memo, 29 May 1992), p. 4; P6440 (Banja Luka CSB report, 12 May 1992), p. 2.

⁴⁹⁷¹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19; P6436 (Summary of intercepted conversation, 11 May 1992); D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 20–21; Radomir Pašić, T. 41031–41038 (9 July 2013); *see* Adjudicated Facts 658, 2284. Despite an intercepted conversation between Major Željaja and Colonel Dević stating that Pašić ordered the attack on Blagaj, Pašić denied that the attack on Blagaj was carried out pursuant to his orders; according to Pašić, as the President of the Municipal Assembly and the President of the Crisis Staff, he did not have the authority to issue such orders or to activate anything in a military sense. Radomir Pašić, T. 41038–41043 (9 July 2013). *See* P6436 (Summary of intercepted conversation, 11 May 1992). However, the Chamber does not find Pašić's evidence on this issue to be reliable. In reaching this conclusion, the Chamber considered that Pašić's evidence in this regard was contradictory and concluded that he was evasive and lacked sincerity.

⁴⁹⁷² *See* Adjudicated Fact 2284.

⁴⁹⁷³ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19; P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 4–5. *See also* Adjudicated Fact 2290.

⁴⁹⁷⁴ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

⁴⁹⁷⁵ P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19.

⁴⁹⁷⁶ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

not live together any longer”.⁴⁹⁷⁷ They reached an agreement that the Bosnian Muslims would gather all of the weapons into the school.⁴⁹⁷⁸

1444. However, the shelling of Blagaj resumed at around 2 p.m., hours before the delegation had even returned from Petkovac.⁴⁹⁷⁹ The shells originated from Huzeirovica Brda.⁴⁹⁸⁰ That evening, a group of 500 villagers, including women and children, formed a column walking to a house of a Bosnian Serb, who had previously been on good terms with Bosnian Muslims, in Maslovare.⁴⁹⁸¹ They were stopped on the road by a group of 50 armed men led by Mićo Karlica; these armed men wore green camouflage uniforms with badges showing the four “S” insignia, and cockades on their hats.⁴⁹⁸² The villagers were told, at gun point, to surrender all weapons; they handed over all of their hunting weapons and were then allowed to continue to the house.⁴⁹⁸³ Later, the same soldiers who confiscated their weapons came to the house and shot at the villagers; one Bosnian Muslim man was wounded, and another was shot dead.⁴⁹⁸⁴

1445. The next day, 15 May 1992, Captain Bogdan Grab, wearing camouflage and a red beret, arrived in Maslovare with a group of approximately 20 soldiers, and started insulting the villagers.⁴⁹⁸⁵ Later, Grab’s soldiers took 15 Bosnian Muslim men and made them walk in front of the Serbs to “clear” the village of Blagaj but did not find anything.⁴⁹⁸⁶ There, the Bosnian Serbs placed flags depicting the four Cyrillic “S” symbols around the village.⁴⁹⁸⁷ On the same day, the villagers were allowed to return to the village.⁴⁹⁸⁸ The shooting continued all around Blagaj and the villagers were surrounded and could not leave.⁴⁹⁸⁹ On the same day, the mosque and houses of Bosnian Muslims were set on fire.⁴⁹⁹⁰

⁴⁹⁷⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

⁴⁹⁷⁸ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

⁴⁹⁷⁹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19.

⁴⁹⁸⁰ P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19.

⁴⁹⁸¹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 19.

⁴⁹⁸² P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 11.

⁴⁹⁸³ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 10–12.

⁴⁹⁸⁴ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12. The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

⁴⁹⁸⁵ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12. *See also* P687 (Witness statement of Hasan Alić dated 29 April 2003), e-court p. 6.

⁴⁹⁸⁶ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12. The Chamber notes that forced labour, including the use of Bosnian Muslims and Bosnian Croats as human shields, is not charged in Bosanski Novi pursuant to the Indictment. *See* Indictment, para. 60(h), fn. 7.

⁴⁹⁸⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12.

⁴⁹⁸⁸ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12.

⁴⁹⁸⁹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12.

⁴⁹⁹⁰ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 12.

1446. According to Alić, after 15 May 1992, Bosnian Muslims from Blagaj Japra were “taken away in droves for questioning” in Bosanski Novi by MP wearing red berets.⁴⁹⁹¹

1447. On 24 May 1992, Bosnian Serb soldiers took valuables and money from Bosnian Muslims in Blagaj Rijeka and Blagaj Japra, and houses in Blagaj Rijeka were looted and set on fire.⁴⁹⁹²

(b) Suhača village

1448. Three days after the villagers surrendered their weapons in May 1992, Suhača was shelled beginning at 6:30 a.m. and continued for the next seven days.⁴⁹⁹³ The shells were fired from the hills surrounding Suhača, from the direction of the villages of Jošava and Krslje, both Serb villages, mainly targeting areas of the village where the mosques were located.⁴⁹⁹⁴ During the shelling of Suhača, its inhabitants took shelter in the basements of houses.⁴⁹⁹⁵

1449. One day when there was no shelling, soldiers came to Suhača and told the villagers that the town would be attacked and that they could not protect the villagers.⁴⁹⁹⁶ They were therefore told to leave and retreat towards Bosanski Novi where it would be decided where they would go.⁴⁹⁹⁷ After the shelling of Suhača, Bosnian Serb soldiers entered the village and looted the houses.⁴⁹⁹⁸

(c) Other villages in the Japra valley

1450. The Chamber took judicial notice that on 11 May 1992, Bosnian Serb forces shelled the Bosnian Muslim village of Gornji Agići.⁴⁹⁹⁹ On 23 May 1992, Muslim villages in the Japra valley,

⁴⁹⁹¹ P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 20.

⁴⁹⁹² Adjudicated Fact 658.

⁴⁹⁹³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13967–13969; KDZ011, T. 21186–21187 (10 November 2011); Adjudicated Fact 660.

⁴⁹⁹⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13959, 13968–13969; KDZ011, T. 21187, 21240 (10 November 2011).

⁴⁹⁹⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13969. The Chamber notes that KDZ011 gave evidence in the *Brđanin* case that houses close to the mosques in Suhača were damaged during the shelling of the village; see KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13969. However, on cross-examination in this case, KDZ011 confirmed his testimony in the *Krajišnik* case, stating that houses in Suhača remained intact after the shelling, except for abandoned houses on the hills around the village. KDZ011, T. 21241 (10 November 2011). Based on KDZ011’s conflicting evidence on this issue, the Chamber is not satisfied that houses in Suhača were damaged during the shelling of the village.

⁴⁹⁹⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13969–13970. See also Adjudicated Fact 668.

⁴⁹⁹⁷ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13970. See also Adjudicated Fact 668.

⁴⁹⁹⁸ See Adjudicated Fact 660. See also P2632 (Report of Bosanski Novi’s Crisis Staff, undated), pp. 8–9. According to Pašić, there were no orders to do so from the official authorities and it was difficult to monitor “uncontrolled groups” who entered towns and Muslim houses for their own enrichment. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 23–24. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber observed that Pašić’s evidence was marked with contradictions and concluded that he was not a reliable witness.

⁴⁹⁹⁹ See Adjudicated Fact 661.

including Gornji Agići and Donji Agići, were attacked and houses were set alight; in Donji Agići, Bosnian Muslim property was looted and set on fire by Serb Forces.⁵⁰⁰⁰

(4) Scheduled Incident D.4

1451. The Indictment refers to the destruction of nine mosques in Bosanski Novi which occurred at least between March and June 1992.⁵⁰⁰¹

1452. In May 1992, the old wooden mosque in Blagaj Rijeka and the mosque in Blagaj Japra were shelled and set on fire by soldiers, destroying their minarets.⁵⁰⁰² During the shelling of Suhača, the two mosques in the village, the Stara Suhača and the Suhača mosques, were also badly damaged.⁵⁰⁰³

1453. In early May or June 1992, the town mosque in Bosanski Novi, Gradska Džamija, was shelled, set on fire by Bosnian Serb soldiers, and destroyed.⁵⁰⁰⁴ The walls were badly damaged but the minaret remained standing.⁵⁰⁰⁵ Heavy machinery was brought from Prijedor in order to knock down the minaret.⁵⁰⁰⁶ When the mosque was destroyed, trucks arrived to remove the rubble from the mosque and the site was then flattened and used as a parking lot; the tombs of the cemetery

⁵⁰⁰⁰ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 2; Adjudicated Facts 661, 2285. See also D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 17; P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 8–9. Pašić maintains that there was no shelling of these villages “to his knowledge” with heavy weaponry and that only searches for illegal weapons occurred; furthermore, Pašić testified that the authorities did not order or give instructions to destroy or burn property “just because it is Muslim”. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 6, 22–23; Radomir Pašić, T. 41043–41046 (9 July 2013). However, the Chamber does not find this evidence to be reliable based on the Chamber's observations about his contradictory evidence and low credibility.

⁵⁰⁰¹ The Indictment refers to the following nine mosques: Stara Suhača mosque, the Suhača mosque, the mosque in Blagaj Japra, the mosques in Prekosanje, Urije, and Gornji Agići, the old wooden mosque in Blagaj Rijeka, the town mosque in Bosanski Novi (Gradska Džamija), and the Vidorijska mosque. Indictment, Schedule D.4.

⁵⁰⁰² P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 11–12, 16; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 20 (testifying further that on 15 May 1992, two men, including Veljko Lazarević from Blagaj Japra, first fired bullets at the mosque in Blagaj Japra and then set fire to it, including the wood minaret); KDZ011, T. 21195–21196 (10 November 2011). See Adjudicated Facts 662, 663, 2290. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 35–36, 44–46; P4069 (Cultural destruction database), records 58–59. See also paras. 1444–1445.

⁵⁰⁰³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14012–14013; KDZ011, T. 21187–21188, 21196 (10 November 2011). See Adjudicated Fact 664. See also P3803 (Photograph of destroyed mosque in Suhača); P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 31–34; P4069 (Cultural destruction database), records 74–75. See also paras. 1448–1449.

⁵⁰⁰⁴ See Adjudicated Fact 666. As KDZ011 was leaving Bosanski Novi from Mlayke stadium in an open truck, he saw that both mosques in Bosanski Novi, the Gradska Džamija and Vidorijska mosques, were destroyed; however he saw that an Orthodox church in Bosanski Novi was still standing. KDZ011, T. 21196, 21214 (10 November 2011); KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14018. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 47–51; P4069 (Cultural destruction database), record 64.

⁵⁰⁰⁵ Adjudicated Fact 666.

were also removed.⁵⁰⁰⁷ The Vidorijska mosque was burned down in May 1992 and its minaret was destroyed.⁵⁰⁰⁸ The mosques in Prekosanje, Urije, and Gornji Agići were also destroyed during the summer months of 1992.⁵⁰⁰⁹

1454. The Chamber has considered the evidence it has received which identified Serb Forces as responsible for the destruction of mosques in Bosanski Novi in May and June 1992.⁵⁰¹⁰ It also had regard to the fact that almost all mosques in the municipality sustained heavy damage or were completely destroyed after Serb Forces took over the municipality. Having weighed these factors, the Chamber is satisfied beyond reasonable doubt that Serb Forces were responsible for the attacks on and destruction of mosques in Bosanski Novi.

1455. The Chamber therefore finds that nine mosques in Bosanski Novi municipality were destroyed or heavily damaged by Serb Forces in May and June 1992.

(5) Movement of the population within and from Bosanski Novi

1456. On 20 May 1992, the SDS Municipal Board adopted three decisions regarding the situation in Bosanski Novi: (i) all citizens who wanted to leave Bosanski Novi were “enabled to do so peacefully”; (ii) all measures and activities that could be aimed at driving out residents were strictly prohibited; and (iii) all citizens who wanted to remain were required to be loyal to RS.⁵⁰¹¹ In line with these decisions, Pašić began to look for solutions, including negotiating with UNPROFOR and other representatives, “to enable Muslims who wished to leave Bosanski Novi”.⁵⁰¹²

⁵⁰⁰⁶ Adjudicated Fact 666.

⁵⁰⁰⁷ See Adjudicated Fact 666.

⁵⁰⁰⁸ KDZ011, T. 21196 (10 November 2011); KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14018; Adjudicated Fact 667. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 52–56; P4069 (Cultural destruction database), record 63.

⁵⁰⁰⁹ Adjudicated Fact 665. KDZ011 also testified he saw that the minarets of the mosques in Prekosanje and Urije had been destroyed when he passed the towns on the train heading to Mlavke stadium in June 1992. KDZ011, T. 21195 (10 November 2011). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 37–43; P4069 (Cultural destruction database), records 71, 73, 76.

⁵⁰¹⁰ See paras. 1444–1445, 1448–1449. In his final brief, the Accused argues that there is no evidence that official authorities in Bosanski Novi ordered or otherwise participated in the destruction of the mosques there. See Defence Final Brief, para. 1503. Furthermore, according to Pašić, there was no organised destruction of mosques and all mosques were set on fire by paramilitaries, or “unknown perpetrators”. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 18, 27. However, the Chamber has considered the evidence before it and given its findings on the destructions of mosques in Bosanski Novi as well as its assessment of Pašić’s credibility, the Chamber does not find his evidence to be reliable in this regard. See fn. 4971.

⁵⁰¹¹ D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 7–8.

⁵⁰¹² D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 8–9.

1457. On 24 May 1992, between 8,000 and 10,000 Bosnian Muslim men, women, and children from various villages in the Japra valley, including 1,200 Bosnian Muslims from Suhača, left the valley in a convoy of cars, tractors, and horse-drawn carts.⁵⁰¹³ They headed to Blagaj Japra.⁵⁰¹⁴

1458. Meanwhile, SDA President and representative of Suhača, Sifet Barjaktarević, negotiated with Bosanski Novi municipal authorities regarding the safe passage of this convoy to Croatia.⁵⁰¹⁵ An MP patrol sent the convoy towards Bosanski Novi, accompanied by two military trucks with Bosnian Serb soldiers.⁵⁰¹⁶ Bosnian Serb soldiers wearing JNA uniforms intercepted the convoy at Blagaj Japra bridge⁵⁰¹⁷ and demanded that they leave their property and board a train headed towards Banja Luka.⁵⁰¹⁸ When they refused, the convoy was forced to return to Blagaj where it remained guarded by armed Bosnian Serb soldiers until 9 June 1992.⁵⁰¹⁹ Freedom of movement was limited and special permission was required to leave the village, making it feel “like a prison camp”.⁵⁰²⁰

1459. On 26 May 1992, Charles Kirudja, the Chief Civil Affairs Officer and Civil Affairs Co-ordinator for UNPROFOR in UN Protected Area Sector North, a UN protected area in Croatia adjacent to the northwestern boarder of BiH, met with Jugoslav Borojević, Mayor of Dvor in Croatia.⁵⁰²¹ Borojević told Kirudja that Pašić had requested the passage of 5,000 Bosnian Muslims from Bosanski Novi who were leaving the municipality “voluntarily” and would travel through Krajina to Austria and Slovenia.⁵⁰²² Kirudja asked how Serb authorities could speak about the

⁵⁰¹³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13971–13972; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 2. *See also* KDZ011, T. 21204, 21207 (10 November 2011); P2632 (Report of Bosanski Novi's Crisis Staff, undated), pp. 8–9; Adjudicated Facts 669, 2286.

⁵⁰¹⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13971–13972; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21. *See also* Adjudicated Fact 659.

⁵⁰¹⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13972, 13975–13976; *see* Adjudicated Fact 669. *See also* D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 21.

⁵⁰¹⁶ *See* Adjudicated Fact 669.

⁵⁰¹⁷ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13973. According to Kirudja, the soldiers were “persons in Serbian military uniforms and Serb paramilitary groups” and from the symbols on their uniforms, “it was deduced they were under the control of the SDS and Mayor Pašić”. P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61.

⁵⁰¹⁸ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13973; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 2. *See* Adjudicated Facts 669, 2286.

⁵⁰¹⁹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13973–13975; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 2. *See* Adjudicated Fact 669.

⁵⁰²⁰ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21.

⁵⁰²¹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 2, 40.

⁵⁰²² P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 40–42; Charles Kirudja, T. 21259–21260, 21278–21280 (11 November 2011) (testifying further that when asked why a mayor in Croatia

desires of a group of Muslims without a single Bosnian Muslim representative being present, but he was only told to speak with Pašić on the phone, which he refused to do.⁵⁰²³

1460. The next day, a delegation from Bosanski Novi, including Pašić, arrived unannounced at Kirudja's office to discuss the request.⁵⁰²⁴ Pašić admitted to Kirudja that Bosnian Muslims in Bosanski Novi had been put under pressure from "armed Serbian irregulars" to leave the area after refusing to sign loyalty oaths to the new SerBiH government or to disarm.⁵⁰²⁵ According to Pašić, the 5,000 Muslims had asked the authorities in Bosanski Novi for protection and conveyed their desire to travel in a convoy to Austria and Germany where they had relatives.⁵⁰²⁶ Given that the Bosnian Muslims had refused to go to other parts of BiH because they were afraid of being mobilised, Pašić informed Kirudja that the Bosanski Novi authorities "wanted to do everything possible to accommodate their wishes" and to provide a peaceful and secure departure for the Muslim population from Bosanski Novi.⁵⁰²⁷ Determining that the Bosnian Muslims were not leaving Bosanski Novi voluntarily, Kirudja refused to provide UN assistance "to make refugees out of people still in their own homes".⁵⁰²⁸

1461. In the beginning of June 1992, there were many rounds of negotiations between Muslim representatives, the Serb municipal authorities, and international representatives, to discuss the

was speaking on behalf of the mayor of Bosanski Novi, Borojević told Kirudja that Bosanski Novi was now part of a "new reality", or the new reality of the "Serbian Republic of BiH", and the Bosnian Muslims did not want to accept this new Serb authority in Bosanski Novi). See also P3815 (UNPROFOR Memo, 8 June 1992), p. 2.

⁵⁰²³ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 43; Charles Kirudja, T. 21260–21262 (11 November 2011). See also P3816 (UNPROFOR Memo, 26 May 1992).

⁵⁰²⁴ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 45; D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 9. See also P3815 (UNPROFOR Memo, 8 June 1992), pp. 2–3.

⁵⁰²⁵ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 46–48, 50–51; Charles Kirudja, T. 21280–21281, 21283–21284 (11 November 2011); D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 9; Radomir Pašić, T. 41047 (9 July 2013). See also P3815 (UNPROFOR Memo, 8 June 1992), p. 3; P3818 (UNPROFOR daily report, 11 May 1992).

⁵⁰²⁶ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 45, 49. See also P3819 (UNPROFOR Memo, 29 May 1992), pp. 3–4; Charles Kirudja, T. 21292–21294 (11 November 2011). Pašić also informed Kirudja that two Muslim spokespersons from Bosanski Novi had been identified, Barjaktarević and Fikret Hamzagić, a member of the SDA and member of the Bosanski Novi municipal government, respectively; Kirudja later received information that they had been imprisoned in a school in Blagaj. P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 46, 61; P3817 (Memo re 5,000 Muslims from Bosanski Novi, 5 June 1992), p. 2.

⁵⁰²⁷ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 45; D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 9; P2918 (Order of Bosanski Novi's Crisis Staff, 8 June 1992). See also D1916 (Conclusion of Bosanski Novi Municipal Assembly, 18 June 1992) (referring *inter alia* to the decisions adopted by the SDS Municipal Board on 20 May 1992 referred to in paragraph 1456); D1917 (Bosanski Novi Red Cross announcement, 7 June 1992); Radomir Pašić, T. 41048–41050, 41057–41058, 41073–41076, 41090–41092 (9 July 2013) (testifying further that Bosnian Muslims wanted to leave voluntarily and the Serb authorities did not threaten anyone or forcibly remove anyone from their homes, nor did they have an objective to do so).

⁵⁰²⁸ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 52; Charles Kirudja, T. 21282–21283, 21298–21299 (11 November 2011); P3819 (UNPROFOR Memo, 29 May 1992), p. 5; P3815 (UNPROFOR Memo, 8 June 1992), p. 3. See also KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6789–6791 (under seal); D1918 (Letter to Radomir Pašić, 20 June 1992).

departure of Croats and Muslims in a convoy from Bosanski Novi.⁵⁰²⁹ The negotiations took place in Pašić's office, in Dvor, in Emin Purić's house, and on the bridge over the Una River.⁵⁰³⁰ There was no discussion regarding the possibility for people to return.⁵⁰³¹

1462. On 8 June 1992, the villagers in Blagaj were told by Bosnian Serbs to move out of the village.⁵⁰³² On the morning of 9 June 1992, a bus full of Bosnian Serb soldiers, a truck, and a tank drove through Blagaj from the direction of Svodna.⁵⁰³³ In Troske village, the soldiers got off the bus and the tank turned around and stopped 500 metres from Blagaj, and pointed its cannon toward the village.⁵⁰³⁴ The soldiers began firing infantry weapons at civilians in the village and there were explosions from houses and houses were shot at and burned.⁵⁰³⁵ The attack lasted about two hours, and those staying in the village fled towards the bridge in the direction of Blagaj Rijeka in order to escape.⁵⁰³⁶ However, at the bridge, the Bosnian Muslim men, women, and children were stopped by masked Bosnian Serb soldiers from neighbouring villages, some of whom wore civilian clothing while the rest were wearing green camouflage uniforms.⁵⁰³⁷ The soldiers instructed them to hand over all of their personal belongings, including money, gold, jewellery, identification cards, photographs, and papers and keys for cars.⁵⁰³⁸ The soldiers threatened to kill anyone if they were later found with money or gold.⁵⁰³⁹

1463. A man named "Zoran", nicknamed "Red Beret", wearing a JNA uniform, arrived and started separating the men from the women before they crossed the bridge.⁵⁰⁴⁰ Soldiers wearing JNA uniforms waited on the other side of the bridge and searched the Bosnian Muslims again and

⁵⁰²⁹ See Adjudicated Fact 2291. See also D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 24–25.

⁵⁰³⁰ See Adjudicated Fact 2291. See also D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 24–25.

⁵⁰³¹ Adjudicated Fact 2291.

⁵⁰³² P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21.

⁵⁰³³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13976; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13.

⁵⁰³⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13976–13977; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13.

⁵⁰³⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13977; P687 (Witness statement of Hasan Alić dated 21 August 1999), p. 13; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21.

⁵⁰³⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13977–13978.

⁵⁰³⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13. See also KDZ011, T. 21209 (10 November 2011).

⁵⁰³⁸ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13978; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21.

⁵⁰³⁹ P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 21.

⁵⁰⁴⁰ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13978–13980.

separated some of the men from the group, while women and children were sent inside the Japra Company compound, which was surrounded by barbed wire.⁵⁰⁴¹

1464. A group of the Bosnian Muslim men was instructed by soldiers to lie down in the road in two rows 50 metres away from the tank pointing at them and their pockets were searched again.⁵⁰⁴² A Bosnian Serb from Jošava, nicknamed “Trnka”, ordered Alić’s brother and two other men to leave the formation, and led them away and shot them.⁵⁰⁴³ While the remaining men were lying on the road, the tank was ordered to drive over them by a bearded man called “Vojvoda”.⁵⁰⁴⁴ The tank began driving towards them but was stopped by an officer who came from the direction of the bridge and ordered that the people be removed from the road, stating that no one should be killed that way.⁵⁰⁴⁵ The men lying on the road were taken to the Japra Company compound.⁵⁰⁴⁶ Later, the Bosnian Serbs soldiers called five men to step forward; however, only three of the five men were still alive and stepped forward.⁵⁰⁴⁷ The remaining men were loaded onto train cars waiting at the compound by the soldiers.⁵⁰⁴⁸

1465. In total, approximately 4,000 to 8,000 Bosnian Muslims were loaded onto 22 train cars, used to transport cattle, at Blagaj Japra by members of the Municipal TO Staff and the MP.⁵⁰⁴⁹ Women and children were loaded onto the train cars first and the men were loaded on after; the cars were tightly packed with people with no space left.⁵⁰⁵⁰ Alić was one of the last ones to board and

⁵⁰⁴¹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13980–13981. See also KDZ011, T. 21209 (10 November 2011); Adjudicated Fact 631.

⁵⁰⁴² P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 13.

⁵⁰⁴³ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 13–14; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court pp. 21–22.

⁵⁰⁴⁴ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14.

⁵⁰⁴⁵ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 22.

⁵⁰⁴⁶ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14.

⁵⁰⁴⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14 (stating that the five men called to step forward were Husein Ekić, Hasan Ekić, Saim Šumić, Kemal Alić, and Ismet Selimagić; however, Kemal Alić and Ismet Selimagić had already been killed by this point); P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 22; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13994–13995.

⁵⁰⁴⁸ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13994–13995; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 23. The Chamber notes that the above killings are not charged pursuant to Schedules A or B of the Indictment. See fn. 13.

⁵⁰⁴⁹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13995–13996; KDZ011, T. 21209–21212 (10 November 2011); P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14; Ewan Brown, T. 21599–21600 (18 November 2011); D1921 (Report of Bosanski Novi SJB, 15 August 1992), pp. 2–3. See also D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 10; Adjudicated Fact 631.

⁵⁰⁵⁰ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13995–13997; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14. See Adjudicated Facts 632, 633.

witnessed two individuals taken off the train and shot by a Bosnian Serb man.⁵⁰⁵¹ Guarded by the members of the Bosanski Novi SJB, the train left in the direction of Banja Luka and stopped in Ostruzna, a village near Doboj, the next morning.⁵⁰⁵² In Ostruzna, the men were separated from the women and children by a soldier, nicknamed “Jovo” or “Joja”.⁵⁰⁵³ The women, children, and men above 60 years old were put in the front part of the train and the remaining carriages were filled with men between 15 and 60 years old.⁵⁰⁵⁴ The carriages were separated and the women and children were taken to Doboj, while the men, numbering approximately 700 to 750, were loaded onto four train cars and sent to Banja Luka.⁵⁰⁵⁵

1466. The men spent the night on the train in Banja Luka, where they were mistreated and cursed at by Bosnian Serb soldiers.⁵⁰⁵⁶ On the morning of 11 June 1992, the train continued to Bosanski Novi, stopping once in Blagaj where men on the train had water for the first time in two days.⁵⁰⁵⁷ While in Blagaj, Alić saw Bosnian Serbs taking possessions from their houses.⁵⁰⁵⁸ The men were then loaded back into the train cars and taken to Mlakve Football Stadium.⁵⁰⁵⁹ No food was given to them during the entire period spent in the railway carriages and there were no hygienic facilities aboard.⁵⁰⁶⁰

⁵⁰⁵¹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14. The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. See fn. 13.

⁵⁰⁵² KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13991, 13994–13995, 14031; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 14; D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 3. See also Adjudicated Fact 633; KDZ011, T. 21209–21210 (10 November 2011).

⁵⁰⁵³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13995; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 14–15; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 23.

⁵⁰⁵⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13995–13997; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 14–15; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 23.

⁵⁰⁵⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13997; KDZ011, T. 21210–21212 (10 November 2011); Ewan Brown, T. 21599–21600 (18 November 2011); P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 14–15; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 23. See Adjudicated Fact 633; D1921 (Report of Bosanski Novi SJB, 15 August 1992), pp. 3–4. See also D3849 (Witness statement of Radomir Pašić dated 5 July 2013), p. 22 (stating that there was a convoy of Bosnian Muslims travelling by train from Blagaj to Prijedor, Banja Luka, and Doboj, but that the number of people in the convoy was between 400–600).

⁵⁰⁵⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13997–13998, 14032; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15. See Adjudicated Fact 633.

⁵⁰⁵⁷ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13998; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15.

⁵⁰⁵⁸ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15.

⁵⁰⁵⁹ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13998–13999. The Chamber notes that it will deal with the detention of people at Mlakve Football Stadium at the end of this section of the judgement.

⁵⁰⁶⁰ See Adjudicated Facts 634, 635.

1467. At the end of June or beginning of July 1992, the Bosanski Novi Crisis Staff issued instructions regulating the conditions for people to be allowed to leave the municipality.⁵⁰⁶¹ On 6 July 1992, Pašić sent a letter to Kirudja repeating his claim that Bosnian Muslims from Bosanski Novi were leaving the municipality voluntarily, and stating that Bosnian Serb authorities had offered to provide buses and security for them.⁵⁰⁶² Between 7 and 10 July 1992, Kirudja met with officials from Dvor and Bosanski Novi and they informed Kirudja that Bosnian Muslims leaving Bosanski Novi were required to sign a statement indicating that they left voluntarily, and to prove that they had either sold, exchanged, or donated their houses and all other immovable property.⁵⁰⁶³ Persons who did not own property had to obtain an official document from the municipal land registry office certifying this and those who owned property were required to draft a contract either leaving the property to the Serbs or the Serb state, or simply renouncing it.⁵⁰⁶⁴ Persons wishing to leave also had to provide a list of all the members of the household, obtain a certificate showing that they had no previous convictions, obtain a certificate showing that all utility bills were paid; obtain documentation from the municipal secretariat for national defence stating that they had completed military service; and obtain a document from the SJB allowing them to leave.⁵⁰⁶⁵ All documents had to state that the action taken was on a voluntary basis.⁵⁰⁶⁶

1468. The Bosanski Novi authorities informed Kirudja that they had processed applications from 3,000 to 5,000 people who fulfilled the criteria.⁵⁰⁶⁷ On the basis of this information, Kirudja

⁵⁰⁶¹ Adjudicated Fact 2292. See also D1916 (Conclusion of Bosanski Novi Municipal Assembly, 18 June 1992); P3835 (Letter from Bosanski Novi Crisis Staff, 6 July 1992).

⁵⁰⁶² P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 77–78; P3835 (Letter from Bosanski Novi Crisis Staff, 6 July 1992). See also P3836 (Order of Dvor na Uni Municipal Crisis Staff, 8 July 1992). However, according to Pašić, a number of Muslims who did not possess the requisite documentation also left the municipality. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 25–26; Radomir Pašić, T. 41079–41082 (9 July 2013).

⁵⁰⁶³ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 83–85; P3840 (Fax re Bosanski Novi: Dvor Issue and Refugee Flood, 12 July 1992), pp. 2–3; P3837 (UNPROFOR Memo, 9 July 1992); P3838 (UNPROFOR Memo, 8 July 1992), p. 1. See P6439 (Official record of Bosanski Novi Secretariat for Administrative and Social Affairs, 9 July 1992); P3841 (UNPROFOR Memo, 13 July 1992), p. 2; P3842 (UNPROFOR Memo, 13 July 1992), pp. 2–3. See also para. 1481.

⁵⁰⁶⁴ Adjudicated Fact 2292. See also KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 7008–7009 (under seal).

⁵⁰⁶⁵ Adjudicated Fact 2292.

⁵⁰⁶⁶ Adjudicated Fact 2292. According to Pašić, Bosnian Muslims leaving Bosanski Novi were allowed to make their own decisions regarding their property, including that they could take all of their personal property, including vehicles, with them. With regard to real estate, they were allowed to sell it, swap it, give it for safekeeping, or cede it to other refugees, and made decisions in this regard without any duress and influence from the municipal authorities. Moreover, according to Pašić, a majority of the property referred to in the certificates was “completely legally replaced” with Serbian assets from Croatia and the contracts signed by Muslims were only “temporary” until the situation calmed down. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 10–11, 25–26; Radomir Pašić, T. 41079–41086 (9 July 2013). However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber considered the significant body of evidence supporting that Bosnian Muslims were forced to sign over their property and finds that Pašić gave inconsistent and evasive evidence in this regard.

⁵⁰⁶⁷ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 84.

concluded that the Bosnian Muslims were not leaving Bosanski Novi voluntarily and he informed the Serb authorities that UNPROFOR did not wish their departure if they did not want to leave.⁵⁰⁶⁸ Moreover, Kirudja concluded that there was a strategy to ethnically cleanse the area by the Serb authorities and they were using the UN Protected Area in Sector North as an exit point.⁵⁰⁶⁹

1469. However, between 20 and 21 July 1992, Kirudja and other international authorities became increasingly concerned about the safety of the convoy and ultimately, the Croatian authorities agreed to accept the Bosnian Muslims and UNHCR agreed to organise the transportation with UNPROFOR's assistance, stating they "preferred 4,000 more refugees than 4,000 more bodies".⁵⁰⁷⁰

1470. Although originally intended to be 4,000 people, on 23 July 1992, a convoy of between 9,000 and 11,000 Bosnian Muslims and some Bosnian Croats, including between 600 and 700 detainees from Mlakve Football Stadium and a large number from Prijedor, Bosanska Kostajnica, and Bosanska Dubica, were ultimately transported to Karlovac, and later to third countries.⁵⁰⁷¹

1471. The Bosanski Novi SJB reported that by 23 July 1992, it had "de-registered" 5,629 Muslims who had applied to leave the municipality "voluntarily".⁵⁰⁷² Of the approximately 14,000 Bosnian Muslims living in Bosanski Novi prior to the conflict, roughly 1,000 Muslims remained behind following the departure of the convoy to Karlovac on 23 July 1992.⁵⁰⁷³ In sum, by the end of 1992, the majority of Bosnian Muslims had left Bosanski Novi.⁵⁰⁷⁴ According to KDZ011, not a single

⁵⁰⁶⁸ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 80, 83.

⁵⁰⁶⁹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 80. See also KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6789–6791 (under seal).

⁵⁰⁷⁰ [REDACTED]; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 94–98; P3847 (UNPROFOR Memo, 21 July 1992), pp. 2–3. See also P2940 (Reuters report, 27 July 1992), p. 1 (under seal); Adjudicated Fact 673.

⁵⁰⁷¹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 99 (testifying that although the original number of Bosnian Muslims to be transported was 4,000, the actual number exceeded 9,000, and as a result, the transportation took the entire day); KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6785–6787 (under seal); P2951 (Press release of Republic of Croatia Ministry of Information, 24 July 1992) (under seal); P2940 (Reuters report, 27 July 1992), p. 1 (under seal). See Adjudicated Fact 671. See also P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14018. See also para. 1482.

⁵⁰⁷² D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 4. See also Adjudicated Fact 2293.

⁵⁰⁷³ See Adjudicated Fact 672. In August 1992, Kirudja and other international authorities were pressed by Serb authorities to assist in the evacuation of thousands more refugees, primarily Bosnian Muslims, from Sanski Most, Prijedor, Bosanska Krupa, and Bosanska Kostajnica through Sector North, claiming that if they did not assist, "the Muslims will suffer". Pašić warned Kirudja that "[i]f we are left to resolve the matter by ourselves, we will resolve it very quickly". However, the international authorities responded that they would not succumb to further "blackmail" and refused to assist in any further "evacuations" of non-Serbs out of BiH. P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 101–118; P2941 (Article from The Associated Press, 11 August 1992) (under seal); P3856 (UNPROFOR report, 5 September 1992), pp. 3–5.

⁵⁰⁷⁴ In reaching that conclusion, the Chamber noted that by 1997, very few Bosnian Muslims had returned to Bosanski Novi. In 1991, approximately 33.7% of the population of Bosanski Novi was Muslim and in 1995, 4.8% of the population was Muslim and in 1997, Muslims only comprised 2.7% of the population. P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 23–24, 104. See also P10

Bosnian Muslim remained in the town of Suhača by the end of 1992.⁵⁰⁷⁵ When Alić returned to Blagaj after the war, he found Bosnian Serbs living in his house, after being given permission by authorities.⁵⁰⁷⁶ He observed that there were only 64 houses still in good condition after the war and they were all occupied by Bosnian Serbs.⁵⁰⁷⁷

1472. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Bosanski Novi.

(6) Scheduled Detention Facility C.4.1

1473. The Indictment refers to a detention facility at the Mlakve football stadium which operated at least between May and July 1992.

1474. On 2 June 1992, members of the Bosanski Novi TO and MP brought between 300 and 350 non-Serbs to the Mlakve football stadium (“Mlakve Football Stadium”) and detained them there for four days.⁵⁰⁷⁸ On 6 June 1992, Kirudja was informed by members of the Danish UNPROFOR team in Sector North that they had seen 350 men gathered at the stadium; they were then seen being loaded onto buses and driven off to an unknown destination in BiH.⁵⁰⁷⁹ The observers also saw that approximately 100 women and children, with their heads covered in clothes and carrying plastic bags, had been brought into the stadium with ten armed guards; Kirudja later learned that the women and children had likely been delivering provisions to the men held in the stadium.⁵⁰⁸⁰

1475. On 11 June 1992, the train coming from Banja Luka arrived at the stadium, where soldiers with machine guns ordered the men off the train and instructed them to go inside the empty stadium.⁵⁰⁸¹ From early June until the end of August 1992, at least 700 Bosnian Muslim civilian men, some elderly, from Bosanski Novi municipality were confined at the Mlakve Football

(Report of the MUP, Banja Luka SNB, May 1993), p. 2 (referring to Bosanski Novi as Novi Grad); P5449 (Report of the MUP, Banja Luka RDB, February 1995), pp. 8–9 (referring to Bosanski Novi as Novi Grad); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 7 (estimating that 500 non-Serbs remained in Bosanski Novi in 1995).

⁵⁰⁷⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14018.

⁵⁰⁷⁶ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16.

⁵⁰⁷⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16.

⁵⁰⁷⁸ D1921 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1–2.

⁵⁰⁷⁹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 55–57, 59. *See also* P3821 (UNPROFOR Memo, 6 June 1992), p. 2; P3815 (UNPROFOR Memo, 8 June 1992), p. 3; P3823 (UNPROFOR report, 20 July 1992), p. 7.

⁵⁰⁸⁰ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 58–59; P3822 (Fax from UNPROFOR, 6 June 1992); P3815 (UNPROFOR Memo, 8 June 1992), p. 2. *See also* P3823 (UNPROFOR report, 20 July 1992), p. 7.

⁵⁰⁸¹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13998–13999; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15. *See* Adjudicated Fact 634. *See also* paras. 1465–1466.

Stadium; some of these men were transferred from the Omarska, Trnopolje, and Keraterm camps.⁵⁰⁸²

1476. The detainees at Mlakve Football Stadium were guarded by Bosnian Serb soldiers, as well as reservists, including Ranko Balaban, former SDS President in Jošava, and Momčilo Kenjalo.⁵⁰⁸³ Once a week on Wednesdays, the guards would change shifts.⁵⁰⁸⁴

1477. For the duration of their detention, the stadium was fenced in and the detainees were not allowed to leave.⁵⁰⁸⁵ Although no detainees were killed during their detention at the stadium,⁵⁰⁸⁶ beatings did take place,⁵⁰⁸⁷ and this included beatings when drunk Bosnian Serb soldiers returned from the front.⁵⁰⁸⁸ As a result of the beating inflicted by a Bosnian Serb soldier, a detainee was blinded in one eye.⁵⁰⁸⁹ Detainees were also verbally mistreated; the guards cursed, taunted and threatened the detainees with death, and subjected them to ethnic slurs.⁵⁰⁹⁰ A Bosnian Serb soldier with a gun forced detainees to graze grass like animals, for the purposes of humiliating them.⁵⁰⁹¹

1478. The quantity of food was not sufficient and detainees received at most two small meals a day; access to water was also limited to twice a day.⁵⁰⁹² Detainees lost considerable weight—Alić lost 18 kilograms and KDZ011 lost 11 kilograms—during their detention.⁵⁰⁹³

⁵⁰⁸² See Adjudicated Facts 628, 629. According to Pašić, Mlakve Football Stadium was not a “camp”, but a reception centre where “some non-Serbs, who possessed weapons and military equipment, were processed”. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 15, 27. However, the Chamber does not find this evidence to be reliable based upon its consideration that Pašić provided insincere and ultimately unsatisfactory evidence.

⁵⁰⁸³ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13999, 14004–14005, 14013. See Adjudicated Fact 630.

⁵⁰⁸⁴ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13999.

⁵⁰⁸⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13999–14000; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15.

⁵⁰⁸⁶ KDZ011, T. 21212 (10 November 2011).

⁵⁰⁸⁷ See Adjudicated Fact 636. While KDZ011 and Alić testified that there were no beatings and that they were not physically mistreated or beaten while detained at Mlakve Football Stadium, in light of the conditions at the stadium as described by these witnesses, including verbal and psychological abuse, as well as the fact that hundreds of other detainees were held there, the Chamber is of the view that the evidence of KDZ011 and Alić does not rebut the presumption created by Adjudicated Facts 636, 637, and 638. See also para. 1481; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14016–14017; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 15–16).

⁵⁰⁸⁸ Adjudicated Fact 638.

⁵⁰⁸⁹ Adjudicated Fact 637.

⁵⁰⁹⁰ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14002; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 24; see Adjudicated Fact 639.

⁵⁰⁹¹ See Adjudicated Fact 640.

⁵⁰⁹² KDZ011, T. 21192 (10 November 2011); P687 (Witness statement of Hasan Alić to AID; 9 July 1998), e-court p. 24; see Adjudicated Fact 644. According to Pašić, detainees at Mlakve Football Stadium received three meals per day and that it was the same food given to the military and TO staff. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), pp. 26–27. However, the Chamber does not find Pašić’s evidence in this regard to be reliable given that his evidence was marked with contradictions and insincerity.

1479. The detainees were confined to one part of the stadium, as a result there was a shortage of space for approximately 700 men.⁵⁰⁹⁴ They slept on the floor with no blankets.⁵⁰⁹⁵ Although the detainees could wash themselves, they did not have any facilities to wash clothes.⁵⁰⁹⁶ Toilet facilities were also inadequate.⁵⁰⁹⁷ Some of the detainees were ill and were not provided with medical care at any point; one man died of asthma while detained.⁵⁰⁹⁸ Detainees were not allowed to move around the stadium but they had to perform labour to smooth the path around the stadium.⁵⁰⁹⁹ Later, visits to the stadium were not permitted, letters and parcels were not allowed to be sent or received, and the detainees were not allowed to notify anyone of their location or detention.⁵¹⁰⁰

1480. From one side of the stadium, the detainees could see UNPROFOR vehicles across the Una River on the Croatian side and tried to signal for help with white flags; the UNPROFOR soldiers noticed them, however, the guards at Mlakve Football Stadium realised and forbade the detainees from further use of that section of the stadium.⁵¹⁰¹ During their detention, the soldiers called out names of the detainees and brought them to the police station, the fire department, or Hotel Una for interrogation.⁵¹⁰²

1481. On or around 22 July 1992, after approximately 45 days of detention, the detainees at the Mlakve Football Stadium were told by members of the Bosnian Serb MP that they would be released.⁵¹⁰³ For approximately 80 detainees who had family in the town of Bosanski Novi, close to the stadium, their family members could sign certificates to release them earlier than the other

⁵⁰⁹³ P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 24; KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13999–14000. See also Adjudicated Fact 644.

⁵⁰⁹⁴ Adjudicated Fact 642.

⁵⁰⁹⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 13999; see Adjudicated Fact 643.

⁵⁰⁹⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14002; Adjudicated Fact 645.

⁵⁰⁹⁷ Adjudicated Fact 645.

⁵⁰⁹⁸ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14000; see Adjudicated Fact 646. The Chamber notes that killings resulting from cruel and inhumane treatment at Mlakve Football Stadium are not charged pursuant to Schedule C of the Indictment. See Indictment, para. 60(a), fn. 4. See also fn. 13 of this Judgement.

⁵⁰⁹⁹ KDZ011, T. 21192 (10 November 2011); KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14000–14002. The Chamber notes that forced labour at the frontlines, including the use of Bosnian Muslims and Bosnian Croats as human shields, is not charged in Bosanski Novi pursuant to the Indictment. See Indictment, para. 60(h), fn. 7.

⁵¹⁰⁰ KDZ011, T. 21191 (10 November 2011); P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 24.

⁵¹⁰¹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14003; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 71. See also P3829 (UNPROFOR Memo, 22 June 1992), p. 2; P3830 (UNPROFOR Memo, 22 June 1992), p. 3; Charles Kirudja, T. 21344–21348 (11 November 2011).

⁵¹⁰² See Adjudicated Fact 2287.

⁵¹⁰³ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14014; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15; P687 (Witness statement of Hasan Alić to AID, 9 July 1998), e-court p. 24. See Adjudicated Fact 641 (stating that detainees were held at Mlakve Football Stadium for about 45 days).

detainees.⁵¹⁰⁴ The remaining detainees were forced to sign certificates to be released, confirming that they would voluntarily surrender all of their movable and immovable property to the RS in Bosanski Novi.⁵¹⁰⁵ After the certificates were signed, 15 detainees, all members of the SDA party, were singled out of the group and taken to the “fire house”, where they were beaten.⁵¹⁰⁶ According to Alić, about nine men were killed.⁵¹⁰⁷

1482. On 23 July 1992, the detainees at Mlakve Football Stadium were released pursuant to an order by the Bosanski Novi Municipal Executive Board.⁵¹⁰⁸ An UNPROFOR vehicle arrived at the stadium; all of the detainees were then loaded onto buses and trucks and taken across the bridge to Dvor, Croatia.⁵¹⁰⁹ During this process, there were no soldiers around the detainees and they were guarded by UNPROFOR soldiers.⁵¹¹⁰

1483. The Chamber therefore finds that during the period between 2 June and 23 July 1992, members of the Serb Forces detained Bosnian Muslim men at the Mlakve Football Stadium, and subjected them to beatings and verbal mistreatment, including threats and ethnic slurs. The Chamber also finds that detainees held at Mlakve Football Stadium were not provided with adequate food or water, resulting in malnutrition, and that there was no medical care available to the detainees during this period.

(C) Ključ

(1) Charges

1484. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Ključ as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁵¹¹¹ Under Count 1, the Prosecution further alleges that in

⁵¹⁰⁴ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14014.

⁵¹⁰⁵ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14014–14016; KDZ011, T. 21194 (10 November 2011); P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 15.

⁵¹⁰⁶ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14016–14017; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court pp. 15–16.

⁵¹⁰⁷ P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16. The Chamber received evidence that nine detainees died in the Mlakve Football Stadium; however, the Chamber notes that killings at Mlakve Football Stadium are not charged pursuant to Schedule B of the Indictment, nor resulting from cruel and inhumane treatment pursuant to Schedule C of the Indictment. See Indictment, para. 60(a), fn. 4. See also fn. 13 of this Judgement.

⁵¹⁰⁸ D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 2 (stating that Mlakve Football Stadium was closed after the detainees were released).

⁵¹⁰⁹ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14014, 14017–14018; KDZ011, T. 21194 (10 November 2011); P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16.

⁵¹¹⁰ KDZ011, P3800 (Transcript from *Prosecutor v. Brđanin*), T. 14017; P687 (Witness statement of Hasan Alić dated 21 August 1999), e-court p. 16.

⁵¹¹¹ Indictment, paras. 48–49.

certain municipalities, including Ključ, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical, and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.⁵¹¹²

1485. Acts alleged to have been committed in Ključ by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over;⁵¹¹³ killings related to detention facilities;⁵¹¹⁴ and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.⁵¹¹⁵ The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁵¹¹⁶

1486. Other acts alleged to have been committed in Ključ by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.⁵¹¹⁷ In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Ključ thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.⁵¹¹⁸ In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.⁵¹¹⁹

⁵¹¹² Indictment, para. 38.

⁵¹¹³ Indictment, para. 60(a)(i). *See* Scheduled Incidents A.7.1, A.7.2, A.7.3.

⁵¹¹⁴ Indictment, para. 60(a)(ii). Scheduled Incident B.10.

⁵¹¹⁵ Indictment, para. 60(a)(ii). Scheduled Detention Facilities C.15.1, C.15.2, C.15.3.

⁵¹¹⁶ Indictment, paras. 40(a), 60(a), 63(a), 63(b).

⁵¹¹⁷ Indictment, para. 60(b), 60(c), 60(d) (specifying that the conditions included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities). *See* Scheduled Detention Facilities C.15.1, C.15.2, C.15.3.

⁵¹¹⁸ Indictment, para. 40(b).

⁵¹¹⁹ Indictment, para. 40(c). *See* Scheduled Detention Facilities C.15.1, C.15.2, C.15.3.

1487. Under Count 3, other acts of persecution alleged to have been committed in Ključ by Serb Forces and Bosnian Serb Political and Governmental Organs include: (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁵¹²⁰ (ii) unlawful detention in scheduled detention facilities;⁵¹²¹ (iii) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁵¹²² (iv) appropriation or plunder of property during and after the take-over, during arrests and detention, and in the course of or following acts of deportation or forcible transfer;⁵¹²³ (v) the wanton destruction of private property including homes and business premises and public property including cultural monuments and sacred sites;⁵¹²⁴ and (vi) the imposition and maintenance of restrictive and discriminatory measures.⁵¹²⁵

1488. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁵¹²⁶ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Ključ in which they had been lawfully present.⁵¹²⁷ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killings, destruction of houses, cultural monuments, and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁵¹²⁸

(2) Lead-up

1489. The municipality of Ključ lies within northwestern BiH south of Sanski Most and southwest of Banja Luka.⁵¹²⁹ In 1991, the municipality included eight villages that were then inhabited primarily by non-Serbs: Velagići, Krasulje, Biljani, Prhovo, Crljeni, Pudín Han, Ramići, and

⁵¹²⁰ Indictment, para. 60(f).

⁵¹²¹ Indictment, para. 60(g).

⁵¹²² Indictment, para. 60(h).

⁵¹²³ Indictment, para. 60(i).

⁵¹²⁴ Indictment, para. 60(j). *See* Scheduled Incident D.13.

⁵¹²⁵ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement, the removal from positions of authority in local government institutions and the police and the general dismissal from employment, the invasion of privacy through arbitrary searches of homes, unlawful arrest and/or denial of the right to judicial process, and/or the denial of equal access to public services.

⁵¹²⁶ Indictment, paras. 68–75.

⁵¹²⁷ Indictment, paras. 69, 72.

⁵¹²⁸ Indictment, para. 71.

⁵¹²⁹ Asim Egrlić, T. 19926–19927, 19940 (5 October 2011); P3574 (Map of BiH, highlighted); D1729 (Map of BiH marked by KDZ192); P3855 (Map of Croatia and BiH marked by Charles Kirudja); P3492 (Map of ethnic composition of Ključ); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 1; D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 2.

Sanica, which each contained several hamlets.⁵¹³⁰ The population of Ključ numbered approximately 37,300 people in 1991, among which 49.6% were Serb, 47.3% were Muslim, and 0.9% were Croat.⁵¹³¹

1490. Ethnic relations in Ključ were “quite harmonious” before the war.⁵¹³² In November 1990, the SDS achieved a majority by winning 50.8% of the votes in the Ključ municipal elections, while the SDA won 32.8%.⁵¹³³ In accordance with the principle of “equal representation”, positions within the municipal administration were allocated according to an agreement between the SDS, the SDA, and the MBO.⁵¹³⁴ Jovo Banjac of the SDS was appointed President of the Municipality; while Omer Filipović, the leader of the Ključ MBO, was made Vice President of the Municipal Assembly as well as Banjac’s deputy; Asim Egrić, the President of the Ključ SDA, and Tihomir Dakić of the SDS became Chairman and Vice Chairman of the Executive Board of the Ključ Municipal Assembly, respectively.⁵¹³⁵ The rest of the municipal executive positions were evenly distributed to both SDA and SDS members.⁵¹³⁶ Vinko Kondić of the SDS became Chief of the SJB, while Atif Džafić, who was nominated by the SDA but was not affiliated with any party, became acting commander of the police.⁵¹³⁷

1491. Once the war in Croatia began during the summer of 1991, the Ključ Secretariat for People’s Defence began to issue mobilisation orders to Ključ’s male population.⁵¹³⁸ However, both

⁵¹³⁰ P3488 (Witness statement of Atif Džafić undated), paras. 7–8; Atif Džafić, T. 19657–19658 (30 September 2011); D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 2. See also P3575 (Map of Ključ).

⁵¹³¹ D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 1; P3488 (Witness statement of Atif Džafić undated), para. 7; P3492 (Map of ethnic composition of Ključ); D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 2. See also P1476 (Ratko Mladić’s notebook, 30 December 1991–14 February 1992), e-court pp. 64–65.

⁵¹³² Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4638; Asim Egrić, T. 19938 (5 October 2011); D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 5; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9100–9101 (under seal).

⁵¹³³ P3488 (Witness statement of Atif Džafić undated), paras. 4, 10; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4637; KDZ192, T. 19430 (22 September 2011) (closed session). See also D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 4.

⁵¹³⁴ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11658 (under seal); KDZ192, T. 19430–19431, 19433 (22 September 2011) (closed session).

⁵¹³⁵ P3488 (Witness statement of Atif Džafić undated), paras. 4, 10, 11; Atif Džafić, T. 19673–19674 (30 September 2011); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4635, 4637, 4638, 4681–4682; Asim Egrić, T. 19939 (5 October 2011); D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 4; KDZ192, T. 19431 (22 September 2011) (closed session).

⁵¹³⁶ D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), paras. 4–5; P3488 (Witness statement of Atif Džafić undated), paras. 10–11.

⁵¹³⁷ P3488 (Witness statement of Atif Džafić undated), paras. 4–5 (differentiating but not explaining the difference between the positions of SJB chief and police commander), 10; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 4. See also Adjudicated Fact 933.

⁵¹³⁸ P3488 (Witness statement of Atif Džafić undated), para. 38; Atif Džafić, T. 19694 (30 September 2011); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4646; Asim Egrić, T. 19954–19955 (5 October 2011).

local and national leaders of the SDA and MBO discouraged Bosnian Muslims from responding.⁵¹³⁹ Thus, Bosnian Muslims and Bosnian Croats generally did not respond to mobilisation into the JNA and for the frontline in Croatia, whereas Bosnian Serbs did.⁵¹⁴⁰ The lack of Bosnian Muslim response to the mobilisation led to the composition of the JNA becoming primarily Bosnian Serb.⁵¹⁴¹

1492. The Bosnian Serb population of Ključ obtained arms through this mobilisation process, as those returning from the frontline in Croatia retained possession of their weapons.⁵¹⁴² The SDS was also involved in distributing weapons to Bosnian Serbs in Ključ.⁵¹⁴³ The SDS Executive Board discussed the distribution of weapons multiple times between October 1991 and March 1992,⁵¹⁴⁴ when Veljko Kondić remarked that “we will undertake to get additional weapons”.⁵¹⁴⁵ Thereafter, the SDS Executive Board established record-keeping reflecting the weapons kept.⁵¹⁴⁶

2011); P3422 (Minutes of the 2nd session of Ključ SDS Municipal Board Executive Board, 20 September 1991), p. 1; P3424 (Minutes of the 3rd session of Ključ Municipal Board Executive Board, 2 October 1991), pp. 1–2.

⁵¹³⁹ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4936–4942; Asim Egrić, T. 19956–19957 (5 October 2011); P3488 (Witness statement of Atif Džafić undated), para. 38; P3576 (Announcement of Ključ's MBO Municipal Board, 21 September 1991), p. 1.

⁵¹⁴⁰ KDZ192, T. 19437 (22 September 2011) (closed session); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4638, 4846; Asim Egrić, T. 19955, 19957–19958, 19961 (5 October 2011); P3488 (Witness statement of Atif Džafić undated), para. 39. *See e.g.* P3422 (Minutes of the 2nd session of Ključ Municipal Board Executive Board, 20 September 1991), p. 1; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11368 (under seal).

⁵¹⁴¹ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4641, 4844; KDZ192, T. 19439 (22 September 2011) (closed session).

⁵¹⁴² Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4641–4642, 4663–4664; Atif Džafić, T. 19688 (30 September 2011); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9109 (under seal). Members of the reserve police force, who had been mobilised at the same time as the TO, were also issued weapons. P3493 (List of Ključ SJB of persons who were issued weapons, undated); Atif Džafić, P3488 (Witness statement of Atif Džafić undated), para. 37. Several witnesses also testified that they had heard that weapons were delivered via military helicopter. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4956–4957; KDZ075, T. 19015–19016 (16 September 2011). *See also* P3488 (Witness statement of Atif Džafić undated), para. 36; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4663–4664; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9109, 9200 (under seal); P3580 (Official Statement of Ključ's MBO Municipal Board, 21 September 1991), p. 1.

⁵¹⁴³ *See* KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11489 (under seal).

⁵¹⁴⁴ P3424 (Minutes of the 3rd session of Ključ SDS Municipal Board Executive Board, 2 October 1991), pp. 1–2; P3428 (Minutes of 6th Session of Ključ SDS Municipal Board Executive Board, 23 December 1991), pp. 3–4 (reflecting that Jovan Kevac and Boško Bajić suggested to the “Crisis Staff” that Bosnian Serbs acquire arms).

⁵¹⁴⁵ P3435 (Minutes of the 9th session of Ključ SDS Municipal Board Executive Board, 12 March 1992). *See also* P3433 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 6 March 1992), p. 1 (recording that Ljuban Bajić had suggested that a training should be held).

⁵¹⁴⁶ P3436 (Minutes of the 10th session of Ključ SDS Municipal Board Executive Board, 23 March 1992), p. 1; P3493 (List of Ključ SJB of persons who were issued weapons, undated). The Chamber thus does not accept the testimony of Rajko Kalabić, who testified that the procurement of weapons was done by individuals rather than by the SDS. D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 14. For a discussion of the armament of Bosnian Muslims, *see* para. 1508.

1493. Between late 1991 and the spring of 1992, soldiers returning from the frontlines in Croatia often became inebriated and committed drive-by shootings, firing at local mosques in Ključ.⁵¹⁴⁷ While the SDS discussed these problems and made statements denouncing the use of firearms in public,⁵¹⁴⁸ Vinko Kondić ultimately returned weapons that had been seized from soldiers “engag[ing] in illegal acts”.⁵¹⁴⁹ Additionally, during the latter half of 1991, Serb Forces established check-points at the various entrances to Ključ.⁵¹⁵⁰ Ethnic relations in Ključ deteriorated, compromising both the functioning of municipal organs as well as security in general.⁵¹⁵¹

1494. Throughout the fall of 1991, the SDA and MBO opposed the growing signs of regionalisation in Ključ. In late September, the SDA released a public statement rejecting the proclamation of the ARK as a “para-state” successor organisation to the ZOBK and warning that if “such an illegal decision” were implemented, the SDA would organise a referendum to establish a “separate Muslim commune”.⁵¹⁵²

1495. At the end of October 1991, the Ključ SDS received a telex message from Radoslav Brđanin which contained an “Order of the SDS Sarajevo” and outlined a number of instructions

⁵¹⁴⁷ P3488 (Witness statement of Atif Džafić undated), paras. 40–41; Atif Džafić, T. 19687–19688 (30 September 2011). See also Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4641–4642, 4661–4662, 4700; KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4956; KDZ075, T. 19035, 19037, 19039 (16 September 2011); P3584 (Joint Official Announcement of Ključ’s MBO Municipal Board and SDA Town Board, 24 December 1991), p. 1.

⁵¹⁴⁸ P3431 (Handwritten diary of KDZ192) (under seal), pp. 7–8; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11461 (under seal). See also P3580 (Official Statement of Ključ’s MBO Municipal Board, 21 September 1991), pp. 1–2 (stating its opposition to “uncontrolled arming” and proposing inter-party talks).

⁵¹⁴⁹ P3488 (Witness statement of Atif Džafić undated), para. 41; Atif Džafić, T. 19688 (30 September 2011). When asked about what action might be taken to curb such excesses, Vinko Kondić told Džafić that he was too busy and had “bigger fish to fry”. P3488 (Witness statement of Atif Džafić undated), para. 41.

⁵¹⁵⁰ P3488 (Witness statement of Atif Džafić undated), paras. 32–33; Atif Džafić, T. 19687 (30 September 2011). See also Atif Džafić, T. 19687–19688 (30 September 2011) (acknowledging that known arms smuggling routes, as well as routes taken by army deserters and sabotage groups transversed Ključ). Additionally, Bosnian Serb and Bosnian Muslim officers began to prefer working with members of their own ethnicity rather than with mixed patrols and with mixed personnel at check-points. P3488 (Witness statement of Atif Džafić undated), para. 28; Atif Džafić, T. 19690–19691 (30 September 2011).

⁵¹⁵¹ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4641, 4701, 4703; P3488 (Witness statement of Atif Džafić undated), para. 35; Atif Džafić, T. 19692–19693 (30 September 2011). See also P3422 (Minutes of the 2nd session of Ključ SDS Municipal Board Executive Board, 20 September 1991), p. 1; KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4955.

⁵¹⁵² P3577 (Public Statement of Ključ’s SDA Town Board, 21 September 1991), pp. 1–2. See also P3578 (Information of Ključ’s MBO Municipal Board, 17 September 1991) (negatively characterising the proclamation of the ARK by the SDS). The Ključ SDS Municipal Board had already voted to join the ZOBK at the beginning of 1991, but the matter had not been put to a vote at the Ključ Municipal Assembly. Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4654–4655; P3577 (Public Statement of Ključ’s SDA Town Board, 21 September 1991), p. 2; P3579 (Decision of Ključ Municipal Assembly, undated) (referring to a decision taken on 10 April 1991 to remain within the “Banja Luka Community of Municipalities”); D1889 (Decision of Skender Vakuf Municipal Assembly, 12 April 1991) (listing Ključ as a member of the ‘Bosanska Krajina’ Association of Municipalities).

which had been subsequently adopted by the ARK government.⁵¹⁵³ These instructions included directions to, *inter alia*, (i) form a command of the town and establish round-the-clock duty; (ii) fully mobilise the TO; (iii) reassign all men under the age of 40 from Civilian Protection to the TO; (iv) re-subordinate the TO to “the Corps”; (v) take over management in public enterprises, including the banks, judiciary, and media; (vi) proclaim a wartime programme schedule on radio stations; (vii) ban the employment of able-bodied persons from war regions and fire any such persons employed at the date of the order’s issuance; (viii) collect all weapons and equipment from deserters; and (ix) disband all existing paramilitary formations and reassign them to the TO.⁵¹⁵⁴ The SDA and MBO released a joint statement publicising and denouncing the above order.⁵¹⁵⁵ When Asim Egrić, who was then the president of the Ključ Executive Board and had erroneously received the telex, asked Jovo Banjac about the propriety of such instructions, Banjac minimised their importance and suggested that Brđanin “was mad”.⁵¹⁵⁶ Nevertheless, Egrić observed that most of these items were eventually implemented.⁵¹⁵⁷

1496. When the decision to join the ARK was confirmed by the SDS delegates of the Ključ Municipal Assembly on 26 December 1991,⁵¹⁵⁸ the SDA representatives at the Municipal Assembly walked out rather than vote on the issue.⁵¹⁵⁹ Sometime in January or February 1992, Bosnian Muslim leaders formed a separate Assembly of Bosnian Ključ, headed by Omer Filipović.⁵¹⁶⁰

⁵¹⁵³ P2548 (Telex entitled “The Sarajevo SDS Order”, 29 October 1991); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4668, 4943–4944.

⁵¹⁵⁴ P2548 (Telex entitled “The Sarajevo SDS Order”, 29 October 1991).

⁵¹⁵⁵ P3582 (Joint Statement of Ključ MBO and SDA, 31 October 1991), p. 1 (strongly objecting that the telex contained instructions to “organise life in the conditions of war”).

⁵¹⁵⁶ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4668, 4943–4944.

⁵¹⁵⁷ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4668–4669, 4877.

⁵¹⁵⁸ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4655; Asim Egrić, T. 19947 (5 October 2011); P3430 (Decision of Ključ Municipal Assembly, 16 January 1992) (referring to the decision taken on 26 December 1991); P3579 (Decision of Ključ Municipal Assembly, undated).

⁵¹⁵⁹ Asim Egrić, T. 19962 (5 October 2011); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11664–11665 (under seal); KDZ192, T. 19464 (27 September 2011) (closed session). The MBO and SDA also objected to the plebiscite held by the SerBiH Assembly on 9 and 10 November 1991, contending that it was “tantamount to breaking up the common State”, which violated the Constitution of BiH. P3419 (Handwritten diary), p. 12 (under seal); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11398 (under seal); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4695–4696; P3583 (Joint Official Announcement of Ključ’s MBO Municipal Board and SDA Town Board, 7 November 1991).

⁵¹⁶⁰ P3458 (Announcement of Bosanski Ključ Municipal Assembly, 31 January 1992); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11406–11407 (under seal). See also D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 3 (referring to the declaration of a Bosnian Muslim municipality in December 1991); P1476 (Ratko Mladić’s notebook, 30 December 1991–14 February 1992), e-court p. 66 (referring to intense work on forming a Bosnian Muslim municipality).

1497. Meanwhile, the Ključ SDS received the Variant A/B Instructions from the SDS Main Board.⁵¹⁶¹ On 23 December 1991, the Ključ SDS Executive Board established a Crisis Staff.⁵¹⁶² Jovo Banjac became President of the Crisis Staff; other original members included the Chief of the Ključ SJB, Vinko Kondić; the Secretary of the National Defence Secretariat, Slobodan Jurišić; the TO Staff Commander, Boško Lukić; the President of the SDS Municipal Board, Veljko Kondić; the Deputy in the SerBiH Assembly, Rajko Kalabić; the Vice President of the Executive Board of the Municipal Assembly, Tihomir Dakić; Ljuban Bajić; and Dragan Smiljanić.⁵¹⁶³ In mid-May 1992, the Crisis Staff was expanded to include a number of new members and was transformed into a Crisis Staff of the Ključ Municipal Assembly.⁵¹⁶⁴

1498. The frequency of mobilisation calls became constant at the beginning of 1992, increasing the number of soldiers present in the municipality.⁵¹⁶⁵ Some paramilitaries, including the Red Berets, arrived in Ključ around November 1991, while other groups such as the White Eagles arrived in Ključ around February 1992.⁵¹⁶⁶ During the same month, over the objection of SDA representatives to the National Defence Council,⁵¹⁶⁷ JNA units withdrawing from Knin were

⁵¹⁶¹ P3428 (Minutes of 6th Session of the Ključ SDS Municipal Board Executive Board, 23 December 1991) (recording that Veljko Kondić advised the attendees on the *Instructions for the organisation and activities of the Serbian people in BiH*). *But see* KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11416 (under seal) [REDACTED]. Moreover, the Chamber notes that Ključ SDS members took action pursuant to instructions 3 and 4 of the “first stage” of Option A within four days of the dissemination of the Variant A/B Instructions. P3470 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 2–3 (calling for the SDS Municipal Board to immediately establish a “Crisis Staff of the Serbian People” and to proclaim an “Assembly of the Serbian people” in the municipality).

⁵¹⁶² P2592 (Minutes of 6th Session of the Executive Board of the Ključ SDS Municipal Board, 23 December 1991), p. 1; P2643 (Ključ Crisis Staff Report, 15 May - 29 July 1992), p. 2; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11671–11672 (under seal). At the same meeting, Milan Jovičić proposed that the Assembly of the Serbian Municipality of Ključ be proclaimed at the assembly session. P3428 (Minutes of 6th Session of the Executive Board of the Ključ SDS Municipal Board Executive Board, 23 December 1991), p. 2.

⁵¹⁶³ P3488 (Witness statement of Atif Džafić undated), paras. 4, 10, 54; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4637, 4681–4682; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 4; KDZ192, T. 19431 (22 September 2011) (closed session); P3428 (Minutes of 6th Session of the Ključ SDS Municipal Board Executive Board, 23 December 1991), pp. 1–2; P3419 (Handwritten diary), p. 17 (under seal). *See also* Adjudicated Fact 2192.

⁵¹⁶⁴ P2643 (Ključ Crisis Staff Report, 15 May - 29 July 1992), p. 2.

⁵¹⁶⁵ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4738.

⁵¹⁶⁶ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4888–4889; P3488 (Witness statement of Atif Džafić undated), paras. 52–53 (stating that the Red Berets were well trained and assisted in conducting regular police activities); Atif Džafić, T. 19722 (30 September 2011). Atif Džafić was told that one “Dragan” was the commander of the Red Berets, and inferred that the Red Berets were under the control of the TO or had been summoned by the commander of the TO because they were regularly on duty at the TO premises. P3488 (Witness statement of Atif Džafić undated), paras. 51, 53. *See also* Adjudicated Fact 2426. The Chamber notes that although Marko Adamović denied that any paramilitary units, including the White Eagles, operated in the Ključ territory, Adamović did not state the basis for his knowledge. D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 24. Furthermore, as set out in more detail in fn. 5274, the Chamber is of the view that Adamović was often less than forthright with the Chamber and shall only rely on his evidence where it is corroborated by other reliable evidence.

⁵¹⁶⁷ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4736; Asim Egrić, T. 20009–20010 (6 October 2011); P3432 (Minutes of the 6th session of Ključ SDS Municipal Board, 18 February 1992), p. 3;

stationed in a compound in Lanište.⁵¹⁶⁸ The JNA's arrival at Lanište led to an increase in anxiety amongst the Bosnian Muslim population of Ključ,⁵¹⁶⁹ and, along with the arming of the Bosnian Serb population, contributed to the perception that a "war policy" was escalating in Ključ.⁵¹⁷⁰

1499. In February 1992, a special reserve unit of the Ključ police called the "Manoeuvring Unit" was sent to Manjača camp for special training.⁵¹⁷¹ There only the Bosnian Serb members of the unit received training on the use of mortars, Zoljaš, heavy machine guns, hand to hand combat, mines, and cannons. This training had never previously been offered to the Manoeuvring Unit.⁵¹⁷² In early March 1992, in order to prevent Bosnian Muslims from accessing TO weapons,⁵¹⁷³ the TO armoury was transferred to the Kula military depot in Mrkonjić Grad.⁵¹⁷⁴ The weapons were later used to arm the Ključ Battalion.⁵¹⁷⁵

1500. The violence in the villages surrounding Ključ town intensified during March and April 1992.⁵¹⁷⁶ Inebriated Bosnian Serb soldiers who had returned from the Croatian front continued to fire rifles in Bosnian Muslim villages.⁵¹⁷⁷ Bosnian Muslim settlements began to form "loose defence night patrols" at the entrance and exit to the villages to guard against the occurrence of violent incidents,⁵¹⁷⁸ and Bosnian Serbs demanded that mixed ethnicity patrols be conducted in the

KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11458–11460 (under seal); P3431 (Handwritten diary of KDZ192), p. 6 (under seal).

⁵¹⁶⁸ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4733, 4736–4737; Asim Egrlić, T. 20009 (6 October 2011). See also KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9202 (under seal); KDZ075, T. 19035–19036 (16 September 2011).

⁵¹⁶⁹ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4738.

⁵¹⁷⁰ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4733.

⁵¹⁷¹ P3488 (Witness statement of Atif Džafić undated), para. 64. Manoeuvring units were usually used to prevent large scale disturbances of law and order, and thus their usual training covered crowd control techniques, riot control, and the use of chemical agents and firearms. P3488 (Witness statement of Atif Džafić undated), para. 64.

⁵¹⁷² P3488 (Witness statement of Atif Džafić undated), para. 65. When Atif Džafić visited the training in late February 1992, a Bosnian Muslim officer told Džafić that at night, the Bosnian Serb officers had been drunk and had sung Serbian nationalistic songs while sharpening their knives, firing from their rifles, and making derogatory remarks about Bosnian Muslims. P3488 (Witness statement of Atif Džafić undated), para. 66.

⁵¹⁷³ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11499–11500 (under seal); P3494 (Report of Miloš Group, 24 April 1992).

⁵¹⁷⁴ P3433 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 6 March 1992), p. 1; P3488 (Witness statement of Atif Džafić undated), paras. 48–49; Atif Džafić, T. 19719 (30 September 2011); P3436 (Minutes of the 10th session of Ključ SDS Municipal Board Executive Board, 23 March 1992), p. 1 (reflecting that the transfer of weapons was complete and that only 'a small amount was left for [the SDS's] needs'); P3437 (Minutes of the 11th session of Ključ SDS Municipal Board Executive Board, 30 March 1992), p. 1; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11499 (under seal); KDZ192, T. 19461 (27 September 2011) (closed session).

⁵¹⁷⁵ See fn. 5237.

⁵¹⁷⁶ P3488 (Witness statement of Atif Džafić undated), para. 71.

⁵¹⁷⁷ P3488 (Witness statement of Atif Džafić undated), para. 71.

⁵¹⁷⁸ P3488 (Witness statement of Atif Džafić undated), paras. 71–72; Atif Džafić, T. 19729 (30 September 2011); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4784; Asim Egrlić, T. 19971 (5 October 2011).

mixed ethnicity villages.⁵¹⁷⁹ This was done for one or two nights, before conflicts arose and the process was halted.⁵¹⁸⁰ One day during March or April 1992, several buildings in Pudín Han burst into flames.⁵¹⁸¹ Bosnian Serbs and Bosnian Muslims began to leave Ključ due to the escalating tensions.⁵¹⁸²

(3) Take-over

1501. By 29 April 1992, Bosnian Serbs had consolidated power within the municipality.⁵¹⁸³ That day, the SDS Municipal Board adopted a conclusion to “*first prepare everything and coordinate with the army and, when everything is prepared, implement the change in insignia/loyalty of the police*”.⁵¹⁸⁴ In accordance with a decision of the ARK government taken on 4 May,⁵¹⁸⁵ on the following day the President of the Ključ National Defence Council, Jovo Banjac, imposed a curfew in Ključ municipality.⁵¹⁸⁶ Throughout May, the Ključ Crisis Staff announced deadlines for citizens to surrender unlicensed weapons or face arrest.⁵¹⁸⁷ Meanwhile, on 7 May 1992, units from the JNA 9th Corps based at Lanište and the 5th Corps (comprised of a battalion of the 6th Partisan Brigade and the 3rd Battalion of the 1st Partisan Brigade) secured the town before responsibility for security was taken over by the Serb TO and the reserve police.⁵¹⁸⁸ Serb Forces completed the military take-

⁵¹⁷⁹ P3488 (Witness statement of Atif Džafić undated), para. 71.

⁵¹⁸⁰ P3488 (Witness statement of Atif Džafić undated), para. 71. *See also* KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9102, 9198–9199 (under seal).

⁵¹⁸¹ P3488 (Witness statement of Atif Džafić undated), para. 72 (referring to stables, garages, and a house). Although one person was arrested afterward, Džafić was suspicious that one person could have started all of the fires in such a short time. P3488 (Witness statement of Atif Džafić undated), para. 72. Additionally, the police had information that shots were fired into the spires of mosques and at the homes of veterans, but investigations were not carried out. Atif Džafić, T. 19729 (30 September 2011).

⁵¹⁸² KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11538 (under seal); KDZ192, T. 19474 (27 September 2011) (closed session). *See also* Asim Egrlić, T. 20000 (5 October 2011) (conceding that individuals of all ethnicities left the municipality before the war broke out); D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 3 (stating that 2,500 Bosnian Muslims moved away from Velagići prior to the outbreak of the conflict).

⁵¹⁸³ P3438 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 29 April 1992) pp. 1–2. *See also* P3592 (Handwritten notes re organisation of Ključ Civil Defence), e-court pp. 9–10; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4792–4793 (identifying the handwriting in P3592 as Vinko Kondić’s and explaining his familiarity with the same).

⁵¹⁸⁴ P3438 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 29 April 1992) p. 4 (emphasis added).

⁵¹⁸⁵ P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992).

⁵¹⁸⁶ P3460 (Order of President of the Council for National Defence of Ključ Municipal Assembly, 5 May 1992) (providing an exception to the curfew for persons with official authorisation from the police, military police, or TO). *See also* Adjudicated Fact 2427. *See also* Slobodan Jurišić, D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 33; Slobodan Jurišić, T. 47093–47094 (14 February 2014).

⁵¹⁸⁷ [REDACTED]; D3901 (Public announcement of Ključ Crisis Staff, 9 May 1992), p. 2; P3439 (Minutes of meeting of Ključ Crisis Staff, 13–14 May 1992), pp. 1–2.

⁵¹⁸⁸ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4756–4757 (testifying that in addition to securing the roads, the JNA units had already established control over strategic positions and institutions in town). *See also* P3586 (Order of the 6th Partisan Brigade, 18 May 1992); P3488 (Witness statement of Atif Džafić undated), para. 76; P3590 (Minutes of meeting of presidents of municipalities in the zone of responsibility of the 1st Partisan Brigade, 14 May 1992), p. 2; P3663 (Report on the 6th Brigade in the period

over swiftly, between 7 and 10 May, and without sustaining any losses,⁵¹⁸⁹ and the Serbian flag was hoisted on the municipal building and the local police station.⁵¹⁹⁰

(a) Expulsion of Bosnian Muslims from police, administrative organs and work force

1502. On 7 May, Vinko Kondić called a meeting of all non-Serb officers in the SJB building, where the officers were asked to sign an oath of loyalty to the RS government as required by the law on internal affairs.⁵¹⁹¹ They were also asked to accept changes incorporating Serbian insignia into their uniforms.⁵¹⁹² None of the non-Serb officers wished to sign the oath.⁵¹⁹³ After consulting with two Bosnian Serb inspectors from the Banja Luka CSB who were also present,⁵¹⁹⁴ Kondić told the non-Serb officers to go on leave and to “think carefully” about their decision.⁵¹⁹⁵ The non-Serb officers were recalled to the SJB building approximately two weeks later, but since none of them had changed their minds about signing the oath, they were immediately relieved of their duties.⁵¹⁹⁶ Although the Ključ Crisis Staff publicly announced that the change in insignia would

between 8 October 1991 and 28 August 1992), p. 5. When the JNA withdrew from the territory of BiH, the 6th Partisan Brigade was integrated into the VRS as part of the 1st Krajina Corps. P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 5; P3660 (Handwritten “War Record” of the 6th Krajina Infantry Brigade, undated), p. 3. *See also* Adjudicated Fact 2428.

⁵¹⁸⁹ P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 5.

⁵¹⁹⁰ P3488 (Witness statement of Atif Džafić undated), para. 76; D1724 (Public announcement of Ključ Crisis Staff, 8 May 1992), p. 1. *See* Adjudicated Fact 2428.

⁵¹⁹¹ P3488 (Witness statement of Atif Džafić undated), paras. 74, 75, 78 (testifying *inter alia* that P3498 is an example of such an oath); P3498 (Solemn declaration of SerBiH official, 6 April 1992); P3468 (Excerpt from SerBiH's Official Gazette, 23 March 1992); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11714 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9102–9103 (under seal). *See also* Adjudicated Fact 2429. After returning from a meeting in Banja Luka in March 1992, Vinko Kondić had warned his staff that he had signed a pledge of allegiance to the CSB in Banja Luka and that they too would soon have to pledge loyalty to the “Serbian authorities and the Serbian Republic”. P3488 (Witness statement of Atif Džafić undated), para. 63; Atif Džafić, T. 19724 (30 September 2011) (stating that after signing the oath, Vinko Kondić had stopped carrying out orders from Sarajevo and began acting on orders from Banja Luka instead). The Chamber understands Kondić's reference to the “Serbian authorities” to refer to the authorities of the SerBiH.

⁵¹⁹² P3497 (Public Announcement of Ključ Crisis Staff) (informing citizens of changes made to police uniforms on 7 May 1992); P3438 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 29 April 1992), p. 3.

⁵¹⁹³ P3488 (Witness statement of Atif Džafić undated), para. 75; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4745–4746; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9102, 9199, 9251 (under seal).

⁵¹⁹⁴ Several weeks earlier, on 8 April 1992, Stojan Župljanin, as Chief of the Banja Luka CSB, had held a press conference in which he stated that all MUP employees were required to sign a loyalty oath by 15 April 1992; if they did not, their employment would be terminated. KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11715 (under seal); P3469 (News bulletin, 8 April 1992).

⁵¹⁹⁵ P3488 (Witness statement of Atif Džafić undated), paras. 74–76, 78, 81. *See also* Atif Džafić, T. 19691–19692 (30 September 2011).

⁵¹⁹⁶ P3488 (Witness statement of Atif Džafić undated), paras. 78, 79, 81; Atif Džafić, T. 19691–19692, 19730, 19749 (30 September 2011); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9102, 9199 (under seal); P3489 (Report of Banja Luka CSB, 28 May 1992) (order to all SJB Chiefs in the Banja Luka CSB stating that all SJB employees who had not signed the loyalty oath were considered dismissed as of 15 April 1992 and that their insurance and entitlements should be cancelled).

“not threaten the livelihood of those workers who did not sign the solemn oath [...] because attempts will be made to create conditions for their further work”,⁵¹⁹⁷ these words were not honoured.⁵¹⁹⁸

1503. Between late 1991 and early March 1992, the SDS had formed a personnel committee which was tasked with carrying out an analysis of the personnel structures in the municipality area.⁵¹⁹⁹ At an SDS Executive Board meeting on 6 March 1992, the structure of the Public Auditing Service (“SDK”) in Ključ was characterised as “unfavourable”, which referred to the fact that a Bosnian Muslim was employed there.⁵²⁰⁰ In the weeks preceding 7 May 1992, a Bosnian Muslim member of the SDK and the Bosnian Muslim editor-in-chief of the radio station were replaced by members of the SDS.⁵²⁰¹ Both men were told that “since there had been a take-over in Ključ, they had to be replaced by individuals from the SDS”.⁵²⁰²

1504. By the end of May 1992, most Bosnian Muslims in Ključ had lost or would soon lose their jobs.⁵²⁰³ On 7 May 1992, Bosnian Muslim municipal employees had been told to leave the municipality building with the proviso that they would be called back if needed.⁵²⁰⁴ Between mid-May and early June, the Ključ Crisis Staff concluded that “all management positions in enterprises must be filled by people absolutely loyal to” the SerBiH and that the replacement of all non-Serbs who were then employed in posts which encompassed the “protection of properties” was to be carried out by 1 June 1992.⁵²⁰⁵ These principles were later recorded in the 21 July 1992 decision of

⁵¹⁹⁷ D1724 (Public announcement of Ključ Crisis Staff, 8 May 1992), p. 1; KDZ192, T. 19471 (27 September 2011) (closed session) (interpreting the announcement to mean that even those who did not sign the loyalty oath would be able to retain employment with the MUP).

⁵¹⁹⁸ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4761; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9102, 9199 (under seal).

⁵¹⁹⁹ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11433–11435, 11693 (under seal); P3419 (Handwritten diary), p. 22 (under seal); P3436 (Minutes of the 10th session of Ključ SDS Municipal Board Executive Board, 23 March 1992), p. 2 (including discussion of the activities of the Personnel Commission).

⁵²⁰⁰ P3433 (Minutes of the 8th session of Ključ SDS Municipal Board Executive Board, 6 March 1992), p. 1; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11463 (under seal).

⁵²⁰¹ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4738, 4756; Asim Egrlić, T. 19994 (5 October 2011). *See also* Adjudicated Fact 2430.

⁵²⁰² Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4756.

⁵²⁰³ Asim Egrlić, T. 19935 (5 October 2011); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4756, 4762, 4765, 4885–4886; P3587 (List of employees of Ključ Municipal Assembly, 26 June 1992).

⁵²⁰⁴ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4744, 4756; Asim Egrlić, T. 19965 (5 October 2011)

⁵²⁰⁵ P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May–10 July 1992), pp. 2, 15 (referring to the conclusions of the ARK Crisis Staff), 18 (referring to a working group reviewing the managerial vacancies left by Bosnian Muslims); P3431 (Handwritten diary of KDZ192), p. 26 (under seal). As a result, several Bosnian Muslim members of the National Defence Council were suspended immediately and SDS members were tasked with identifying suitable replacements to fill the vacancies created. P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May - 10 July 1992), p. 3; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11555 (under seal) (identifying two Bosnian Muslims listed on p. 3 of P2606).

the Ključ Crisis Staff, which had since been renamed the War Presidency,⁵²⁰⁶ when it held that, in accordance with a prior decision of the ARK Crisis Staff,⁵²⁰⁷ only Bosnian Serb officials could occupy managerial posts, posts that could provide access to information or involve the protection of public property, and posts that were important for the functioning of the economy.⁵²⁰⁸ On the same day, the Ključ War Presidency also issued a decision terminating the employment of “all employees who ha[d] failed to respond to the general mobilisation”.⁵²⁰⁹ Following these decisions, the War Presidency ordered the dismissal of several non-Serbs from municipal positions, including the positions of president and vice president of the executive board of the municipality.⁵²¹⁰ By 31 July, Vinko Kondić reported that only Serb workers were employed in business enterprises.⁵²¹¹

1505. Rajko Kalabić testified that Bosnian Muslims reported to their jobs without interference until late May 1992 and asserted that this timing suggested that they left their jobs of their own free will rather than under duress.⁵²¹² However, while Asim Egrić acknowledged that his employer had been entitled to terminate his employment after he failed to report to work for five days, he explained that the same persons who terminated his employment for failing to report to work also imprisoned him in a camp, and that this termination occurred long after he ceased reporting for work as a result of the security conditions in Ključ.⁵²¹³ In light of the security situation prevailing in Ključ at the time, as well as the retroactive Crisis Staff decisions, the Chamber finds that, contrary to Kalabić’s assertion, Bosnian Muslims were dismissed from their jobs on account of their ethnicity.

⁵²⁰⁶ P2643 (Ključ Crisis Staff Report, 15 May - 29 July 1992), p. 2.

⁵²⁰⁷ P7 (Decision of ARK Crisis Staff, 22 June 1992); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11734 (under seal) (conceding that the wording ARK Crisis Staff’s decision was similar to that used by the Ključ War Presidency in their decision taken in July).

⁵²⁰⁸ P3464 (Decision of Ključ War Presidency, 21 July 1992); Asim Egrić, T. 19921–19922 (5 October 2011) (describing P3514 as “retroactively” covering “what had already been effected”); P3488 (Witness statement of Atif Džafić undated), paras. 76, 79; Atif Džafić, T. 19662–19663, 19749 (30 September 2011).

⁵²⁰⁹ P3514 (Decision of Ključ War Presidency, 21 July 1992).

⁵²¹⁰ Adjudicated Fact 2431.

⁵²¹¹ P5411 (Minutes of the 13th session of the Ključ Municipal Assembly, 31 July 1992). *See also* KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11696–11697 (under seal) [REDACTED]. The Chamber notes that although in his witness statement, Slobodan Jurišić claimed that all individuals left their jobs of their own free will, he later admitted that he had heard that disloyal individuals had been removed from executive positions pursuant to an ARK order. D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 35; Slobodan Jurišić, T. 47071 (13 February 2014). The Chamber therefore will not place weight on that part of Jurišić’s witness statement.

⁵²¹² D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 7.

⁵²¹³ Asim Egrić, T. 19936–19938 (5 October 2011); P3588 (Ruling of Ključ War Presidency, 21 July 1992) (terminating Egrić’s services as chairman of the Executive Board); D1348 (Decision of Ključ War Presidency, 21 July 1992) (same); D1349 (Decision of Ključ War Presidency, 21 July 1992) (terminating the duties of Omer Filipović as Vice President of the Municipal Assembly). *See also* P3572 (Decision on termination of employment by Veledprodaja enterprise in Ključ, 28 October 1992); Asim Egrić, T. 19922, 19935 (5 October 2011) (testifying that P3572 reflected a decision that had already been taken in May or June).

(b) Outbreak of armed conflict in Ključ

1506. After 7 May 1992, Bosnian Muslims' freedom of movement was restricted both temporally and geographically, and Bosnian Muslims were required to identify themselves and to explain their movements at check-points.⁵²¹⁴ On 25 May 1992, Banjac, as President of the Ključ Crisis Staff, issued an order to bring the TO units in Ključ municipality up to strength and to set up civilian protection units in all local communes, including Bosnian Muslim ones.⁵²¹⁵

1507. Armed operations in Ključ began with several incidents between Bosnian Muslims and Bosnian Serbs on 27 May 1992.⁵²¹⁶ Around 11 a.m., while responding to a report that a barricade had been erected on the road near Krasulje, the Assistant Commander of the Ključ SJB, Dušan Stojaković, was fatally wounded during an "armed clash" with Bosnian Muslims;⁵²¹⁷ a military and a regular policeman were also wounded during the incident.⁵²¹⁸ Around 2 p.m. on the same day, a bus carrying members of the JNA who were returning from Knin to Banja Luka came under fire near Pudín Han, resulting in the deaths of four or five individuals.⁵²¹⁹ During the course of the day, a check-point at the intersection of the Ključ-Sanica road came under fire, and in the evening, a "squa[d] of extremists" attempted to blow up a road above Velagići.⁵²²⁰ In addition to the incidents

⁵²¹⁴ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4761; KDZ075, P3358 (Transcript from *Prosecutor v. Krajišnik*) T. 4961 (under seal) (stating that after the establishment of the check-point between Sanica and Biljani, the residents of Biljani could no longer reach Ključ or Sanica). See also Adjudicated Fact 2432.

⁵²¹⁵ D1726 (Order of Ključ Crisis Staff, 25 May 1992).

⁵²¹⁶ Asim Egrić, T. 19938 (5 October 2011); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 6; KDZ192, T. 19476 (27 September 2011) (closed session). During the days preceding 27 May, Bosnian Muslims destroyed a television relay station near Krasulje. P3594 (Report of Ključ SJB, 25 September 1992), p. 1; KDZ192, T. 19477 (27 September 2011) (closed session); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11525–11526 (under seal); D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 11; Slobodan Jurišić, T. 47075 (13 February 2014); D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 5.

⁵²¹⁷ See Adjudicated Fact 2433; D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 6; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), paras. 6, 17; D4165 (Witness statement of Marko Adamović dated 1 December 2013), paras. 3, 7a–b; D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 6; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 12.

⁵²¹⁸ KDZ192, T. 19476, 19480 (27 September 2011) (closed session); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), pp. 6–7; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4857; Asim Egrić, T. 19989–19990 (5 October 2011); D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), paras. 6, 17; D4165 (Witness statement of Marko Adamović dated 1 December 2013), paras. 3, 7a; D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 6; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 12; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9206–9207 (under seal).

⁵²¹⁹ D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 7; KDZ192, T. 19476 (27 September 2011) (closed session); D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 7; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 12.

⁵²²⁰ D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 7. After the incidents, the "commander of these Muslim formations" surrendered at the invitation of Colonel Galić and was taken to the military remand prison in Banja Luka. D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 15.

that occurred that day, the Ključ SJB discovered that seven members of Serb Forces had been captured in Crljeni two days before.⁵²²¹

1508. The Chamber received conflicting evidence regarding the establishment and level of organisation of a Bosnian Muslim TO, as well as its involvement in the events of 27 May 1992. According to a Ključ SJB dispatch dated 25 September 1992, Bosnian Muslim forces began to obtain weapons through individual purchases in early 1992, and established a “Bosanski Ključ TO” in April 1992.⁵²²² Asim Egrić acknowledged that guards had been assigned to various Bosnian Muslim settlements located north of Ključ since early 1992, but suggested that they lacked any military organisation.⁵²²³ Although he initially denied that a Bosnian Muslim TO existed and suggested that Bosnian Serbs considered the entire Bosnian Muslim population to be members of the TO, Egrić later conceded (i) that after Bosnian Muslim representatives were expelled from the Ključ Municipal Assembly around 10 May, they had established an office in Pudín Han in order to communicate with the population, and (ii) that Omer Filipović was appointed TO Commander.⁵²²⁴ Even when shown an SJB report from July 1992 which estimated the numerical strength of Muslim forces in Ključ at the outbreak of the conflict as being approximately 1,300 to 1,500 men,⁵²²⁵ and an official note of the 2nd Krajina Corps Command’s Intelligence Department dated 11 July 1992 which described a fully-functioning staff,⁵²²⁶ Egrić maintained that the Bosnian Muslim TO staff had not had time to set up any units.⁵²²⁷ However, the Chamber finds that, in light of

⁵²²¹ D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 7; P3488 (Witness statement of Atif Džafić undated), para. 90; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4787, 4862; D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 4; D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 3.

⁵²²² P3594 (Report of Ključ SJB, 25 September 1992), p. 1. *See also* D1731 (Report of Ključ SJB, 3 June 1992), p. 1 (referring to the establishment of a Bosnian Muslim TO following the issuance of an order by Izetbegović); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 11 (referring to SJB employees acquiring and distributing arms to Bosnian Muslims).

⁵²²³ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4784; Asim Egrić, T. 19971 (5 October 2011). *But see* D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 5 (referring to an efficient system of command and control).

⁵²²⁴ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4784–4786, 4866–4867; Asim Egrić, T. 19965–19967, 19970–19971 (5 October 2011). Other members of the Bosnian Muslim TO included Amir Avdić and Mevzad Đerić as field co-ordinators, and Egrić as responsible for political affairs. D1350 (Lists of Muslim people in Ključ, 10 June 1992); P3594 (Report of Ključ SJB, 25 September 1992); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4790 (confirming that D1350 contains an accurate list of the Bosnian Muslim TO staff) and 4808 (confirming that he was a member of the TO); Asim Egrić, T. 19967 (5 October 2011). *See also* D1730 (Official note of Ključ SJB, 31 May 1992), p. 1. By contrast, the Bosnian Muslim “Crisis Staff” described in D1350 was never established because it was never confirmed by the deputies who were members of the Ključ Municipal Assembly. Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4790.

⁵²²⁵ D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), pp. 9–10. *See also* Jovo Kevac, T. 46273 (30 January 2014) (testifying that a Bosnian Muslim TO of approximately 2,000 men was formed in 1992).

⁵²²⁶ D1748 (Official note of 2nd Krajina Corps Command, 11 July 1992).

⁵²²⁷ Asim Egrić, T. 19964–19967, 19970–19972 (5 October 2011); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4784–4786, 4819, 4855–4856, 4866–4867. *See also* Asim Egrić, T. 19973–19974 (5 October 2011) (observed that the statements comprising D1748 had been obtained from persons detained in

contemporaneous documents of the Banja Luka CSB and the Ključ SJB, the events of 27 May 1992 were carried out by Bosnian Muslim forces.⁵²²⁸

1509. Beginning at 8 a.m. on 28 May 1992 and continuing throughout the day, the Ključ Crisis Staff and the Ključ Defence Command⁵²²⁹ issued orders to Bosnian Muslims to hand in their weapons and to hand over Stojaković's body, as well as those responsible for firing on the JNA convoy on the previous day.⁵²³⁰ At 4 p.m., the Ključ Defence Command accepted Omer Filipović's request for an extension of the deadline to surrender weapons until 10 a.m. the following day in exchange for handing over the seven captured soldiers and Stojaković's body by 5 p.m. on 28 May 1992.⁵²³¹ Filipović was also taken into custody.⁵²³² However, after the 4 p.m. announcement, the Ključ Defence Command issued a further statement at 8 p.m. ordering the residents of Puđin Han and Velagići to surrender their weapons by 9 p.m. that evening.⁵²³³ Failure to comply with the provisions of the statement would result in a state of armed conflict.⁵²³⁴

Manjača who may have been under duress); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), pp. 5–6 (describing a TO that was “primarily organised for defence operations”).

⁵²²⁸ D1731 (Report of Ključ SJB, 3 June 1992), p. 2; D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 6 (suggesting that despite being primarily organised for defence purposes, a decision was taken to “change the concept from defensive to offensive operations”).

⁵²²⁹ On 31 May 1992, Colonel Stanislav Galić, the Commander of the 30th Partisan Division, issued an order forming the “Ključ Defence Command”, which was to consist, *inter alia*, of the Commander of the 3rd Battalion of the 1st Partisan Brigade, the Commander of the newly-formed 4th Battalion of the 1st Partisan Brigade, the Commander of the Ključ Territorial Defence Staff, the Chief of the Ključ SJB, the President of Ključ Municipality and two or three members of the Ključ Crisis Staff. P3445 (Order of the 30th Partisan Division, 31 May 1992), p. 1; P3914 (Ewan Brown's expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), para. 2.46; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 9. The primary task of the Ključ Defence Command was “the protection of the Serbian people in the greater area of the municipality” by, *inter alia*, deploying “in the areas where combat activities were conducted until recently (the areas populated by the [Bosnian] Muslims)”, controlling the routes of approach and points of entrance to the municipality, establishing the SerBiH Army on the entirety of the territory, and facilitating the functioning of the municipal authorities. P3445 (Order of the 30th Partisan Division, 31 May 1992), p. 1.

⁵²³⁰ P3444 (Order of Ključ Crisis Staff, 28 May 1992); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11666–11667 (under seal). Anyone who did not comply would face “thorough measures [...] to disarm them”, which the Crisis Staff warned could have “disastrous consequences for their personal security and that of their property”. P3444 (Order of Ključ Crisis Staff, 28 May 1992). *See also* Adjudicated Fact 919.

⁵²³¹ D1728 (Order of Ključ Defence Command, 28 May 1992); P3591 (Order of Ključ Crisis Staff, 28 May 1992); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 7.

⁵²³² KDZ192, T. 19484 (27 September 2011) (closed session) [REDACTED]; KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11725–11727 (under seal) [REDACTED]. *See also* D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 8 (describing talks between Galić and Filipović and suggesting that, at the latter's request, Filipović was “escorted” to Ključ by the Chief of the SJB). *See also* para. 1508 (discussing the Bosnian Muslim TO in Ključ).

⁵²³³ D4678 (Statement from the Ključ Defence Command, 28 May 1992). The deadline for residents of Krasulje and Gorni Ramići to surrender their weapons was also brought forward to 7 a.m. on 29 May. D4678 (Statement from the Ključ Defence Command, 28 May 1992).

⁵²³⁴ D4678 (Statement from the Ključ Defence Command, 28 May 1992).

1510. As a result of this “new security situation”,⁵²³⁵ Banjac, as President of the Ključ Crisis Staff, issued an order prohibiting citizens from moving from one area to another within the municipality without special permission from the Ključ SJB.⁵²³⁶ Additionally, the Ključ Battalion⁵²³⁷ was deployed to “mop up” the town and surrounding settlements by disarming “all paramilitary formations in the direction of the attacks and to arrest members of these formations”,⁵²³⁸ while the 1st Brigade of the 30th Partisan Division was also deployed in the area.⁵²³⁹

1511. At the same time, beginning on 27 May, the Serb Forces attacked Bosnian Muslim areas of Ključ, including Pudín Han.⁵²⁴⁰ As these operations ensued, members of Serb Forces collected weapons from Bosnian Muslim villages including Pudín Han, Velagići, Krasulje, Biljani, Sanica, and Kamičak.⁵²⁴¹ Bosnian Serbs were not required to turn in their weapons.⁵²⁴² In the morning of 30 May 1992, members of the Serb Forces, including the White Eagles,⁵²⁴³ went from village to village, instructing villagers to hang white sheets from the houses to signal their loyalty and forcing military-aged men to walk in front of the Serb Forces to shield them from fire until the Serb Forces

⁵²³⁵ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11557–11558 (under seal); KDZ192, T. 19479–19480 (27 September 2011) (closed session).

⁵²³⁶ P3443 (Order of Ključ Crisis Staff, 27 May 1992).

⁵²³⁷ The Ključ Battalion had been formed at the end of April 1992 and was integrated into the 1st Light Infantry Brigade of the 1st Krajina Corps as its 3rd Infantry Battalion, quartered in Sitnica. P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 2. See also D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), paras. 6–7; Slobodan Jurišić, T. 47125 (14 February 2014). Branko Ribić and Marko Adamović were appointed commander and deputy commander, respectively. P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 2. After the 4th Infantry Battalion of the 1st Light Infantry Brigade was created on or around 1 June 1992, the Ključ Battalion joined the 17th Light Infantry Brigade, which was a unit of the 2nd Krajina Corps. P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 3; P3914 (Ewan Brown's expert report entitled “Military Developments in the Bosanska Krajina - 1992”, 27 November 2002), para. 1.99.

⁵²³⁸ P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 3; P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May - 10 July 1992), p. 2.

⁵²³⁹ P1171 (1st Krajina Corps combat report, 28 May 1992), p. 1; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 8 (stating that “Galić's unit” from Mrkonjić Grad arrived in Ključ and set up checkpoints on the routes leading to Ključ); Stanislav Galić, T. 37154 (15 April 2013) (testifying that he was the commander of the 30th Infantry Division at Mrkonjić Grad). See also D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 14 (stating that a company was brought from the direction of Petrovac to control the Ključ-Petrovac road).

⁵²⁴⁰ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11559–11560, 11667, 11725–11727, 11729 (under seal); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 7; P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 3.

⁵²⁴¹ D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 10. Zgon, Velečovo, and Dubočani, were not subjected to weapons collection. D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 10; KDZ024, P713 (Transcripts from *Prosecutor v. S. Milošević*), T. 9105–9106 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 30069–30071, 30074–30075 (under seal); KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4957; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 15.

⁵²⁴² KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9107 (under seal).

⁵²⁴³ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4960, 4985. On 28 May 1992, the White Eagles had been ordered to place themselves under the command of the “Ključ operations group”. P3444 (Order of Ključ Crisis Staff, 28 May 1992), p. 2; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 37 (commenting that every individual and group had to be part of either the VRS or the civilian police). See also Adjudicated Fact 2434. The Chamber therefore finds that the White Eagles were acting under the direction of the Ključ Defence Command as of 28 May 1992.

reached the next village.⁵²⁴⁴ From there, the men were allowed to return home and the process was repeated with the men from that village.⁵²⁴⁵ In Biljani, where Serb Forces searched the houses for weapons, their search yielded none.⁵²⁴⁶

(c) Destruction of houses and looting of movable property

1512. Beginning while the combat operations were underway and continuing throughout 1992 some 3,500 houses in Bosnian Muslim villages including Pudin Han, Velagići, Biljani, and Prhovo were razed to the ground and burned.⁵²⁴⁷ Furthermore, during the same period, members of the Serb Forces “illegally appropriat[ed]” Bosnian Muslims’ movable property, such as cattle, housing materials, and vehicles.⁵²⁴⁸ Although the Ključ Crisis Staff explained to Bosnian Serb citizens in June 1992 that property was considered “inviolable [and] should be protected from the wilfulness of individuals”,⁵²⁴⁹ and the Ključ Executive Board passed a decision on 29 September 1992 transferring the ownership of movable and immovable property from those who had left the municipality to the state,⁵²⁵⁰ a later military report stated that “illegal acts of appropriation of state property continued [...] [and] nothing was done to prevent further acts of unlawful appropriation”.⁵²⁵¹ The 1st Krajina Assistant Corps Commander for Civilian Affairs reported that as late as 1 February 1993, such acts were occurring in “full co-ordinated action and co-operation of the Military and civilian police”.⁵²⁵² The Chamber is therefore satisfied that such crimes

⁵²⁴⁴ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4958–4961.

⁵²⁴⁵ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4958–4961.

⁵²⁴⁶ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4961. *See also* Adjudicated Fact 2435.

⁵²⁴⁷ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4820; D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 11; *see* Adjudicated Facts 948, 949, 2448. *See also* P3662 (1st Krajina Corps report, 31 May 1992), p. 2; P2972 (Report of Ključ SJB, 28 September 1992), p. 1.

⁵²⁴⁸ D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 2 (attributing such actions to military personnel as well as police and local Serbs); D1352 (Report of Ključ SJB to Banja Luka CSB, July 1992), p. 11; P2972 (Report of Ključ SJB, 28 September 1992), p. 1. *See also* Adjudicated Fact 950; KDZ192, T. 19514 (27 September 2011) (closed session) (attributing the looting to “paramilitary individuals”). *But see* D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 16 (attributing the looting to “renegade individuals” who were not under the control of the army and police).

⁵²⁴⁹ KDZ192, T. 19514–19515 (27 September 2011) (closed session) [REDACTED]. *See also* D1739 (Decisions of Ključ Crisis Staff, 30 June 1992), p. 1 (calling on all persons who had appropriated cars or valuables to return them to the army within a five day grace period or risk sanction); P3452 (Extract from Minutes of Ključ War Presidency, 10 July 1992), p. 1 (forming a commission to take in “war booty”); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11634–11635 (under seal) (stating that “war booty” referred to movable property that had been taken from Bosnian Muslims although some had stayed in Ključ without their property being disturbed).

⁵²⁵⁰ D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), pp. 2–3.

⁵²⁵¹ D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 3 (describing the appropriation of livestock, as well as any usable building materials that remained in Bosnian Muslim villages, by people who were “armed and dressed in military uniforms”).

⁵²⁵² D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), p. 3.

continued to be perpetrated by members of Serb Forces even after the measures taken by the Ključ Crisis Staff and Ključ Executive Board in June and September 1992.

(4) Killings on or around 1 June 1992

(a) Scheduled Incident A.7.1

1513. The Indictment refers to the killing of “a number” of people in Pudín Han on or about 28 May 1992.

1514. As the Chamber has previously noted, a Bosnian Muslim TO was headquartered in Pudín Han.⁵²⁵³ At the time, Pudín Han was almost exclusively a Bosnian Muslim village located approximately three kilometres north of Ključ town.⁵²⁵⁴ Even as the Ključ Crisis Staff issued its ultimatum on 28 May 1992,⁵²⁵⁵ Pudín Han had already begun to be shelled from locations controlled by Serb Forces on the previous day.⁵²⁵⁶ Many people were hit by the shells as they tried to flee.⁵²⁵⁷ While at his house on 28 May, KDZ024 could see smoke coming from the houses in Pudín Han.⁵²⁵⁸ During the attack on Pudín Han, the mosque in Pudín Han was blown up and leveled.⁵²⁵⁹ KDZ024 visited Pudín Han after it was shelled, and found everything burned,

⁵²⁵³ See para. 1508.

⁵²⁵⁴ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4767. See Adjudicated Fact 918. See also P3488 (Witness statement of Atif Džafić undated), para. 8; Atif Džafić, T. 19657–19658 (30 September 2011) (describing Pudín Han as one of eight villages in Ključ municipality which was populated predominantly by non-Serbs).

⁵²⁵⁵ See para. 1509. During a meeting at the youth centre in Pudín Han, the vast majority of inhabitants of Pudín Han were in favour of surrendering their weapons, and those who disagreed left for Bihać. Adjudicated Fact 920.

⁵²⁵⁶ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9117, 9209 (under seal); P6543 (Report of 1st Krajina Corps, 2 November 1993), p. 3. See also para. 1511; Adjudicated Fact 921; P3488 (Witness statement of Atif Džafić undated), para. 82. KDZ192 gave conflicting evidence as to whether Pudín Han was fired upon in order to induce the leader of the Bosnian Muslim TO to surrender. KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11559–11560, 11726–11727, 11729 (under seal); KDZ192 T. 19484 (27 September 2011) (closed session) (acknowledging that Bosnian Muslims maintained that Filipović had surrendered prior to the commencement of fire but testifying that the Serb Forces only fired to induce Filipović to surrender). See also P3450 (Video footage of TV Banja Luka depicting events in Ključ), at 00:02:27–00:06:41 (showing Vinko Kondić stating that Bosnian Muslim “extremists” in Pudín Han had refused to surrender their weapons). The Chamber notes that the Accused concedes that Pudín Han was shelled even prior to the expiration of the Crisis Staff’s ultimatum, and that at least three civilians died, but suggests that the shelling was not carried out by Serb Forces, who “had no interest in shelling since they had information that the Bosnian Muslim extremists who remained beyond reasonable doubt that, as stated in the main text above, the shelling was carried out by Serb Forces, not by any other armed group.

⁵²⁵⁷ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9117 (under seal).

⁵²⁵⁸ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9117 (under seal); Adjudicated Fact 2451.

⁵²⁵⁹ Adjudicated Fact 2451; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9117 (under seal). See also paras. 1557–1558.

destroyed, and in ruins.⁵²⁶⁰ Electricity poles had fallen down, and dead livestock littered the roads.⁵²⁶¹

1515. The Chamber notes that the Prosecution alleges that “a number” of people were killed in Pudín Han on or about 28 May 1992.⁵²⁶² The Chamber took judicial notice of the fact that, at a minimum, three civilians from Pudín Han died as a consequence of the shelling.⁵²⁶³ Additionally, KDZ024 testified that on 30 May 1992, [REDACTED] found and buried the bodies of more than ten people, including children, who had been killed by the shelling.⁵²⁶⁴ The bodies of eight Bosnian Muslims killed during the shelling of Pudín Han were exhumed from graves in Velagići in 1996,⁵²⁶⁵ but the Chamber notes that five of those eight were last reported alive on 1 June 1992.⁵²⁶⁶ Accordingly, the Chamber concludes that, at a minimum, three civilians were killed by Serb Forces during the attack in Pudín Han and that the village—including the mosque⁵²⁶⁷—was destroyed on or about 28 May 1992.

(b) Scheduled Incident A.7.2

1516. The Indictment refers to the killing of at least 38 people in Prhovo village and further on the road to Peći on or about 1 June 1992.

⁵²⁶⁰ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9118 (under seal).

⁵²⁶¹ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9118 (under seal).

⁵²⁶² Indictment, Scheduled Incident A.7.1. *See also* Confidential Appendix B to Prosecution Pre-Trial Brief [Scheduled Incident A.7.1] (listing 11 persons).

⁵²⁶³ Adjudicated Fact 921. *See also* KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11725 (under seal) (testifying that Bosnian Muslims had made statements that five or six civilians had been killed in Pudín Han).

⁵²⁶⁴ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9118–9119 (under seal).

⁵²⁶⁵ P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), e-court pp. 74–75 (naming eight persons listed in Scheduled Incident A.7.1 of Appendix G to the Prosecution’s Final Trial Brief as having been exhumed from a grave in Velagići that was linked to the Pudín Han incident in 1996); P4878 (List of mass graves and bodies exhumed in Ključ Municipality, 1996), p. 10 (listing the same eight); P4880 (Ključ Court record of autopsy and identification of victims exhumed from graves in Velagići and Ključ, 10–11 November 1996), pp. 5, 8–14 (giving details regarding the clothing found on and injuries sustained by the persons listed in P4878); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 6–7 (identifying these eight persons as Bosnian Muslims). The bodies of an additional four Bosnian Muslims who went missing from the Pudín Han area on 27 May 1992 were exhumed from graves in the same area, but the evidence before the Chamber is insufficient to conclude that they were killed by Serb Forces during this attack. P4853, p. 7 (identifying these four persons as Bosnian Muslims); P4878 (List of mass graves and bodies exhumed in Ključ Municipality, 1996), pp. 10–11 (listing the additional four); P4880 (Ključ Court record of autopsy and identification of victims exhumed from graves in Velagići and Ključ, 10–11 November 1996), pp. 8–9, 18.

⁵²⁶⁶ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 6–7.

⁵²⁶⁷ *See* paras. 1556–1558.

1517. Around 1 June 1992, approximately 100 members of the Serb Forces armed with automatic weapons arrived in Prhovo,⁵²⁶⁸ a village located northeast of Ključ town and southeast of the village of Peći which was then inhabited primarily by Bosnian Muslims.⁵²⁶⁹

1518. The Serb Forces ordered approximately 40 unarmed male residents of Prhovo, as well as a number of unarmed women and children, to line up facing the wall of Karanfil Osmanović's house, and then began to beat some of them.⁵²⁷⁰ Four Bosnian Muslim men were called out by name, told to run away, and then shot dead.⁵²⁷¹

1519. The Serb Forces ordered the approximately 30 remaining Bosnian Muslim men from Prhovo to form a column and walk to the nearby village of Peći.⁵²⁷² On the way to Peći, three Bosnian Muslim men from the column were killed after they failed to drag a military vehicle out of the mud.⁵²⁷³ The commander of the unit, Marko Adamović,⁵²⁷⁴ ordered that the village be set on

⁵²⁶⁸ See Adjudicated Facts 2437, 922. Some of the Bosnian Serbs wore JNA camouflage uniforms, but there were also masked armed civilians. Adjudicated Fact 922.

⁵²⁶⁹ P645 (Map of Prhovo marked by KDZ056); KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10334 (8 October 2002) (stating that Prhovo contained approximately 60 houses that were home to about 200 villagers); see Adjudicated Fact 2437.

⁵²⁷⁰ Adjudicated Fact 2437; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10341–10342. See also Adjudicated Fact 923.

⁵²⁷¹ Adjudicated Fact 923; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10341–10342. See also Adjudicated Facts 924, 2437.

⁵²⁷² Adjudicated Fact 925; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10343–10344.

⁵²⁷³ See Adjudicated Fact 925; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10344. The group left the bodies of the three dead men behind while the rest of the men continued the walk toward Peći. KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10344.

⁵²⁷⁴ While testifying in this case, Marko Adamović denied that he was the commander of the operation in Prhovo and claimed that he only learned what took place there when a military officer who was crying arrived at the Crisis Staff meeting on the same day. D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 23; Marko Adamović, T. 44458–44459, 44464–44466, 44470 (4 December 2013). The Chamber notes that at the time of his testimony, Adamović was awaiting judgement in the re-trial of his case in BiH, which related to the events in Prhovo. Marko Adamović, T. 44457–44458 (4 December 2013). The Chamber thus considers that Adamović had an incentive to be less than forthcoming about his role in those events. Moreover, Adamović was evasive throughout his testimony, particularly when questioned about how he had come to know about what had happened in Prhovo. D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 23; Marko Adamović, T. 44459–44464, 44467–44473, 44478–44479, 44485–44487, 44489 (4 December 2013) (denying involvement but conceding that the minutes of the Crisis Staff meeting did not reflect that he was present); P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May–10 July 1992), pp. 7–8. The Chamber therefore shall not rely on Adamović's evidence in relation to this incident. Although Rajko Kalabić corroborated Adamović's testimony that a tearful military officer informed the Crisis Staff about the events in Prhovo on 1 June 1992, Kalabić, who was himself evasive throughout his testimony, was inconsistent regarding Adamović's presence at the meeting. Compare Rajko Kalabić, T. 44578–44580 (5 December 2013) (explaining that he had only disclosed that Adamović was present at the Crisis Staff meeting during the appellate phase of a case in BiH and not before because the Prosecutor had not asked about Adamović's presence during the trial) with Rajko Kalabić, T. 44582–44583 (5 December 2013) (accepting the possibility that the Crisis Staff had actually only learned about the events in Prhovo two or three days later, as Kalabić had testified in the *Brđanin* case). Accordingly, the Chamber finds that Adamović was present and in command of the Serb Forces in Prhovo.

fire and the women and children be killed.⁵²⁷⁵ KDZ056 then heard shooting and an explosion from the village.⁵²⁷⁶

1520. Only 12 men from the column survived the trek to Peći.⁵²⁷⁷ Sulejman Medanović, having survived the walk, died during the following night as a result of beatings he sustained while the group was detained overnight in a co-operative centre called “Dom”.⁵²⁷⁸ In the morning, the 11 survivors were taken to the Nikola Mačkić Elementary School, arriving around 11:00 a.m.⁵²⁷⁹

1521. A total of 51 bodies identified as those of Bosnian Muslims who were killed in Prhovo on or around 1 June 1992 by Serb Forces were exhumed from two mass graves located in Prhovo.⁵²⁸⁰

⁵²⁷⁵ Adjudicated Fact 2438; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10346 (testifying that the commander ordered that no one be left alive in the village).

⁵²⁷⁶ KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10346. KDZ056 later learned that the Serb Forces in the village had killed the people who had remained behind. KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10346.

⁵²⁷⁷ See Adjudicated Fact 926. The Serb Forces killed two or three more Bosnian Muslim men when the group reached the crossroad junction for Sokolovo and Peći, and, after having ordered the remaining men to take off their shoes and clothing from the waist up, opened fire on them in a field, leaving only 12 survivors. KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10349–10351 (testifying that although 14 men originally survived, the soldiers shot the two youngest survivors after stating that 14 survivors were two too many for the soldiers to be able to exact “[their] revenge”). *But see* D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 8b (stating that he heard that Bosnian Muslims had opened fire on the Bosnian Serb unit from a small forest and that the unit had reacted by firing randomly in the direction of the forest). In light of the fact that the Bosnian Serb unit’s acts could bear on Adamović’s culpability in relation to this incident, the Chamber declines to rely on Adamović’s evidence in this regard.

⁵²⁷⁸ KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10352–10353; P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), pp. 79–80 (stating that a post mortem examination of Medanović’s body revealed that the cause of death was force trauma to the head and chest, including brain injury). *See also* Adjudicated Fact 927. The Serb Forces tied the surviving men’s hands with wires and strings, beat them, and ordered them to lie down near an electricity pole, where the survivors were held overnight without access to food or water, and told them that they would all be killed in the morning. KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10352–10353.

⁵²⁷⁹ KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10353. *See also* Scheduled Detention Facility C.15.2.

⁵²⁸⁰ KDZ056 testified that the 27 persons listed in P531 were killed in Prhovo village, as well as on the road and in the field on the way to Peći. P531 (List of persons captured/killed in Prhovo), p. 1; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10346, 10357–10359. Autopsy reports and exhumation reports demonstrate that the bodies of these 27 persons, as well as the bodies of 24 others, were exhumed from two graves associated with the Serb Forces’ attack on Prhovo on 1 June 1992; all of these persons died as a result of gunshot injuries to the head, thoracic cavity, and/or limbs. P622 (Record of autopsies of bodies from Prhovo, 13 May 1997) (recording the autopsy results for 36 persons killed by Serb Forces in Prhovo on 1 June 1992 who were wearing civilian clothing and who died of gunshot injuries to the head, thoracic cavity, and/or spine); P4882 (Bihać Cantonal Court record of Prhovo exhumation, 7 May 1997) (relating to the autopsies compiled in P622); P623 (Record of autopsies of bodies from Prhovo, 25 September 1999) (recording the exhumation of 15 bodies from a mass grave at Ciganska Dolina, 13 of whom were listed in P531). In light of the similarity in the causes of death and having cross-referenced P531 with P22 and P623, the Chamber concludes that all 51 persons included in P622 and P623 were killed by Serb Forces in Prhovo on or around 1 June 1992. *See also* P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), pp. 76–79; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4810–4812 (testifying that he attended the exhumation of a Prhovo gravesite); Adjudicated Fact 928. In addition to the exhumations of the 51 persons mentioned above, Amor Mašović recorded the exhumation of the body of one additional person who went missing from Prhovo on 1 June 1992 from the Ciganska Dolina grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 7–8; P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 5. However, this individual is not listed in P623 and no evidence in the record provides either an explanation for this omission or forensic information regarding

The Chamber also received forensic evidence that Sulejman Medanović died as a result of injuries consistent with the beatings he received while the group was detained en route to the Nikola Mačkić School,⁵²⁸¹ bringing the total number of bodies linked to the attack on Prhovo to 52.⁵²⁸²

1522. The Chamber therefore finds that Serb Forces killed 52 Bosnian Muslims in Prhovo and on the road to Peći on or about 1 June 1992.

(5) Arrests, detentions, and killings associated with detention facilities

(a) Scheduled Detention Facility C.15.3 and Scheduled Incident

B.10.1

1523. The Indictment refers to the use of the Velagići School as a detention facility at least between 30 May and June 1992,⁵²⁸³ and to the killing of at least 77 men at the school on or about 1 June 1992.⁵²⁸⁴

1524. On the evening of 1 June 1992, approximately 100 unarmed Bosnian Muslim men who had surrendered to members of Serb Forces at the check-point in Velagići, a majority Bosnian Muslim village,⁵²⁸⁵ arrived at the Velagići School,⁵²⁸⁶ which was guarded by soldiers.⁵²⁸⁷ The men's names

the death. Accordingly, the Chamber cannot be satisfied that this person was killed by Serb Forces in Prhovo on or around 1 June 1992.

⁵²⁸¹ See para. 1520, fn. 5278.

⁵²⁸² The Chamber notes that the Accused concedes that the local authorities were informed that "a number of civilians" were killed during fighting in Prhovo. Defence Final Brief, para. 1518 (citing the witness statement of Slobodan Jurišić). Jurišić testified that the Crisis Staff was informed on 1 June 1992 that "a number of Muslim civilians" were killed in Prhovo, although he did not mention any fighting. D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 23.

⁵²⁸³ Indictment, Scheduled Detention Facility C.15.3. In Appendix B to the Prosecution Final Brief, however, the Prosecution only refers to men being detained at the school on 1 June 1992.

⁵²⁸⁴ Indictment, Scheduled Incident B.10.1. The Chamber also notes that the Accused appears to characterise this event as two separate killing incidents, but observes that the evidence he cites, which the Chamber has analysed below, does not support this theory. Defence Final Brief, paras. 1519–1520.

⁵²⁸⁵ KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11368 (under seal).

⁵²⁸⁶ P1170 (Map of Velagići marked by KDZ024) (showing the location of the school marked with an "S"); KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9127, 9146 (under seal). Some 80 persons who remained at the check-point were placed in an abandoned, windowless schoolhouse. See also P1155 (Excerpts from Banja Luka Military Court file), e-court p. 4.

⁵²⁸⁷ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9121, 9125–9126 (under seal); P3488 (Witness statement of Atif Džafić undated), para. 138 (stating that he heard from a fellow inmate at Manjača that approximately 100 men were detained by Serb Forces, including the police and army, at Velagići school). See also Adjudicated Fact 946; Slobodan Jurišić, D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 16 (suggesting that civilians were brought to the school to give statements in connection with the possession of weapons); Rajko Kalabić, T. 44585 (5 December 2013) (suggesting that "paramilitary members" in Puđin Han and Velagići had been "invited" to the school to surrender their weapons). On their way to the school, the group had encountered Željko Radojčić as well as one or two soldiers wearing olive grey uniforms, and Radojčić had told the soldiers: "Kill them all. They're not going to form a *džamahirija* here". KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9123 (under seal). Radojčić went from one man to the next, swearing at them and cursing their mothers. KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9123 (under seal).

and dates of birth were recorded.⁵²⁸⁸ Two soldiers ordered the group to line up, raise their hands, and empty their pockets, and collected any documents or money that had been discarded in the process.⁵²⁸⁹

1525. The two soldiers then ordered the group of Bosnian Muslim men to enter a small room on the first floor, where they were crowded in so tightly that they “literally had to sit in each other’s laps”.⁵²⁹⁰ The Bosnian Muslim men were cursed and told to “bow down. You’ll never again have the opportunity.”⁵²⁹¹ At one point, the Bosnian Muslim men heard several men who were being held downstairs being told to stand up, and when they could not, the Bosnian Muslim men upstairs heard three to four bursts of fire and the men crying out.⁵²⁹²

1526. The Bosnian Muslim men remained in the classroom at the Velagići School while the soldiers cursed and maltreated them, until approximately 11:30 p.m.⁵²⁹³ At that point, the soldiers ordered the detainees to stand and line up in a single file; as they exited the school, they were ordered to form a column, two by two.⁵²⁹⁴ Once the entire column had exited and lined up against the building, two soldiers who had been crouching in the nearby grass and pointing their automatic rifles began to fire at the column.⁵²⁹⁵ When the shooting stopped, the soldiers approached the fallen detainees and shot any apparent survivors,⁵²⁹⁶ [REDACTED].⁵²⁹⁷ The soldiers began to drink

⁵²⁸⁸ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9123–9125 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30077–30078 (under seal).

⁵²⁸⁹ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9123–9124, 9125 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30077 (under seal).

⁵²⁹⁰ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9123–9126, 9128 (under seal).

⁵²⁹¹ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9128 (under seal).

⁵²⁹² KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9128 (under seal). *See also* P1155 (Excerpts from Banja Luka Military Court file), e-court p. 7.

⁵²⁹³ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9128–9129 (under seal). When one man repeatedly asked for a telephone in order to “phone Vinko”, a soldier put a rifle barrel in the man’s mouth, and the man became covered in blood. KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9128 (under seal).

⁵²⁹⁴ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9129, 9138 (under seal); KDZ024, P713 (Transcript from *Prosecutor v. S. Milošević*), T. 30078 (under seal).

⁵²⁹⁵ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9129 (under seal); P1155 (Excerpts from Banja Luka Military Court file), e-court pp. 7–8. *See also* Adjudicated Fact 947.

⁵²⁹⁶ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9129 (under seal); P1155 (Excerpts from Banja Luka Military Court file), e-court p. 9. The Chamber received evidence suggesting that the soldiers had only opened fire when some of the detainees attempted to escape. *See* P3614 (Handwritten letter of complaint to Lanište-Ključ Military Post, 12 June 1992), pp. 2–3 (suggesting that the soldiers had only opened fire when some of the detainees started to escape); P3513 (Request for investigation by the 1st Krajina Corps Military Prosecutor’s Office, 8 March 1993 (requesting an investigation into the suspects named in P1155); P1155 (Excerpts from Banja Luka Military Court file), e-court p. 5; D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 11.

⁵²⁹⁷ [REDACTED]. *See also* para. 1526.

rakija and sing “Chetnik songs about Draza Mihajlović and about the establishment of an empire”.⁵²⁹⁸

1527. An excavator and lorries from the army base at Lanište were used to bury the bodies at Lanište, where they were discovered in 1998.⁵²⁹⁹ On 3 June 1992, an investigating judge from the Ključ Municipal Court went to the Velagići School to conduct an on-site investigation.⁵³⁰⁰ On 5 June 1992, a criminal report was filed by the Banja Luka Military Prosecutor’s Office against 12 members of the MP and intervention platoons affiliated with the VRS engineering unit based at Lanište.⁵³⁰¹ However, the soldiers were never fully investigated and were only in custody for a month.⁵³⁰²

1528. Seventy seven bodies linked to the killings at Velagići School on 1 June 1992 were exhumed from the Lanište II “Babina Dolina” mass grave in Ključ in the autumn of 1996.⁵³⁰³ Although three of the bodies were so skeletonised as to preclude the establishment of a cause of

⁵²⁹⁸ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9130 (under seal).

⁵²⁹⁹ KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9130, 9146 (under seal); P1155 (Excerpts from Banja Luka Military Court file), p. 6; D1751 (Official record of Banja Luka’s Military Post 4627, Military Police Official, 3 June 1992) (stating that the traces of removal by an engineering machine were found and that it was determined that bodies of the victims were transported by trucks five kilometres away from the crime scene in the direction of Gornji Budelj, and buried by an engineering machine); P3488 (Witness statement of Atif Džafić undated), para. 138; Atif Džafić, T. 19745 (30 September 2011). *See also* Adjudicated Fact 2446.

⁵³⁰⁰ D1751 (Official record of Banja Luka’s Military Post 4627, Military Police Official, 3 June 1992); Adjudicated Fact 2447.

⁵³⁰¹ P1155 (Excerpts from Banja Luka Military Court file), e-court p. 4; KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9215–9216 (under seal); Adjudicated Fact 2447.

⁵³⁰² P3614 (Handwritten letter of complaint to Lanište-Ključ Military Post, 12 June 1992) (in which 11 of the 12 suspects stated that they had been in custody since 1 June 1992 and threatened to go on hunger strike if not released immediately); P3513 (Request for investigation by the 1st Krajina Corps Military Prosecutor’s Office, 8 March 1993 (requesting an investigation into the suspects named in P1155); P3616 (Proposal of the Military Prosecutor’s Office attached to the 1st Krajina Corps, 29 July 1993) (suggesting that two suspects then in custody be released due to the inability to bring the remainder into custody and because both the deputy prime minister of the RS and the chairman of the Ključ Executive Board had recommended halting the proceedings); P6143 (Excerpt from ruling of Banja Luka Military Court, 29 July 1993) pp. 1–2 (stating that two of the suspects were released pursuant to the suggestion of the prosecutor contained in P3616); Asim Egrić, T. 19991–19992 (5 October 2011) (testifying that although Bosnian Serb investigating bodies had carried out an investigation in relation to the incident, the suspects were held in prison for 18 days and then released); Adjudicated Fact 2447. *But see* D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 17; Slobodan Jurišić, T. 47080 (14 February 2014).

⁵³⁰³ P3512 (Report on Lanište II mass grave, 4 October 1996) (describing the autopsies performed on 77 Bosnian Muslim males exhumed from Lanište II, 71 of whom were identified); P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 108 (describing P3512 as a court record which includes autopsy and exhumation reports). [REDACTED]; P618 (Photograph of Velagići cemetery). *See also* P4878 (List of mass graves and bodies exhumed in Ključ Municipality, 1996) (listing 70 Bosnian Muslim males who had been exhumed from Lanište II, in addition to seven who were not identified, all of whom were found upon examination to have been civilians who had been shot at point-blank range), pp. 11–13; P3637 (Report of BiH Federal Ministry of the Interior, 22 October 1996) (same); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 7, 84–86 (showing that 77 Bosnian Muslim males who were reported missing from Velagići on or around 1 June 1992 were found in the Lanište II grave); P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), p. 83; Adjudicated Facts 2446, 947.

death, the remainder all bore signs of fatal gunshot wounds, mostly to the head or trunk, and all were found in civilian clothing.⁵³⁰⁴

1529. The Chamber therefore finds that Bosnian Muslim men were detained, subjected to verbal and mental abuse, and that 77 Bosnian Muslim men were ultimately killed at Velagići School by Serb Forces on 1 June 1992.

(b) Scheduled Detention Facility C.15.1

1530. The Indictment refers to the use of the Ključ SJB Building as a detention facility at least between May and August 1992.⁵³⁰⁵

1531. On the morning of 28 May 1992, Asim Egrić was arrested at a check-point just outside Ključ; he was then escorted to the SJB building in Ključ,⁵³⁰⁶ which was staffed and operated by the Bosnian Serb police.⁵³⁰⁷ While detained at the SJB building, Egrić was beaten and sustained extensive injuries to his head and body before being transferred to the hospital, where he remained for approximately one hour.⁵³⁰⁸ While in the hospital, Veljko Kondić and Tihomir Dakić came to see Egrić.⁵³⁰⁹ On the same day, Muhamed Filipović, a Bosnian Muslim member of the Ključ

⁵³⁰⁴ P3512 (Report on Lanište II mass grave, 4 October 1996) (describing the autopsies performed on 77 individuals exhumed from Lanište II, 71 of whom were identified); P4881 (Autopsy reports for victims exhumed at Lanište II, 6 October 1996). *See also* Adjudicated Fact 2447.

⁵³⁰⁵ Indictment, Scheduled Detention Facility C.15.1. In Appendix B to the Prosecution's Final Brief, however, the Prosecution only referred to the period "following attacks in May and June [19]92". The Chamber received evidence referring to the building housing the Ključ SJB as the "SJB building", the "SUP building", and the "police station". For clarity, the Chamber will use the term "SJB building" throughout this section to denote this building.

⁵³⁰⁶ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4789, 4795, 4945; Asim Egrić, T. 19985 (5 October 2011); KDZ192, T. 19493–19494 (27 September 2011) (closed session); D1737 (Official note of Ključ War Department, 16 February 1993), pp. 1–2. *See also* Adjudicated Fact 2440. The Chamber received evidence suggesting that Egrić was wounded during the attack on the JNA convoy discussed above. *See* para. 1509. D1748 (Official note of 2nd Krajina Corps Command, 11 July 1992), p. 3 (naming Egrić as one of the attackers); D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), paras. 6, 20. Egrić contested the veracity of the narrative contained in D1748, suggesting that the statements on which it was based were obtained from persons detained in Manjača who may have been under duress and that he had actually wounded himself by shooting himself in the foot. Asim Egrić, T. 19971–19974 (5 October 2011); Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4788–4789, 4795, 4945. Although the Chamber considers Egrić's account of his wounding implausible, the Chamber does not consider that Egrić's involvement in this event, if any, would have any impact on the credibility of his testimony regarding the treatment he received during his subsequent detention.

⁵³⁰⁷ *See* Adjudicated Fact 933. The Accused acknowledges that the Ključ SJB building was staffed and operated by Bosnian Serb police, who, along with local civilians subjected detainees to beatings and verbal abuse. Defence Final Brief, para. 1523. *See also* Adjudicated Fact 932 (stating that the SJB building was located in the town of Ključ).

⁵³⁰⁸ Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4795, 4945, 4949–4950; Asim Egrić, T. 19985 (5 October 2011) (stating that he was admitted to the Ključ hospital). *See also* Adjudicated Fact 2440; D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 6 (stating that Egrić was administered first aid at the Ključ Health Centre but transferred to Banja Luka for further treatment).

⁵³⁰⁹ Asim Egrić, T. 19985 (5 October 2011). [REDACTED].

Municipal Assembly,⁵³¹⁰ was arrested by two Bosnian Serbs in military uniforms and taken to the SJB building, where he was subjected to beatings by Bosnian Serb soldiers.⁵³¹¹ At the time, at least 22 other Bosnian Muslims were held at the SJB building.⁵³¹²

1532. Those arrested were beaten in a gauntlet at the steps of the entrance to the SJB building with feet, fists, batons, rifle-butts and chair legs, and were subjected to ethnic slurs.⁵³¹³ They were then beaten inside the SJB building, including during interrogations.⁵³¹⁴ The perpetrators of these beatings were Bosnian Serb police officers and local civilians.⁵³¹⁵

1533. A prominent Bosnian Muslim was thrown down the stairs, and was carried into the SJB building unconscious, whilst another suffered a cut lip and broken ribs.⁵³¹⁶ As a result of the severity of the beatings, the former suffered a serious, lasting injury with continuing effects to date.⁵³¹⁷

1534. [REDACTED].⁵³¹⁸ [REDACTED].⁵³¹⁹ [REDACTED].⁵³²⁰ [REDACTED].⁵³²¹
[REDACTED].⁵³²² [REDACTED].⁵³²³ [REDACTED].⁵³²⁴ [REDACTED].⁵³²⁵ [REDACTED].⁵³²⁶

1535. Other detainees, including Egrlić and Filipović, were later taken to the prison in Stara Gradiška and subsequently to Manjača.⁵³²⁷

1536. The Chamber finds that during the period between late May and late June 1992, members of Serb Forces detained Bosnian Muslim men at the Ključ SJB building and subjected them to ethnic

⁵³¹⁰ D1350 (Lists of Muslim people in Ključ, 10 June 1992), p. 2.

⁵³¹¹ See Adjudicated Fact 2441.

⁵³¹² See Adjudicated Fact 2441.

⁵³¹³ See Adjudicated Fact 935.

⁵³¹⁴ See Adjudicated Fact 937. Vinko Kondić and 'Todo' Gajić, a police investigator, participated in the interrogations at the SJB building. See Adjudicated Fact 934.

⁵³¹⁵ Adjudicated Fact 937.

⁵³¹⁶ See Adjudicated Fact 936.

⁵³¹⁷ See Adjudicated Fact 936.

⁵³¹⁸ [REDACTED].

⁵³¹⁹ [REDACTED].

⁵³²⁰ [REDACTED].

⁵³²¹ [REDACTED].

⁵³²² [REDACTED].

⁵³²³ [REDACTED].

⁵³²⁴ [REDACTED].

⁵³²⁵ [REDACTED].

⁵³²⁶ [REDACTED].

⁵³²⁷ Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*, T. 4795–4796 (stating that he was taken from the hospital via the SJB building and was beaten until unconscious and bloody while en route to the Stara Gradiška prison); Adjudicated Fact 2442.

slurs as well as beatings with fists, batons, rifle-butts and chair legs, which were sufficiently severe as to cause permanent injury.

(c) Scheduled Detention Facility C.15.2

1537. The Indictment refers to the use of the Nikola Mačkić Elementary School as a detention facility at least between 1 May and July 1992.⁵³²⁸

1538. From 2 June 1992,⁵³²⁹ approximately 300 Muslim men were detained and guarded by Bosnian Serb regular and reserve civilian police in the Nikola Mačkić Elementary School in Ključ.⁵³³⁰ When the detainees arrived at the Nikola Mačkić Elementary School, they were forced to run through a gauntlet of Bosnian Serb civilians armed with cables, bats, clubs, and other objects, while being beaten, spat on, and verbally degraded.⁵³³¹ Before entering the gym, all detainees were searched by Bosnian Serbs, who seized the detainees' valuables and documents.⁵³³² Some detainees were also interrogated about whether they had weapons and whether they were combatants.⁵³³³

1539. Two Bosnian Serb police officers stood in the corridor, beating the detainees at random as they entered the gym, where approximately 100 civilian men of all ages were sitting on the floor with their hands behind their backs,⁵³³⁴ facing the walls, which were stained with blood.⁵³³⁵ Some detainees were crying, while others were bleeding and injured from the beatings.⁵³³⁶ Detainees were forced to extend the three fingers in the Serbian salute.⁵³³⁷ One detainee was forced to lick his own blood off the floor after having been beaten severely.⁵³³⁸ Beatings took place both during and outside interrogations, including the beating of a boy who was 16 and still attending high school, despite the fact that his age was known to the interrogators.⁵³³⁹

⁵³²⁸ Indictment, Scheduled Detention Facility C.15.2. In Appendix B to the Prosecution Final Brief, however, the Prosecution only refers to the period "from 27 and during early Jun[e 19]92".

⁵³²⁹ P3488 (Witness statement of Atif Džafić undated), paras. 87, 139; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10353.

⁵³³⁰ See Adjudicated Facts 2444, 938; Slobodan Jurišić, D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 25 (testifying that the school was guarded by civilian police). The Accused concedes that the Nikola Mačkić School was staffed by civilian police, who, along with Bosnian Serb civilians, took part in the beatings that occurred at the school. Defence Final Brief, para. 1524.

⁵³³¹ P3488 (Witness statement of Atif Džafić undated), para. 87; see Adjudicated Fact 939.

⁵³³² P3488 (Witness statement of Atif Džafić undated), para. 87.

⁵³³³ KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10353.

⁵³³⁴ P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³³⁵ KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10354.

⁵³³⁶ P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³³⁷ Adjudicated Fact 943.

⁵³³⁸ P3488 (Witness statement of Atif Džafić undated), para. 94.

⁵³³⁹ Adjudicated Fact 940.

1540. Former Bosnian Muslim police officers were the object of particularly severe physical abuse and humiliation.⁵³⁴⁰ Atif Džafić was taken from the gym to a classroom,⁵³⁴¹ where he was interrogated by a Bosnian Serb police officer, Nedeljko Vasić.⁵³⁴² Džafić was then returned to the gym and “put on display” in the middle of the gym floor with his hands behind his back, where his former subordinates beat him.⁵³⁴³ After one hour, Džafić was again taken to the corridor by two masked policemen wearing camouflage uniforms. These policemen beat him and took him for further interrogation by Duško Miličević, who was an inspector from the Banja Luka CSB and dressed in the uniform of a military captain, and another military captain. Miličević and the other military captain beat Džafić with desk legs, cables, and bats.⁵³⁴⁴ The other military captain asked Džafić what Džafić knew about who had killed Dušan Stojaković and why Džafić had not signed the SJB loyalty oath.⁵³⁴⁵ Džafić denied involvement in Stojaković’s death,⁵³⁴⁶ but was given a piece of paper and asked to “write everything down” before being returned to the gym, where he was again placed in the middle of the floor.⁵³⁴⁷

1541. The municipal authorities were aware that Bosnian Muslims were beaten by Bosnian Serbs in the Nikola Mačkić School.⁵³⁴⁸

1542. The detainees were held at the Nikola Mačkić School until at least 7 p.m. on 2 June 1992 without being given any food or water.⁵³⁴⁹

⁵³⁴⁰ Adjudicated Fact 941. Atif Džafić recognised two or three of his former police colleagues among the detainees in civilian clothes. P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³⁴¹ While en route to and from this classroom, Džafić was beaten with school desk legs and cables. P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³⁴² P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³⁴³ P3488 (Witness statement of Atif Džafić undated), para. 88.

⁵³⁴⁴ P3488 (Witness statement of Atif Džafić undated), para. 89. *See also* Adjudicated Fact 941. Miličević beat another Bosnian Muslim police officer, Atif Dedić. P3488 (Witness statement of Atif Džafić undated), para. 89. *See also* Adjudicated Fact 941.

⁵³⁴⁵ P3488 (Witness statement of Atif Džafić undated), para. 91; Atif Džafić, T. 19741 (30 September 2011).

⁵³⁴⁶ Džafić asserted that there was “no reason to arrest him”, but suggested that the interrogators might have thought that as police commander, he would have known more and therefore focused their investigations on him. Atif Džafić, T. 19743 (30 September 2011).

⁵³⁴⁷ P3488 (Witness statement of Atif Džafić undated), paras. 91, 93, 94; Atif Džafić, T. 19741 (30 September 2011).

⁵³⁴⁸ Adjudicated Fact 944. Slobodan Jurišić testified that he did not know or hear that Muslims were being beaten at Nikola Mačkić School, nor was this discussed at the Crisis Staff. D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 26. Considering, however, that Jurišić was a member of the Crisis Staff, and that whether the Crisis Staff was informed of the beatings at the Nikola Mačkić’s school could bear on Jurišić’s responsibility in relation to those events, the Chamber shall not rely on Jurišić’s evidence on this point. The Chamber notes that the Accused relied on Jovo Kevac’s evidence to support his assertion that “all reported incidents of abuse were dealt with” by the Ključ authorities. Defence Final Brief, para. 1524. However, Kevac merely stated his belief that the Crisis Staff was not aware of the beatings, and even admitted a lack of knowledge in this regard. D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 33. The Chamber will therefore not rely on Kevac’s opinion.

1543. On 5 June 1992, other detainees were transferred directly from the Nikola Mačkić School to Manjača.⁵³⁵⁰ On approximately 7 June 1992, the detainees in Sitnica were also transferred to Manjača.⁵³⁵¹

1544. The Chamber therefore finds that during the period between 2 and 5 June 1992, members of Serb Forces detained Bosnian Muslim men at the Nikola Mačkić School, and subjected them to severe beatings with such objects as cables, bats, and clubs, as well as verbal abuse and other forms of humiliation.

(6) Killings after June 1992: Scheduled Incident A.7.3

1545. The Indictment refers to the killing of at least 144 people in Biljani on or about 10 July 1992.

1546. Around 6:15 a.m. on 10 July 1992, all men in Biljani between the ages of 18 and 60 were told to gather at a field near the village⁵³⁵² while the women and children were allowed to remain at home.⁵³⁵³ Approximately 20 or 30 soldiers were visible on the elevations surrounding the village, which was consequently completely surrounded and cut off.⁵³⁵⁴ Between 50 and 70 men arrived at the field, where they found Marko Samardžija, a captain in the reserve forces,⁵³⁵⁵ waiting with Mladjo Tesić and ten other soldiers.⁵³⁵⁶ The soldiers ordered the men to line up so they could be questioned.⁵³⁵⁷ The Bosnian Muslim men remained there for approximately one hour while the

⁵³⁴⁹ P3488 (Witness statement of Atif Džafić undated), para. 95; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10354.

⁵³⁵⁰ See Adjudicated Fact 2445.

⁵³⁵¹ P3488 (Witness statement of Atif Džafić undated), para. 95; KDZ056, P686 (Transcript from *Prosecutor v. Brđanin*), T. 10354. See also para. 1382.

⁵³⁵² The village of Biljani is located north-west of the town of Ključ between Krasulje and Samica, and contained the hamlets of Brkići, Džaferagići, Botonići and Jakubovac, which were almost exclusively inhabited by Bosnian Muslims. P3365 (Map of area around Biljani); Adjudicated Fact 929. See also P3488 (Witness statement of Atif Džafić undated), para. 140; KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4954 (commenting on P3365); KDZ075, T. 19033 (16 September 2011).

⁵³⁵³ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4965–4966.

⁵³⁵⁴ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4966.

⁵³⁵⁵ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4967–4968. KDZ075 knew Samardžija because he had been KDZ075's primary school teacher in Biljani. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4967.

⁵³⁵⁶ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4966.

⁵³⁵⁷ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4966–4967. The soldiers told them not to be afraid, that nothing would happen to them, that they had a list of people who should be questioned, while those who were not on the list would be "sent back". KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4966.

village was being searched; they were then marched in a column to the Biljani Primary School, approximately one kilometre away.⁵³⁵⁸

1547. When the men arrived at the Biljani Primary School, a van was parked under a tree with about ten military policemen from Ključ wearing white belts.⁵³⁵⁹ Many soldiers stood around the school and approximately ten were in front of a shop, guarding women and children brought from another hamlet.⁵³⁶⁰ Samardžija greeted Mile Tomić, a police commander in Sanica,⁵³⁶¹ and his deputy, Mihić, along with several other men before the detained men were told to enter the school.⁵³⁶² Soldiers were arriving from all directions, bringing people from the seven or eight hamlets in the village.⁵³⁶³

1548. Between 120 and 150 men were confined in two classrooms inside the Biljani Primary School.⁵³⁶⁴ Before entering the classrooms, the group of men from KDZ075's hamlet, were made to empty their pockets and their documents in the corridor.⁵³⁶⁵ Mihić and another reserve policeman spent approximately 45 minutes writing down the detainees' names before leaving the classroom.⁵³⁶⁶

⁵³⁵⁸ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4966. See also P3360 (List of detainees from Biljani). The Chamber shall not rely on Rajko Kalabić's testimony that those detained at Biljani were not detained on account of their ethnicity or age, but because they were suspected of being members of paramilitary forces or of possessing illegal weapons, as Kalabić later denied knowing anything about the incident in Biljani, and ultimately admitted that he had previously testified that he had heard that a "massacre" had occurred there on 10 July 1992. D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 19; Rajko Kalabić, T. 44588-44589 (5 December 2013). See also P3488 (Witness statement of Atif Džafić undated), para. 141 (noting that he had talked to Bosnian Muslim survivors of the Biljani incident and that they were all civilians).

⁵³⁵⁹ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4967, 4968; KDZ075, T. 19017 (16 September 2011). See also P3366 (Official note of Ključ SJB, 10 July 1992); KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4969 (testifying that this was consistent with what he saw in the Biljani school gym). See also Adjudicated Facts 930, 939; P3488 (Witness statement of Atif Džafić undated), para. 140; Atif Džafić, T. 19740 (30 September 2011) (testifying that he later learned that Bosnian Serb military and civilian police had attacked Biljani on the morning of 10 July and had rounded up the entire village population and taken them to the elementary school).

⁵³⁶⁰ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4968.

⁵³⁶¹ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4967 (testifying that he knew Tomić personally).

⁵³⁶² KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4967-4968.

⁵³⁶³ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4968. When shown P3367, an order of Ključ Military Post dated 9 July 1992 which described the assignment of the 2nd Battalion of the 17th Light Infantry Brigade, a reconnaissance platoon, a military police squad, and a police platoon to block, search, and mop up the Donji Biljani, Domazeti, Botonjići, Jabukovac, Osmanovići, and Brkići sectors on 10 July 1992, KDZ075 confirmed that this was consistent with what transpired on 10 July 1992, as various different units had brought the residents of Botonjići, Jabukovac Polje, and Domezeti to the school. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4971 (commenting on P3367).

⁵³⁶⁴ See Adjudicated Fact 930.

⁵³⁶⁵ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4968.

⁵³⁶⁶ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4969, 4972; KDZ075, T. 19019 (16 September 2011) (private session); P3361 (List of 76 persons). See also KDZ075, T. 19018 (16 September 2011).

1549. After 20 to 30 minutes, Mihić returned and began to call out ten names, and one by one, the men left the classroom and the detainees heard a burst of fire each time.⁵³⁶⁷ After another five or ten minutes, the men began to be called out in groups of five.⁵³⁶⁸ When the first group exited, the shooting and screams of men outside intensified.⁵³⁶⁹ The policemen guarding the detainees told them that the Green Berets were attacking and that the guards would drive them away.⁵³⁷⁰ When one detainee remarked that they were all going to be killed, panic ensued.⁵³⁷¹ A soldier told the men to calm down and that they would all “be going”, but that the elderly men should gather on one side of the classroom because only the younger men would be travelling.⁵³⁷²

1550. After leaving the classroom, the groups of five detainees were lined up in the corridor and let out of the building one by one.⁵³⁷³ Some were beaten while passing through a line of 20 to 30 Bosnian Serb soldiers on the way to two buses parked near the school,⁵³⁷⁴ while others were taken away to the road below.⁵³⁷⁵ Detainees continued to be loaded onto the buses until they were packed with approximately 70 people.⁵³⁷⁶ When the buses were full, the detainees who had not yet boarded the buses were shot.⁵³⁷⁷

⁵³⁶⁷ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4972; KDZ075, T. 19069 (19 September 2011). When KDZ075’s relative was called out but tried to return for his jacket, which he had forgotten, a policeman told the relative to leave the jacket because he would not need it anymore. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4972–4973; KDZ075, P3358 (Transcript from *Prosecutor v. Krajišnik*), T. 4979–4980 (under seal). After KDZ075’s relative left, the men remaining in the gym heard a burst of fire. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973; KDZ075, P3358 (Transcript from *Prosecutor v. Krajišnik*), T. 4979–4980 (under seal). [REDACTED]. See also P3362 (List of persons detained in Biljani Elementary School); KDZ075, T. 19025–19026 (16 September 2011) (private session).

⁵³⁶⁸ Adjudicated Fact 930; KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973.

⁵³⁶⁹ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973.

⁵³⁷⁰ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973. The detainees did not believe this because “not a single bullet was fired from [the Bosnian Muslim] side in Biljani” and because most of the Bosnian Muslim men had already been brought to the school building. KDZ075, T. 19023 (16 September 2011). See also KDZ075, T. 19054–19055, 19057–19058 (private session) (19 September 2011); T. 19067–19068 (19 September 2011) (asserting that Bosnian Muslims had been surrendered, that there were no Bosnian Muslim soldiers in Biljani in 1992, and that there was no combat in Biljani in 1992). The detainees only later realised that the individuals who were being taken out were being killed. KDZ075, T. 19023 (16 September 2011).

⁵³⁷¹ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973.

⁵³⁷² KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973–4975.

⁵³⁷³ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4974.

⁵³⁷⁴ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973–4974. Dragan Cvijić, a special purpose policeman, was standing at the bottom of the steps, and kicked KDZ075 in the stomach as the latter passed by. KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4974. Once on board the bus, KDZ075 heard soldiers say, in relations to detainees who fell down while en route to the bus, “take him away. This man is good for nothing. Kill him.” KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4975. KDZ075 also recalled a specific instance when “another man came along who worked in Ključ, and he said ‘give this one to me. This one is not getting on the bus.’” KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4975.

⁵³⁷⁵ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4973–4974.

⁵³⁷⁶ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4975; KDZ075, T. 19058 (private session) (19 September 2011).

⁵³⁷⁷ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4975; KDZ075, T. 19069 (19 September 2011) (recalling that one man who appeared to be in charge yelled ‘we don’t need the rest of them, kill them all’).

1551. As the bus departed, four men were taken off the bus and killed.⁵³⁷⁸ After the bus had gone approximately 100 metres, an additional five men, including KDZ075, Fikret Balagić, Alija Avdić, Besim Avdić, and a man whose first name was Rufad were also removed from the bus by military policemen wearing camouflage uniforms and white belts.⁵³⁷⁹

1552. The men were led to a ditch behind a house, where KDZ075 saw the other men who had been taken off the bus earlier lying dead.⁵³⁸⁰ When KDZ075 and two of the men with him tried to escape, the soldiers called after them, “stop, fuck your balija mothers!”⁵³⁸¹ KDZ075 heard a burst of fire, and one of the men fell to the ground with “two or three huge holes in his back”.⁵³⁸² When a soldier indicated that a third man was still alive, another soldier fired a burst of fire at the third man.⁵³⁸³ Soldiers from the bus yelled at the shooters to hurry up, but the shooters waited for the men to stop breathing before eventually running back to the buses.⁵³⁸⁴

1553. After the bus left, KDZ075 fled and hid in the cornfields nearby.⁵³⁸⁵ From there, he could hear trucks and bulldozers coming to collect the bodies and houses being set on fire.⁵³⁸⁶ The collection of bodies continued into the night of 10 July 1992.⁵³⁸⁷

1554. The bodies of 184 Bosnian Muslims, most of whom had been shot in the head, were exhumed from graves associated with the events at Biljani Primary School on 10 July 1992.⁵³⁸⁸

⁵³⁷⁸ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4975–4976; KDZ075, T. 19064 (19 September 2011).

⁵³⁷⁹ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4976, 4984; KDZ075, T. 19060 (19 September 2011).

⁵³⁸⁰ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4976.

⁵³⁸¹ KDZ075, T. 19061–19062 (19 September 2011); KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4977.

⁵³⁸² KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4977; KDZ075, T. 19062 (19 September 2011).

⁵³⁸³ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4977.

⁵³⁸⁴ KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4977. *See also* KDZ075, T. 19063 (19 September 2011). The Chamber notes that while Jovo Kevac attributed responsibility for these killings to criminal groups that “broke free of control and burst into the area at some point”, he could not definitively state that such groups had been present at Biljani school. Jovo Kevac, T. 46230–46231 (30 January 2014). Kevac also suggested that the perpetrators had been apprehended and proceedings conducted against them, but could not recall any names or produce documents associated with the alleged investigation. D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 9; Jovo Kevac, T. 46233, 46235 (30 January 2014).

⁵³⁸⁵ KDZ075, T. 19025 (16 September 2011). After the shooting, KDZ075 lay where he had fallen for approximately 1.5 hours, after which he fled to the woods and then to a cornfield nearby. KDZ075, T. 19025 (16 September 2011); KDZ075, T. 19065 (19 September 2011).

⁵³⁸⁶ KDZ075, T. 19025, 19034 (16 September 2011).

⁵³⁸⁷ KDZ075, T. 19035 (16 September 2011).

⁵³⁸⁸ KDZ075 testified that P3361 and P3362 contained the names of persons detained in the classroom with him at the Biljani primary school. KDZ075, T. 19019–19020, 19026 (16 September 2011); P3361 (List of 76 persons); P3362 (List of persons detained in Biljani Elementary School). The bodies of the vast majority of the persons listed in P3361 and P3362 were exhumed from the Lanište I and Crvena Zemlja mass graves in 1996. P3363 (Report on Lanište I mass grave, 3 October 1996) (containing the autopsies of persons listed in P3361 and P3362); P4879 (Ključ Court record of Crvena Zemlja II exhumation, 4–15 November 1996) (containing the autopsies of persons listed in P3361 and P3362); P4853 (Updated Table 2 to the Report of Amor Mašović), pp.

The bodies of 15 additional Bosnian Muslims, the majority of whom bore signs of fatal gunshot wounds to the head, were exhumed from graves located in and around Biljani and were identified as containing the remains of persons killed by Serb Forces on or around 10 July 1992.⁵³⁸⁹

1555. The Chamber therefore finds that 199 Bosnian Muslims were killed by Serb Forces on or around 10 July 1992 in Biljani.

(7) Scheduled Incident D.13

1556. The Indictment refers to the destruction of eight mosques and a Catholic church between at least May and August 1992.⁵³⁹⁰

1557. Eight mosques in Ključ municipality were destroyed during the period between May 1992 and August 1992.⁵³⁹¹ With regard to the destruction of specific sites and the identities of those responsible, the Chamber received evidence indicating that the Velagići-Pudin Han mosque was blown up by Serb Forces during the attack on Pudín Han on 28 May 1992,⁵³⁹² and that the Biljani Mosque was set on fire in the morning of 10 July 1992 when the village was attacked by Serb Forces.⁵³⁹³ The Ključ mosque was blown up at approximately 3:05 a.m. on 30 July 1992.⁵³⁹⁴ According to a report issued the following day, although the perpetrators were unknown, an

8–13; P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), pp. 84, 90–93. See also P4878 (List of mass graves and bodies exhumed in Ključ Municipality, 1996), pp. 2–5 (containing a partial list of persons exhumed from Lanište I); P3637 (Report of BiH Federal Ministry of the Interior, 22 October 1996), pp. 9–10 (containing a partial list of persons exhumed from Lanište I); Adjudicated Fact 930; P3488 (Witness statement of Atif Džafić undated), para. 140.

⁵³⁸⁹ P4877 (Ključ Court record in relation to Biljani exhumation, 14 October 1996); P4878 (List of mass graves and bodies exhumed in Ključ Municipality, 1996), pp. 6–7; P4853 (Updated Table 2 to the Report of Amor Mašović), p. 13; P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), pp. 84–89.

⁵³⁹⁰ The religious sites identified in Scheduled Incident D.13 are the Ključ Town mosque, Biljani–Džaferagići mosque, Pudín Han–Velagići mosque, Donji Budelj mosque, Humići mosque, Krasulje mosque, Sanica mosque, Tičevići mosque, and the Town Catholic church. See also Prosecution Pre-Trial Brief, Confidential Appendix A, p. 32 (asserting that Pudín Han mosque and Velagići mosque are one and the same). The Chamber has treated them accordingly.

⁵³⁹¹ P4070 (Attachment to the expert report of András Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 149–172 (including photographic evidence of destruction). See also KDZ075, T. 19025 (16 September 2011) (recalling that he observed an attempt to blow up a mosque in late July or early August). According to Riedlmayer's report, the Catholic church in Ključ was destroyed in January or February 1993. P4070 (Attachment to the expert report of András Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 173–175. The destruction of the church thus falls outside the time period specified in Scheduled Incident D.13.

⁵³⁹² See Adjudicated Fact 2451. See also KDZ024, P713 (Transcript from *Prosecutor v. Brđanin*), T. 9117 (under seal).

⁵³⁹³ See Adjudicated Fact 952. The Chamber notes that Slobodan Jurišić testified that the municipal authorities' position was to “do everything to preserve these buildings”, and suggested that the fact that the explosives were set “unprofessionally” suggested that they were perpetrated by “riotous groups”. Slobodan Jurišić, T. 47113, 47117 (14 February 2014).

⁵³⁹⁴ D1735 (Investigation report of Ključ Lower Court, 30 July 1992); D1736 (Journalist report regarding Ključ SJB, undated), p. 1. See also Adjudicated Fact 951.

investigation was underway to uncover their identities.⁵³⁹⁵ The Chamber also took judicial notice of the fact that following the Crisis Staff's order, at least four Muslim monuments in Ključ municipality, including the Atik mosque in the town of Ključ, were either completely destroyed or heavily damaged by fire and explosives set by Serb Forces during 1992.⁵³⁹⁶

1558. In light of the evidence described above and noting the pattern of destruction of the mosques in Ključ municipality, particularly the temporal proximity of the destruction of the Velagići-Pudin Han Mosque and the Biljani Mosque to the attacks by Serb Forces on those villages,⁵³⁹⁷ the Chamber finds that eight mosques in Ključ municipality were destroyed by Serb Forces between May and August 1992.

(8) Movement of the population from Ključ

1559. At a meeting on 20 May 1992, the ARK Crisis Staff adopted several conclusions which were later endorsed in Ključ,⁵³⁹⁸ including that there was "no reason for the population of any nationality to move out of the territory of the [ARK]".⁵³⁹⁹ However, one week later, the Ključ Crisis Staff established an Agency for the Reception and Removal of Refugees, adopted a Decision on the Organisation of Departure from the Area of the Municipality, and decided that the National Defence Council would be responsible for organising departures from the municipality.⁵⁴⁰⁰ Over the next several days, during its meetings, the Ključ Crisis Staff considered the resettlement of the Bosnian Muslim population.⁵⁴⁰¹

1560. On the morning of 29 May, the Ključ Defence Command and Crisis Staff jointly issued an order for "all citizens of Muslim ethnicity, women, children, and men loyal to the Serbian Republic of Bosnia and Herzegovina" to gather at various points in Ključ, including the football grounds in Ključ, the Social Centre in Šehići, the factory grounds in Hanlovsko Vrelo, and the ŠIPAD warehouse in Ključ, by 11 a.m. that day.⁵⁴⁰²

⁵³⁹⁵ KDZ192, T. 19507–19508 (27 September 2011) (closed session); D1736 (Journalist report regarding Ključ SJB, undated), pp. 1–2.

⁵³⁹⁶ See Adjudicated Fact 2450.

⁵³⁹⁷ Asim Egrlić testified that the Bosnian Serb assertion that "extremists" were located in mosques was merely a pretext. Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4820; P3450 (Video footage of TV Banja Luka depicting events in Ključ), at 00:07:02–00:07:25.

⁵³⁹⁸ [REDACTED].

⁵³⁹⁹ D1309 (Conclusions of the ARK Crisis Staff, 20 May 1992).

⁵⁴⁰⁰ P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May–10 July 1992), p. 3 (*inter alia* prohibiting the return of families who departed "without appropriate reasons"); Adjudicated Fact 2452.

⁵⁴⁰¹ [REDACTED]; P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May–10 July 1992), p. 10 (recording "the question of the removal of the population" as an agenda item on 3 June); [REDACTED]. See also D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 12.

⁵⁴⁰² P3473 (Order of Ključ Defence Command and Crisis Staff, 29 May 1992); [REDACTED].

1561. The Ključ War Presidency adopted a decision pursuant to which “all citizens”, regardless of ethnicity, would be allowed to leave the municipality if they gave a statement to the relevant organ that they wished to do so.⁵⁴⁰³ People who wished to move out of the municipality were required to obtain permission to do so from the municipal authorities.⁵⁴⁰⁴ Anyone who wished to leave was required to state that their departure was voluntary as well as permanent.⁵⁴⁰⁵ Moreover, those who owned real property were required to make a declaration renouncing that property by either exchanging it or placing it at the disposal of the municipality.⁵⁴⁰⁶ For at least a month, such housing was reassigned to Bosnian Serb refugees.⁵⁴⁰⁷ While these declarations were ostensibly made voluntarily, Asim Egrić testified that they were made under duress and that the people decided to relinquish their property in order to save their lives, irrespective of the words contained therein.⁵⁴⁰⁸ In accordance with the ARK decision of 4 August 1992, individuals leaving the ARK could take with them no more than 300 German marks.⁵⁴⁰⁹

1562. The Accused contends that the renunciations and reassignments only pertained to temporary use, and not to ownership of such property.⁵⁴¹⁰ The Chamber received evidence that the municipal authorities did not pass any decision which would have collectively converted abandoned

⁵⁴⁰³ P3472 (Report re Ključ War Presidency, undated). In accordance with the decision of the ARK Crisis Staff on 29 May, departure would be permanent. See P3461 (Conclusions of ARK Crisis Staff, 29 May 1992).

⁵⁴⁰⁴ KDZ075, T. 19047–19048 (19 September 2011); P3462 (Decision of Ključ War Presidency, 30 July 1992) (permitting persons who had given a statement to the Commission for Collecting Data on Moving Away to leave the territory voluntarily and permanently); P3472 (Report re Ključ War Presidency, undated). See also Adjudicated Facts 953, 954, 2452; Slobodan Jurišić, T. 47095 (14 February 2014). For an example of such a statement, see e.g. P3463 (Record of the Commission for Gathering Information Relating to the Departure of Population from Ključ, 31 July 1992). The Chamber notes that although in their statements, Marko Adamović and Rajko Kalabić denied that permits were required in order to leave the municipality, see D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 15 (suggesting that people were not required to obtain permits); D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 23 (denying that any permits were required in order to leave the municipality), the Accused conceded that those leaving were required to make statements. Defence Final Brief, para. 1514.

⁵⁴⁰⁵ P3462 (Decision of Ključ War Presidency, 30 July 1992); P3573 (Record of declaration of individuals leaving Ključ, 10 August 1992), pp. 2–10; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4766; Asim Egrić, T. 19933–19935 (5 October 2011). See also Adjudicated Fact 2453.

⁵⁴⁰⁶ P3462 (Decision of Ključ War Presidency, 30 July 1992), p. 1; P3472 (Report re Ključ War Presidency, undated); [REDACTED]. See e.g. P3573 (Record of declaration of individuals leaving Ključ, 10 August 1992), pp. 2–10; Asim Egrić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4766; Asim Egrić, T. 19933–19935 (5 October 2011). But see Slobodan Jurišić, T. 47095–47098 (14 February 2014); D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), paras. 18, 43 (denying that people were required to sign such documents).

⁵⁴⁰⁷ [REDACTED]; P3472 (Report re Ključ War Presidency, undated). But see P3463 (Record of the Commission for Gathering Information Relating to the Departure of Population from Ključ, 31 July 1992) (which does not mention the abandonment of property to the municipality); [REDACTED]. See further P3453 (Decision of Ključ War Presidency, 13 July 1992) (deciding to “stop further flat allotment on any basis until criteria for allotment at the regional level [could be] created”).

⁵⁴⁰⁸ Asim Egrić, T. 19925, 19930 (5 October 2011) (commenting on P3573); P3573 (Record of declaration of individuals leaving Ključ, 10 August 1992). Egrić further explained that despite what was stated on such declarations, in practice, property was forcefully confiscated before being disposed of by the administrative organ of Bosnian Serb Ključ municipality. Asim Egrić, T. 19933 (5 October 2011).

⁵⁴⁰⁹ Adjudicated Fact 2454.

properties into state property, and that no changes were made to the land registry books such as would indicate a permanent change in property ownership.⁵⁴¹¹ However, the Chamber notes that on 19 June, the ARK Crisis Staff took a decision that all “abandoned” property would be proclaimed property of the state and placed at the disposal of the municipal assemblies.⁵⁴¹² The Chamber is therefore satisfied that such real property was effectively seized by the Bosnian Serb Political and Governmental Organs on a permanent basis.

1563. Mass departures began to take place as of 1 June 1992.⁵⁴¹³ On 4 June, the President of the Ključ Crisis Staff made a statement indicating that all citizens who wished to leave Ključ permanently would be allowed to do so in an organised manner, assisted by international humanitarian organisations and the competent organs of the Ključ Municipal Assembly.⁵⁴¹⁴ Those who wished to leave were to report to the Civilian Protection Department of the Municipal Assembly or to the local committees in local communes.⁵⁴¹⁵

1564. A number of convoys of Bosnian Muslims and Bosnian Croats were first organised by the police prior to a convoy of approximately 1,000 people, the majority of whom included Bosnian Muslim women and children, leaving Ključ for Travnik in late July 1992.⁵⁴¹⁶ Very few able-bodied men left in this convoy.⁵⁴¹⁷

1565. On 11 September 1992, approximately 500 Bosnian Muslims were transported to Travnik.⁵⁴¹⁸ At least two other Travnik-bound convoys left in September, including one in which

⁵⁴¹⁰ Defence Final Brief, confidential, para. 1514.

⁵⁴¹¹ [REDACTED]; Slobodan Jurišić, T. 47127 (14 February 2014).

⁵⁴¹² P3451 (Decisions of the ARK Crisis Staff, June 1992), p. 13; [REDACTED]. *See also* Asim Egrić, T. 19930–19931, 19935 (5 October 2011) (conceding that such declarations pertained to use and that no property ownership changes were effected but equating the declarations coupled with departure as permanent relinquishment under the circumstances).

⁵⁴¹³ Asim Egrić, T. 20000 (5 October 2011).

⁵⁴¹⁴ P3448 (Statement of Ključ Crisis Staff, 4 June 1992). *See also* D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 22; D4363 (Witness statement of Slobodan Jurišić dated 8 February 2014), para. 18.

⁵⁴¹⁵ P3448 (Statement of Ključ Crisis Staff, 4 June 1992).

⁵⁴¹⁶ *See* Adjudicated Facts 953, 954. The Chamber notes that Marko Adamović testified that the ROPS transport company and privately owned transport companies, rather than the police, organised the convoys and that the police merely escorted the convoys for security reasons. D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 13. *See also* D4169 (Witness statement of Rajko Kalabić dated 1 December 2013), para. 27 (testifying that the police escorted the convoys for security reasons and that “Civilian Protection” organised and kept certain records). However, the Chamber considers that neither Adamović nor Kalabić established the basis for their knowledge in this regard. Moreover, the Chamber observed that both appeared evasive throughout their testimonies, and that their evidence on other points was contradicted in such a way as to cast doubt on the overall credibility of each. The Chamber therefore declines to place weight on their evidence on this point.

⁵⁴¹⁷ Adjudicated Fact 953.

⁵⁴¹⁸ Adjudicated Fact 955. The Chamber notes that the Accused concedes that the Ključ Crisis Staff organised these convoys, although he suggests that that this was done at the request of Bosnian Muslims. Defence Final Brief, para. 1515 (citing the witness statement of Slobodan Jurišić).

an over-crowded convoy transported 1,000 Bosnian Muslims and Bosnian Croats, whose names were called prior to their boarding from a list of people who had paid a fare.⁵⁴¹⁹ At a meeting in September 1992, Jovo Banjac informed Mladić that only 5,000 Bosnian Muslims remained in Ključ as of the date of their meeting, and that another 1,500 left on the same day.⁵⁴²⁰

1566. Approximately 2,500 Bosnian Muslims and Bosnian Croats, the majority of whom were women, children and elderly, were also transported from Ključ towards Travnik on 1 October 1992.⁵⁴²¹ Bosnian Serb local police and the Bosnian Serb army were at the departure point with a list of those who had paid what was asked of them and signed over their property.⁵⁴²² Bosnian Serbs escorted the convoy to a location 25 kilometres away from Travnik, whereupon they demanded money and valuables from the passengers, who then walked to Travnik.⁵⁴²³

1567. Numerous Defence witnesses testified that many Bosnian Muslims remained in the municipality throughout the war.⁵⁴²⁴ However, other evidence indicates that between May 1992 and January 1993, 4,154 of the 4,200 residents of Sanica, 3,429 of the 3,649 residents of Velagići, 2,655 of the 2,815 residents of Peći, 1,250 of the 1,732 residents of Humići, all of the 778 residents of Sokolovo, and all 24 residents of Gornji Ribnik left Ključ municipality.⁵⁴²⁵ By 1995, only about 1,200 of Ključ's original 17,000 Bosnian Muslims remained.⁵⁴²⁶

1568. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims and Bosnian Croats were forced to leave Ključ.

⁵⁴¹⁹ Adjudicated Fact 955. *See also* D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 14 (stating that people who wanted to leave Ključ voluntarily had to pay the normal fare).

⁵⁴²⁰ P1480 (Ratko Mladić's notebook, 10–30 September 1992), p. 26.

⁵⁴²¹ Adjudicated Fact 956.

⁵⁴²² Adjudicated Fact 956.

⁵⁴²³ Adjudicated Fact 956.

⁵⁴²⁴ D4165 (Witness statement of Marko Adamović dated 1 December 2013), para. 6; Marko Adamović, T. 44491 (4 December 2013) (referring to 3,500 Bosnian Muslims who remained and stating that only those who were "arrested, disarmed, and responsible for some offences" were expelled); D4268 (Witness statement of Jovo Kevac dated 25 January 2014), para. 13 (stating that "a number" of Bosnian Muslims remained in Ključ during 1992 and 1993 and were not mistreated and that some voluntarily joined the VRS and the police); Slobodan Jurišić, T. 47101–47102 (14 February 2014) (testifying that some "particularly prominent" Bosnian Muslims remained in Ključ throughout the war and even into 1995). *See also* KDZ192, T. 19498 (27 September 2011) (closed session).

⁵⁴²⁵ D1738 (Report of the Assistant Commander for Civilian Affairs of the Military Post 7286, 16 February 1993), pp. 4–5. *See also* KDZ075, P3359 (Transcript from *Prosecutor v. Krajišnik*), T. 4984–4985; Adjudicated Fact 2457; para. 1489.

⁵⁴²⁶ P5449 (Report of the MUP, Banja Luka RDB, February 1995), pp. 12–13. *See also* P10 (Report of the MUP, Banja Luka SNB, May 1993); P1481 (Ratko Mladić's notebook, 5 October–27 December 1992), pp. 123–124.

(D) Prijedor

(1) Charges

1569. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Prijedor as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁵⁴²⁷ Under Count 1, the Prosecution further alleges that in certain municipalities, including Prijedor, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.⁵⁴²⁸

1570. Acts alleged to have been committed in Prijedor by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over;⁵⁴²⁹ killings related to detention facilities,⁵⁴³⁰ and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.⁵⁴³¹ The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁵⁴³²

1571. Other acts alleged to have been committed in Prijedor by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, physical and psychological abuse, rape and other acts of sexual violence during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.⁵⁴³³ In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Prijedor, thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by the Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises

⁵⁴²⁷ Indictment, paras. 48–49.

⁵⁴²⁸ Indictment, paras. 37–38.

⁵⁴²⁹ Indictment, para. 60(a)(i). *See* Scheduled Incidents A.10.1; A.10.2; A.10.3; A.10.4; A.10.5; A.10.6; A.10.7; A.10.8; A.10.9.

⁵⁴³⁰ Indictment, para. 60(a)(ii). *See* Scheduled Incidents B.15.1; B.15.2; B.15.3; B.15.4; B.15.5; B.15.6.

⁵⁴³¹ Indictment, para. 60(a)(ii). *See* Scheduled Detention Facilities C.20.1; C.20.2; C.20.3; C.20.4; C.20.5; C.20.6; C.20.7.

⁵⁴³² Indictment, paras. 40(a), 60(a), 63(a), 63(b).

⁵⁴³³ Indictment, para. 60(b), 60(c), 60(d) (specifying that the conditions included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities). *See* Scheduled Detention Facilities C.20.1; C.20.2; C.20.4; C.20.5; C.20.6; C.20.7.

this inhumane treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.⁵⁴³⁴ In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour, and the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities.⁵⁴³⁵

1572. Under Count 3, other acts of persecution alleged to have been committed in Prijedor by Serb Forces and Bosnian Serb Political and Governmental Organs, include (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes within Prijedor;⁵⁴³⁶ (ii) unlawful detention in scheduled detention facilities;⁵⁴³⁷ (iii) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁵⁴³⁸ (iv) the appropriation or plunder of property during and after the take-over, during arrests and detention, and in the course of or following acts of deportation or forcible transfer;⁵⁴³⁹ (v) the wanton destruction of private property, including homes and business premises, and public property, including cultural monuments and sacred sites;⁵⁴⁴⁰ and (vi) the imposition and maintenance of restrictive and discriminatory measures.⁵⁴⁴¹

1573. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁵⁴⁴² In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Prijedor in which they had been lawfully present.⁵⁴⁴³ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killings, destruction of houses, cultural monuments and sacred sites, as well as the threat

⁵⁴³⁴ Indictment, para. 40(b).

⁵⁴³⁵ Indictment, paras. 40(c). *See* Scheduled Detention Facilities C.20.1; C.20.2; C.20.3; C.20.4; C.20.5; C.20.6; C.20.7.

⁵⁴³⁶ Indictment, para. 60(f).

⁵⁴³⁷ Indictment, para. 60(g). *See* Scheduled Detention Facilities C.20.1; C.20.2; C.20.3; C.20.4; C.20.5; C.20.6; C.20.7.

⁵⁴³⁸ Indictment, para. 60(h).

⁵⁴³⁹ Indictment, para. 60(i).

⁵⁴⁴⁰ Indictment, para. 60(j). *See* Scheduled Incident D.17.

⁵⁴⁴¹ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

⁵⁴⁴² Indictment, paras. 68–75.

⁵⁴⁴³ Indictment, paras. 69, 72.

of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁵⁴⁴⁴

(2) Background

1574. Prijedor is a municipality in northwest BiH in the ARK and is surrounded by Bosanski Novi, Bosanska Dubica, Bosanski Gradiška, Banja Luka, and Sanski Most.⁵⁴⁴⁵ In 1991, the population of Prijedor was approximately 112,543, among whom 43.9% were Bosnian Muslims, 42.3% were Bosnian Serbs, and 5.6% were Bosnian Croats.⁵⁴⁴⁶

(a) Division of municipal structures and establishment of Bosnian Serb institutions

1575. Inter-ethnic relations in Prijedor were good before the 1990 election campaign; however, the events in Croatia and at the republican level in BiH began to influence the relationships between the groups.⁵⁴⁴⁷ Relations started to change and people stopped trusting each other and socialising.⁵⁴⁴⁸

1576. In 1990, multi-party elections were held in Prijedor, resulting in the SDA taking 30 of the 90 seats in the Municipal Assembly, the SDS taking 28 seats, the HDZ taking two seats, and the remaining seats going to smaller parties.⁵⁴⁴⁹ Subsequently, and on the basis of a prior agreement between the national parties concerning the division of powers, it was agreed amongst the elected Assembly members that the SDA should nominate the president of the municipality and the SDS would nominate the vice president.⁵⁴⁵⁰ The SDS would also nominate the president of the Executive Board and the SDA would nominate the vice president.⁵⁴⁵¹

1577. As a result, Muhamed Čehajić was nominated as President of the Prijedor Municipal Assembly, Milomir Stakić was nominated as the Vice President, and Milan Kovačević was

⁵⁴⁴⁴ Indictment, para. 71.

⁵⁴⁴⁵ P569 (Map of Prijedor municipality); P4258 (Map of ARK). See Adjudicated Fact 1002.

⁵⁴⁴⁶ P6684 (Excerpt from census records of 1991), p. 2; P3701 (Map of Prijedor from 1991 census); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 15; Mevludin Sejmenović, T. 20613 (28 October 2011); Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3580. See also Adjudicated Fact 1006.

⁵⁴⁴⁷ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7719.

⁵⁴⁴⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5544–5545, 5549.

⁵⁴⁴⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1815 (under seal). See also Mevludin Sejmenović, T. 20455 (27 October 2011); Adjudicated Fact 1005.

⁵⁴⁵⁰ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3595.

⁵⁴⁵¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1816 (under seal). See also Mevludin Sejmenović, T. 20455 (27 October 2011).

nominated as President of the Executive Board.⁵⁴⁵² There was disagreement between the SDS, SDA, and HDZ over other appointments to public office in Prijedor.⁵⁴⁵³

1578. In 1991, SDS representatives proposed to other parties and local politicians that Prijedor be divided into two municipalities and that the municipal institutions be divided along ethnic lines.⁵⁴⁵⁴ In September 1991, the Accused intervened to replace the local SDS President in Prijedor, Srdo Srdić, with Simo Mišković, who promised to follow the policies of the SDS Main Board.⁵⁴⁵⁵ In December 1991, Mišković received the Variant A/B Instructions at a meeting of the SDS Main Board, over which the Accused presided.⁵⁴⁵⁶ Mišković then conveyed the Variant A/B Instructions to the Prijedor SDS leadership.⁵⁴⁵⁷ On 7 January 1992, the SDS members left the Prijedor Municipal Assembly and formed their own assembly, proclaimed as the Assembly of the Serbian People of the Municipality of Prijedor (“Prijedor Serb Assembly”); Milomir Stakić was appointed as its President, and Milan Kovačević was appointed as President of the Executive Board.⁵⁴⁵⁸ A Crisis Staff, later renamed the War Presidency,⁵⁴⁵⁹ was also formed by the SDS

⁵⁴⁵² Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3596; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 2 (stating further that between 11 September 1991 and 7 January 1992, he was also Vice Chairman of the SDS Municipal Board); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1816–1817 (under seal).

⁵⁴⁵³ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2375; Mevludin Sejmenović, T. 20529–20531 (28 October 2011); Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3594–3595, 3599–3602, 3618–3624 (testifying further that in February 1992, the SDA sent its proposal to the SDS regarding the division of power in Prijedor between the SDS, SDA, and HDZ, including the division of appointments to significant positions in public office). See P3704 (Letter from Prijedor SDA Executive Board to Prijedor SDS, 16 February 1992).

⁵⁴⁵⁴ Mevludin Sejmenović, T. 20457–20459 (27 October 2011).

⁵⁴⁵⁵ P3706 (Minutes of meeting of Prijedor Municipal Assembly, 11 September 1991), pp. 3–4; P2571 (Intercepts of conversations between (i) Radovan Karadžić and Radomir Nešković; (ii) Radovan Karadžić and Mišković; and (iii) Radovan Karadžić and Srdo Srdić, 20 December 1991), pp. 4–15; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3599–3601. See P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 18; Simo Mišković, T. 45351–45361 (18 December 2013).

⁵⁴⁵⁶ D4206 (Witness statement of Simo Mišković dated 6 December 2013), para. 10; Milomir Stakić, T. 45227–45228 (17 December 2013). See P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 6–7; Simo Mišković, T. 45363 (18 December 2013).

⁵⁴⁵⁷ P2595 (Minutes of meeting of Prijedor SDS Municipal Board, 27 December 1991), p. 1; P5517 (Summary of meeting of the Representatives of the Prijedor Municipality Sector for Military Matters, undated), p. 1; P6610 (Excerpt of book of minutes of Prijedor’s SDS Municipal Board meetings, 1991), p. 1. See Simo Mišković, T. 45363 (18 December 2013); P6587 (Excerpts from Simo Mišković’s testimony from *Prosecutor v. Stanišić & Župljanin*), T. 15178. See also Adjudicated Fact 1007.

⁵⁴⁵⁸ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3634, 3641; Simo Mišković, T. 45365 (18 December 2013); Milomir Stakić, T. 45227–45228 (17 December 2013); D4195 (Witness statement of Milomir Stakić dated 16 November 2013), paras. 2, 11; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1820 (under seal); P2099 (Article from *Kozarski Vjesnik* entitled “Serbs Live in This Municipality As Well”, 31 January 1992); P6581 (Article from *Kozarski Vjesnik* entitled “How Dr. Milomir Stakić...saw events of 30th April...”, 28 April 1994), p. 1. See Adjudicated Fact 1008.

⁵⁴⁵⁹ P2104 (Video footage of interview with Milomir Stakić and Vladimir Arsić), p. 2; P2608 (Report of the SDS Executive Board on the formation of war presidencies, 31 May 1992), p. 1; P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992); D411 (Minutes of 17th session of Government of the SerBiH, 31 May 1992), p. 2; P11 (Article from *Kozarski Vjesnik*, entitled “Krajina Representatives in Prijedor”, 17 July 1992), p. 3; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 2. See Adjudicated Fact 1032.

Municipal Board in line with the Variant A/B Instructions, to act as a 24 hour information and communication centre.⁵⁴⁶⁰

1579. On 17 January 1992, the Prijedor Serb Assembly unanimously voted to join the ARK.⁵⁴⁶¹ Stakić, Mišković, Drljača, and Kovačević were elected as ARK Assembly representatives on 26 March 1992.⁵⁴⁶² In February 1992, Mišković attended another meeting with the Accused in Sarajevo; at the meeting, the Accused ordered the implementation of stage two of the Variant A/B Instructions.⁵⁴⁶³ Mišković later passed this instruction on to the SDS Municipal Board.⁵⁴⁶⁴

1580. On 16 April 1992, the Prijedor Serb Assembly elected individuals to different positions amongst whom were Boško Mandić, elected Deputy Chairman of the Executive Board, and Drljača, elected Chief of the SJB.⁵⁴⁶⁵ Drljača only assumed the position on 30 April 1992 once Prijedor was taken over.⁵⁴⁶⁶ On 23 April 1992, the SDS Municipal Board decided, *inter alia*, to reinforce the Crisis Staff, to subordinate “all units and staff in management posts” to the Crisis Staff, and “to immediately start working on the takeover, the co-ordination with JNA notwithstanding”.⁵⁴⁶⁷ Up until 30 April 1992, the SDA and HDZ continued to engage in talks with the SDS.⁵⁴⁶⁸ On 30 April 1992, Stakić was appointed President of the Prijedor

⁵⁴⁶⁰ D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 11; P6610 (Excerpt of book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 1; P2630 (Transcript of broadcast of Radio Prijedor), p. 7; Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 12971. See Simo Mišković, T. 45365–45366 (18 December 2013); Dragan Kezunović, T. 14943–14946 (20 June 2011); P2744 (Excerpt from SJB Prijedor's log book); Dusan Janković, T. 47340–47341 (18 February 2014). See also P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 6–7.

⁵⁴⁶¹ P3728 (Decision of Prijedor Municipal Assembly, 17 January 1992); D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 13. See also Adjudicated Fact 1009.

⁵⁴⁶² P5566 (Minutes of the 4th session of the Assembly of the Serbian People in Prijedor Municipality, 26 March 1992).

⁵⁴⁶³ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 5–7; P5516 (Minutes of Meeting of SDS Prijedor Municipal Board, 17 February 1992), p. 1. See P6588 (Receipt of Holiday Inn Hotel, 14–15 February 1992); Adjudicated Fact 1010.

⁵⁴⁶⁴ P5516 (Minutes of Meeting of SDS Prijedor Municipal Board, 17 February 1992), p. 1; see Simo Mišković, T. 45373–45375 (18 December 2013).

⁵⁴⁶⁵ P2097 (Article from Kozarski Vjesnik, entitled “Government of the Serbian Municipality Elected”, 24 April 1992), p. 1; P2630 (Transcript of broadcast of Radio Prijedor), p. 7; Dušan Janković, T. 47269 (18 February 2014). See also Adjudicated Fact 1011. At the time Drljača was elected, a member of the SDA, Hasan Talundžić, held the position of Chief of the SJB in Prijedor. See Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3595, 3619–3624; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6558–6559; Dušan Janković, T. 47269 (18 February 2014).

⁵⁴⁶⁶ Mevludin Sejmenović, T. 20540 (28 October 2011); Dušan Janković, T. 47269 (18 February 2014); P2630 (Transcript of broadcast of Radio Prijedor), p. 7 (stating that Drljača informed Kovačević on 30 April 1992 that all the individuals appointed on 16 April assumed their posts and were functioning from that moment forward); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6559. See also para. 1597. Drljača was formally appointed as Chief of the SJB on 30 July 1992. P6379 (Decision of SerBiH MUP, 25 April 1992; Request of Banja Luka CSB, 4 May 1992; Decision of Banja Luka CSB, 30 July 1992; Decision of Banja Luka CSB, 13 June 1992), e-court pp. 5–6.

⁵⁴⁶⁷ D1830 (Minutes of session of Prijedor SDS Municipal Board, 23 April 1992), p. 1. See also Adjudicated Fact 1012.

⁵⁴⁶⁸ Mevludin Sejmenović, T. 20465 (27 October 2011).

Municipality.⁵⁴⁶⁹ At this time, the Prijedor SDS was regularly receiving instructions from the central SDS and the Prijedor Crisis Staff received and implemented decisions from the Bosnian Serb Assembly.⁵⁴⁷⁰

1581. On 20 May 1992, the Prijedor Serb Assembly formally adopted a Prijedor Crisis Staff decision of 1 May 1992, which implemented the 26 April 1992 Instructions issued by the Bosnian Serb Government, reorganising the Prijedor Crisis Staff, and creating a unified command of Crisis Staff, TO, police, and military.⁵⁴⁷¹ On the same day, the Prijedor Serb Assembly also appointed Stakić as President of the Crisis Staff and Dragan Savanović as Vice President; other members appointed to the Crisis Staff included Kovačević, Slobodan Kuruzović, Boško Mandić, Drljača, and Slavko Budimir.⁵⁴⁷²

(b) Propaganda and militarisation of Prijedor

1582. When the conflict in Croatia began in 1991, the residents of Prijedor began to feel insecure.⁵⁴⁷³ When the mobilisation of conscripts to be sent to Croatia with the JNA started, many Bosnian Muslims and Bosnian Croats chose not to respond to the call-up; this lack of response by non-Serbs resulted in Bosnian Serbs constituting the majority of JNA conscripts who went to fight in Croatia.⁵⁴⁷⁴ At the same time there was a rise in propaganda designed to instil fear among the population.⁵⁴⁷⁵ In late 1991 or early 1992, the SDS obtained a “repeater” at Mrkovic, from which only Serb programmes were emitted.⁵⁴⁷⁶ In February 1992, the JNA took over the TV relay at the Kozara mountain, blocking TV broadcasts from Croatia and Sarajevo and

⁵⁴⁶⁹ D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 2.

⁵⁴⁷⁰ P2560 (Letter from Radovan Karadžić to presidents of municipalities, 23 March 1992); P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 49, 80–81; D4468 (Confirmation of decisions adopted by Crisis Staff by Prijedor Municipal Assembly, 24 July 1992), e-court p. 2; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 53–54. *See also* P5414 (Letter from SDS President’s Office, 20 April 1992).

⁵⁴⁷¹ P2605 (Decision of Prijedor Assembly on the organisation and work of Prijedor Crisis Staff, May 1992), pp. 2–5; P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 1–9; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 20; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*, T. 3677–3679; P3529 (Minutes of 4th meeting of Prijedor’s Council for National Defence, 15 May 1992), p. 2; D4468 (Confirmation of decisions adopted by Crisis Staff by Prijedor Municipal Assembly, 24 July 1992), e-court p. 2. *See also* P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992); P2966 (Order of SerBiH MUP, 15 May 1992), pp. 1–2; Adjudicated Fact 1026. *See paras.* 142–144.

⁵⁴⁷² P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 7–9. *See* Adjudicated Fact 1027.

⁵⁴⁷³ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1817–1818 (under seal); KDZ026, T. 10363 (17 January 2011) (closed session).

⁵⁴⁷⁴ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1818 (under seal); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7719. *See also* Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*, T. 5658.

⁵⁴⁷⁵ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1819 (under seal).

⁵⁴⁷⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*, T. 5550.

only permitting broadcasts from Belgrade and Banja Luka.⁵⁴⁷⁷ Radio and TV broadcasts relayed propaganda and used derogatory names for non-Serbs.⁵⁴⁷⁸ Announcements were made on Radio Prijedor that Bosnian Muslim doctors were trying to reduce the birth rate among Serbs in that part of BiH, either by sterilising Serb women or giving pregnant Serb women injections so that they could only give birth to female children; these allegations caused great fear among the Serb population of Prijedor, and negatively impacted inter-ethnic relations in the municipality.⁵⁴⁷⁹ Propaganda was also used to encourage Serbs to accept a policy of discrimination against non-Serbs; those Serbs who refused to comply with this policy of discrimination against non-Serbs were branded “traitors”.⁵⁴⁸⁰

1583. Starting in 1991 and lasting until spring 1992, weapons were distributed in Prijedor from JNA storage facilities to Prijedor TO units and then to local communes.⁵⁴⁸¹ Check-points were also established throughout the Prijedor area during this time.⁵⁴⁸² By late 1991, Prijedor contained the largest concentration of former JNA weapons.⁵⁴⁸³ The weapons given to Bosnian Muslim communes were antiquated and were matched with the wrong type of ammunition, whereas Bosnian Serb communes were given more weapons which did not have these problems.⁵⁴⁸⁴ By late 1991, JNA military helicopters landed several times a day in Serb areas of Prijedor distributing weapons.⁵⁴⁸⁵ In early 1992, the SDA Municipal Board received reports from

⁵⁴⁷⁷ P5633 (Intercept of conversation between Radovan Karadžić and Nenad Stanić, 5 November 1991), p. 6; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7058.

⁵⁴⁷⁸ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6618.

⁵⁴⁷⁹ Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5550–5551; KDZ523, T. 23349–23350 (19 January 2012) (closed session) (testifying that information was released that Esad Sadiković, a prominent Bosnian Muslim physician who had worked for UNHCR, was working on sterilisation of Serb women so that less Serbs would be born). See Adjudicated Fact 1188. Sadiković was later taken to Omarska and was killed. See paras. 1766, 1776–1778.

⁵⁴⁸⁰ See Adjudicated Fact 1094.

⁵⁴⁸¹ D2265 (Srdo Srdić’s interview with OTP), p. 26; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3605–3606; Mevludin Sejmenović, T. 20459–20460 (27 October 2011) (testifying that he witnessed the arming of Serbs in Prijedor and heard about it, including through reports of army helicopters transporting weapons to Serbs in certain villages); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7719–7720; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2617 (under seal).

⁵⁴⁸² KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2296–2297, 2360; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1832 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5878 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 6; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 6. See also KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3917.

⁵⁴⁸³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6770; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3605–3607.

⁵⁴⁸⁴ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3605–3607; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6779–6780 (testifying further that the Croatian villages in Ljubija were very poorly armed and that the Bosnian Muslims and Croats of Prijedor “stood no chance” as any weapons they had received or collected were “very meager”).

⁵⁴⁸⁵ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2328–2331, 2367, 2381; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 8; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 5–6; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7059.

people who saw JNA lorries with JNA soldiers distributing weapons in Serb villages, as well as reports of training groups run by the JNA for Serbs.⁵⁴⁸⁶

1584. In August 1991, 300 to 400 Serbs from Prijedor and the Krajina region were sent to Podgradci for a secret, advanced police training course by instructors from Serbia under Captain Dragan.⁵⁴⁸⁷ Radoslav Brđanin, Stojan Župljanin, and Drljača visited the course.⁵⁴⁸⁸

1585. By the end of April 1992, a number of clandestine Serb police stations were created in Prijedor and more than 1,500 Serb policemen were mobilised.⁵⁴⁸⁹

1586. In early May 1992, the Prijedor Serb Assembly ordered mobilisation pursuant to orders from the ARK and the RS Defence Ministry, requiring all men liable for military service in the ARK to mobilise for the TO.⁵⁴⁹⁰ On 22 May, the Crisis Staff ordered a further mobilisation pursuant to the 20 May 1992 SerBiH Presidency order, requiring conscripts to report to their war unit, and only Serbs were mobilised.⁵⁴⁹¹ The JNA withdrew from BiH around 20 May 1992, a few days before the attack on Hambarine; however, according to Sejmenović, the JNA did not really withdraw, rather “[t]hey just changed their name” and “[t]he officers started calling themselves the Serb army”.⁵⁴⁹² In fact, the number of troops increased in the Prijedor area after the JNA pulled out of BiH.⁵⁴⁹³ Radmilo Željaja, commander of the 43rd Motorised Brigade, which was later called the 343rd Motorised Brigade, fully co-operated with Drljača and the SJB during this period.⁵⁴⁹⁴

⁵⁴⁸⁶ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3608–3610. See P4262 (Request of Municipal Assembly Executive Board of Banja Luka, 19 August 1994), p. 1; P4263 (Video footage of award ceremony of the Red Berets, with transcript), e-court pp. 2–3 (stating that 26 training camps for special police units of the RS and RSK were established in 1991 or 1992).

⁵⁴⁸⁷ [REDACTED]. The instructors all wore traditional military camouflage uniforms with a “militia of Krajina” insignia on their sleeves. See P3813 (Insignia of Krajina Police “Wolves” group). See also P4258 (Map of ARK).

⁵⁴⁸⁸ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21061–21062, 21065 (under seal).

⁵⁴⁸⁹ P5518 (Report of Prijedor SJB to Banja Luka CSB, 30 April 1992). See P5528 (Report of Prijedor SJB, June 1992), p. 2 (describing the creation of shadow police stations); Adjudicated Fact 1013.

⁵⁴⁹⁰ P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992), pp. 1–2; P3535 (Minutes of 2nd session of Prijedor’s Council for National Defence, 5 May 1992), pp. 1–2; P3530 (Minutes of Prijedor SDS Municipal Board, 9 May 1992), p. 2.

⁵⁴⁹¹ P3537 (Decision of Prijedor Crisis Staff, 22 May 1992), pp. 1–2; P3919 (Radovan Karadžić’s Decision, 20 May 1992); P3528 (Witness statement of Kerim Mešanović, undated), pp. 7–8.

⁵⁴⁹² Mevludin Sejmenović, T. 20478–20749 (27 October 2011).

⁵⁴⁹³ Mevludin Sejmenović, T. 20479 (27 October 2011). See also Mevludin Sejmenović, T. 20588–20590 (28 October 2011).

⁵⁴⁹⁴ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21070, 21073–21074 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6559 (testifying that at this time it was not possible to be Chief of the SJB without approval from Stakić).

1587. A civilian police unit—later called the “intervention squad”—was formed in Prijedor in June 1992 by conscripting members of the civilian police in Prijedor; Captain Jović, head of the MP in Prijedor, placed Milutin Čađo in charge of its establishment.⁵⁴⁹⁵ The intervention squad was established by order of the Prijedor Crisis Staff.⁵⁴⁹⁶ It was headed by Miroslav Paras and was comprised of two squads; one of the squads was headed by Pero Čivčić and the other was headed by Dragoljub Gligić.⁵⁴⁹⁷ The duties of the intervention squad included the prevention and deterrence of crime, arresting and detaining individuals from Bosnian Muslim groups who were allegedly involved in the “attacks on Prijedor” from 30 May 1992, and “[normalising] life in Prijedor town and in the whole of the municipality”.⁵⁴⁹⁸ Furthermore, the intervention squad was ordered by its commanders to arrest certain Bosnian Muslims based on lists compiled by the commanders; these lists included prominent Bosnian Muslims, such as doctors, lawyers, professors, and religious leaders, and Bosnian Muslims linked to World War II through their predecessors.⁵⁴⁹⁹ During operations against Bosnian Muslims, the intervention squad co-operated with and was under the command of the military.⁵⁵⁰⁰

(3) Take-over of Prijedor town

1588. Prijedor town is located in the centre of Prijedor municipality.⁵⁵⁰¹ The town of Prijedor itself had a mixed population, although the Stari Grad area in the centre of the town was a predominantly Bosnian Muslim neighbourhood.⁵⁵⁰² There was an old mosque in the centre of Stari Grad, surrounded by a Muslim cemetery called Mezar.⁵⁵⁰³ The Municipal Assembly, the

⁵⁴⁹⁵ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21067–21068, 21070, 21073 (under seal); KDZ523, T. 23345–23346, 23376–23377 (19 January 2012) (closed session). See also Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6625.

⁵⁴⁹⁶ D2039 (Prijedor Crisis Staff Order, 17 June 1992). See P2637 (Report of Prijedor SJB, 1 July 1992), p. 2. See also Adjudicated Facts 1256, 2487. Although the intervention squad was established by the order of the Prijedor Crisis Staff, Stakić maintained that he never learned of its establishment; furthermore, although Drljača, as head of the Prijedor SJB, reported directly to the Crisis Staff on the implementation of a number of Crisis Staff decisions, including the establishment of the intervention squad, Stakić stated that Drljača did not inform the Crisis Staff as to everything he was doing and moreover, that “what he wrote was one thing and his actions were different”. Milomir Stakić, T. 45244–45248 (17 December 2013).

⁵⁴⁹⁷ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21071 (under seal).

⁵⁴⁹⁸ P2637 (Report of Prijedor SJB, 1 July 1992), p. 2; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21072 (under seal).

⁵⁴⁹⁹ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21120–21122 (under seal); KDZ523, T. 23352–23353 (19 January 2012) (closed session).

⁵⁵⁰⁰ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21072–21073 (under seal).

⁵⁵⁰¹ P569 (Map of Prijedor municipality). See Adjudicated Fact 1003; P2096 (Map of Prijedor town).

⁵⁵⁰² KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1794–1795, 1801 (under seal).

⁵⁵⁰³ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1802 (under seal).

seat of the local government in Prijedor municipality, was located in the centre of town, as was the Executive Council and other executive bodies.⁵⁵⁰⁴

1589. In the beginning of April 1992, there was an increase in the number of armed Serbs in the streets and cafes in the town of Prijedor,⁵⁵⁰⁵ many of them wore JNA uniforms and insignia while others wore police uniforms.⁵⁵⁰⁶

1590. On 29 April 1992, the Prijedor SDS received a fax, which appeared to be from Alija Delimustafić and the BiH Presidency, ordering police stations in BiH to “commence operations” and secure the surrender of the JNA.⁵⁵⁰⁷ On 29 April, Mirsad Mujadžić, President of the SDA Municipal Board, was invited to meet with Colonel Arsić, of the 5th Corps of the JNA, and Mišković at the Prijedor barracks at Urije, where he was shown the fax; Mujadžić immediately believed it to be forged and conveyed this belief to Colonel Arsić and Mišković.⁵⁵⁰⁸ At dinner that evening, Mujadžić repeated to Arsić and Mišković that the SDA had no intentions to attack the SDS or Bosnian Serbs in Prijedor.⁵⁵⁰⁹

1591. Defence witnesses have testified that on 23 April 1992, at a meeting of the Prijedor SDS Municipal Board, the SDS was still not certain how it would act in the event of a conflict, and that the take-over of Prijedor was an unplanned response to the fax from Alija Delimustafić.⁵⁵¹⁰ The Chamber has considered the following evidence which confirms that the take-over of Prijedor was planned in advance of receiving the 29 April fax: (i) according to Mandić, the Prijedor SDS had organised themselves well in advance of receiving the fax on 29 April; (ii) Kovačević stated on Radio Prijedor that well before 30 April, “it was all neatly prepared and done and we waited for the moment which we had set and then on [29 April 1992] at 0400 hrs [...] we did it” and that “it

⁵⁵⁰⁴ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1795 (under seal); P2096 (Map of Prijedor town).

⁵⁵⁰⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5551, 5553.

⁵⁵⁰⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5551, 5553, 5554 (testifying further that one of the armed Serbs in Prijedor told him during this time that they only wanted to defend Yugoslavia and for all Serbs to live in one state, and that they would never allow that “part of [BiH] to become Croatian, Ustasha soil, or a dzemaharija”, a derogatory name for a state in which Muslims would live and be in power).

⁵⁵⁰⁷ D400 (BiH MUP Order, 29 April 1992); Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3665–3666; P6587 (Excerpts from Simo Mišković’s testimony from *Prosecutor v. Stanišić & Župljanin*), T. 15223.

⁵⁵⁰⁸ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3662–3667 (testifying further that it was later established that the document had probably been sent by the counterintelligence service of the JNA in order to provide the army with a “pretext” for the intervention). Mujadžić also served as President of the SDA in Banja Luka during the conflict, and as deputy of the BiH Parliament. Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3575–3576, 3578.

⁵⁵⁰⁹ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3667–3668.

⁵⁵¹⁰ See D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 16; D4229 (Witness statement of Boško Mandić dated 18 January 2014), para. 23; D4228 (Witness statement of Zdravko Torbica dated 18 January 2014), para. 9; D400 (BiH MUP Order, 29 April 1992), p. 1. The Accused also presented his case on this issue during his cross-examination of Mevludin Sejmenović, T. 20588 (28 October 2011).

really went the way we had planned”; (iii) according to Sejmenović, the Prijedor SDS in fact “had well-laid plans” by 23 April; (iv) Mišković considered the take-over of Prijedor town on 30 April 1992 to be part of the implementation of Variant B and that “preparations had to be made [...] in order to take over power”; and finally, (v) Dušan Janković testified that a decision was made on 16 April to install Drljača as Chief of the SJB on 30 April.⁵⁵¹¹ The Chamber also took judicial notice of the fact that the forcible take-over of the municipal authorities in Prijedor was prepared well in advance of 1 May 1992 and that a transmission by BiH leaders was used as a pretext for the take-over of Prijedor municipality.⁵⁵¹² The Chamber therefore finds that the take-over of Prijedor was planned well in advance of 30 April 1992, and was not an unplanned act in response to threats to Bosnian Serbs in Prijedor.

1592. On 30 April 1992, a take-over of the town of Prijedor was organised by the Prijedor Serb Assembly and the Prijedor SDS and executed by JNA forces, including the 5th Kozara Brigade, and members of the Prijedor SJB and other clandestine Serb police stations.⁵⁵¹³ During the night between 29 and 30 April 1992, members of the SJB and reserve police stations, some of whom were wearing military uniforms, gathered in Čirkin Polje, an area of Prijedor town.⁵⁵¹⁴ Between 1 and 5 a.m., Serb Forces set-up patrols, sniper nests, machine-gun nests, sandbags, and checkpoints throughout Prijedor town in several locations; there was no resistance from the non-Serb population.⁵⁵¹⁵

⁵⁵¹¹ See Boško Mandić, T. 45757–45758 (21 January 2014); P2630 (Transcript of broadcast of Radio Prijedor), p. 7; Mevludin Sejmenović, T. 20588 (28 October 2011); Simo Mišković, T. 45381, 45408 (18 December 2013); P6587 (Excerpts from Simo Mišković’s testimony from *Prosecutor v. Stanišić & Župljanin*), T. 15223; Dušan Janković, T. 47268–47270 (18 February 2014). See also P2968 (Report of Prijedor SJB, January 1993), p. 2; P5528 (Report of Prijedor SJB, June 1992), p. 2; D1830 (Minutes of session of Prijedor SDS Municipal Board, 23 April 1992), p. 1; Zdravo Torbica, T. 45732–45733 (21 January 2014). See para. 1580.

⁵⁵¹² See Adjudicated Facts 1015, 1020.

⁵⁵¹³ Mevludin Sejmenović, T. 20465–20466 (27 October 2011), T. 20589 (28 October 2011); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6568; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 12; P2968 (Report of Prijedor SJB, January 1993), p. 2; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 16; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3668–3669; P3528 (Witness statement of Kerim Mešanović, undated), p. 15; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 3 (under seal); Nusreta Sivac, T. 20387 (26 October 2011); Edward Vulliamy, T. 21079 (9 November 2011); P2630 (Transcript of broadcast of Radio Prijedor), pp. 1–6 (describing preparations for the take-over and the events on 30 April 1992); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 6, 32; P5518 (Report of Prijedor SJB to Banja Luka CSB, 30 April 1992); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), pp. 15–16. See D1838 (Regular Combat Report from JNA 5th Corps Command to 2nd Military District Command, 1 May 1992), p. 1. See also Adjudicated Facts 1014, 1015, 1016; P6611 (Bulletin of the 4th Tactical Group, May 1994), pp. 1–2. P2968 (Report of Prijedor SJB, January 1993), p. 2; see Adjudicated Fact 1016.

⁵⁵¹⁴ Mevludin Sejmenović, T. 20465–20466 (27 October 2011); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6568; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 12; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3668–3669; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7720; P3528 (Witness statement of Kerim Mešanović, undated), p. 15; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 3 (under seal); KDZ026, P2089 (Transcript

1593. By the morning of 30 April, soldiers occupied all of the most important institutions and buildings in Prijedor, such as the Municipal Assembly building, the police station, medical centre, court building, bank, post office, and radio station.⁵⁵¹⁶ Later that day, flags on municipal buildings in Prijedor town were also changed to Serb flags with the four Cyrillic letter “Cs”.⁵⁵¹⁷

1594. A declaration on the take-over prepared by the SDS was read out on Radio Prijedor the day after the take-over and was repeated throughout the day.⁵⁵¹⁸ That morning, a group of armed soldiers surrounded the Radio Prijedor building.⁵⁵¹⁹ Stakić came to Radio Prijedor and was introduced to employees as the President of the Serb municipality of Prijedor.⁵⁵²⁰ A press release was read out on-air, and Stakić was interviewed.⁵⁵²¹ During that interview, Stakić stated that he represented the Serb municipality of Prijedor, as its President, and that the leadership of the Serb municipality could no longer wait for an agreement with the SDA, which was the reason for the take-over of territory which rightly belonged to them. When Stakić was asked what would happen with the Bosnian Muslim residents of Prijedor, he stated: “We have nothing to do with them. On their portion of the municipal territory, they are free to organise themselves as they please, as they see fit and best for their interests.”⁵⁵²² Stakić mentioned several areas of the municipality that were considered to be Muslim, including Kozarac, Brdo, and the Stari Grad neighbourhood of Prijedor town.⁵⁵²³

1595. After the take-over, movement outside of Prijedor municipality was initially prohibited for both Serbs and non-Serbs, and later movement towards Prijedor town from non-Serb areas inside the municipality was also prohibited.⁵⁵²⁴

(a) Expulsion of non-Serbs from police, administrative and judicial organs, and work force

1596. On 30 April, non-Serbs were refused entrance into their work places and other institutions and were dismissed from management positions.⁵⁵²⁵ Nusreta Sivac, a Bosnian Muslim municipal

from *Prosecutor v. Stakić*, T. 1823 (under seal); P2630 (Transcript of broadcast of Radio Prijedor), pp. 1–6. See also Adjudicated Facts 1014, 1017.

⁵⁵¹⁶ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1822–1823, 1828 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 3 (under seal); Nusreta Sivac, T. 20387 (26 October 2011). See Adjudicated Facts 1016, 1017, 1018, 1019.

⁵⁵¹⁷ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1823 (under seal); Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5553.

⁵⁵¹⁸ Adjudicated Fact 1022.

⁵⁵¹⁹ [REDACTED]. See also Adjudicated Fact 1018.

⁵⁵²⁰ [REDACTED].

⁵⁵²¹ [REDACTED]. See D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 16.

⁵⁵²² [REDACTED]; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6568–6570.

⁵⁵²³ [REDACTED].

court judge in Prijedor town, went to work on 30 April and found armed Serb military and paramilitary units at the court building.⁵⁵²⁶ She tried to enter the building and one of the soldiers asked her name and informed her that she no longer worked there.⁵⁵²⁷ The majority of Bosnian Muslim judges, prosecutors, and public attorneys were similarly dismissed in the first few days after the take-over and were replaced by Serbs.⁵⁵²⁸ Nusreta Sivac identified several Bosnian Muslim court officials who were dismissed and taken to Omarska camp where they were singled out as Bosnian Muslim intellectuals.⁵⁵²⁹

1597. Non-Serb members of the police were disarmed and dismissed or forced to sign a statement of loyalty if they wanted to stay employed.⁵⁵³⁰ Non-Serb commanders in the police were replaced with Serbs—Drljača assumed the position of Chief of the Prijedor SJB to which he was elected two weeks prior, Dušan Janković became Commander of the Prijedor Police Station, and Željko Mejakić became squad commander of the police.⁵⁵³¹ A few days after the take-over, most non-Serb teachers were also dismissed from schools.⁵⁵³²

1598. Also on 30 April, KDZ094 found that the vehicle he drove for work had been moved from the depot to the Urije headquarters of the company, where the main gate was closed, and an armed Serb guard in a green military uniform tried to search him for weapons, but he refused; KDZ094 then went home and did not return to work again, and neither did other non-Serbs who worked for the company.⁵⁵³³

1599. After the take-over, Atlija went to work at the Ljubija mines and his manager told him that the SDS had taken power in Prijedor and that he should go home; Atlija returned to his home town of Briševo.⁵⁵³⁴ He was told later that a Serb had moved into his apartment in Prijedor.⁵⁵³⁵ Furthermore, one day after the take-over, KDZ611 was stopped on his way to work at a check-

⁵⁵²⁴ Mevludin Sejmenović, T. 20468 (27 October 2011).

⁵⁵²⁵ Mevludin Sejmenović, T. 20468–20469 (27 October 2011); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1835–1836 (under seal). See also P3694 (Conclusions of ARK Crisis Staff sent to municipality presidents, 11 May 1992), p. 1; Adjudicated Fact 1096.

⁵⁵²⁶ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 2–3 (under seal).

⁵⁵²⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 3 (under seal). See also Nusreta Sivac, T. 20387 (26 October 2011).

⁵⁵²⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 3–4 (under seal).

⁵⁵²⁹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 3–4 (under seal). See P3553 (Decision of Prijedor Executive Board, 4 May 1992). See also paras. 1749, 1766.

⁵⁵³⁰ Mevludin Sejmenović, T. 20467–20468 (27 October 2011).

⁵⁵³¹ D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 6. See Adjudicated Fact 1023; para. 1580.

⁵⁵³² Mevludin Sejmenović, T. 20468 (27 October 2011).

⁵⁵³³ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5875–5878, 5982 (under seal).

⁵⁵³⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5553–5555.

⁵⁵³⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5554–5555, 5659–5660.

point manned by armed Serbs in JNA uniforms; they forced all of the non-Serbs to get off the bus KDZ611 was on and told him that he should no longer report for work.⁵⁵³⁶

1600. For several days following the take-over, employees at Radio Prijedor were given several announcements to read out, such as one concerning a curfew imposed by the Serb authorities in Prijedor.⁵⁵³⁷ On one of these days, two Bosnian Muslim men, one of whom was Bećir Medunjanin, a local SDA leader, came to the radio station asking that an announcement be made that the people of Kozarac wished to live in peace and that there was no threat or danger coming from them.⁵⁵³⁸ However, soldiers inside the studio building prevented this announcement from being made on air, stating that police permission was required. When the men returned to the studio an hour later, they said that they had been denied permission by a police officer for the announcement to be made.⁵⁵³⁹ Employees at Radio Prijedor were later fired pursuant to a decision of the ARK Crisis Staff.⁵⁵⁴⁰

1601. On 22 June 1992, the ARK Crisis Staff issued a decision stating that all posts important for the functioning of the economy may only be held by “personnel of Serbian ethnicity”;⁵⁵⁴¹ this was then forwarded by Župljanin to all SJBs for its immediate implementation within the ARK.⁵⁵⁴² In July 1992, the Prijedor Crisis Staff and the Prijedor SJB reported that the ARK Crisis Staff decision was implemented in the municipality.⁵⁵⁴³

(b) House searches and surrender of weapons

1602. Following the take-over, there was a military presence on the streets of Prijedor town.⁵⁵⁴⁴ On 8 May 1992, Vahid Cerić, who worked for the TO, was arrested.⁵⁵⁴⁵ In accordance with a decision of the ARK government on 4 May 1992,⁵⁵⁴⁶ there were announcements on the radio that Bosnian Muslims and Bosnian Croats had to hand in their weapons by a certain deadline, and that

⁵⁵³⁶ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5814–5815 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12452–12453 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 6.

⁵⁵³⁷ [REDACTED].

⁵⁵³⁸ [REDACTED].

⁵⁵³⁹ [REDACTED].

⁵⁵⁴⁰ [REDACTED].

⁵⁵⁴¹ P7 (Decision of ARK Crisis Staff, 22 June 1992).

⁵⁵⁴² P6533 (Decision of ARK Crisis Staff forwarded by Banja Luka CSB, 1 July 1992). *See also* Adjudicated Fact 534. *See para.* 2061.

⁵⁵⁴³ P9 (Prijedor Municipal Assembly Report, 13 July 1992), p. 2; P2637 (Report of Prijedor SJB, 1 July 1992). *See, e.g.,* P3709 (Decision of Prijedor Executive Board, 7 May 1992).

⁵⁵⁴⁴ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1832 (under seal).

⁵⁵⁴⁵ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1833 (under seal) (testifying further that he later saw Vahid Cerić in Manjača).

⁵⁵⁴⁶ P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992).

white flags should be hung from the front of houses as a sign of loyalty to the authorities.⁵⁵⁴⁷ Prominent non-Serbs in the community, amongst whom were Dr. Esad Sadiković and Dedo Crnalić, went around to houses of non-Serbs encouraging them to hand in any weapons that they had in order to avoid conflict.⁵⁵⁴⁸ The Serb residents of Prijedor town were allowed to keep weapons and local Serbs were given weapons.⁵⁵⁴⁹

1603. In addition, houses of Bosnian Muslims and Bosnian Croats were frequently searched and looted.⁵⁵⁵⁰ On 12 May 1992, two men from the CSB came to see Nusret Sivac, a journalist for Sarajevo TV, at his apartment and informed him they had orders to bring him to the CSB to meet with the chief, Ranko Mijić.⁵⁵⁵¹ Mijić told Nusret Sivac that he had orders from the “new Serb authorities” and the Crisis Staff to seize all of his camera equipment.⁵⁵⁵² They confiscated all of his equipment, including a large van equipped with cameras and his private tapes.⁵⁵⁵³ Nusret Sivac was held at the CSB for a while longer and then was allowed to go home after Mijić warned him not to leave Prijedor in case they needed to ask him further questions.⁵⁵⁵⁴

1604. During May 1992, continuous references were made by Serbs on the police radio about destroying mosques and everything that belonged to the “balijas”, as well as the need to destroy the “balijas” themselves.⁵⁵⁵⁵

(c) Clashes in Prijedor town

1605. On 30 May 1992, a group of around 20 Bosnian Muslims led by Slavko Ećimović attacked Prijedor town.⁵⁵⁵⁶ Announcements were made on the radio that Ećimović, a Bosnian Muslim who had been the target of threats by Serb police officers following the SDS take-over, was attacking

⁵⁵⁴⁷ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1833 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 5–6 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6576; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 27. *See also* KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21119–21120 (under seal); Adjudicated Fact 1021.

⁵⁵⁴⁸ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1837–1838 (under seal).

⁵⁵⁴⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1854–1855 (under seal).

⁵⁵⁵⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1834 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal). *See* Adjudicated Fact 1097.

⁵⁵⁵¹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6570.

⁵⁵⁵² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6570–6571.

⁵⁵⁵³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6571–6572.

⁵⁵⁵⁴ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6571.

⁵⁵⁵⁵ *See* Adjudicated Fact 1024.

⁵⁵⁵⁶ Nusret Sivac, T. 19585, 19598–19599 (28 September 2011); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6572–6573; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1846–1847, 2012–2014 (under seal); KDZ026, T. 10376 (17 January 2011) (closed session). *See also* KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21067 (under seal) (testifying that Prijedor town was attacked by Bosnian Muslim paramilitaries). Stakić testified that early in the morning on 30 May 1992, gun-fire and shooting could be heard in Prijedor town and explosions around the MUP building. Milomir Stakić, T. 45232 (17 December 2013).

Prijedor town in an attempt to “liberate” it.⁵⁵⁵⁷ According to Nusreta Sivac, however, the group was too small to successfully take-over the buildings belonging to the radio station, MUP, or other important institutions.⁵⁵⁵⁸

1606. Around 9 a.m., a Serb tank and troops moved from the area around the Municipal Assembly Building towards the Stari Grad neighbourhood of Prijedor town.⁵⁵⁵⁹ Radical “Chetnik” songs also played on the radio calling for the killing of “Turks and other non-Serb people” and radio announcements called on all armed Serbs to defend the town and destroy the extremists.⁵⁵⁶⁰ Sometime that day, there was a confrontation between Ećimović and his group on one side and the Serb Forces on the other; Ećimović’s group ultimately retreated towards the Sana River, but Ećimović was captured.⁵⁵⁶¹ After Ećimović’s group retreated, Serb Forces, with APCs, heavy artillery weapons, and tanks, encircled Prijedor town, section by section.⁵⁵⁶² From the morning until the late afternoon, a tank and several grenade launchers fired at the old town of Prijedor from the bank of the Bereg, setting parts of the area ablaze for several hours.⁵⁵⁶³ At around 6 p.m. that day, Serb Forces set fire to the main mosque in the centre of Prijedor town, called the Čaršijska mosque.⁵⁵⁶⁴ The Zagrad mosque in Prijedor town was also burned and

⁵⁵⁵⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6572–6573. See also P2630 (Transcript of broadcast of Radio Prijedor), p. 6. According to Nusreta Sivac, allegations on the radio stated that the small armed group of non-Serbs did not agree with Prijedor becoming a Serb town. Nusreta Sivac, T. 20398 (26 October 2011).

⁵⁵⁵⁸ Nusreta Sivac, T. 20398–20399 (26 October 2011).

⁵⁵⁵⁹ Milomir Stakić, T. 45232 (17 December 2013).

⁵⁵⁶⁰ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6572–6573.

⁵⁵⁶¹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6574; Nusret Sivac, T. 19593 (28 September 2011). Ećimović was later taken to Omarska and killed; furthermore, his whole family was killed and his godfather was singled out and beaten at Omarska once their relationship was discovered. See Nusret Sivac, T. 19593 (28 September 2011); Ivo Atlija, T. 20349 (26 October 2011); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1878 (under seal); Željko Mejakić T. 44255–44256, (29 November 2013). See also para. 1766.

⁵⁵⁶² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6574.

⁵⁵⁶³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6575.

⁵⁵⁶⁴ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6575–6576, 6606–6607 (testifying further that later in August 1992, the Catholic Church in Prijedor town and the mosque in the Puharska neighbourhood were destroyed); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7800–7801. The individuals involved in setting fire to the mosque were Milenko Milić, a member of Milan Andžić’s paramilitary group, as well as his commander, Momčilo Radanović, and Milorad Vokić, a police officer and personal bodyguard to Drljača. See also Adjudicated Facts 1282, 1284, 1285; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 222–224.

destroyed.⁵⁵⁶⁵ The majority of Stari Grad was destroyed or left in ruins during the attack; the mosque in Stari Grad was torn down by Serb Forces using tanks.⁵⁵⁶⁶

1607. Throughout the day on 30 May, soldiers wearing red berets with red straps, and various different insignia, searched apartments, including that of Nusret Sivac, for weapons and alcohol and removed what they wanted.⁵⁵⁶⁷ Serb Forces also escorted columns of people, amongst whom were elderly people and children with white armbands; each column was led by a man carrying a white flag to different locations in Prijedor town, where buses arrived to take them to Trnopolje, Omarska, and Keraterm camps.⁵⁵⁶⁸ Non-Serbs who remained outside the detention facilities were required to wear white armbands to distinguish themselves and were subjected to harassment and beatings.⁵⁵⁶⁹

1608. There was no large-scale fighting the following day, but there was intermittent shooting and explosions.⁵⁵⁷⁰ Serb Forces continued to loot the homes of non-Serbs in the days after the attack.⁵⁵⁷¹ Furthermore, soldiers wearing olive-green colour uniforms with the Serbian four "S" insignia and "kokarda" caps, formerly worn by the JNA, stormed into houses and arrested people; non-Serbs in Prijedor town lived in fear of being attacked or taken away to Omarska and other camps.⁵⁵⁷² The movement of non-Serbs was restricted by means of a curfew and check-points; registers in apartment buildings were also used to record their movements.⁵⁵⁷³

⁵⁵⁶⁵ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6575. See also Adjudicated Fact 1283; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 225–226. See para. 1887.

⁵⁵⁶⁶ P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 24–29, 40–41, 44–45, 61–62; P3528 (Witness statement of Kerim Mešanović, undated), pp. 78–81; D4468 (Confirmation of decisions adopted by Crisis Staff by Prijedor Municipal Assembly, 24 July 1992), e-court pp. 5, 7, 9; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6604, 6692–6693; Milomir Stakić, T. 45232 (17 December 2013). See also Adjudicated Fact 1268. Serb soldiers came back to Stari Grad in June 1992 and cleared the rubble from 30 May with tanks and cranes, tearing down the remains of the Stari Grad mosque first. P3528 (Witness statement of Kerim Mešanović, undated), p. 81; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6607–6608. See also P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 213–215.

⁵⁵⁶⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6576.

⁵⁵⁶⁸ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6574–6575.

⁵⁵⁶⁹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6576; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 5 (under seal). See Adjudicated Fact 1092.

⁵⁵⁷⁰ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1847 (under seal).

⁵⁵⁷¹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal).

⁵⁵⁷² P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 5 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*, T. 1853–1854 (under seal).

⁵⁵⁷³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6576; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 5–6 (under seal). See Adjudicated Facts 1097, 1100.

1609. In the days after the 30 May attack, Radio Prijedor broadcast reports stating that Serbs had taken over Prijedor town and were “controlling all power and authority” there.⁵⁵⁷⁴ Propaganda against non-Serbs later intensified on the radio, including appeals to Serbs to “lynch” all non-Serbs.⁵⁵⁷⁵

1610. From 10 June 1992 on, Prijedor town was in a terrible state; there was no electricity or water and soldiers frequently searched apartments and evicted people from them.⁵⁵⁷⁶ The homes of non-Serbs were searched by the police and military, allegedly looking for weapons; however during those searches, valuables were taken.⁵⁵⁷⁷ Non-Serbs were evicted from their houses and apartments and Serbs moved in.⁵⁵⁷⁸ Serb families were protected and lived a normal life; they went to work, shopped, and walked around town.⁵⁵⁷⁹ Non-Serbs were taken away “in an unknown direction” and rumours started spreading about the existence of “concentration camps” in Prijedor municipality.⁵⁵⁸⁰

(4) Attacks on surrounding villages

1611. Prior to the 30 May attack on Prijedor town, Serb Forces had launched attacks on other villages and areas in Prijedor municipality, starting with the villages of Hambarine and Ljubija on 23 May, Kozarac on 24 May, and Kamičani on 26 May 1992.⁵⁵⁸¹

(a) Kozarac area

1612. The area of Kozarac is located approximately 12 kilometres to the east of Prijedor town, with Kozarac town lying on the main road from Prijedor to Banja Luka, beneath Mount Kozara.⁵⁵⁸² Before the events of 1992, Kozarac town and the surrounding villages were inhabited by Bosnian Serbs and Bosnian Muslims alike; however some of the villages in the area were almost entirely inhabited by Bosnian Muslims (such as Garibi, Kamičani, Kevljani, Babići, and Hrnići), and other villages had a majority Bosnian Serb population (such as Vidovići, Balte, Lamovita, Omarska,

⁵⁵⁷⁴ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal).

⁵⁵⁷⁵ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6618.

⁵⁵⁷⁶ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6617. See Adjudicated Fact 1098.

⁵⁵⁷⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6603.

⁵⁵⁷⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal).

⁵⁵⁷⁹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 6 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6603. See also Nusreta Sivac, T. 20387–20388 (26 October 2011).

⁵⁵⁸⁰ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 5 (under seal).

⁵⁵⁸¹ P2968 (Report of Prijedor SJB, January 1993), p. 4 (stating that combat operations commenced in Prijedor municipality on 22 May 1992); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 28–29. See also Adjudicated Fact 1034.

⁵⁵⁸² KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3314; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1796 (under seal); P569 (Map of Prijedor municipality); P621 (Map and photographs of Kozarac). See also P3891 (Map of Kozarac and Omarska); Adjudicated Fact 1003.

Jelicka, Maricka, Tomašica, Jaruge, Orlovci, and Garevci).⁵⁵⁸³ As of 1991, 27,000 people lived in the whole area and in Kozarac town alone, over 90% of the population was Bosnian Muslim; Bosnian Serbs comprised 3% of the population and there were very few Croats.⁵⁵⁸⁴

1613. Beginning in March 1992, tensions increased among the population in the Kozarac area and military troops and equipment were brought in by the JNA.⁵⁵⁸⁵ Local Serbs in Kozarac began openly carrying weapons, which they had brought home from fighting in Croatia.⁵⁵⁸⁶ As a result of these tensions, in April 1992 in various locations in Kozarac, some joint check-points were supplemented with, and eventually replaced by, Serb check-points.⁵⁵⁸⁷ By early May 1992, there was a Serb check-point at the main entrance to Kozarac and a tank was posted there.⁵⁵⁸⁸

1614. In October 1991, the President of the local board of the SDA of Kozarac mobilised around 120 men for the TO in Kozarac.⁵⁵⁸⁹ Beginning in the period before the take-over of Prijedor,⁵⁵⁹⁰ members of the TO, the Green Berets, and other armed Bosnian Muslim groups were active in the Kozarac area.⁵⁵⁹¹

1615. Immediately following the take-over of Prijedor, there were also efforts on the part of the local non-Serb population to organise themselves to defend their homes from the attacks they anticipated, but they were poorly armed and equipped with no artillery or heavy equipment.⁵⁵⁹²

⁵⁵⁸³ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3315; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7055–7056; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12454 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 6 (under seal); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7722. See also KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2611, 2639–2640 (under seal); Adjudicated Fact 1034.

⁵⁵⁸⁴ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2639–2640 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6764; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7722. See also Adjudicated Fact 1041.

⁵⁵⁸⁵ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2617–2618 (under seal); Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7056–7059.

⁵⁵⁸⁶ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7057–7059, 7063.

⁵⁵⁸⁷ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7720–7722; see Adjudicated Fact 1041.

⁵⁵⁸⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7720–7722; D1922 (Witness statement of Idriz Merdžanić dated 28 August 2000), e-court p. 2.

⁵⁵⁸⁹ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2614–2619, 2641 (under seal).

⁵⁵⁹⁰ See Section IV.A.1.b.i.D.3: Take-over of Prijedor.

⁵⁵⁹¹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3323–3325, 3456–3459; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2614–2619, 2641 (under seal); D1743 (Report of 1st Krajina Corps Command, 27 May 1992) (stating that the total strength of the Green Berets was 1,500 to 2,000 men in the area and that they did not have heavy weapons and furthermore that between 25 and 27 May, 80 to 100 Green Berets were killed, and approximately 1,500 more were captured, in Kozarac town and the surrounding villages); P5405 (Report of 1st Krajina Corps, 26 May 1992), p. 1; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 3. See also Ewan Brown, T. 21585–21586 (18 November 2011).

⁵⁵⁹² Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7070–7071; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3326–3328; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2615–2617 (under seal).

Members of the TO patrolled Kozarac on night duty.⁵⁵⁹³ Other local Bosnian Muslims set up armed guard posts at various places around Kozarac.⁵⁵⁹⁴ In Javori, five to ten Bosnian Muslims, including Sead Ćirkin, a former JNA officer, participated in guard duty to protect the outer border of Kozarac; they were armed with hunting rifles.⁵⁵⁹⁵

1616. After the take-over in Prijedor, the town of Kozarac was cut off.⁵⁵⁹⁶ On 22 May 1992, the telephone lines were disconnected and entry to and exit from the area, as well as medical supplies, were controlled.⁵⁵⁹⁷ This instilled a feeling of insecurity in the local residents.⁵⁵⁹⁸ The local radio and television stations broadcast announcements that the local population and members of the police and TO should sign an oath of loyalty to the SDS and the authorities in Prijedor, including to Drljača, Željaja, and Kovačević, and only upon such signature would members of the police and TO be allowed to keep their jobs.⁵⁵⁹⁹ The majority of the population of Kozarac, however, refused to sign the oath.⁵⁶⁰⁰ Local non-Serb leaders, Ćirkin and Medunjanin, sought to negotiate with the new SDS authorities in Prijedor, amongst whom was Župljanin, and to reassure them that the population had no intention of attacking them.⁵⁶⁰¹ The local TO and police of Kozarac were ordered to surrender all of their weapons and if they did not, Kozarac would be attacked; the TO and police did not obey and the attack on Kozarac began shortly after the ultimatum expired.⁵⁶⁰²

(i) Scheduled Incident A.10.1

1617. The Prosecution alleges that a number of people were killed in Kozarac and the surrounding areas between 24 May and June 1992.

⁵⁵⁹³ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2618–2619, 2641 (under seal).

⁵⁵⁹⁴ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7070–7071, 7129–7131. See Adjudicated Fact 1041.

⁵⁵⁹⁵ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7070–7073, 7118–7119.

⁵⁵⁹⁶ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3321–3322; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7724; see Adjudicated Fact 1042.

⁵⁵⁹⁷ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3321–3322; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7724; see Adjudicated Fact 1042.

⁵⁵⁹⁸ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3321–3322.

⁵⁵⁹⁹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7065–7066; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3323; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7722; Idriz Merdžanić, T. 21430–21431 (16 November 2011); D2265 (Srdo Srdić's interview with OTP), p. 28. See also Adjudicated Fact 1043.

⁵⁶⁰⁰ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7067–7068; D1922 (Witness statement of Idriz Merdžanić dated 28 August 2000), e-court p. 2.

⁵⁶⁰¹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7067–7068; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7722; D1922 (Witness statement of Idriz Merdžanić dated 28 August 2000), e-court p. 2.

⁵⁶⁰² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6765; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2620 (under seal); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7722; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 19; D4138 (Witness

1618. On 24 May 1992, Kozarac was attacked.⁵⁶⁰³ Around 12 p.m., shells were fired from the direction of Mount Kozara in the north.⁵⁶⁰⁴ A column of military vehicles, mounted with heavy machine guns and anti-aircraft guns, advanced on Kozarac from the directions of Prijedor and Banja Luka.⁵⁶⁰⁵ The column was followed by infantry soldiers who fired towards the civilian areas in Kozarac, including on houses and religious buildings, as well as at the Bosnian Muslim manned check-points.⁵⁶⁰⁶ They were supported by artillery fire and shelling from the surrounding hills.⁵⁶⁰⁷ After the shelling started, the population of Kozarac town and the surrounding villages retreated towards the centre of Kozarac.⁵⁶⁰⁸

1619. Also on 24 May 1992, after inhabitants had been told to hand over their weapons, several shells were fired at the Bosnian Muslim inhabited hamlet of Garibi; Garibi was in Trnopolje, seven kilometres from Kozarac.⁵⁶⁰⁹ At least four Bosnian Muslims from Garibi, including two women and an invalid elderly man, were killed during the attack.⁵⁶¹⁰ The local inhabitants of Garibi fled towards Sivći, Huskići, and other nearby villages.⁵⁶¹¹ In the evening, the other Muslim villages in the area, including Huskići, Kevljani, Hadžići, Jakupovići, Kamičani, Softići, Brdjani, Kozaruša, and Mujkanovići, were shelled.⁵⁶¹² The village of Kozaruša was destroyed and only Serb houses remained, for the most part, untouched.⁵⁶¹³

1620. The units involved in the attack on Kozarac and the operation following the attack included units of the 1st Krajina Corps, such as the Banja Luka Corps, the 343rd Motorised Brigade, and the

statement of Željko Mejakić dated 26 November 2013), para. 3; D2265 (Srđo Srdić's interview with OTP), pp. 27–28. See Adjudicated Facts 1035, 1043.

⁵⁶⁰³ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3322; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7070; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7724, 7729–7732; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5815 (under seal); Mevludin Sejmenović, T. 20479 (27 October 2011); D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 19; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 3; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 6. See also KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1846 (under seal); Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4600–4601; Adjudicated Fact 1044.

⁵⁶⁰⁴ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7728–7732 (testifying that the attack started at 12 p.m. on 24 May and continued for two days with brief lulls). Cf. Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7071–7073 (testifying that fire was opened on Kozarac from Orlovci for about ten minutes, and then nothing further happened until the following morning when the shelling continued for 48 hours).

⁵⁶⁰⁵ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3328–3331; see Adjudicated Fact 1045.

⁵⁶⁰⁶ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3329–3331; Mevludin Sejmenović, T. 20480 (27 October 2011). See Adjudicated Facts 1036, 1045.

⁵⁶⁰⁷ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3329, 3331–3333.

⁵⁶⁰⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7073–7074.

⁵⁶⁰⁹ [REDACTED].

⁵⁶¹⁰ [REDACTED].

⁵⁶¹¹ [REDACTED].

⁵⁶¹² KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5815 (under seal); see Adjudicated Fact 1279.

⁵⁶¹³ See Adjudicated Fact 1279.

6th Krajina Brigade,⁵⁶¹⁴ as well as units of the Prijedor TO, Serb paramilitaries, and members of the Prijedor SJB.⁵⁶¹⁵ The commander of all of the units involved in this attack, including the paramilitary units, was Željaja.⁵⁶¹⁶

1621. The shelling and firing lasted for two to three days and caused panic amongst the local population.⁵⁶¹⁷ Houses and buildings in Kozarac and the surrounding villages were damaged by the shelling and shooting, and some were destroyed.⁵⁶¹⁸ The Serb infantry soldiers also set houses on fire; in some areas, such as Jakupovići and Končari, entire villages were “razed”.⁵⁶¹⁹ Sejmenović witnessed the Serb infantry set fire to houses with people still inside; those who were able to escape said that special bombs were used to set the houses on fire in a second.⁵⁶²⁰ Organised looting also occurred; looted property, including refrigerators and stoves, was collected in a large truck and every three or four days, the truck would take it all away to Kozarac and then come back for more.⁵⁶²¹

1622. The majority of the Bosnian Muslim employees of the Kozarac police station were killed during the take-over of Kozarac; a small number was taken to Omarska and Keraterm.⁵⁶²²

⁵⁶¹⁴ D1743 (Report of 1st Krajina Corps Command, 27 May 1992) (stating that components of the 343rd Motorised Brigade, supported by two 105mm howitzer batteries and one M-84 tank squadron, participated in the attack); P3660 (Handwritten “War Record” of the 6th Krajina Infantry Brigade, undated), p. 3; Mevludin Sejmenović, T. 20481–20482 (27 October 2011). See Adjudicated Facts 1050, 1056, 1057 (stating *inter alia* that Lieutenant-General Talić was the Commander of the Banja Luka Corps), 1059; P5405 (Report of 1st Krajina Corps, 26 May 1992), p. 1. See also Ewan Brown, T. 21585–21586 (18 November 2011); P3914 (Ewan Brown’s expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), paras. 2.45, 2.74, fn. 391; P5407 (Report of 1st Krajina Corps, 1 June 1992); P3317 (Report of 1st Krajina Corps, 29 May 1992).

⁵⁶¹⁵ P2968 (Report of Prijedor SJB, January 1993), p. 4; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6764–6765. See Mevludin Sejmenović, T. 20481–20482 (27 October 2011). See also P3914 (Ewan Brown’s expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), paras. 2.5, fn. 240, 2.42–2.45, 2.71–2.72; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 6, 32.

⁵⁶¹⁶ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6765. See Adjudicated Fact 1058.

⁵⁶¹⁷ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7073; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7734–7735; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3329–3331; Mevludin Sejmenović, T. 20479 (27 October 2011); P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 6; Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5558–5559; Ivo Atljija, T. 20341–20343 (26 October 2011). See Adjudicated Facts 1036, 1044.

⁵⁶¹⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7073; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7728–7732, 7741; P3890 (Photograph of clinic in Kozarac); P3892 (Photograph of clinic in Kozarac); Mevludin Sejmenović, T. 20479 (27 October 2011); Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5558–5559; Ivo Atljija, T. 20341–20343 (26 October 2011). See Adjudicated Fact 1046.

⁵⁶¹⁹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3329–3334. See also Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5558–5559; Ivo Atljija, T. 20341–20343 (26 October 2011). See Adjudicated Facts 1037, 1045.

⁵⁶²⁰ Mevludin Sejmenović, T. 20479–20480 (27 October 2011).

⁵⁶²¹ Mevludin Sejmenović, T. 20483–20484 (27 October 2011); Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7079; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7741. See also Adjudicated Fact 1271.

⁵⁶²² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6764. See Adjudicated Fact 1049.

However, the Chamber does not have sufficient evidence as to the circumstances surrounding the deaths of these policemen to make a finding on these killings.

1623. Arifagić was on guard duty in Javori during the attack and he saw six men killed as a result of the shelling.⁵⁶²³ At least three individuals were killed in Duračci, a village outside of Trnopolje in the Kozarac area.⁵⁶²⁴ However, the Chamber does not have sufficient evidence as to the circumstances surrounding the deaths of these three individuals, or as to their status at the time of their deaths, to make a finding on these killings.

1624. During the shelling, Idriz Merdžanić, a doctor in charge of the local outpatient clinic in Kozarac town, treated women, children, and other individuals who were injured during the shelling.⁵⁶²⁵ Patients at the clinic died there as a result of shelling wounds and other injuries when the clinic was shelled.⁵⁶²⁶ One civilian was brought into the clinic dead.⁵⁶²⁷ The Chamber, however, does not have sufficient evidence as to the circumstances surrounding the death of this individual to make a finding on this killing.

1625. On 25 May 1992, Merdžanić decided to move the clinic to a location more accessible to the population on the outskirts of the town.⁵⁶²⁸ When he tried to negotiate through a police radio in order to obtain the safe passage of the wounded, including two children, one of whom had her legs completely shattered, he was told over the radio: “Let all of you balija [...] die there. We’ll kill you all anyway”.⁵⁶²⁹

1626. On the morning of 26 May 1992, the terms of surrender for the population of Kozarac were agreed upon, after which the shelling stopped.⁵⁶³⁰ A convoy was organised to leave the town.⁵⁶³¹ The wounded were allowed to leave first, followed by police officers, and then the remaining civilian population.⁵⁶³² A convoy of primarily Bosnian Muslim villagers formed and moved

⁵⁶²³ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7070–7073. Arifagić testified further that the men at his guard post fired shots as well. Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7128, 7146–7147. See also KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3333–3334 (testifying that there may have been some firing on the part of the Kozarac inhabitants towards the attacking forces).

⁵⁶²⁴ [REDACTED]; P569 (Map of Prijedor municipality).

⁵⁶²⁵ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7716–7717, 7733–7734.

⁵⁶²⁶ See Adjudicated Fact 1047.

⁵⁶²⁷ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7734.

⁵⁶²⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7734–7735.

⁵⁶²⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7735–7738. See also Adjudicated Fact 1047.

⁵⁶³⁰ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7738. See also KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3334–3335.

⁵⁶³¹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7738. See Mevludin Sejmenović, T. 20480 (27 October 2011).

⁵⁶³² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7738.

towards Kozarac town.⁵⁶³³ They travelled through Kozarac town, which was completely destroyed, and by the time they reached the intersection at the main Prijedor-Banja Luka road, their group had been augmented by many others moving in the same direction.⁵⁶³⁴

1627. KDZ048 and his family had travelled in the convoy in their car and at the intersection, they encountered a tank and a lot of troops in various uniforms, who first told them to leave their vehicles behind, but then permitted them to continue on their way towards Prijedor town.⁵⁶³⁵ At the intersection, KDZ048 also saw at least ten dead bodies in police uniforms, one of whom he recognised as a local Bosnian Muslim police officer.⁵⁶³⁶ However, the Chamber does not have sufficient evidence as to the circumstances surrounding the deaths of these ten individuals during the attack on Kozarac to make a finding on these killings.

1628. At the same intersection, the men were separated from the women and children by Serb soldiers; the men were taken to Keraterm and Omarska primarily, though some were sent to Trnopolje, and the women and children were put on separate buses and taken to Trnopolje.⁵⁶³⁷

1629. After the convoy set off, Merdžanić and the other staff members of the clinic went back to the original location of the clinic to check if there were any wounded.⁵⁶³⁸ When they arrived they were captured by Serb soldiers wearing camouflage uniforms, red berets, and armbands.⁵⁶³⁹ After a few minutes, a JNA truck arrived and the soldiers loaded it with all the medical supplies of the clinic and the truck left; Merdžanić and the other staff were taken to the centre of Kozarac.⁵⁶⁴⁰ While in the centre, Merdžanić saw one of the soldiers single out Nihad Bahonjić, the ambulance driver from the Kozarac clinic, and take him away; it was confirmed later that Bahonjić was

⁵⁶³³ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3329–3331, 3336–3341 (testifying that they were told to leave the area and go towards Prijedor town, so that the Serbs could “mop up the terrain”); KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5815–5818 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12458, 12460–12461 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999 and 28 February 1999), e-court p. 7. See Mevludin Sejmenović, T. 20480 (27 October 2011).

⁵⁶³⁴ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3338–3341; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12459 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 7. See Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7074–7075.

⁵⁶³⁵ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3341.

⁵⁶³⁶ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3342–3343.

⁵⁶³⁷ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3345–3347; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5817–5818 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12460–12461 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 7; Mevludin Sejmenović, T. 20480 (27 October 2011); Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7074–7075. See also Adjudicated Fact 1103.

⁵⁶³⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7738–7739.

⁵⁶³⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7739–7740.

⁵⁶⁴⁰ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7739–7746; see P3893 (Sketch drawn by Idriz Merdžanić of Kozarac).

killed.⁵⁶⁴¹ Shortly after, the group was forced to enter a jeep and taken in the direction of Prijedor, where they were put on to a bus full of women and children and were transferred to Trnopolje.⁵⁶⁴²

1630. By 26 May 1992, most of the population of Kozarac had surrendered; however, those who had not surrendered, amongst whom were armed members of the Bosnian Muslim TO and SDA leaders, retreated to Mount Kozara.⁵⁶⁴³ One group, which included Arifagić, came under fire at a place called Zeciji Kamen and a fight ensued.⁵⁶⁴⁴

1631. Another group of approximately 100 Bosnian Muslims and Bosnian Croats from the Kevljani area was arrested by armed Bosnian Serbs wearing different kinds of uniforms; one man was shot dead after they found a Croatian passport on him.⁵⁶⁴⁵ This group was taken to the Benkovac training grounds, which had been used for military purposes before the conflict, but had been turned into a detention camp run by the military.⁵⁶⁴⁶ At the Benkovac training grounds, the detained group was ordered to line up in front of a building, and a Bosnian Serb soldier with the last name of Romanić singled out four individuals.⁵⁶⁴⁷ They were taken to one of the rooms inside the building and shot dead.⁵⁶⁴⁸ The “hodža” was also beaten to death by the soldiers.⁵⁶⁴⁹ In the course of the day, 60 individuals were taken to the woods in groups, from where bursts of gunfire could be heard; all of these individuals were killed.⁵⁶⁵⁰

1632. Arifagić was not captured with the group taken to Benkovac, but he stayed in the forest with a group of people who then made contact with Čirkin and Medunjanin.⁵⁶⁵¹

⁵⁶⁴¹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7743–7746; Idriz Merdžanić, T. 21446, 21449 (16 November 2011). See also P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002) (under seal), p. 15.

⁵⁶⁴² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7744–7748.

⁵⁶⁴³ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7074, 7078; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2621–2623 (under seal). See also Adjudicated Fact 1053; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 3; D4229 (Witness statement of Boško Mandić dated 18 January 2014), pp. 4–6.

⁵⁶⁴⁴ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7079, 7137.

⁵⁶⁴⁵ See Adjudicated Fact 1053.

⁵⁶⁴⁶ See Adjudicated Fact 1054. See also Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7078, 7137.

⁵⁶⁴⁷ See Adjudicated Fact 1055.

⁵⁶⁴⁸ See Adjudicated Fact 1055.

⁵⁶⁴⁹ See Adjudicated Fact 1055.

⁵⁶⁵⁰ See Adjudicated Fact 1055.

⁵⁶⁵¹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7078, 7137–7138 (testifying that Čirkin and Medunjanin were in a group of 750 people with whom he met up and they decided to split into three groups—one group wanted to cross over into Croatia while the other two groups wanted to return to Kozarac; conflict ensued between these two groups and “Serb troops” in the centre of Kozarac and ultimately several men were killed and they withdrew).

1633. Another group of approximately 35 to 40 people left Kozarac after the attack and moved towards Kozarački Kamen to reach the Sava River in order to cross over to Croatia.⁵⁶⁵² After the group passed Kozarački Kamen, they were noticed by “uniformed reconnaissance men” who opened fire on them and a member of the group was killed.⁵⁶⁵³ The Chamber, however, does not have sufficient evidence as to the circumstances surrounding the death of this individual, or regarding his status at the time, to make a finding about this killing. The remainder of the group fled and returned to a suburb of Kozarac; they were later captured and brought to the Prijedor barracks on or around 9 June 1992.⁵⁶⁵⁴

1634. On 14 June 1992, Arifagić was captured by Serb soldiers at Mujkanovići, a village close to Trnopolje, where he had gone in the hope of seeing his mother.⁵⁶⁵⁵ He was in a group of about 40 men, who had all been captured at the same time and were ordered to march towards Kamičani.⁵⁶⁵⁶ The men in the group were beaten and forced to sing “Serbian songs” along the way. Upon arriving at a check-point in Kamičani, they were further beaten and mistreated.⁵⁶⁵⁷ This group of men was then put on a bus from the “Prijedor Autotransport” company and they were taken to Omarska, and then on to Keraterm.⁵⁶⁵⁸

1635. While the Chamber took judicial notice of two adjudicated facts which state that as a result of the shelling of Kozarac on 24 May 1992, over 800 of its inhabitants were killed,⁵⁶⁵⁹ the Chamber cannot be satisfied beyond reasonable doubt as to the precise circumstances surrounding these deaths, nor about the status of these individuals in light of the other evidence before it. The Chamber is therefore unable to include these deaths in its findings on the killings for this Scheduled Incident.

⁵⁶⁵² KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2622–2623 (under seal) [REDACTED].

⁵⁶⁵³ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2623–2624 (under seal); see P4853 (Updated Table 2 to the Report of Amor Mašović), p. 23. See also P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 174, 238 (under seal).

⁵⁶⁵⁴ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2624–2628 (under seal).

⁵⁶⁵⁵ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7078–7079.

⁵⁶⁵⁶ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7080.

⁵⁶⁵⁷ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7080–7081 (testifying further that they were then taken to a nearby house where they were told to unload household appliances from a truck).

⁵⁶⁵⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7081.

⁵⁶⁵⁹ See Adjudicated Facts 1046 (stating *inter alia* that as a result of the shelling in Kozarac, over 800 of its inhabitants were killed and that the remainder, including those from surrounding Muslim villages, were expelled), 1057 (stating that: “On 27 May 1992 senior military officers met to be briefed on the attack on Kozarac: Lieutenant-General Talić, as Commander of the Banja Luka Corps, the 5th Corps of the old JNA, was informed that 800 people had been killed in the attack on Kozarac and an additional 1,200 had been captured; casualties on the part of the units of the Corps were four soldiers killed and fifteen injured.”).

1636. The Chamber also took judicial notice of the fact that at least 80 Bosnian Muslim civilians were killed when Bosnian Serb soldiers and police entered the villages of the Kozarac area.⁵⁶⁶⁰ The Chamber has made findings above in respect of approximately 80 individuals who were killed during the attack on Kozarac and the surrounding areas.⁵⁶⁶¹ In addition, the Chamber received forensic evidence to support the deaths of some identified individuals from Kozarac and the surrounding areas between 24 May and June 1992.⁵⁶⁶²

1637. In light of the above, the Chamber is therefore satisfied that at least 80 Bosnian Muslims, including civilians, were killed by Serb Forces in Kozarac and the surrounding areas between 24 May and June 1992.

(ii) Aftermath of the attack

1638. By 28 May 1992, 50% of Kozarac was destroyed, with the remaining damage occurring between June and August 1992.⁵⁶⁶³ By the end of summer 1992, the area of Kozarac was desolate; many of the buildings which had survived the attack undamaged were subsequently looted and destroyed.⁵⁶⁶⁴ During the attack on Kozarac, however, care was taken to try to avoid damage to Serb houses and property.⁵⁶⁶⁵ After the take-over, Kozarac was occupied by Serb Forces under the control of the Serb authorities.⁵⁶⁶⁶

⁵⁶⁶⁰ See Adjudicated Fact 1048.

⁵⁶⁶¹ See paras. 1619, 1623–1624, 1629, 1631. See also D1743 (Report of 1st Krajina Corps Command, 27 May 1992) (reporting that between 25 and 27 May 1992, 80 to 100 Green Berets were killed and approximately 1,500 more were captured in Kozarac town and the surrounding villages).

⁵⁶⁶² P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 15–16, 20, 23 (confirming the deaths of 11 identified individuals from Kozarac and the surrounding areas who were exhumed from graves in Trnopolje-Redži, Huskići, Jakarina Kosa, Dera-Bešići, and Kamičani in 2000, 2001, 2003, 2006, 2007, 2009); P4888 (Bihać Cantonal Court record of Huskići-Kamičani and Prijedor exhumations, 16 June 2000), p. 3 (confirming the exhumation of two of the same individuals identified by Mašović, Enver Huskić and Šerif Huskić, in June 2000). The Chamber notes that there is a discrepancy between the forensic reports regarding the name of one of the victims of this Scheduled Incident. More specifically, Mašović contains a reference to Edhem Huskić, son of Sulejman born on 15 August 1929, while the Bihać Cantonal Court record contains a reference to Šerif Huskić, son of Sulejman born on 15 August 1929. The Chamber considers this inconsistency to be minor. Accordingly, the Chamber concludes that this is in fact the same individual. See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 8; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 16, 19, 84, 113–114, 238 (under seal) (confirming the deaths of nine identified individuals, including eight of the same individuals identified by Mašović, as having been killed in Kozarac and the surrounding areas in May and June 1992).

⁵⁶⁶³ See Adjudicated Fact 1270.

⁵⁶⁶⁴ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7911. See Adjudicated Fact 1274.

⁵⁶⁶⁵ See Adjudicated Facts 1272, 1273.

⁵⁶⁶⁶ P3483 (Video clip of interviews in Prijedor, including with Milimir Stakić, with transcript), pp. 7–8. See also D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 19; Adjudicated Fact 1046.

1639. In early June 1992, KDZ392 saw that the Mutnik mosque in Kozarac was burnt; it was later destroyed.⁵⁶⁶⁷ Unlike the mosque, the Serbian Orthodox church in Kozarac was not damaged during the attack.⁵⁶⁶⁸ When KDZ048 returned to Kozarac in 1997, none of the 16 mosques that had previously been there remained intact.⁵⁶⁶⁹

1640. During his journey on 5 August, Edward Vulliamy, a British journalist covering the conflict in BiH in 1992, was escorted by Major Milutinović, who told Vulliamy that the only remaining inhabitants were the local Serbs and that “some 40,000 Muslims” had left the area by this time.⁵⁶⁷⁰ When KDZ048 returned in 1997, he found Serb refugees from Croatia living in his house.⁵⁶⁷¹

(iii) Scheduled Incident A.10.3

1641. The Prosecution alleges that a number of people were killed in Kamičani on or about 26 May 1992.

1642. Kamičani is a village located approximately two kilometres to the southeast of Kozarac; in 1992, Kamičani was predominantly Bosnian Muslim with 2,000 to 3,000 inhabitants.⁵⁶⁷²

1643. Between 24 and 26 May 1992, Kamičani was shelled by Serb Forces.⁵⁶⁷³ Houses in Kamičani were damaged by the shelling.⁵⁶⁷⁴ Additionally, the mosque in Kamičani was set alight

⁵⁶⁶⁷ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2621 (under seal); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3333, 3406; P548 (Photograph of Mutnik mosque in Kozarac). See also Adjudicated Facts 1272, 1287; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7836; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 248–250.

⁵⁶⁶⁸ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2621 (under seal); P621 (Map and photographs of Kozarac); P550 (Photograph of orthodox church in Kozarac); see Adjudicated Fact 1272.

⁵⁶⁶⁹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3382, 3405–3407. See P549 (Photograph of Kalata mosque in Kozarac). See also para.1888.

⁵⁶⁷⁰ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7910–7912. See Section IV.A.1.b.i.D.7: Movement of the population from Prijedor and appropriation of property.

⁵⁶⁷¹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3379–3382.

⁵⁶⁷² KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6208–6209; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 6; P3891 (Map of Kozarac and Omarska); P569 (Map of Prijedor municipality).

⁵⁶⁷³ P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 6; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5815 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 6–7. See para.1888. See also Adjudicated Facts 1034, 1063.

⁵⁶⁷⁴ P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 7.

by Serb Forces.⁵⁶⁷⁵ During the attack, at least eight Bosnian Muslims took refuge [REDACTED]⁵⁶⁷⁶ in Kamičani.⁵⁶⁷⁷

1644. [REDACTED].⁵⁶⁷⁸ [REDACTED].⁵⁶⁷⁹ [REDACTED].⁵⁶⁸⁰ [REDACTED].⁵⁶⁸¹

1645. [REDACTED].⁵⁶⁸² [REDACTED].⁵⁶⁸³

1646. [REDACTED].⁵⁶⁸⁴ [REDACTED].⁵⁶⁸⁵ [REDACTED].⁵⁶⁸⁶ [REDACTED].⁵⁶⁸⁷

1647. [REDACTED].⁵⁶⁸⁸ [REDACTED].⁵⁶⁸⁹ [REDACTED].⁵⁶⁹⁰

1648. [REDACTED].⁵⁶⁹¹ [REDACTED].⁵⁶⁹² [REDACTED].⁵⁶⁹³

1649. Based on the above, the Chamber therefore finds that at least nine Bosnian Muslim men and women were killed by Serb Forces in the village of Kamičani on or about 26 May 1992.

(iv) Scheduled Incident A.10.4

1650. The Prosecution alleges that a number of men were killed in the village of Jaskići on or about 14 June 1992.

⁵⁶⁷⁵ KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6248–6249; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2624 (under seal). See also Adjudicated Fact 1288; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 246–247.

⁵⁶⁷⁶ [REDACTED].

⁵⁶⁷⁷ [REDACTED]. See also Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7739; Adjudicated Fact 1063.

⁵⁶⁷⁸ [REDACTED].

⁵⁶⁷⁹ [REDACTED].

⁵⁶⁸⁰ [REDACTED].

⁵⁶⁸¹ [REDACTED].

⁵⁶⁸² [REDACTED].

⁵⁶⁸³ [REDACTED].

⁵⁶⁸⁴ [REDACTED].

⁵⁶⁸⁵ [REDACTED].

⁵⁶⁸⁶ [REDACTED].

⁵⁶⁸⁷ [REDACTED].

⁵⁶⁸⁸ [REDACTED].

⁵⁶⁸⁹ [REDACTED].

⁵⁶⁹⁰ [REDACTED].

⁵⁶⁹¹ [REDACTED].

⁵⁶⁹² [REDACTED].

⁵⁶⁹³ [REDACTED].

1651. Jaskići is a Bosnian Muslim village located to the south of Kozarac, near Trnopolje.⁵⁶⁹⁴ During the attack on Kozarac, Bosnian Muslim refugees from all over, including from Brdjani, Jakupovići, Kamičani, Kozaruša, and Bešići, travelled to Jaskići to seek shelter.⁵⁶⁹⁵

1652. On 14 June 1992, soldiers arrived in Jaskići between 2 and 3 p.m.⁵⁶⁹⁶ Senija Elkasović, a Bosnian Muslim woman, heard shots behind her house, two soldiers then came to the entrance of her house, pointed rifles through the front door, and ordered the women and children to step back and for the men to step forward.⁵⁶⁹⁷ Elkasović's husband, brother, and brother-in-law were taken from the house while one of the soldiers ordered Elkasović and eight other family members, all women and children, to lie down in the kitchen.⁵⁶⁹⁸ Before lying down, she saw Duško Tadić, wearing a multi-coloured camouflage military uniform, standing in her yard.⁵⁶⁹⁹ The soldier who remained in the house searched the house for money and jewellery, as well as for anyone hiding; he opened closets, emptied drawers, shouted threats and cursed their mothers and insulted them, saying that they would be sent to Turkey.⁵⁷⁰⁰ Elkasović heard voices and shouts coming from outside and then she heard shots.⁵⁷⁰¹ The soldier left her house and Elkasović looked out of the window to see soldiers leaving towards Kozarac.⁵⁷⁰²

1653. Elkasović then left her house and saw two dead men in her vegetable garden who she later identified; both men had been shot in the back of the head.⁵⁷⁰³ She continued alongside a hedge towards the house of her father-in-law, and found two more dead men from her village; one had been shot in the back of the head and the other had been shot in the forehead.⁵⁷⁰⁴ According to Elkasović, only three elderly men, including her father-in-law, were left in Jaskići after the soldiers left that day.⁵⁷⁰⁵

⁵⁶⁹⁴ P3891 (Map of Kozarac and Omarska); P569 (Map of Prijedor municipality); Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4601.

⁵⁶⁹⁵ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4601.

⁵⁶⁹⁶ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4602, 4623.

⁵⁶⁹⁷ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4602–4605, 4623. See P561 (Photograph of Senija Elkasović's house); P559 (Photographs of Jaskići).

⁵⁶⁹⁸ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4605, 4623. See P561 (Photograph of Senija Elkasović's house).

⁵⁶⁹⁹ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4597–4599, 4605–4608, 4609–4610, 4624–4625.

⁵⁷⁰⁰ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4608–4610.

⁵⁷⁰¹ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4610.

⁵⁷⁰² Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4610–4611.

⁵⁷⁰³ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4612–4613.

⁵⁷⁰⁴ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4612–4613.

⁵⁷⁰⁵ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4613–4615.

1654. Three days later, Elkasović, her father-in-law, and another man, Huse Jaskić, went to Trnopolje camp to ask permission to bury the bodies of the men killed in Jaskići.⁵⁷⁰⁶ They were told by soldiers guarding the camp to speak to Kuruzović; he then gave them permission.⁵⁷⁰⁷ They returned and buried the bodies in a common grave.⁵⁷⁰⁸ Thereafter, soldiers came through Jaskići, and into Elkasović's home, on a daily basis, as they searched for cars, tractors, fuel, livestock, brandy, and other items.⁵⁷⁰⁹

1655. After 14 June 1992, only a small number of families and Huse Jaskić remained in Jaskići.⁵⁷¹⁰ Elkasović stayed in Jaskići for another month and then she and her children were forced to leave by members of the police and were taken to Trnopolje camp.⁵⁷¹¹

1656. Elkasović confirmed the names of the four men whose bodies she found outside of her house, as well as that of one additional Bosnian Muslim man who was killed on 14 June 1992.⁵⁷¹² In addition, Elkasović never saw or heard from her husband, brother, or her brother-in-law after they were taken out of her house by soldiers on 14 June 1992.⁵⁷¹³ The Chamber has also received forensic evidence to support the deaths of the five men identified by Elkasović as having been killed and of her husband, brother, and her brother-in-law who went missing from Jaskići on 14 June 1992.⁵⁷¹⁴ Further, the Chamber took judicial notice of the fact that at least eight Bosnian Muslim men were shot and killed when Bosnian Serb soldiers entered the village of Jaskići on 14 June 1992.⁵⁷¹⁵

1657. In light of the above evidence, the Chamber is satisfied that at least eight Bosnian Muslim men were killed by Serb Forces in the village of Jaskići on or about 14 June 1992.

⁵⁷⁰⁶ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4615–4616.

⁵⁷⁰⁷ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4616.

⁵⁷⁰⁸ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4616–4617.

⁵⁷⁰⁹ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4617–4618.

⁵⁷¹⁰ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4618.

⁵⁷¹¹ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4618–4619.

⁵⁷¹² Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4614–4615. See P573 (List of men killed or taken from Jaskići on 14 June 1992) (under seal) (referring to the names of Elkasović's husband, brother, and her brother-in-law as missing on 14 June 1992).

⁵⁷¹³ Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4622.

⁵⁷¹⁴ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 15–16, 18, 21, 23, 32 (confirming that the eight individuals identified by Elkasović as having been killed or taken away from Jaskići on 14 June 1992, as well as five additional bodies, were exhumed from individual or mass graves in the area). See also P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 16, 18–19 (under seal).

⁵⁷¹⁵ See Adjudicated Fact 1064.

(b) Brdo area

1658. The area of Brdo is located to the southwest and west of Prijedor town and comprises the villages of Bišćani, Rizvanovići, Rakovćani, Hambarine, Čarakovo, and Zecovi.⁵⁷¹⁶ In 1992, the village of Hambarine was inhabited solely by Bosnian Muslims and was the highest elevation point in Brdo.⁵⁷¹⁷ The village of Bišćani itself had a number of hamlets, namely Mrkalji, Hegići, Ravine, Sredići, Duratovići, and Kadići.⁵⁷¹⁸ Prior to the conflict, Čarakovo was a predominantly Bosnian Muslim village with about 800 to 900 houses and Rizvanovići was a Bosnian Muslim village with one Croat.⁵⁷¹⁹ The Brdo area was surrounded by predominantly Serb villages.⁵⁷²⁰

1659. After the take-over of Prijedor, the village of Bišćani was cut off; all of the Bosnian Muslims there were dismissed from their jobs, and they could not go into Prijedor town because of the check-points that had been set-up.⁵⁷²¹

1660. There was a check-point manned by Serb soldiers in camouflage uniforms in the village of Gomjenica, and another on the main road between Prijedor town and Sanski Most, in Tukovi.⁵⁷²² After 30 April 1992, Bosnian Muslims also established check-points at the entrance to the villages of Hambarine and Rizvanovići.⁵⁷²³ Nermin Karagić, a Bosnian Muslim 17 year old boy from Rizvanovići, participated in guarding the Rizvanovići check-point with about nine other local men; between them, they only had one M48 rifle.⁵⁷²⁴

1661. Bosnian Muslims in Bišćani set up a crisis staff there, which operated starting at the end of April 1992 until 22 May 1992 before the attack on Hambarine.⁵⁷²⁵ In Čarakovo, villagers had no electricity starting on at least 7 May 1992 while the surrounding Serb villages across the Sana

⁵⁷¹⁶ P562 (Map of the Brdo region in Prijedor); P569 (Map of Prijedor municipality); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6854–6855, 6857; KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5720. See also Adjudicated Fact 1065.

⁵⁷¹⁷ KDZ074, P708 (Transcript from *Prosecutor v. Stakić*), T. 2292 (under seal); KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2498; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6854–6855, 6857; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1795 (under seal).

⁵⁷¹⁸ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5879 (under seal). See also Adjudicated Fact 1072.

⁵⁷¹⁹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5720. See also Adjudicated Facts 1066, 1280.

⁵⁷²⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6857.

⁵⁷²¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6853. Non-Serbs living in Hambarine, and in Prijedor municipality generally, lost their jobs on or around 23 May 1992. KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3917.

⁵⁷²² KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5721–5722; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12538.

⁵⁷²³ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6853–6854; KDZ074, P708 (Transcript from *Prosecutor v. Stakić*), T. 2297 (under seal); KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2497–2498; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5205.

⁵⁷²⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5205, 5209–5210.

⁵⁷²⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6969–6973.

River, as well as Prijedor town, continued to have electricity.⁵⁷²⁶ Sometime in May it became necessary to obtain a permit from the MUP to be allowed to go to Prijedor.⁵⁷²⁷

1662. Prior to the beginning of the conflict, Bosnian Muslim paramilitary groups were active in the Prijedor area and the TO had a presence in Hambarine, although they had no anti-armour weapons.⁵⁷²⁸ Some weapons had been brought to Hambarine and were stored in the community centre for use in case of an attack; however, these weapons were very old and not functional.⁵⁷²⁹

1663. On 22 May 1992, there was a shooting incident involving five to six Serb soldiers at a Bosnian Muslim check-point near Hambarine.⁵⁷³⁰ Later that day, Serb soldiers arrived in Hambarine in a tank and presented an ultimatum to the villagers, namely that Aziz Ališković and Ferid Sikirić, the Bosnian Muslim policemen believed to have been involved in the incident at the

⁵⁷²⁶ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5765.

⁵⁷²⁷ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5719, 5721–5722, 5753, 5759, 5765.

⁵⁷²⁸ D4229 (Witness statement of Boško Mandić dated 18 January 2014), para. 14; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3718; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12685–12686. See also P3483 (Video clip of interviews in Prijedor, including with Milomir Stakić, with transcript).

⁵⁷²⁹ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 4054–4055 (under seal).

⁵⁷³⁰ Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3696–3701 (testifying that at 7 p.m. on 22 May, he heard shooting at the Hambarine check-point, 300 metres from his parents' house, and ran to the scene, where eyewitnesses and individuals involved in the incident on both sides told him that a vehicle with men wearing the White Eagles uniform started shooting at the TO members manning the check-point after their shift commander, Aziz Ališković, stopped the vehicle and asked the men to turn in their weapons; the incident ended when a TO member who was passing by grabbed a gun and shot at the Serbs, killing two and injuring at least two); KDZ074, P708 (Transcript from *Prosecutor v. Stakić*), T. 2298 (under seal); P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 10; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2497–2498; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12686; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 2; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 4035–4038 (under seal); Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5204, 5289–5290; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6854; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1842 (under seal). Cf. D4269 (Witness statement of Ratko Milojić dated 27 January 2014), paras. 3–4 (testifying that he and four other VRS soldiers were stopped at the Hambarine check-point and all of a sudden, Bosnian Muslims manning the check-point opened fire at his vehicle with machine guns for over five minutes, killing two of the soldiers); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 28; D4882 (Witness statement of Dušan Đenadija undated), para. 7; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 18; Dusan Jankovic, T. 47271–47272 (18 February 2014). See also Adjudicated Fact 1060; Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5555–5556; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2497–2498; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 17; Mevludin Sejmenović, T. 20478 (27 October 2011); D4222 (Report of Prijedor SJB to Banja Luka CSB, 5 July 1992), p. 1; D4010 (Report of Prijedor SJB, September 1993), p. 2; D4230 (Witness statement of Čedo Šipovac dated 18 January 2014), para. 11; P3483 (Video clip of interviews in Prijedor, including with Milomir Stakić, with transcript); D4228 (Witness statement of Zdravko Torbica dated 18 January 2014), para. 5.

Hambarine check-point, should surrender, or the village would be attacked.⁵⁷³¹ The tank fired four shells at the village that night.⁵⁷³²

(i) Scheduled Incident A.10.2

1664. The Prosecution alleges that a number of people were killed in the Hambarine and Ljubija area between 23 May and 1 July 1992.

1665. On 23 May 1992, a broadcast was issued over Radio Prijedor calling for a number of identified people, including Aziz Alisković, to surrender and warning that all weapons in the possession of non-Serbs should be handed in to the authorities or Hambarine would be attacked.⁵⁷³³

1666. Around noon that day, Hambarine was shelled from different directions for several hours.⁵⁷³⁴ Ivo Atlija witnessed the attack on Hambarine from Briševo and saw two or three tanks firing at the town; he later saw smoke, houses burning, and a large number of soldiers moving around the village.⁵⁷³⁵ All of the houses in Hambarine were shelled and the old mosque in Hambarine was targeted and shelled.⁵⁷³⁶

⁵⁷³¹ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2298–2299, 2347–2350, 2358–2359, 2361; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 10; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2497; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5290; Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5556; Ivo Atlija, T. 20339–20341 (26 October 2011).

⁵⁷³² KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2299. See also KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3918; KDZ092, P702 (Transcript from *Prosecutor v. Brđanin*), T. 12648 (under seal).

⁵⁷³³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5556; Ivo Atlija, T. 20339–20341 (26 October 2011); KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 4037, 4043, 4051 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6855–6856, 6977–6978; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1842–1843 (under seal); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12686; P3485 (Article from *Kozarski Vjesnik*, entitled “Public Statements”, 29 May 1992), pp. 1–3; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 18. See Adjudicated Facts 1035, 1060. See also P3483 (Video clip of interviews in Prijedor, including with Milomir Stakić, with transcript).

⁵⁷³⁴ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2299; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3322; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12455; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2497; KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3918–3919; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5290; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6856–6857; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3718; KDZ092, P702 (Transcript from *Prosecutor v. Brđanin*), T. 12648–12649 (under seal); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12686–12687. See also Adjudicated Facts 1034, 1060, 1061.

⁵⁷³⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5555–5557; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3718 (stating that the entire area of Brdo and especially Hambarine came under shelling from mortars and other artillery before being joined by two or three tanks). See Mevludin Sejmenović, T. 20478 (27 October 2011). See also Ivo Atlija, T. 20340–20341 (26 October 2011); Adjudicated Facts 1036, 1061; P3914 (Ewan Brown's expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), para. 2.5 (stating that tanks, howitzers, and anti-armour artillery were deployed to the 43rd Motorised Brigade prior to the attack on Hambarine in spring 1992).

⁵⁷³⁶ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2303; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12687. See also Adjudicated Fact 1286; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 219–221.

1667. After several hours of artillery shelling, armed Serb Forces entered the area supported by one or two tanks.⁵⁷³⁷ After a brief period of intermittent fighting, local Bosnian Muslim leaders collected any remaining weapons from villagers and surrendered these, as well as most of the weapons that had belonged to the TO and the local police force, to the Serb Forces.⁵⁷³⁸

1668. The units that took part in the 23 May attack on Hambarine included units of the 1st Krajina Corps, including the 6th Krajina Brigade and the 43rd Motorised Brigade,⁵⁷³⁹ the Prijedor SJB, including the intervention squad, joined by members of Bosnian Serb paramilitary groups.⁵⁷⁴⁰

1669. During the attack, villagers fled south to the Kurevo woods;⁵⁷⁴¹ some were pursued by tanks, which opened fire towards the woods.⁵⁷⁴² KDZ092 testified that as she fled her home, she saw a lot of soldiers in multi-coloured uniforms, armed with automatic rifles, passing by and shooting at the villagers, accompanied by tanks firing at the houses.⁵⁷⁴³ She saw houses burning as a result.⁵⁷⁴⁴ In addition, at least 50 houses along the Hambarine-Prijedor road were damaged or destroyed by Serb Forces.⁵⁷⁴⁵

⁵⁷³⁷ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12688; Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5557; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3718–3719. See Adjudicated Fact 1062.

⁵⁷³⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5557; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12688; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3718–3719; D4222 (Report of Prijedor SJB to Banja Luka CSB, 5 July 1992), p. 1. See Adjudicated Fact 1062. In his final brief, the Accused argues that Serbian forces were met with “strong resistance” in Hambarine when they attempted to dismantle the check-point there. See Defence Final Brief, para. 1547. However, the Chamber has received credible and mutually corroborative evidence that the fighting in Hambarine on 23 May 1992 was brief, and that the armament on the Bosnian Muslim side was poor. See Adjudicated Facts 1035, 1038, 1062, 1294; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2303, 2305; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12687; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 2017–2018 (under seal).

⁵⁷³⁹ P5405 (Report of 1st Krajina Corps, 26 May 1992), p. 1; P3656 (1st Krajina Corps report, 1 June 1992) pp. 1–2; P6611 (Bulletin of the 4th Tactical Group, May 1994), p. 2. See also P3660 (Handwritten “War Record” of the 6th Krajina Infantry Brigade, undated), p. 3; D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 17; P3914 (Ewan Brown’s expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), paras. 2.5, 2.71–2.72.

⁵⁷⁴⁰ P5555 (Report of Prijedor SJB, 29 September 1992), p. 3; P2968 (Report of Prijedor SJB, January 1993), p. 4; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 18; D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 17; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21081–21082 (under seal). See also Adjudicated Facts 1034, 1061.

⁵⁷⁴¹ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2302; KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3919; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12688; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 2; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2498. See also Adjudicated Facts 1036, 1294.

⁵⁷⁴² KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3927.

⁵⁷⁴³ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3919–3920. See also Adjudicated Fact 1036.

⁵⁷⁴⁴ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3920; [REDACTED]; P551 (Photograph of Hambarine); P552 (Photograph of Hambarine).

⁵⁷⁴⁵ See Adjudicated Fact 1281.

1670. No one in the group she was with was returning fire, although she conceded that some people had pistols.⁵⁷⁴⁶ KDZ092 also saw the dead body of a woman she knew lying at the entrance to her house with her head severed from her body, and the dead body of another woman she knew who was lying in the entrance to her house with blood surrounding her body.⁵⁷⁴⁷ KDZ092 further testified that her best friend's husband and son were killed in Rizvanovići after having fled Hambarine during the attack.⁵⁷⁴⁸ Her son's throat was slit and her husband was shot and killed as he ran out of the house to his son; his wife buried both men in a shallow grave in Rizvanovići.⁵⁷⁴⁹

1671. Also on 23 May, about 400 refugees from the Hambarine area, mostly women, children, and elderly men, but also some young men, went to Briševo.⁵⁷⁵⁰

1672. On 24 May, KDZ092 and her family went to Ljubija, where they stayed until it was attacked.⁵⁷⁵¹ During this period, Serb soldiers came and took some people away from Ljubija, including a former police officer who KDZ092 knew.⁵⁷⁵² One day, very early in the morning, soldiers in camouflage uniforms came to the house where KDZ092 was staying and told the 38 occupants, all Bosnian Muslim men, women, and children, to go outside.⁵⁷⁵³ The men were separated from the women and children and the men were then taken away to the Ljubija stadium.⁵⁷⁵⁴ However, one of the men, [REDACTED], had a kidney condition and his family called an ambulance to take him to the hospital to receive treatment; a military ambulance with two soldiers took him and on the way home, the soldiers took him out of the ambulance and killed him.⁵⁷⁵⁵ The women and children were returned to the cellar, verbally abused, and robbed of their valuables.⁵⁷⁵⁶

⁵⁷⁴⁶ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 4024–4025, 4053–4054 (under seal); Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*, T. 3720).

⁵⁷⁴⁷ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 3920–3921, 3925–3926 (under seal); KDZ092, P702 (Transcript from *Prosecutor v. Brđanin*), T. 12648–12649 (under seal); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 32. See also P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2000), pp. 18, 126 (under seal); Adjudicated Fact 1061.

⁵⁷⁴⁸ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 4008–4009 (under seal).

⁵⁷⁴⁹ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 4008–4009 (under seal).

⁵⁷⁵⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*, T. 5558, 5660–5661. See Scheduled Incident A.10.9.

⁵⁷⁵¹ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 3927–3928, 4056–4057 (under seal); P522 (Sketch drawn by KDZ092) (under seal).

⁵⁷⁵² KDZ092, P703 (Transcript from *Prosecutor v. Stakić*, T. 3928.

⁵⁷⁵³ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*, T. 3929–3930; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), 3991–3993 (under seal).

⁵⁷⁵⁴ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*, T. 3930; KDZ092, P702 (Transcript from *Prosecutor v. Brđanin*), T. 12650 (under seal).

⁵⁷⁵⁵ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 3991–3992 (under seal).

⁵⁷⁵⁶ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*, T. 3929–3931.

1673. During May and June 1992, announcements calling for weapons to be turned in and for certain individuals to surrender were made on Radio Prijedor.⁵⁷⁵⁷ In particular, the local population of Bišćani was instructed to hand in their weapons and any uniforms they had from previous reserve service in the army.⁵⁷⁵⁸ They did as instructed.⁵⁷⁵⁹ During the attacks on the villages in the Brdo area, Radio Prijedor broadcast that “an Ustasha fundamentalist stronghold” had fallen, and that it had been a great success of the Serb army.⁵⁷⁶⁰

1674. During June 1992, Serb soldiers came to Čarakovo, demanding fuel, vehicles, and livestock, and looking for local men.⁵⁷⁶¹ KDZ014 was aware that some of the local leaders in Čarakovo had a meeting with Serb officials around this time, but that they had not been able to agree on anything except that the Bosnian Muslims should put up white sheets or flags on their houses.⁵⁷⁶² This they did.⁵⁷⁶³ After the attack on Hambarine, life in the area, including in Bišćani, was difficult, as the Brdo area remained isolated.

1675. On 9 June 1992, soldiers wearing drab olive uniforms and helmets arrived at a shop and café in Hambarine, which they looted and subsequently set on fire.⁵⁷⁶⁴ On 11 June 1992, KDZ074 took shelter in his cousin’s garage nearby, along with members of his family, who were all unarmed civilians.⁵⁷⁶⁵ He then departed with two male relatives, and subsequently was told by his mother that one of his brothers had been shot and killed in the garage by four Serb police officers; KDZ074’s wife was also shot in the leg and wounded.⁵⁷⁶⁶ After the survivors escaped, the garage was then set on fire by one of the Serb police officers.⁵⁷⁶⁷

1676. In addition to the deaths of the six individuals confirmed by witnesses above,⁵⁷⁶⁸ the Chamber also received forensic evidence to support the deaths of at least six additional victims who

⁵⁷⁵⁷ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5723–5725.

⁵⁷⁵⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6857–6858.

⁵⁷⁵⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6858.

⁵⁷⁶⁰ Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5559.

⁵⁷⁶¹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5724–5725.

⁵⁷⁶² KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12541–12543.

⁵⁷⁶³ KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12541–12543.

⁵⁷⁶⁴ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2306; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court pp. 10–11.

⁵⁷⁶⁵ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2308–2310; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 11.

⁵⁷⁶⁶ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2309–2310, 2323–2327; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 11. *See also* P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), p. 18.

⁵⁷⁶⁷ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2323–2327; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 11.

⁵⁷⁶⁸ *See paras.* 1670, 1672, 1675.

were killed in the areas of Hambarine and Ljubija between 23 May and 1 July 1992.⁵⁷⁶⁹ However, the Chamber does not have sufficient evidence as to the circumstances surrounding the deaths of these six latter individuals to make a finding in this regard.

1677. Based on the above, the Chamber therefore finds that at least six Bosnian Muslims were killed by Serb Forces in the areas of Hambarine and Ljubija between 23 May and 1 July 1992.

(ii) Scheduled Incident A.10.5

1678. The Prosecution alleges that a number of people were killed in the villages of the Brdo area between 1 and 23 July 1992.

1679. Beginning on 20 July 1992, Serb Forces, including units of the 1st Krajina Corps, such as the 6th Krajina Brigade, as well as the Reconnaissance and Sabotage Company and members of the intervention squad, attacked villages around the entire region of Brdo.⁵⁷⁷⁰

1680. On 21 and 22 July 1992, the villages of Rakovčani and Rizvanovići were also attacked.⁵⁷⁷¹ Karagić saw an APC open fire towards Rizvanovići.⁵⁷⁷² Soldiers patrolled the village and some of the villagers took shelter in the basement of one of the houses there.⁵⁷⁷³ The next day, Karagić saw soldiers wearing olive-grey military uniforms throwing hand grenades and shooting; he ran to a vantage point from where he could see the whole area and saw these soldiers taking up positions around the village.⁵⁷⁷⁴ After the attack on Rizvanovići, Karagić saw houses on fire in the area.⁵⁷⁷⁵ During this attack, homes were destroyed and personal belongings were looted.⁵⁷⁷⁶

⁵⁷⁶⁹ P4853 (Updated Table 2 to the Report of Amor Mašović), p. 32 (confirming that the bodies of seven identified individuals, including Mevla Čaušević, were exhumed from individual and mass graves in Hambarine and other areas of Prijedor in 1998, 2000, and 2001); P4892 (BiH State Commission for Tracing Missing Persons list of exhumed persons from Prijedor, Čelinac, Bosanski Novi, 29 October 2002), p. 4 (confirming that the body of one of the same individuals identified by Mašović was exhumed from a mass grave in Hrnčići, Prijedor in 2001). See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 9; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 18, 240 (under seal) (confirming that the bodies of five of the same individuals identified by Mašović were exhumed from graves in Hambarine and other areas of Prijedor with injuries indicating that they died from gunshot wounds).

⁵⁷⁷⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6858; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5291; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 2; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2344; P5437 (Report of 1st Krajina Corps, 22 August 1992); D1817 (Order of 6th Partisan Brigade, 18 June 1992), pp. 1–3. [REDACTED]; Adjudicated Facts 1068, 1073, 1295.

⁵⁷⁷¹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12689; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5206–5207.

⁵⁷⁷² Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5206–5207.

⁵⁷⁷³ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5209–5210.

⁵⁷⁷⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5291–5292.

⁵⁷⁷⁵ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5270.

⁵⁷⁷⁶ See Adjudicated Fact 1280.

1681. Karagić also saw a tank fire about 20 shells towards the mosque in Hambarine.⁵⁷⁷⁷ The mosque in Rajkovac was also shelled.⁵⁷⁷⁸ According to Nasić, three young men were taken away from Rizvanovići in late July 1992; they were never seen again.⁵⁷⁷⁹

1682. The village of Čarakovo was attacked on 23 July 1992, after several demands that residents should hand in their weapons.⁵⁷⁸⁰ According to KDZ014, all rifles, pistols, and other weapons in Čarakovo were handed in by residents to Serb Forces by June 1992.⁵⁷⁸¹ Based on the evidence before it, the Chamber finds that the TO and other Bosnian Muslim units were not active in Čarakovo at this time and that there was no armed resistance to the attack on the village by Serb Forces on 23 July.

1683. That day, KDZ014 was hiding in a corn field, trying to get to her children in her house, when she heard the sounds of tanks and shooting and women and children screaming.⁵⁷⁸² She saw houses burning and soldiers in camouflage uniforms moving through the woods nearby.⁵⁷⁸³ During the attack, Čarakovo suffered extensive damage and destruction and houses were looted.⁵⁷⁸⁴

1684. The mosque in Čarakovo, including the minaret, was destroyed by Serb soldiers on 23 July 1992, and 17 people, including the “hodža”, were killed outside.⁵⁷⁸⁵

1685. After the initial attack on Čarakovo, soldiers mistreated and killed some of the villagers.⁵⁷⁸⁶ For instance, on or around 23 July 1992, Besim Musić was approached by Serb soldiers while he was shredding corn; they took him into a car, beat him, and then threw him out on the road.⁵⁷⁸⁷ The

⁵⁷⁷⁷ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5207. The Chamber notes that the Hambarine mosque had already been shelled and damaged during the attack on Hambarine in May 1992 by Serb Forces. See paras. 1666–1668. See also para. 1889.

⁵⁷⁷⁸ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5207.

⁵⁷⁷⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12724. However, the Chamber does not have sufficient evidence as to the circumstances surrounding these events to make a finding that these three individuals were killed in relation to this Scheduled Incident.

⁵⁷⁸⁰ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5727, 5730; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12543–12545. See also Adjudicated Fact 1069; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21087–21090 (under seal). In his final brief, the Accused concedes that following several demands for disarmament of the village, Bosnian Serb tanks attacked Čarakovo on 23 July 1992. See Defence Final Brief, para. 1550.

⁵⁷⁸¹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5724.

⁵⁷⁸² KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5727–5729; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12543.

⁵⁷⁸³ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5729.

⁵⁷⁸⁴ See Adjudicated Fact 1278; KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5739–5740.

⁵⁷⁸⁵ KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12547. See also KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21090 (under seal); P4070 (Attachment to the expert report of András J. Riedlnayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 216–218. See para. 1889.

⁵⁷⁸⁶ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5740–5741.

⁵⁷⁸⁷ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5740.

soldiers also shot around Musić, causing the bullets to rip skin on his head, arms, and legs, while not actually hitting him.⁵⁷⁸⁸ Another villager told KDZ014 that Musić's wife had been killed, along with another man, by soldiers who questioned them about the whereabouts of hideouts used by the Green Berets.⁵⁷⁸⁹

1686. Also in Čarakovo, KDZ014 saw the dead bodies of Rubija Redžić, a local Bosnian Muslim woman, Fehim Karupović, a local Bosnian Muslim man, and her neighbour, Adem Hopovac. They were all unarmed, wearing civilian clothes, and had been shot.⁵⁷⁹⁰ In the swampy area known as Bare, between Zecovi and Čarakovo, KDZ014 also saw eight dead bodies of Bosnian Muslims in civilian clothes.⁵⁷⁹¹ She and her brothers then collected and buried these bodies.⁵⁷⁹² KDZ014 also assisted in burying the bodies of two Bosnian Muslim men found in a field on 24 July 1992.⁵⁷⁹³ On 27 July 1992, she saw the body of another Bosnian Muslim man as it was buried by his son.⁵⁷⁹⁴

1687. In the days following the attack, KDZ014 and the other local residents sometimes slept in the woods and returned to their homes in the mornings to collect food; they were afraid that if they were found they would be killed.⁵⁷⁹⁵ The Serb soldiers stole vehicles, farm machinery, money, and gold from the local residents in Čarakovo; household items were also stolen and loaded on to vehicles.⁵⁷⁹⁶ KDZ014 also saw men, women, and children from the area being forced on to buses

⁵⁷⁸⁸ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5740–5741 (testifying that she took Musić to a hospital in Prijedor on 25 July 1992, after she had taken care of him for a day or two in her house).

⁵⁷⁸⁹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5741. See also P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), p. 25 (confirming that Badema Musić was officially declared dead by Sanski Most municipal court and given a date of death of 23 July 1992).

⁵⁷⁹⁰ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5732–5734; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12544–12545. See also Adjudicated Fact 1069 (stating that during the raid of Čarakovo, at least 16 civilians were killed and that three of them were shot dead in front of their houses).

⁵⁷⁹¹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5735–5737; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12545–12546 (identifying the bodies she found in Bare as Asim Redžić, Huse Hopovac, Suad Hopovac, Fadil Malovčić, Velid Hopovac, Nijaz Hopovac, Mirhad Hopovac, and Nijaz Redžić); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 34, 36 (confirming that the bodies of Asim Redžić, Huse Hopovac, and Suad Hopovac were exhumed from graves in Čarakovo-Bačuša in 1998 and 1999). See also P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 21–22 (confirming that the bodies of Huse Hopovac, Nijaz Hopovac, and Asim Redžić were exhumed from mass graves in Čarakovo, Bačuša and Zecovi-Kosa in October 1998 and August 1998, respectively, and that Huse Hopovac and Asim Redžić had been killed by gun shot wounds).

⁵⁷⁹² KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5738.

⁵⁷⁹³ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5741–5742 (identifying the bodies as Ermin Sijacić and Huse Salihović); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 34–36 (confirming that the body of Huse Salihović was exhumed from a grave in Brdo in 1998). See also Adjudicated Fact 1069.

⁵⁷⁹⁴ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5742–5743 (identifying the body of Nasif Dizdarević and testifying that his son told her that he had found his father's body with numerous bullet holes in the kitchen of his house).

⁵⁷⁹⁵ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5743; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12547–12548.

⁵⁷⁹⁶ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5729, 5740, 5769; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12544, 12547–12548.

by Serb soldiers and driven away. Other groups of villagers left on foot in the days after the attack; KDZ014 did not know where buses or groups of villagers were going.⁵⁷⁹⁷

1688. In late July 1992, KDZ014 decided to leave Čarakovo; she and approximately 100 other people, primarily women, children, and elderly, assembled and went to the village “dom” carrying a white flag; they were kept there for three hours and verbally abused by Serb soldiers.⁵⁷⁹⁸ They were then escorted by the Serb soldiers to an area of Čarakovo known as Žeger, where the road to Čarakovo meets the main road from Prijedor to Sanski Most.⁵⁷⁹⁹

1689. Bosnian Muslim and Bosnian Croat men were stopped and killed at a bridge in Žeger.⁵⁸⁰⁰ KDZ092 testified that she saw buses from Prijedor with men from Čarakovo stop and unload the men at Žeger Bridge.⁵⁸⁰¹ KDZ014 also testified that she saw men stripped down to their waists and detained at Žeger Bridge.⁵⁸⁰² Soldiers in camouflage uniforms, with white ribbons on the shoulders, and camouflage caps shot the men who were dressed in civilian clothes at the bridge and threw their bodies into the Sana River.⁵⁸⁰³ Other Bosnian Muslim and Bosnian Croat men were put on to buses at Žeger Bridge and taken away.⁵⁸⁰⁴

1690. At Žeger Bridge, women, children, and elderly, including KDZ014, were loaded onto “Autotransport Prijedor” buses driven by Serb soldiers.⁵⁸⁰⁵ She saw one of her neighbours, Hasib Simbegović, try to board one of the buses, but he was prevented from doing so by Dragan Tintar, a

⁵⁷⁹⁷ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5729–5730; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12544, 12547–12548. See also KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21076, 21090 (under seal).

⁵⁷⁹⁸ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5745–5746.

⁵⁷⁹⁹ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5746–5747; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12537. See also KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21076–21077 (under seal); Adjudicated Fact 1070.

⁵⁸⁰⁰ KDZ092, P703 (Transcript from *Prosecutor v. Stakić*), T. 3947–3949; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3950–3954, 3656 (under seal); KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5746–5747. See also Adjudicated Fact 1070. The Chamber notes the discrepancy surrounding the date of the killings at Žeger Bridge. Adjudicated Fact 1070 states that the date of the killings was 23 July 1992. This adjudicated fact is based on KDZ092’s evidence in the *Stakić* case, as admitted in the *Brđanin* case, and KDZ092 confirmed in the *Stakić* case that this incident occurred on the same day as the attack on the village of Čarakovo, which was 23 July. However, KDZ014 testified that she saw men at Žeger Bridge on 28 July 1992, the day on which she left Čarakovo. Based on the evidence before it, the Chamber considers that the killings at Žeger Bridge occurred on or around 23 July 1992 following, and as a part of, the attack on Čarakovo and thus finds that they occurred within the period of the Indictment for this incident.

⁵⁸⁰¹ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3950–3954, 3656 (under seal).

⁵⁸⁰² KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5743, 5747.

⁵⁸⁰³ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3951–3955, 3994 (under seal). See also Adjudicated Fact 1070.

⁵⁸⁰⁴ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3937, 3947, 3950, 3956, 3994 (under seal); KDZ092, P702 (Transcript from *Prosecutor v. Brđanin*), T. 12655 (under seal). [REDACTED].

⁵⁸⁰⁵ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5747–5748. See also KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21076–21077 (under seal).

local Serb from Tukovi wearing a camouflage uniform, who then shot him in the head.⁵⁸⁰⁶ After they were loaded onto the buses, the women, children, and elderly were driven to Trnopolje, where they spent one night before being transported by trucks and buses to Vlasić.⁵⁸⁰⁷ At Vlasić, they got off of the buses and were told to walk to “their country” and were received by Bosnian Muslim soldiers, who took them to Travnik.⁵⁸⁰⁸

1691. The Chamber took judicial notice that a large number of killings of Bosnian Muslims and Bosnian Croats occurred in the Brdo area around 20 July 1992 as a result of the campaign conducted by Bosnian Serb forces.⁵⁸⁰⁹ In addition, the Chamber has received forensic evidence to support the deaths of some identified individuals who were killed in the Brdo region between 1 and 23 July 1992.⁵⁸¹⁰

1692. Based on the above, the Chamber therefore finds that a number of Bosnian Muslims and Bosnian Croats, including civilians, were killed by Serb Forces in the Brdo area on or around 23 July 1992.

(iii) Scheduled Incident A.10.6

1693. The Prosecution alleges that a number of men were killed in the village of Biščani and in the surrounding hamlets of Hegići, Mrkalji, Ravine, Duratovići, Kadići, Lagići, and Čemernica on or about 20 July 1992.

1694. On 20 July 1992, the village of Biščani and the surrounding hamlets were attacked by Serb Forces, including the 6th Krajina Brigade and members of the police and the intervention squad.⁵⁸¹¹

1695. Starting around 10 a.m. on 20 July, the village of Biščani was attacked by Serb Forces from the direction of Tukovi.⁵⁸¹²

⁵⁸⁰⁶ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5748, 5771.

⁵⁸⁰⁷ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5749–5750.

⁵⁸⁰⁸ KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5749–5750; Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4620–4622. [REDACTED]. See paras. 1834, 1837.

⁵⁸⁰⁹ See Adjudicated Fact 1068.

⁵⁸¹⁰ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 34–36 (confirming that at least 16 bodies were exhumed from graves in Čarakovo, Bačuša, Pašinac, Kosa and Brdo in 1998, 1999, and 2000). See also P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 21–26, 46, 253, 254 (confirming that the bodies of Huse Hopovac, Nijaz Hopovac, Asim Redžić, Hamdija Hopovac, Aziz Behlić, Naila Redžić, Namir Redžić, and Vahid Redžić were exhumed from mass graves in Čarakovo, Bačuša and Zecovi-Kosa in 1998 and 2000); see fn. 5791.

⁵⁸¹¹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5881–5882 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11849 (under seal); P5437 (Report of 1st Krajina Corps, 22 August 1992), p. 2; D1817 (Order of 6th Partisan Brigade, 18 June 1992); [REDACTED]. See also Adjudicated Fact 1073. [REDACTED].

1696. On 20 July 1992, Bosnian Muslim males in Bišćani as young as 16 years old were told to gather at various collection points manned by Serb soldiers throughout the village; the women stayed in their homes and were eventually taken away to Trnopolje or other places.⁵⁸¹³ Several people were beaten and killed at these collection points in Bišćani.⁵⁸¹⁴ For instance, one of the collection points was a coffee bar; at that location, a uniformed soldier instructed two men, Mirhad Mrkalj and Ferid Sabanović, to carry the dead body of Hamdija Fikić behind a house.⁵⁸¹⁵ KDZ038 saw the soldier fire “into” Mrkalj and Sabanović and they did not come back.⁵⁸¹⁶ Additionally, KDZ038 saw three other men killed at the coffee bar collection point—Mirsad Medić and another colleague who worked with Medić at the petrol station, as well a former policeman, Saša Karagić.⁵⁸¹⁷ The Chamber is therefore satisfied that in total six men were killed by Bosnian Serb soldiers at the coffee bar collection point on 20 July 1992.

1697. A while later, a “Prijedor Autotransport” bus arrived at the coffee bar collection point and soldiers instructed some of the men in the group, including KDZ038, to get on the bus, while other men were instructed to stay behind.⁵⁸¹⁸ In Prijedor town, they stopped and changed to another Autotransport bus, which drove them on the main Prijedor-Banja Luka road and stopped near Keraterm for awhile.⁵⁸¹⁹ They then went to Omarska, where the bus waited outside, before continuing on to Trnopolje.⁵⁸²⁰

1698. Sometime later in the afternoon on 20 July, a second bus arrived at Trnopolje with the other group of men who had stayed behind at the coffee bar collection point; however, KDZ038 noticed that a number of men who had been in this second group were not in the group that arrived at Trnopolje.⁵⁸²¹ KDZ038 later heard from a survivor that the whole second group of men had been

⁵⁸¹² KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6859; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3 (stating that when he went into Bišćani some time after the attack he found the entire village empty and all the villagers were gone).

⁵⁸¹³ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6859–6861 (testifying that the soldiers he saw throughout Bišćani on and after 20 July wore different uniforms—olive drab in colour, camouflage, as well as police uniforms). *See also* Adjudicated Fact 1074.

⁵⁸¹⁴ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6861; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 2; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12715 (testifying that his brother told him that his father, who was unarmed, was killed by an armed soldier in front of his brother on the day Bišćani was attacked). *See also* Adjudicated Fact 1074.

⁵⁸¹⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6861–6862.

⁵⁸¹⁶ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6861–6862. *See para.* 1708. *See also* P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 22–23, 177 (under seal).

⁵⁸¹⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6862–6863. *See also* Adjudicated Fact 1074.

⁵⁸¹⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6865.

⁵⁸¹⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6866.

⁵⁸²⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6866–6867.

⁵⁸²¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6868, 6870 (identifying the names of seven men, Nuriya Kekić, Halid Kekić, Sabahudin Kekić, Asmir Kekić, Muhamed Tedić, Ferid Risvanović, and Elvir Vojniković, who KDZ038 had seen at the coffee bar collection point and who did not ultimately arrive at

put on to a bus but that, at a sand pit along the road towards Prijedor, some of the men were taken off the bus, lined up, and shot with an automatic rifle by a soldier wearing an olive drab uniform and helmet.⁵⁸²² When the remaining villagers from Bišćani were later taken to Trnopolje along that road, they saw the bodies of these men.⁵⁸²³

1699. Two of the brothers of KDZ074 were also killed on 20 July 1992, while taking shelter in the basement of a house in Bišćani with their families.⁵⁸²⁴ They were taken from the basement along with other men by Serb police officers wearing blue uniforms, led to the yard of another house nearby, shot, and killed with automatic rifles; all of the men were unarmed and in civilian clothes.⁵⁸²⁵ Their bodies were later collected.⁵⁸²⁶

1700. On 20 July, the hamlet of Duratovići was attacked; it was one of the first hamlets in the area around Bišćani targeted and there were few survivors.⁵⁸²⁷ Karagić later heard that there were 20 to 30 dead bodies outside a shop in Duratovići and a number of dead bodies lying across the street from the shop.⁵⁸²⁸ Two of Karagić's uncles were killed in Duratovići.⁵⁸²⁹

1701. Between 2 p.m. and 2:30 p.m. on 20 July, Hegići was attacked by Serb Forces.⁵⁸³⁰ Hegići was on a hill about 300 to 350 metres in a straight line from Mrkalji, which was also on a hill.⁵⁸³¹ A group of villagers from Hegići watched what was happening in Mrkalji and heard screams from women and children there.⁵⁸³² Approximately 30 to 40 men from Mrkalji, including 12 and 13 year old boys and elderly men between 60 and 65 years old, dressed in civilian clothes and unarmed, were surrounded by APCs and about 20 to 30 soldiers in military camouflage uniforms at a clay pit;

Trnopolje); see P4853 (Updated Table 2 to the Report of Amor Mašović), p. 37 (confirming that the body of Elvir Vojniković was exhumed from a grave in Rizvanovići in 2005).

⁵⁸²² KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6864, 6868–6869, 6872; KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5950 (under seal) (testifying that he retrieved 15 to 25 bodies from the side of the road near the Sredicko Polje sand pits and was told later that these people had been on a bus and that half of the occupants of the bus had been killed in that spot).

⁵⁸²³ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6871.

⁵⁸²⁴ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2344.

⁵⁸²⁵ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2310, 2344–2345.

⁵⁸²⁶ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2345; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court pp. 13–14.

⁵⁸²⁷ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5293–5294.

⁵⁸²⁸ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5294; KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11851 (under seal). See para. 1708.

⁵⁸²⁹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5294.

⁵⁸³⁰ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5881–5882, 5912–5913 (under seal) [REDACTED]; KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11849 (under seal).

⁵⁸³¹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5882–5883 (under seal).

⁵⁸³² KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5882 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11849 (under seal).

they were lined up, told to run, and then shot and killed.⁵⁸³³ The mosque in Mrkalji was also on fire.⁵⁸³⁴

1702. The hamlet of Čemernica was also attacked on 20 July 1992.⁵⁸³⁵ Soldiers in blue uniforms, along with a few others in green and olive-grey camouflage uniforms, arrived on foot in Čemernica, followed by military vehicles and APCs.⁵⁸³⁶ Around 35 to 40 residents of Čemernica assembled at the village cemetery and were lined up by the soldiers.⁵⁸³⁷ Two soldiers approached one of the men, Muhamed Hazdić, and asked him his name; when he responded, one of the soldiers said “are you a *pejgamber?*”, referring to a Muslim word about God, and then shot and killed him.⁵⁸³⁸ KDZ094 noticed that elderly people in the line had been beaten and their clothes were cut; [REDACTED].⁵⁸³⁹ Two other soldiers arrived, Rade Bilbija and Miodrag Glusac, also known as “Tosa”, dressed in camouflage uniforms; Bilbija, seemed to be in charge and upon his instructions, the soldiers then left.⁵⁸⁴⁰ KDZ094 buried Muhamed Hazdić the next morning.⁵⁸⁴¹

1703. Around 20 July 1992, 12 persons were lined up in an orchard in Hegići and shot dead.⁵⁸⁴² Also on or around 20 July, between 20 to 30 people were killed at a bus stop at a crossroads between Alagići, Čemernica, and Jugovći; an elderly woman, went looking for her three sons who had gone missing and saw heaps of bodies at this location.⁵⁸⁴³

1704. On 21 July, soldiers returned to Čemernica in small groups and stole television sets, valuables, and gold items.⁵⁸⁴⁴ They took away several of the villagers to collect the bodies of

⁵⁸³³ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5882, 5885, 5887, 5890–5893 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11849 (under seal). See P1164 (Photograph of Hegići hamlet in Bišćani marked by KDZ094); P583 (Photograph of Mrkalji hamlet in Bišćani); P1162 (Photograph of house of Smail Mrkalj in Bišćani marked by KDZ094). See also Adjudicated Fact 1075; para. 1705.

⁵⁸³⁴ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5882 (under seal). See also KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21090 (under seal).

⁵⁸³⁵ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5897, 5906 (under seal) (testifying that he saw that “everything had burned” in Čemernica and that “everyone had been killed”).

⁵⁸³⁶ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5906 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850 (under seal).

⁵⁸³⁷ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5893, 5906–5907 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850 (under seal).

⁵⁸³⁸ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5906–5907 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850 (under seal).

⁵⁸³⁹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5907 (under seal).

⁵⁸⁴⁰ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5908–5910 (under seal).

⁵⁸⁴¹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5910 (under seal).

⁵⁸⁴² KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5922 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11851 (under seal); P576 (Photograph of orchard in Bišćani). See also Adjudicated Fact 1076.

⁵⁸⁴³ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5925 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11851–11852 (under seal). See also Adjudicated Fact 1077.

⁵⁸⁴⁴ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5910–5911 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850 (under seal).

people who had been killed in the area, and two of those men, Husnija Hadžić and Hare Pelak, never returned.⁵⁸⁴⁵

1705. Serb soldiers continued to take away several villagers from Čemernica each day to collect bodies and load them into trucks in the surrounding villages.⁵⁸⁴⁶ On 23 July around 8 or 9 a.m., two Serbs in camouflage uniforms, Ranko Došen and Slavko Petrović, arrived in Čemernica in green military trucks and instructed KDZ094 to go with eight to ten other Bosnian Muslim men to collect bodies from the Bišćani area and load them onto trucks.⁵⁸⁴⁷ They were accompanied by armed escorts, Serb soldiers in green, olive-grey military uniforms with rifles.⁵⁸⁴⁸ They first went to Hegići, where they found the badly decomposing bodies of Salih Hegić and Esef Avdić, both with gunshot wounds, and loaded them into the truck using blankets which they collected from nearby houses.⁵⁸⁴⁹ KDZ094 then went to the clay pit in Mrkalji and saw a number of bodies lying face down, which had been shot in the back.⁵⁸⁵⁰

1706. After Mrkalji, KDZ094 and the other men with the truck went to the neighbouring hamlet of Kadići, where they picked up the bodies of Sead and Kemal Kadić, which had gunshot wounds in the chest.⁵⁸⁵¹ They then went towards Ravine, and KDZ094 observed that the Bišćani mosque no longer had a roof or *munara* and had been damaged by fire, as had nearby houses.⁵⁸⁵² He stated that he had last seen part of the *munara* on 23 July 1992, from his house, before it was burned.⁵⁸⁵³ The Chamber received evidence that throughout the whole area of Bišćani, Rizvanovići, and Rakovčani, “all the mosques were burned and looted”.⁵⁸⁵⁴ These mosques had been intact in April 1992.⁵⁸⁵⁵ The mosque in Bišćani was destroyed on 20 July 1992 and the Rizvanovići mosque and other mosques in the area were destroyed in the summer months, and by August 1992.⁵⁸⁵⁶

⁵⁸⁴⁵ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5911–5912 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850–11851 (under seal).

⁵⁸⁴⁶ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5911–5915 (under seal).

⁵⁸⁴⁷ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5913–5915 (under seal).

⁵⁸⁴⁸ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5916–5917 (under seal).

⁵⁸⁴⁹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5917–5920, 5922 (under seal); P1164 (Photograph of Hegići hamlet in Bišćani marked by KDZ094). *See also* P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 20, 22, 24 (under seal).

⁵⁸⁵⁰ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5923 (under seal). *See para.* 1701.

⁵⁸⁵¹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5927 (under seal).

⁵⁸⁵² KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5927–5929 (under seal); P574 (Photograph of mosque in Bišćani); P575 (Photograph of mosque in Bišćani); P590 (Photograph of interior of mosque in Bišćani).

⁵⁸⁵³ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5882, 5928–5929 (under seal).

⁵⁸⁵⁴ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5929 (under seal).

⁵⁸⁵⁵ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5929–5930 (under seal).

⁵⁸⁵⁶ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5928–5930 (under seal). *See also* Adjudicated Fact 1289; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21090 (under seal); P4070 (Attachment to the expert report of András J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), pp. 227–228, 233–235. *See para.* 1889.

1707. At some point on 23 July, KDZ094 was ordered by Došen to drive a second truck and they continued to Ravine; they collected a few more bodies along the road and then five or six more in a field about 50 metres from the turn-off to Ravine, all of which had gunshot injuries.⁵⁸⁵⁷ In a forest in Ravine, they picked up another 25 to 30 bodies near the woods and outside of houses; [REDACTED].⁵⁸⁵⁸ One of the bodies was a young female [REDACTED] found naked, lying on a couch inside a house with a bullet hole in her head.⁵⁸⁵⁹

1708. Near a place called Bijela Zemlja, KDZ094 picked up the body of Mirhad Mrkalj and a few other unidentified people.⁵⁸⁶⁰ Further along, they picked up another 15 to 20 bodies close to the main road between Ravine and Bišćani.⁵⁸⁶¹ Near the “Diskont” shop in Bijela Zemlja, an area near the hamlet of Duratovići, they found the largest number of bodies and spent some time there collecting them.⁵⁸⁶²

1709. The group continued on towards Tukovi, and at the coffee production plant near the junction leading to Sredice, they picked up another 10 to 15 bodies.⁵⁸⁶³ Further along the road, at the Sredicko Polje sand pit, they retrieved another 15 to 25 bodies from the right hand side of the road, also with gunshot wounds.⁵⁸⁶⁴ Close to the turnpike at Tukovi, they found another two groups of bodies with gunshot wounds, including some women and children, who were 12, 13, and 14 years old.⁵⁸⁶⁵

1710. At the check-point in Tukovi, KDZ094 parked the truck and got out, and some soldiers drove two of the three trucks, which were full of bodies, off in the direction of Sanski Most; KDZ094 heard Došen and Petrović complaining that they did not want to drive much further and that they would go somewhere “closer”, which he interpreted to mean that they did not want to drive all the way to Tomašica, but would rather find somewhere closer to take the bodies.⁵⁸⁶⁶ The

⁵⁸⁵⁷ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5930, 5932–5933 (under seal); P592 (Photograph of orchard in Bišćani).

⁵⁸⁵⁸ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5882, 5936–5939 (under seal) [REDACTED]; see P593 (Photograph of a path).

⁵⁸⁵⁹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5938–5939 (under seal).

⁵⁸⁶⁰ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5942 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*, T. 6862; see para. 1696).

⁵⁸⁶¹ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5943 (under seal).

⁵⁸⁶² KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5944–5948 (under seal) [REDACTED]. See P1166 (Photograph of Diskont store marked by KDZ094); P1169 (Photograph of Diskont store marked by KDZ094). See para. 1700.

⁵⁸⁶³ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5948 (under seal) [REDACTED].

⁵⁸⁶⁴ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5948–5951 (under seal); see para. 1698. See also KDZ038, P676 (Transcript from *Prosecutor v. Stakić*, T. 6864, 6868–6869, 6872).

⁵⁸⁶⁵ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5951–5952 (under seal).

⁵⁸⁶⁶ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*, T. 5934–5935, 5953–5956 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*, T. 11854 (under seal) (further testifying that he noticed a “trip order”

third truck was used to return the other Bosnian Muslim villagers, and the two armed Serbs, to the Hegići area.⁵⁸⁶⁷

1711. On 24 July, six to eight young men who had been captured were brought to the check-point in Tukovi to help KDZ094 collect bodies; they went to the area of Sredicko Polje to resume collecting bodies.⁵⁸⁶⁸

1712. KDZ094 estimated that in two days, he collected between 300 to 350 bodies, all of which were Bosnian Muslims, as well as a few Bosnian Croats, who had been unarmed and wearing civilian clothes.⁵⁸⁶⁹ While many were from the Brdo area, there were also others who had been displaced from other areas and had taken shelter there.⁵⁸⁷⁰ The women, children, and elderly people who had remained in Bišćani and other villages went to Tukovi and were then transported to Travnik.⁵⁸⁷¹

1713. The Chamber considers that while it does not have specific evidence about the circumstances of each of the deaths of the 300 to 350 individuals whose bodies KDZ094 collected on 23 and 24 July 1992 in Bišćani and the surrounding villages,⁵⁸⁷² the evidence before it establishes a pattern of killings on or around 20 July throughout this area. Furthermore, the Chamber finds that there was no armed activity in the area of Bišćani during this period.⁵⁸⁷³ Accordingly, the Chamber finds beyond reasonable doubt that most of these 300 to 350 individuals were non-Serb civilians who were deliberately killed by Serb Forces after the attack on the village of Bišćani and the surrounding hamlets.

1714. The Chamber also received forensic evidence to support the deaths of some identified individuals who were killed in the village of Bišćani and in the surrounding hamlets on or about 20 July 1992.⁵⁸⁷⁴

in the truck which indicated the start point of the trip as the Zarko Zgonjanin barracks and the destination to be the area of Brdo and Tomašica).

⁵⁸⁶⁷ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5959 (under seal).

⁵⁸⁶⁸ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5959–5961 (under seal).

⁵⁸⁶⁹ KDZ094, P706 (Transcript from *Prosecutor v. Brđanin*), T. 11850–11852, 11864 (under seal); KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5968–5972 (under seal) (providing a list with the names of 34 people who he recognised as among those whose bodies he collected); P587 (List of persons from Bišćani killed around 20 July 1992, identified by KDZ094). See also Adjudicated Fact 1071.

⁵⁸⁷⁰ KDZ094, P706 (Transcript from *Prosecutor v. Stakić*), T. 5966 (under seal).

⁵⁸⁷¹ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2345.

⁵⁸⁷² See paras. 1700, 1703, 1706–1709.

⁵⁸⁷³ See KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21076, 21081–21082 (under seal).

⁵⁸⁷⁴ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 19, 22, 34, 36–37 (confirming the bodies of 34 men, and one body of an unknown gender, were exhumed from graves in Šurakovac, Čarakovo-Brđani, Bišćani, Rizvanovići, Redak-Ljubija, Srediće-Garaža, and Jakarina Kosa in 1998, 2000, 2001, and 2005); P4892 (BiH

1715. Based on the above, the Chamber therefore finds that at least 300 non-Serbs, including civilians, were killed by Serb Forces in the village of Bišćani and in the surrounding hamlets of Hegići, Mrkalji, Ravine, Duratovići, Kadići, Lagići, and Čemernica on or about 20 July 1992.

(c) Briševo

1716. Briševo is a village in the local commune of Ljubija and is located to the south of Prijedor town.⁵⁸⁷⁵ Prior to the conflict, Briševo was inhabited mainly by Bosnian Croats.⁵⁸⁷⁶ The villages in the Ljubija commune were primarily comprised of Bosnian Croats, while within the town of Ljubija itself, Gornji Ljubija was almost purely Croat, and the other part, Donja Ljubija, was predominantly Bosnian Muslim.⁵⁸⁷⁷

1717. Briševo was first shelled on 27 May 1992 from the direction of the Serb villages of Rasavci and Oštra Luka; the shelling lasted the entire day but there was no physical damage to the village during this attack.⁵⁸⁷⁸ After the attack, Atlija, together with other men in the village, decided to send a delegation of five men to Rasavci and Oštra Luka to ask why they were being attacked.⁵⁸⁷⁹ When the delegation returned, they informed the villagers that the Serbs had issued an ultimatum requesting them to surrender their arms, and that if they failed to do so, the Serbs would search their houses.⁵⁸⁸⁰ The residents of Briševo only had five or six hunting rifles and a few pistols among them which they handed over to the Serbs; however, the Serb representatives demanded more weapons and said that houses would be searched and people would be killed.⁵⁸⁸¹

State Commission for Tracing Missing Persons list of exhumed persons from Prijedor, Čelinac, Bosanski Novi, 29 October 2002), p. 2. See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 9; P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), e-court pp. 20–24, 61, 72, 104, 108–111, 130–131, 139, 150, 152, 154, 157–158, 163, 166, 175–177, 189, 243–246, 249, 253; P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), e-court p. 31 (identifying bodies exhumed from Jakarina Kosa in 2009).

⁵⁸⁷⁵ P569 (Map of Prijedor municipality); Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5547 (testifying that according to the 1991 census, Briševo was comprised of 120 houses). See also Adjudicated Fact 1086.

⁵⁸⁷⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5546–5547. See also Adjudicated Fact 1086.

⁵⁸⁷⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5544–5547.

⁵⁸⁷⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5559–5561; Ivo Atlija, T. 20310 (20 October 2011), 20347 (26 October 2011). See also Adjudicated Fact 1087.

⁵⁸⁷⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5561–5562.

⁵⁸⁸⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5562; Ivo Atlija, T. 20347 (26 October 2011). See also Adjudicated Fact 1087.

⁵⁸⁸¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5562–5565. See also Ivo Atlija, T. 20345–20346 (26 October 2011) (testifying further that all of the villagers' weapons had been handed over to the Serb authorities in Rasavci before the second attack and that "only when the Serb forces were absolutely sure that there's not a single rifle, not a single pistol, not a single bullet in our village, that's when we were attacked"); Adjudicated Fact 1087.

1718. No one came to search houses in Briševo following the hand-over and the following weeks were relatively peaceful, although the village was completely blocked by Serb-manned check-points and no one could enter or leave for food or medicine.⁵⁸⁸²

1719. On 24 June 1992, a police van from Ljubija came to Briševo and three or four police officers took at least six male villagers from Briševo to be interviewed at the police station in Ljubija.⁵⁸⁸³ These men never returned to Briševo and Atlija later found out that they had been questioned and beaten in Ljubija, taken to Keraterm camp, then to Omarska, and finally to Manjača.⁵⁸⁸⁴

(i) Scheduled Incident A.10.9

1720. The Prosecution alleges that at least 68 people were killed in the village of Briševo between 23 July and 26 July 1992.

1721. On 23 July 1992, a Serb from Oštra Luka told Atlija and his cousin to leave Briševo because it would be “cleansed” the following day.⁵⁸⁸⁵ However, they chose not to leave and Atlija was awoken by explosions at around 3:30 a.m. on 24 July 1992; Atlija ran to hide in a neighbour’s cellar.⁵⁸⁸⁶ Infantry fire increased during the early hours; some people were killed, and the shelling continued until the evening of 25 July.⁵⁸⁸⁷ That evening, Bosnian Serb infantry entered the village.⁵⁸⁸⁸ The soldiers wore JNA uniforms with red ribbons around their arms and some had red ribbons tied around their helmets.⁵⁸⁸⁹ They identified themselves as “Serb soldiers” and told some of the inhabitants that if they went to their homes, nothing would happen to them.⁵⁸⁹⁰ As a result, Atlija and the others who were hiding in the cellar dispersed.⁵⁸⁹¹

1722. After 10 minutes, Atlija heard shouts from the Dimač house and ran towards it, seeing two soldiers engaged in discussion with Pero Dimač, a 65 year old man, and Atlija’s mother.⁵⁸⁹² The

⁵⁸⁸² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5565–5566, 5659 (testifying that permits were necessary for non-Serbs to move around Prijedor and movement was very restricted).

⁵⁸⁸³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5566–5568.

⁵⁸⁸⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5568–5569 (testifying further that, as far as he knew, none of these men were actively involved in politics or leaders in the village).

⁵⁸⁸⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5570–5571.

⁵⁸⁸⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5571–5573. See also Ivo Atlija, T. 20310 (20 October 2011).

⁵⁸⁸⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5573.

⁵⁸⁸⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5573–5574. See also Adjudicated Fact 1089.

⁵⁸⁸⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5573–5575. See also Adjudicated Fact 1089.

⁵⁸⁹⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5575; Ivo Atlija, T. 20351–20352 (26 October 2011).

⁵⁸⁹¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5577.

⁵⁸⁹² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5577.

soldiers wore JNA uniforms, as well as “Subara” hats with cockades, and carried different hunting knives than those weapons carried by regular JNA soldiers.⁵⁸⁹³ Atlija approached his mother, who was crying and shouting, and she told him that his father had been killed and that he should leave.⁵⁸⁹⁴ Atlija left his mother and ran to the woods from where he saw several hundreds of soldiers arrive in the village.⁵⁸⁹⁵ The soldiers then locked his mother in the pigsty, threw Dimač to the ground, beat him with a bible they had found inside his house, shouted “let the Catholic Jesus help him now”, and asked “why Tudjman wasn’t helping him”.⁵⁸⁹⁶ They then set fire to the house and made Dimač take off his clothes and pray “according to the Catholic ritual”; they continued to beat and taunt him.⁵⁸⁹⁷ The soldiers eventually forced him to run between them and shot him in the head.⁵⁸⁹⁸

1723. From his hiding position in the woods, Atlija saw houses in the village burning and groups of soldiers, both JNA soldiers in uniforms with the JNA insignia and “Chetniks”, passing by, shooting, and taking away looted property; over 100 houses in Briševo were destroyed during the attack.⁵⁸⁹⁹

1724. The units involved in the attack on Briševo were units of the 1st Krajina Corps, including the 6th Krajina Brigade⁵⁹⁰⁰ and 5th Kozara Brigade, as well as paramilitary units.⁵⁹⁰¹ There were no

⁵⁸⁹³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5577–5578 (testifying further that he could not tell if they were JNA soldiers, but it was quite usual for soldiers wearing this type of insignia to be “Chetniks”, referring to paramilitary units from World War II). *See also* Adjudicated Fact 1089.

⁵⁸⁹⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5578. *See para.* 1726.

⁵⁸⁹⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5578–5579.

⁵⁸⁹⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5579–5580.

⁵⁸⁹⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5579–5580. *See also* Adjudicated Fact 1090.

⁵⁸⁹⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5579–5581; Ivo Atlija, T. 20358–20363 (26 October 2011); D1818 (Excerpt of transcript from testimony of Ivo Atlija in *Prosecutor v. Brđanin*), T. 11967. *See also* Adjudicated Fact 1090; P3674 (Sketch drawn by Ivo Atlija) (showing Atlija’s position in the woods in relation to Pero Dimač’s house).

⁵⁸⁹⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5582–5583; Vojislav Kuprešanin, T. 43531–43533 (14 November 2013), T. 43575 (15 November 2013). *See also* Adjudicated Facts 1275, 1276.

⁵⁹⁰⁰ *See para.* 1926.

⁵⁹⁰¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5584–5587, 5637–5638; D1817 (Order of 6th Partisan Brigade, 18 June 1992), pp. 2–3; P3914 (Ewan Brown’s expert report entitled “Military Developments in the Bosanska Krajina - 1992”, 27 November 2002), paras. 1.100, 2.5; P3660 (Handwritten “War Record” of the 6th Krajina Infantry Brigade, undated), p. 3; D1816 (Prijeđor SJB dispatch to Banja Luka CSB, 18 May 1992); P2855 (VRŠ Main Staff report on paramilitary formations, 28 July 1992), p. 4. *See also* P3675 (Sketch drawn by Ivo Atlija); P3688 (Excerpt from video clip of aerial flyover of Prijeđor); Vojislav Kuprešanin, T. 43532–43533 (14 November 2013). *But see* Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5643–5644 (stating that Kuprešanin told Atlija after the attack that “a renegade group had committed” the killings in Briševo). The Chamber notes that in his final brief, the Accused argues that the soldiers involved in the attack on Briševo were not wearing the regular JNA uniforms and that Kuprešanin described the soldiers as a renegade group of the 6th Sana Brigade, referring to Atlija’s testimony which repeated Kuprešanin’s statement in this regard. *See* Defence Final Brief, para. 1554, fn. 3528. However, the Chamber finds that members of at least the 6th Krajina Brigade and the 5th Kozara Brigade took part in the attack on the village of Briševo. In reaching that conclusion, the Chamber has considered the evidence before it. It also considered that the Accused only refers to evidence from Atlija recounting that Kuprešanin said the soldiers were a renegade group, whereas Kuprešanin

announcements or warnings made on Radio Prijedor for villagers to surrender, or do otherwise, before the 24 July attack on Briševo, unlike in Hambarine and other villages.⁵⁹⁰² Furthermore, there were no military units in Briševo and none of the residents were armed when the village was attacked on 24 July 1992.⁵⁹⁰³

1725. The majority of the Serb soldiers left Briševo the evening after the attack, taking with them 36 men.⁵⁹⁰⁴ Atlija later found out that this group of men was taken to Krings Hall in Sanski Most and that, after bribing someone, they were released from the camp alive after two months.⁵⁹⁰⁵

1726. The evening after the attack Atlija found his father's body, with three gunshot wounds to his back, about 15 to 20 metres away from his house.⁵⁹⁰⁶ Atlija buried his father and Dimač that evening in Mustanica.⁵⁹⁰⁷

1727. The following day, Atlija returned to the village and found 68 houses, out of 120 houses in the village, burnt to the ground.⁵⁹⁰⁸ In addition, the Catholic church in Briševo was burnt.⁵⁹⁰⁹

1728. In the weeks after the attack, Atlija went around Briševo and neighbouring hamlets and found piles of bodies, including in the Kurevo hills.⁵⁹¹⁰ Atlija testified that, in total, 68 people were

in fact testified that the "army" was the perpetrator of the attack and of the killings in Briševo. See Vojislav Kuprešanin, T. 43532–43533 (14 November 2013).

⁵⁹⁰² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5587.

⁵⁹⁰³ Ivo Atlija, T. 20351 (26 October 2011); Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5562 (testifying further that the only weapons in Briševo were a few hunting rifles for which people had legal permits); Vojislav Kuprešanin, T. 43575 (15 November 2013). *But see* D1817 (Order of 6th Partisan Brigade, 18 June 1992), p. 1. The Chamber notes that the Accused acknowledges in his final brief that in May 1992, "the Serbs received misinformation that the village of Briševo was armed" and that on 24 July 1992, Serb Forces entered Briševo and 68 people were killed during the attack. Defence Final Brief, para. 1554.

⁵⁹⁰⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5589, 5597.

⁵⁹⁰⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5597–5598. *See also* Defence Final Brief, para. 1554 (conceding that 36 people were taken to Krings in Sanski Most after the attack on Briševo).

⁵⁹⁰⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5598, 5616.

⁵⁹⁰⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5598. *See* P4853 (Updated Table 2 to the Report of Amor Mašović), p. 40; P3686 (Photograph of graves) (showing a gravestone with the name of Atlija's father).

⁵⁹⁰⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5589–5592. Atlija confirmed the damage to the houses in Briševo in a number of photographs taken by someone else after the attack on the village. *See* P3677 (Photograph of destroyed house); P3678 (Photograph of destroyed house); P3680 (Photograph of destroyed house); P3682 (Photograph of destroyed house); P3688 (Excerpt from video clip of aerial flyover of Prijedor).

⁵⁹⁰⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5589–5591, 5594–5595, 5635, 5638–5639. *See* P3676 (Photograph of church); P3689 (Video footage of destroyed buildings and monuments in Prijedor), 4:04–7:10; P3688 (Excerpt from video clip of aerial flyover of Prijedor). *See also* Adjudicated Fact 1290; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 255–258 (reporting also that the interior walls were defaced with Serbian graffiti reading "Šešelji"). *See* para. 1893.

⁵⁹¹⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5597–5599.

killed during the course of the attack on Briševo, including 14 women, two males under 16 years old, and four invalids, and that in the days after, their bodies were lying around.⁵⁹¹¹

1729. Specifically, Atlija first found the remains of Stipo Dimač, an elderly man around 76 or 78 years old, as well as the bodies of Franjo Marijan and Mara Marijan, in a house in Dimanci.⁵⁹¹²

Atlija then found at least six more bodies in a pile in Mlinari, who he helped bury.⁵⁹¹³ Also in Mlinari and nearby the other pile, Atlija found a grave with at least six more bodies, including an invalid, and another grave with the body of Mara Mlinar, a 74 year old woman.⁵⁹¹⁴

1730. In Buzuci, Atlija then found at least three more bodies, Milan Buzuk, Mate Buzuk, and Ivica Buzuk, an invalid, in front of a house.⁵⁹¹⁵ Atlija next found in Jezerce the bodies with bullet wounds of Srećo Buzuk, Ivo Lovrić, Miroslav Buzuk, and Vlatko Buzuk, an invalid.⁵⁹¹⁶ In Cengije, Atlija found the body of Marko Buzuk, which was badly burned from the waist down, and another grave with several bodies, including women.⁵⁹¹⁷

⁵⁹¹¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5589, 5597; Vojislav Kuprešanin, T. 43531–43532, 43575 (14 November 2013) (testifying that between 63 and 88 people were killed in Briševo). *See also* Adjudicated Fact 1091. In his final brief, the Accused concedes that 68 people were killed after Serb Forces entered Briševo on 24 July 1992. *See* Defence Final Brief, para. 1554.

⁵⁹¹² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5602–5603; P4853 (Updated Table 2 to the Report of Amor Mašović), p. 39 (confirming that the bodies of Stipan Dimač, born in 1911, Franjo Marijan, and Mara Marijan were exhumed from a grave in Mlinari in 1998). The Chamber notes that Atlija refers to an individual named “Stipo Dimač”, while Mašović’s report identifies a “Stipan Dimač”. The Chamber considers this inconsistency to be minor and concludes that this is in fact the same individual.

⁵⁹¹³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5603–5605 (testifying further that he heard from eyewitnesses that these individuals had been made to dig their own graves).

⁵⁹¹⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5604–5605, 5611; P4853 (Updated Table 2 to the Report of Amor Mašović), p. 39 (confirming that, in total, the bodies of 12 people were exhumed from graves in Mlinari in 1998, including the body of Mara Mlinar).

⁵⁹¹⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5605–5606; Ivo Atlija, T. 20312–20313 (20 October 2011); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 39–40, 44 (confirming that the bodies of Milan Buzuk, Mato Buzuk, and Ivo Buzuk were exhumed from graves in Briševo in 1998). The Chamber notes that there are some discrepancies between the forensic evidence and the evidence of Atlija regarding the names of some of the victims of Scheduled Incident A.10.9. More specifically, Atlija’s testimony contains references to “Mate Buzuk” and “Ivica Buzuk”, whereas Mašović’s report identifies the bodies of “Mato Buzuk” and “Ivo Buzuk”. The Chamber considers these inconsistencies to be minor. Accordingly, the Chamber concludes that these are in fact the same individuals. The Chamber also notes that the report of Amor Mašović confirms that the bodies of two men named Mato Buzuk, born in different years, were exhumed from graves in Prijedor, one from Briševo in 1998 and one from Stara Rijeka in 1997. Although it is unclear to which “Mato Buzuk” Atlija is referring as being found in Buzuci, the Chamber is satisfied that the body of one man named Mato Buzuk was found in Buzuci by Atlija after the attack on Briševo on 24 July 1992.

⁵⁹¹⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5606; Ivo Atlija, T. 20313 (20 October 2011); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 39 (confirming that the bodies of Srećo Buzuk, Ivo Lovrić, Miroslav Buzuk, and Vlatko Buzuk were exhumed from graves in Mlinari in 1998).

⁵⁹¹⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5606–5607, 5609–5610 (stating that eyewitnesses told him that one woman in Cengije had been raped and beaten until she died); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 39 (confirming that the body of Marko Buzuk was exhumed from a grave in Raljaš in 1998).

1731. In Mustanica, Atlija found and buried the body of Ante Matanović, another invalid, who had a bullet wound to the back.⁵⁹¹⁸ Also in Mustanica, Atlija saw the body of Jozo Jakara lying near a church, but Atlija did not go close enough to the body to see how he died; Atlija was later told by an eyewitness that Jakara's throat had been slit with glass.⁵⁹¹⁹ In Ivandići, Atlija next found several graves and the bodies of "practically the whole Ivandić family" with bullet wounds, including the bodies of Bato Ivandić, Sreto and Danica Ivandić, an elderly couple, Mara Ivandić, and several more women.⁵⁹²⁰ Atlija also testified that several members of the Komljen family were killed in Ivandići, including Luka Komljen, Ivo Komljen, Kaja Komljen, and another son.⁵⁹²¹ On Raljaš Hill, Atlija found two individual graves, one with the body of Luka Mlinar, a 14 year old boy, and another with the body of Mirsad Švraka, a 14 or 15 year old boy.⁵⁹²²

1732. Finally, Atlija also saw a pile of 10 to 12 bodies under a tree in Stara Rijeka, all of whom seemed to be men around 20 years old.⁵⁹²³ The bodies appeared to have bullet holes in them.⁵⁹²⁴

1733. Atlija was able to bury some of the bodies he found in Briševo and the surrounding area after the attack with the help of other villagers who survived.⁵⁹²⁵

⁵⁹¹⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5607–5608; Ivo Atlija, T. 20313–20314 (20 October 2011); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 40 (confirming that the body of Ante Matanović was exhumed from a grave in Begine Glavice in 1998).

⁵⁹¹⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5608; P4853 (Updated Table 2 to the Report of Amor Mašović), p. 40 (confirming that the body of Jozo Jakara was exhumed from a grave in Briševo in 1998).

⁵⁹²⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5609; Ivo Atlija, T. 20315–20316 (20 October 2011); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 40 (confirming that the bodies of Srećko Ivandić, Danica Ivandić, and Mara Ivandić were exhumed from graves in Prijedor and Zecovi in 1998). The Chamber notes that Atlija refers to an individual named "Sreto Ivandić" who he found in Ivandići, while Mašović's report identifies a "Srećko Ivandić". The Chamber considers this inconsistency to be minor and concludes that this is in fact the same individual.

⁵⁹²¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5610; Ivo Atlija, T. 20316–20317 (20 October 2011); T. 20363 (26 October 2011); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 40 (confirming that the bodies of Luka Komljen, Ivo Komljen, Kata Komljen, and Ante Komljen were exhumed from graves in Zecovi and Rasavci in 1998). The Chamber notes that Atlija did not refer to the second Komljen son by name, while Mašović's report identifies "Ante Komljen", who was born in 1956. The Chamber is satisfied that Ante Komljen is the second Komljen son listed by Atlija. The Chamber also notes that Atlija refers to "Kaja Komljen" as being killed in Ivandići, while Mašović's report identifies a "Kata Komljen". The Chamber considers this inconsistency to be minor and concludes that this is in fact the same individual.

⁵⁹²² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5610–5611; P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 39–40 (confirming that the bodies of Luka Mlinar and Mirsad Švraka were exhumed from graves in Raljaš and Briševo in 1998). See Ivo Atlija, T. 20311 (20 October 2011); P3685 (Photograph of graves) (showing graves of Briševo victims buried at the Raljaš Catholic Church).

⁵⁹²³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5601 (testifying that shortly after the attack on Briševo, Atlija heard from other villagers that a group of about 12 Bosnian Muslims passed through Briševo, and later Stara Rijeka, in the direction of Stari Majdan); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 44 (confirming that the bodies of nine men between the ages of 16 and 46 years old were exhumed from a grave in Stara Rijeka in 1997).

⁵⁹²⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5601–5602.

⁵⁹²⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5598–5599.

1734. The Chamber also received forensic evidence to support the deaths of at least 57 identified individuals who were killed in the village of Briševo and the surrounding areas between 24 and 26 July 1992.⁵⁹²⁶

1735. Based on the above, the Chamber therefore finds that at least 68 people were killed by Serb Forces in the village of Briševo between 24 and 26 July 1992.

(ii) Visit of ARK authorities to Stara Rijeka

1736. At the beginning of August 1992, representatives of the authorities of the ARK, including Kuprešanin and Nedeljko Rašula, President of the Sanski Most Municipal Assembly, visited Stara Rijeka accompanied by a bishop, Bishop Komarica, to attend an open meeting with several hundred villagers from the village of Stara Rijeka and surrounding villages, including Atlija.⁵⁹²⁷ Kuprešanin said that he had come, at the request of Bishop Komarica, to find out about the situation in the Sanski Most and Prijedor areas.⁵⁹²⁸ Kuprešanin stated that he had heard about some incidents in the area, but before that, he did not know that Croats lived in the area; furthermore, he said that everything was going to be fine as soon as they established a “Serb state” in BiH.⁵⁹²⁹ When Atlija challenged him during the meeting, informing him about what happened in Briševo, Kuprešanin replied that “such things occurred in wars”, and that unfortunately the attack on Briševo and all of the killings had been carried out by a renegade group from the 6th Brigade and were not directed against the Croats in the area, but rather against the Muslims in the area.⁵⁹³⁰ Bishop Komarica promised the villagers that they would receive humanitarian aid and encouraged them to stay in their villages.⁵⁹³¹

1737. One month later, Atlija had another meeting at the Ljubija church with Bishop Komarica and Kuprešanin.⁵⁹³² Kuprešanin asked him if the situation in Briševo had improved and asked him

⁵⁹²⁶ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 39–40, 44 (confirming that 57 bodies of Bosnian Croat men and women from Briševo were exhumed from individual and mass graves in the areas of Briševo, Mlinari, Gravorac, Rajšaš, Begine Glavice, Gornji Rasavci, Buzuci, Zecovi, Stara Rijeka, and Stari Majdan in 1997 and 1998); P3673 (Exhumation Report of Stari Majdan-Stara Rijeka mass graves, 16 June 1997), pp. 1–18 (confirming that the 16 bodies of individuals from Stara Rijeka and Moštanica were exhumed from several mass graves in Stari Majdan and Stara Rijeka and identified in 1997).

⁵⁹²⁷ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5641–5642, 5646–5647; Vojislav Kuprešanin, T. 43531–43533 (14 November 2013), T. 43575 (15 November 2013).

⁵⁹²⁸ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5643. The Chamber notes that Atlija was interpreted as saying “Sanska” during his testimony, but this most likely refers to “Sanski Most”.

⁵⁹²⁹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5643.

⁵⁹³⁰ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5643–5644. *But see* Vojislav Kuprešanin, T. 43532–43533 (14 November 2013) (testifying that the perpetrator of the mass killings in Briševo was the “army”). *See also* para. 1724.

⁵⁹³¹ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5644–5646, 5648–5649, 5662.

⁵⁹³² Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5647.

to present the issues to Milomir Stakić.⁵⁹³³ Thus, a couple of days later, Atlija and two others went to Prijedor town and met with Stakić, and asked him for his help to leave the area.⁵⁹³⁴ Stakić suggested that people from Briševo should move to abandoned houses in Biščani but that he could not help them to leave the area because “they were being accused of ethnic cleansing already at that point”.⁵⁹³⁵ Atlija informed him they were not inclined to accept his offer and would continue to try to leave the area.⁵⁹³⁶

(5) Detention facilities in Prijedor

1738. From about 24 May 1992 until at least the end of September 1992, Bosnian Muslims and Bosnian Croats were detained at the Prijedor SJB Building, Omarska camp (“Omarska”), Keraterm camp (“Keraterm”), Trnopolje camp (“Trnopolje”), the Miška Glava community centre or “Dom” (“Miška Glava Dom”), the Ljubija football stadium (“Ljubija Football Stadium”), and the Prijedor JNA barracks (“Prijedor Barracks”).⁵⁹³⁷ The detention facilities in Prijedor were established by the Prijedor Crisis Staff, which was presided over by Stakić.⁵⁹³⁸ There was co-ordinated co-operation between the Crisis Staff and members of the Serb Forces in operating the detention facilities.⁵⁹³⁹ The Crisis Staff participated in overseeing security at the facilities, took decisions on the continuing detention of non-Serbs in Prijedor, provided transport, as well as the necessary fuel, for the transfer of detainees between the various detention facilities, and co-ordinated the provision of food for

⁵⁹³³ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5647–5648.

⁵⁹³⁴ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5649–5651, 5653, 5664–5666.

⁵⁹³⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5651–5652.

⁵⁹³⁶ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5653.

⁵⁹³⁷ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7. See also Adjudicated Facts 553, 1102.

⁵⁹³⁸ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7. See also Adjudicated Fact 1105. Defence witnesses Milomir Stakić and Slavko Budimir testified that the Crisis Staff did not participate in the establishment of Omarska, Keraterm, or Trnopolje and had no authority over the facility. D4195 (Witness statement of Milomir Stakić dated 16 November 2013), paras. 22–23, 48–49; Milomir Stakić, T. 45238–45240, 45242–45246, 45254 (17 December 2013); Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 12947–12958, 12964. However, the Chamber does not find this evidence to be convincing based on the credible evidence before the Chamber to the contrary which confirms that the Prijedor Crisis Staff was involved in the establishment of these detention facilities and in their operations.

⁵⁹³⁹ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7. See also Adjudicated Facts 553, 1106. Stakić also testified that the Crisis Staff did not co-operate with members of the police and army in operating the camps; rather the police was in charge of Omarska and Keraterm, and the army was in charge of Trnopolje. Furthermore, Stakić stated that the police and army “turned to the [C]risis [S]taff for aid in food and medicines, just like the Red Cross”. D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 49. See also Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 12947–12958, 12964. However, the Chamber does not find this evidence to be convincing based on the credible evidence before the Chamber to the contrary which confirms that the Prijedor Crisis Staff was involved in the operations of the detention facilities in the municipality.

detainees.⁵⁹⁴⁰ The Crisis Staff also prohibited the release of detainees from the detention facilities and prevented them from returning to their homes in Prijedor.⁵⁹⁴¹

(a) Scheduled Detention Facility C.20.1

1739. The Indictment refers to the use of the Prijedor SJB Building as a detention facility in Prijedor municipality between 24 May and September 1992.⁵⁹⁴²

(i) Arrival of detainees and control over the detention facility

1740. Located in the town of Prijedor, the Prijedor SJB Building was used as a detention facility beginning on or around 26 May 1992 until approximately 24 June 1992.⁵⁹⁴³ During this period, Bosnian Muslims and Bosnian Croats, including many prominent men of the Prijedor community, as well as two women and a 13 or 14 year old boy, were detained there.⁵⁹⁴⁴

1741. The Prijedor SJB Building had two wings; two floors were on one side and three floors on the other, and a courtyard was at the back of the building.⁵⁹⁴⁵ The detention cell where detainees were held was located in an auxiliary building across the courtyard from the main building.⁵⁹⁴⁶

⁵⁹⁴⁰ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7; see Adjudicated Fact 1107.

⁵⁹⁴¹ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7; see Adjudicated Fact 1108.

⁵⁹⁴² In its Final Brief, the Prosecution notes that the evidence led in relation to the Prijedor SJB Building shows that it operated as a detention facility from approximately 26 May 1992 until around the end of June 1992. See Prosecution Final Brief, Appendix B, p. 38, fn. 548.

⁵⁹⁴³ P2095 (Map and photographs of Prijedor); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619–6620, 6721; Nusret Sivac, T. 19610 (28 September 2011); KDZ026, T. 10313–10314 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1799–1800, 1847–1848 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 23–25; Mevludin Sejmenović, T. 20491–20492 (27 October 2011); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16726–16727.

⁵⁹⁴⁴ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619–6620, 6623, 6723; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1849 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 4–5, 24; Mevludin Sejmenović, T. 20454–20455, 20491–20492 (27 October 2011); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16727; P5528 (Report of Prijedor SJB, June 1992), p. 6. See also Adjudicated Fact 1109. However, Defence witnesses Dušan Janković and Zdravko Torbica testified that women and minors were never taken into custody at the Prijedor SJB Building. D4228 (Witness statement of Zdravko Torbica dated 18 January 2014), para. 11; Dušan Janković, T. 47283–47284 (18 February 2014). The Chamber, however, does not rely on their evidence on this issue. In reaching that conclusion, the Chamber considers that Janković and Torbica contradicted themselves on several occasions. The Chamber further considers the body of credible evidence before it which demonstrates that women and a minor were detained at the Prijedor SJB Building.

⁵⁹⁴⁵ Nusret Sivac, T. 19609 (28 September 2011); P3528 (Witness statement of Kerim Mešanović, undated), p. 14. See also P2090 (Photograph of Prijedor SJB Building).

⁵⁹⁴⁶ KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16727; P3528 (Witness statement of Kerim Mešanović, undated), p. 14; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1848–1849 (under seal). Before its use as a detention facility, the detention cell was used by the SJB to hold prisoners before they attended misdemeanour court, as there was no prison in Prijedor. Nusret Sivac, T. 19610 (28 September 2011); Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 12947.

1742. Before being brought to the Prijedor SJB Building, detainees were arrested by members of the Prijedor SJB, including Ranko "Bato" Kovačević.⁵⁹⁴⁷ Once there, they were held in the detention cell and guarded by members of the intervention squad.⁵⁹⁴⁸

(ii) Conditions of detention and treatment of detainees

1743. The cell in which detainees were held was small, and there were no windows; the only source of light was a tiny hole in the wall.⁵⁹⁴⁹ In that cell, there was a bed frame and a couple of blankets.⁵⁹⁵⁰ There were no toilet facilities; there was only a bag which was used in place of a toilet.⁵⁹⁵¹

1744. Detainees were generally held at the Prijedor SJB Building for a short period and were mistreated during their detention.⁵⁹⁵² Nusret Sivac was arrested on 20 June 1992 and taken to the Prijedor SJB Building.⁵⁹⁵³ He and a group of other detainees, including two women, a 13 or 14 year old boy and a prominent Muslim doctor, Osman Mahmuljin, were forced to gather in the courtyard.⁵⁹⁵⁴ Members of the intervention squad, including Rade Strika, ordered the detainees to remove their belts and the laces from their shoes.⁵⁹⁵⁵ The detainees were then forced to run a gauntlet formed by members of the intervention squad who proceeded to savagely beat the

⁵⁹⁴⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619; KDZ026, T. 10313 (17 January 2011) (closed session); P3528 (Witness statement of Kerim Mešanović, undated), p. 23. According to KW609, these arrests were for the purpose of interrogating people suspected of illegally procuring fire-arms, in order to prevent large-scale disturbances to law and order. KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16726–16727. However, Nusret Sivac testified that while he was held at the Prijedor SJB Building, no interviews were conducted or statements taken from detainees; moreover, according to him, people were just arrested in the street if they ran into a Serb patrol or were recognised as Muslim. Nusret Sivac, T. 19640 (30 September 2011).

⁵⁹⁴⁸ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1849–1850 (under seal).

⁵⁹⁴⁹ Nusret Sivac, T. 19610 (28 September 2011); Kerim Mešanović, T. 19837 (4 October 2011); KDZ026, T. 10385 (17 January 2011) (closed session).

⁵⁹⁵⁰ Kerim Mešanović, T. 19837 (4 October 2011); KDZ026, T. 10385 (17 January 2011) (closed session).

⁵⁹⁵¹ Kerim Mešanović, T. 19837 (4 October 2011); KDZ026, T. 10385 (17 January 2011) (closed session).

⁵⁹⁵² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619–6621, 6626, 6721–6723; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1847–1848, 1850–1851 (under seal); KDZ026, T. 10314–10315 (17 January 2011) (closed session); P3528 (Witness statement of Kerim Mešanović, undated), pp. 24–26; Mevludin Sejmenović, T. 20492 (27 October 2011). See also Adjudicated Fact 1110.

⁵⁹⁵³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619, 6721; Nusret Sivac, T. 19610 (28 September 2011). Sivac was first arrested on 10 June 1992 and taken to Omarska due to an administrative error because, in fact, his sister, Nusreta Sivac's, name was on the list instead of his. When the mistake was discovered, he was transported back to the Prijedor SJB Building and he returned home. Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6608–6609, 6614, 6721; Nusret Sivac, T. 19610 (28 September 2011). Nusreta Sivac turned herself in to the Prijedor SJB Building after being told to report there, but she never entered the building and was transported to Omarska the same day. Nusreta Sivac, T. 20401–20402 (26 October 2011); Nusreta Sivac, T. 20405 (26 October 2011) (private session).

⁵⁹⁵⁴ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6619–6620, 6623, 6626 (further explaining that Mahmuljin had been falsely accused of trying to kill a patient on Radio Prijedor prior to his arrest).

⁵⁹⁵⁵ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6620.

detainees with metal rods.⁵⁹⁵⁶ Following these beatings, the detainees were locked in the detention cell until they heard members of the intervention squad shout: “The doctor didn’t get enough”.⁵⁹⁵⁷ Members of the intervention squad then rushed into the cell and again beat the detainees.⁵⁹⁵⁸ One of the detainees was struck on the head with a metal rod.⁵⁹⁵⁹ Members of the intervention squad threatened to kill Mahmuljin and they beat him the worst.⁵⁹⁶⁰ At one point, he fainted and later it was confirmed that his left arm had been fractured in several places.⁵⁹⁶¹ That evening, the detainees were forced to board a police van and were taken to Omarska.⁵⁹⁶² Sivac and two other detainees had to drag Mahmuljin into the vehicle as he could not move after the beatings.⁵⁹⁶³

1745. Kerim Mešanović was arrested on the morning of 24 June 1992 and held in the detention cell with seven other detainees.⁵⁹⁶⁴ Later that day, one of the detainees, Nihad Basić, was taken out by the intervention squad, subjected to ethnic slurs, and beaten.⁵⁹⁶⁵ When he returned, he was covered in blood.⁵⁹⁶⁶ In the evening, the detainees were removed from the cell and lined up against the wall outside where they were searched again and forced to make a three-finger salute.⁵⁹⁶⁷ The detainees were then ordered to run a gauntlet formed by the intervention squad towards the police van.⁵⁹⁶⁸ Members of the intervention squad yelled ethnic slurs and beat the detainees as they

⁵⁹⁵⁶ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6620. The members of the intervention squad included Darko Mrda and Zoran Babić. Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6620. See also Adjudicated Facts 1110, 1113. However, Defence witness Dušan Janković testified that there was no gauntlet at the Prijedor SJB Building. Dušan Janković, T. 47286–47287 (18 February 2014). The Chamber does not find this evidence to be convincing. In reaching that conclusion, the Chamber considers that Janković contradicted himself and evaded questions on several occasions and that there is significant evidence before the Chamber which confirms that detainees were forced to run a gauntlet while held at the Prijedor SJB Building.

⁵⁹⁵⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6620–6621.

⁵⁹⁵⁸ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6620–6621.

⁵⁹⁵⁹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6621.

⁵⁹⁶⁰ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6621 (testifying that they threatened to kill Mahmuljin so that he would “never get a chance to kill Serb children again”).

⁵⁹⁶¹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6621 (testifying that Mahmuljin’s arm fracture was confirmed later by Dr. Sadiković when Sivac and Mahmuljin met him at Omarska).

⁵⁹⁶² Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6621. See also Adjudicated Fact 1112.

⁵⁹⁶³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6621.

⁵⁹⁶⁴ P3528 (Witness statement of Kerim Mešanović, undated), pp. 14, 23–26; KDZ026, T. 10313–10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1847–1849, 1851–1852 (under seal).

⁵⁹⁶⁵ KDZ026, T. 10314 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1850–1851 (under seal). However, Mešanović stated that no one was touched or called out of the cell until the evening. P3528 (Witness statement of Kerim Mešanović, undated), p. 24. See also Defence Final Brief, confidential, para. 1556. [REDACTED].

⁵⁹⁶⁶ KDZ026, T. 10314 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1850–1851 (under seal).

⁵⁹⁶⁷ P3528 (Witness statement of Kerim Mešanović, undated), pp. 24–25; KDZ026, T. 10314–10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1851 (under seal).

⁵⁹⁶⁸ KDZ026, T. 10314–10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1851 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), p. 25.

ran.⁵⁹⁶⁹ Mešanović fell and was kicked in the head, losing four teeth from the blows.⁵⁹⁷⁰ Once the detainees were seated in the van, they were so afraid that they held hands.⁵⁹⁷¹ This group of detainees was then transferred to Omarska on 24 June 1992 around 10 p.m.⁵⁹⁷²

1746. All of the non-Serb male detainees held at the Prijedor SJB Building were transferred either to Omarska or Keraterm camps.⁵⁹⁷³

(iii) Conclusion

1747. Based on the above, the Chamber finds that non-Serb civilians, including women and a minor, were detained at the Prijedor SJB Building by Bosnian Serb Forces between around 26 May and 24 June 1992. Detainees were held in a small cell for up to two days in poor conditions before being transferred to Omarska or Keraterm camps. The Chamber also finds that detainees were subjected to severe beatings by Bosnian Serb Forces.

(b) Scheduled Detention Facility C.20.2 and Scheduled Incident

B.15.2

1748. The Indictment refers to the use of Omarska as a detention facility in Prijedor municipality between 15 May and 21 August 1992. The Prosecution alleges that a number of people were killed at Omarska and at various places after they were taken from the camp between 27 May and 21 August 1992.

(i) Arrival of detainees and control over detention

facility

1749. The village of Omarska is located to the southeast of Prijedor town, on the train line to Banja Luka.⁵⁹⁷⁴ Omarska was located at the Ljubija iron-ore mine, about two kilometres to the south of Omarska village.⁵⁹⁷⁵ Omarska operated as a detention facility from 25 May 1992 until

⁵⁹⁶⁹ P3528 (Witness statement of Kerim Mešanović, undated), p. 25; KDZ026, T. 10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1851 (under seal).

⁵⁹⁷⁰ P3528 (Witness statement of Kerim Mešanović, undated), p. 25; KDZ026, T. 10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1851 (under seal).

⁵⁹⁷¹ KDZ026, T. 10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1851–1852 (under seal).

⁵⁹⁷² P3528 (Witness statement of Kerim Mešanović, undated), p. 26; KDZ026, T. 10314–10315 (17 January 2011) (closed session); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1852 (under seal).

⁵⁹⁷³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6608–6609 (testifying that on his first arrest, he was brought to the Prijedor SJB Building courtyard and then was transported to the Keraterm administration building); Mevludin Sejmenović, T. 20491–20492 (27 October 2011); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16727–16728 [REDACTED]. See Adjudicated Facts 1111, 1112.

⁵⁹⁷⁴ P569 (Map of Prijedor municipality).

⁵⁹⁷⁵ See Adjudicated Fact 1116; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3355; P536 (Photograph of model of Omarska); P543 (Aerial photograph of Omarska).

21 August 1992,⁵⁹⁷⁶ holding as many as 3,000 detainees at one time, primarily Bosnian Muslim and Bosnian Croat men.⁵⁹⁷⁷ Boys as young as 15 were detained at Omarska, as well as some elderly and physically and/or mentally impaired individuals.⁵⁹⁷⁸ In addition, approximately 40 women were held at Omarska; they were kept in the canteen during the day to help with the preparation of the food.⁵⁹⁷⁹ Prominent members of the Bosnian Muslim and Bosnian Croat local communities, including women involved in local affairs, were detained at Omarska.⁵⁹⁸⁰

1750. Detainees at Omarska were either transferred from other camps, such as Trnopolje or Keraterm, or were arrested in different areas of Prijedor municipality.⁵⁹⁸¹ Various buildings in the mine complex were used to house detainees, including a hangar, the largest of four buildings at the camp, the administration building, and two smaller structures, known as the “white house” and the “red house”, which was at the edge of the compound.⁵⁹⁸² To the north of the hangar and separated by an open concrete area, known as the “pista”, was the administration building, which contained a kitchen, an eating area, as well as sleeping quarters for female detainees, and offices upstairs used,

⁵⁹⁷⁶ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 30; P6585 (SRNA press release, 22 August 1992); see Adjudicated Facts 1116, 1124.

⁵⁹⁷⁷ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 30–31 (reporting that between 27 May and 16 August 1992, a total of 3,334 people were brought to Omarska); P5528 (Report of Prijedor SJB, June 1992), p. 5; Nusreta Sivac, T. 20406 (26 October 2011); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1897, 1902, 1904 (under seal); KDZ026, T. 10378 (17 January 2011) (closed session). See Adjudicated Facts 1117, 1118 (stating that the only Serb prisoners held at Omarska were said to have been there because they were “on the side of the Muslims”); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16751. But see Željko Mejakić, T. 44280 (29 November 2013) (testifying that the total number of people held at Omarska was 3,400, but that there was never a time when it held 3,000 people at one time).

⁵⁹⁷⁸ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6630–6633; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1904, 1908 (under seal). See also Adjudicated Facts 1119, 1122, 1182.

⁵⁹⁷⁹ Nusreta Sivac, T. 20406 (26 October 2011); see Adjudicated Facts 1117, 1119, 1167; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1899–1900 (under seal); KDZ026, T. 10319 (17 January 2011) (closed session). See also Miroslav Kvočka, T. 45601–45602 (20 January 2014); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16920.

⁵⁹⁸⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1903–1905 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 40–41. See Adjudicated Facts 1119, 1120, 1121, 1188. Prominent Bosnian Muslims and Bosnian Croats detained at Omarska included political leaders, such as Professor Muhamed Čehajić, the mayor of Prijedor prior to the take-over, members of the police, doctors, lawyers and judges, professors, and businessmen. KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1903–1905, 1909–1921 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6630, 6633–6634, 6680, 6684–6687; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 38–39, 57–58 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), p. 31; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3365–3370; Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3736–3737.

⁵⁹⁸¹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 9 (under seal); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2648 (under seal); Mevludin Sejmenović, T. 20492–20493 (27 October 2011); KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2316; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 12; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1848–1852 (under seal).

⁵⁹⁸² KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3410–3412; P543 (Aerial photograph of Omarska); P2091 (Video footage of Omarska and the white house); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6232; KDZ026, T. 10315–10317 (17 January 2011) (closed session); P2101 (Excerpt of documentary re Prijedor, with transcript) (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1926–1928 (under seal); P6593 (Aerial photograph of Omarska marked by Miroslav Kvočka); Miroslav Kvočka, T. 45603–45605 (20 January 2014). See Adjudicated Facts 1159, 1160.

inter alia, for interrogation.⁵⁹⁸³ There was also a small garage to the far north of the administration building and a grassy area to the west of the hangar.⁵⁹⁸⁴

1751. Omarska was established by the Prijedor Crisis Staff through a written order issued by Drljača on 31 May 1992.⁵⁹⁸⁵ As Chief of the SJB in Prijedor, Drljača ordered that security at the camp be provided by the Omarska SJB under the command of Omarska SJB commander Mejakić.⁵⁹⁸⁶ Dušan Janković was Mejakić's superior and was directly subordinated to Drljača and supervised the implementation of Drljača's 31 May 1992 order in Omarska.⁵⁹⁸⁷ Miroslav Kvočka, patrol sector leader in the Omarska SJB, was delegated the authority to activate the reserve police force in order to serve as guards in the camps.⁵⁹⁸⁸ Members of the VRS formed an external security ring around Omarska and members of the TO staffed posts in a second ring and were tasked with preventing unauthorised persons from entering the camp and ensuring that detainees did not escape.⁵⁹⁸⁹

⁵⁹⁸³ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3410; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1876–1877 (under seal); P543 (Aerial photograph of Omarska); D4413 (Diagram of administration building in Omarska); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6201, 6206–6208 (stating that female detainees were detained on the first floor of the “restaurant building” in the former offices). See P611 (Plan of first floor of restaurant building in Omarska marked by KDZ093) (on which KDZ093 marked with a “U” the room in which she slept in the restaurant building); Adjudicated Facts 1161, 1162 1163, 1166.

⁵⁹⁸⁴ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3410; P543 (Aerial photograph of Omarska); see Adjudicated Facts 1163, 1166.

⁵⁹⁸⁵ P2640 (Prijedor SJB report, 31 May 1992); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 3–4, 29, 32; P2637 (Report of Prijedor SJB, 1 July 1992); D4138 (Witness statement of Željko Mejakić dated 26 November 2013), pp. 3, 4; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 38; see Adjudicated Facts 1105, 1115, 1124, 1126, 1131. [REDACTED].

⁵⁹⁸⁶ P2640 (Prijedor SJB report, 31 May 1992), pp. 1–2; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), pp. 1, 6; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), paras. 6, 9, 38; KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16730–16731; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6616–6617; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 10 (under seal); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 29–30, 32; see Adjudicated Facts 1115, 1125, 1128, 1129, 1132, 1133. See also Željko Mejakić, T. 44215, 44232–44233 (29 November 2013); P5520 (List of individuals providing security at Omarska, 21 June 1992).

⁵⁹⁸⁷ D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), paras. 6, 9; Miroslav Kvočka, T. 45580 (20 January 2014); Dušan Janković, T. 47280–47282 (18 February 2014); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16745–16746. See also Adjudicated Fact 1130 (stating that Janković's duties in regard to implementing Drljača's order were to be carried out “in collaboration with the Banja Luka [CSB]”), 1131, 1132. But see Dušan Janković, T. 47275–47278 (18 February 2014) (testifying that the security of Omarska could not have been overseen by the police station in Omarska because there was no such police station, only a reserve police station; moreover, the administration at Omarska could only receive orders from the Crisis Staff or someone higher up than Drljača; and finally that he never visited Omarska personally and did not have any connection to Drljača's order). However, the Chamber does not find Janković's evidence on this issue to be reliable, in light of the accepted testimony of Kvočka, who was stationed at Omarska during the relevant period. In reaching this conclusion, the Chamber also considered that Janković's evidence in this regard was contradictory; he was also evasive and lacked sincerity.

⁵⁹⁸⁸ D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 9; see Adjudicated Facts 1133, 1134. See also D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), paras. 21–26.

⁵⁹⁸⁹ Željko Mejakić, T. 44232 (29 November 2013); D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 38; see Adjudicated Fact 1137.

1752. Drljača further ordered mixed teams of investigators, comprised of representatives from civilian public security, state security, and military security, to interrogate and categorise detainees at Omarska.⁵⁹⁹⁰ Mejakić and the heads of the interrogation teams reported to Drljača every day pursuant to his order.⁵⁹⁹¹

1753. Following interrogation, detainees were grouped into three categories.⁵⁹⁹² The first category was to be comprised of individuals who were suspected of “the gravest crimes” and who had directly organised or participated in “armed rebellion”.⁵⁹⁹³ However in practice, the first category also included intellectuals and political leaders from the Bosnian Muslim and Bosnian Croat communities.⁵⁹⁹⁴ The second category included individuals who had supported or assisted detainees in the first category in the armed rebellion, while the third category encompassed detainees who were of “no security interest”, or the “least guilty”, including women and children, and who were to be eventually released.⁵⁹⁹⁵

(ii) Conditions of detention

1754. Conditions at Omarska were appalling. The food was grossly insufficient, the medical care was inadequate, and the hygiene facilities were poor.⁵⁹⁹⁶ Some days, the detainees received no

⁵⁹⁹⁰ P2640 (Prijeđor SJB report, 31 May 1992), p. 1; see Adjudicated Facts 1126, 1128, 1162; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 3, 6, 29, 32. See also KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 2049 (under seal); KDZ026, T. 10386 (17 January 2011) (closed session). Drljača’s order assigned responsibility to co-ordinate the work of the investigators to Ranko Mijić, Mirko Ješić, and Lieutenant Colonel Majstorović. P2640 (Prijeđor SJB report, 31 May 1992), p. 1; see Adjudicated Fact 1127.

⁵⁹⁹¹ D4138 (Witness statement of Željko Mejakić dated 26 November 2013), paras. 18–19; Željko Mejakić, T. 44231–44232 (29 November 2013); see P2640 (Prijeđor SJB report, 31 May 1992), p. 3.

⁵⁹⁹² D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 30; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; see Adjudicated Fact 1120; Željko Mejakić, T. 44229 (29 November 2013); KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21106–21109 (under seal).

⁵⁹⁹³ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 30; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; [REDACTED].

⁵⁹⁹⁴ P3528 (Witness statement of Kerim Mešanović, undated), pp. 40–41, 54; Kerim Mešanović, T. 19852 (4 October 2011). See also Adjudicated Fact 1120; D4251 (List of persons detained at Omarska, 23 July 1992).

⁵⁹⁹⁵ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 4, 30; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; P3528 (Witness statement of Kerim Mešanović, undated), pp. 40–41; [REDACTED]. See also Adjudicated Fact 1120; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21107, 21119 (under seal).

⁵⁹⁹⁶ P3528 (Witness statement of Kerim Mešanović, undated), pp. 27, 49–50, 70–71; Mevludin Sejmenović, T. 20494–20495 (27 October 2011); KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2338–2339; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3370. See also Željko Mejakić, T. 44223–44224 (29 November 2013); Miroslav Kvočka, T. 45586, 45613–45614 (20 January 2014); D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 14; D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 54. But see Željko Mejakić, T. 44285–44286 (29 November 2013) (testifying that some medical care was offered at Omarska by one of the detainees, as well as another doctor who visited Omarska every day); D4388 (Witness statement of Momčilo Gruban dated 31 January 2014), para. 23 (stating that medical staff came to Omarska in order to disinfect detainees’ rooms); Momčilo Gruban, T. 47486 (20 February

food at all.⁵⁹⁹⁷ Groups of about 30 men at a time were taken to the canteen to receive their daily meal, and had to eat in under two minutes to avoid being beaten.⁵⁹⁹⁸ Nevertheless, detainees were often beaten in the canteen, to the point they could not walk and had to be carried.⁵⁹⁹⁹ Detainees often chose to skip meals in order to avoid the beatings that accompanied them.⁶⁰⁰⁰ Sejmenović recounted how the arms of a 13 year old boy were broken so badly that he had to be carried into the canteen and fed by other detainees.⁶⁰⁰¹ Many detainees lost between 20 to 30 kilograms during their detention, others lost considerably more.⁶⁰⁰² Serb nationalist songs were loudly and continuously played over speakers.⁶⁰⁰³ Detainees were denied drinking water for long periods and when water was provided, it was not potable.⁶⁰⁰⁴ This caused the detainees intestinal problems.⁶⁰⁰⁵

1755. The detainees had only occasional access to water for washing, and were given no soap or toothpaste, or any change of clothing.⁶⁰⁰⁶ Their access to toilet facilities was also limited, depending on which room they were held in; detainees had to wait hours before being allowed to use them, and sometimes risked being beaten if they asked.⁶⁰⁰⁷ Detainees were often forced to excrete and urinate in their rooms.⁶⁰⁰⁸ Skin diseases were prevalent as well as acute cases of diarrhoea and dysentery.⁶⁰⁰⁹ Some detainees were able to receive personal items from their families outside the camp, through individual guards, but these cases were rare.⁶⁰¹⁰

2014) (testifying that there was a physician and nurse available at Omarska and medical assistance was provided when people requested it).

⁵⁹⁹⁷ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2338–2339; Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7940; see Adjudicated Fact 1143.

⁵⁹⁹⁸ P3528 (Witness statement of Kerim Mešanović, undated), pp. 27, 49–50, 70–71; KDZ026, T. 10317–10318, 10378–10380 (17 January 2011) (closed session); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 60–61 (under seal); Nusreta Sivac, T. 20429 (27 October 2011); P3779 (Excerpt from ITN video clip of canteen at Omarska); P3543 (Excerpt from video clip of visits to Omarska and Trnopolje, with transcript); see Adjudicated Facts 1141, 1142; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6680–6681.

⁵⁹⁹⁹ Mevludin Sejmenović, T. 20495 (27 October 2011).

⁶⁰⁰⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1897 (under seal); see Adjudicated Fact 1144.

⁶⁰⁰¹ Mevludin Sejmenović, T. 20495 (27 October 2011).

⁶⁰⁰² KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3370; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1881 (under seal); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2750 (under seal); see Adjudicated Fact 1145.

⁶⁰⁰³ Mevludin Sejmenović, T. 20495 (27 October 2011).

⁶⁰⁰⁴ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6642; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 58 (under seal). See also Adjudicated Facts 1146, 1147.

⁶⁰⁰⁵ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6642. See also Adjudicated Fact 1147.

⁶⁰⁰⁶ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1886 (under seal); KDZ026, T. 10318 (17 January 2011) (closed session).

⁶⁰⁰⁷ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1877, 1886 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 27, 70; Željko Mejakić, T. 44223, 44230 (29 November 2013); Miroslav Kvočka, T. 45586, (20 January 2014); see Adjudicated Fact 1148.

⁶⁰⁰⁸ Adjudicated Fact 1148.

⁶⁰⁰⁹ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6642. See Adjudicated Fact 1149.

⁶⁰¹⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1886 (under seal).

1756. The rooms at Omarska were extremely crowded; sometimes 200 to 300 detainees were confined in rooms that were too small.⁶⁰¹¹ Around 29 May 1992, 120 detainees were transferred to the camp from the Benkovac military barracks and crammed into a garage for several days; two young men suffocated to death as a result.⁶⁰¹² Detainees were also crowded together in the lavatories where they were packed one on top of the other and often had to lie in the midst of excrement.⁶⁰¹³ The crowded and overflowing rooms at Omarska were stifling in the summer heat and guards often refused to open windows or demanded that detainees pay them with one of their possessions in exchange for opening a window or obtaining a glass of water.⁶⁰¹⁴

(iii) Treatment of detainees

Beatings and killings

1757. Upon arriving at Omarska in buses, the guards on duty approached the detainees, demanded all of their belongings, verbally abused them, and then beat them, sometimes to death.⁶⁰¹⁵ On one occasion, the guards who escorted one of the arriving buses formed a gauntlet through which the detainees had to pass while being beaten and forced to sing nationalist songs.⁶⁰¹⁶ The detainees were then escorted to the “pista”, to rooms in the hangar, or in the majority of cases, to the white house, and were often beaten on the way.⁶⁰¹⁷ Kvočka, Drago Prać, Mladen Radić, or “Krkan”, a

⁶⁰¹¹ P3528 (Witness statement of Kerim Mešanović, undated), p. 26; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1875–1877 (under seal); see Adjudicated Fact 1139.

⁶⁰¹² See Adjudicated Fact 1172.

⁶⁰¹³ See Adjudicated Fact 1139.

⁶⁰¹⁴ See Adjudicated Fact 1140. However, Momčilo Gruban testified that (i) the conditions at Omarska were humane under the circumstances; (ii) the detainees had access to water, toilets, and showers; (iii) they received sufficient food, including the same food eaten by the guards; and (iv) detainees did not fear ill-treatment. D4388 (Witness statement of Momčilo Gruban dated 31 January 2014), paras. 8, 16–23. The Chamber does not find Gruban’s evidence to be credible in this regard. In reaching that conclusion, the Chamber considers that he was not forthright with the Chamber on several occasions and that due to his involvement at Omarska, he had an interest in distancing himself from any knowledge of conditions there.

⁶⁰¹⁵ P3528 (Witness statement of Kerim Mešanović, undated), pp. 51–52; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 37–40 (under seal); Mevludin Sejmenović, T. 20492–20493 (27 October 2011); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6201. See also Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6612–6614; Miroslav Kvočka, T. 45584–45585 (20 January 2014); Adjudicated Fact 1138.

⁶⁰¹⁶ P3528 (Witness statement of Kerim Mešanović, undated), pp. 51–52; D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 64 (stating that it was members of the MP who accompanied the detainees on the buses and later formed the gauntlet); see Adjudicated Fact 1156 (stating that Krkan in fact organised the gauntlet of guards who beat detainees on one occasion).

⁶⁰¹⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 37–38 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 51–52; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2649–2651, 2653, 2655 (under seal).

shift commander at Omarska, and Milojica Kos, or “Krlle”, a shift leader, were often present during these beatings.⁶⁰¹⁸ They did nothing to prevent them.⁶⁰¹⁹

1758. Several non-Serb detainees arrived at Omarska after being held in the same cell at the Prijedor SJB Building earlier that day. When they arrived, they were made to line up against a wall, where they were beaten and insulted.⁶⁰²⁰ They were then taken to the white house and put in a small room, which was already crowded with about 60 to 70 men.⁶⁰²¹ All the men were extremely frightened and were not allowed to speak.⁶⁰²²

1759. Other detainees were immediately brought to an office in the administration building and interrogated upon arrival.⁶⁰²³ For example, upon Sejmenović’s arrival at Omarska from Trnopolje, an inspector from the Prijedor SJB, Dragan Radaković, interrogated him.⁶⁰²⁴ On the third day of questioning, two inspectors from Banja Luka arrived and questioned him for about an hour.⁶⁰²⁵ When Nusreta Sivac arrived at Omarska, she was immediately taken to the reception office of the administration building where Mejakić, Kvočka, Krlle, and others were waiting.⁶⁰²⁶ She was then interrogated by Nenad Babić and Nenad Tomčić about her involvement in implementing the referendum for a sovereign BiH.⁶⁰²⁷

1760. While in detention, beatings of detainees were frequent.⁶⁰²⁸ It was commonplace for detainees to be called out during the night by the guards.⁶⁰²⁹ Indeed, it was the nights that were most feared by the detainees for this reason.⁶⁰³⁰ In addition, detainees were beaten constantly by

⁶⁰¹⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 37–39, 43 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), p. 51. *See also* Adjudicated Fact 1156.

⁶⁰¹⁹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 37–39, 43 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), p. 51. *See also* Adjudicated Fact 1156.

⁶⁰²⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1869 (under seal).

⁶⁰²¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1869–1870, 1875 (under seal). *See also* KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2316; P711 (Witness statement of KDZ074 dated 23 September 1994), e-court p. 12.

⁶⁰²² KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1870 (under seal).

⁶⁰²³ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 9–10 (under seal). *See also* Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6612, 6614.

⁶⁰²⁴ Mevludin Sejmenović, T. 20492–20494 (27 October 2011).

⁶⁰²⁵ Mevludin Sejmenović, T. 20493 (27 October 2011).

⁶⁰²⁶ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 9–10, 26 (under seal).

⁶⁰²⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 32–33 (under seal).

⁶⁰²⁸ P3528 (Witness statement of Kerim Mešanović, undated), pp. 27–28; KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2657–2663, 2744–2749 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6680–6682; KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6201–6203; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 28–30, 32 (under seal); Željko Mejakić, T. 44225–44226, 44240–44241 (29 November 2013). *See also* Adjudicated Facts 1150, 1151, 1154, 1155.

⁶⁰²⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1873 (under seal); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2744–2749 (under seal).

⁶⁰³⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1887–1888, 1906 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 27–28.

the guards, at the slightest perceived provocation, and some were beaten to death.⁶⁰³¹ KDZ392 was beaten on numerous occasions during his detention at Omarska.⁶⁰³² At one point, KDZ392 and his father were beaten two days in a row by Dušan Knežević, a.k.a “Duca”, and Zoran Žigić. Afterwards, his father was singled out and beaten more severely.⁶⁰³³ KDZ392’s father was left deformed and in severe pain and as a result of the beatings, he died the next morning.⁶⁰³⁴ His body was taken away in a dark blue police van.⁶⁰³⁵

1761. One room in the white house was reserved for brutal assaults on prisoners, who were often stripped, beaten, kicked, and otherwise abused; many detainees died as a result of these repeated assaults on them in the white house.⁶⁰³⁶

1762. Between 600 and 700 detainees at a time were held outside in the “pista” area of Omarska for prolonged periods.⁶⁰³⁷ The detainees had to sit, and sometimes lie, on the ground, with machine-guns pointed at them.⁶⁰³⁸ While on the “pista”, KDZ026 witnessed the guards forcing a young mentally handicapped detainee by the name of Crnalić to drink motor oil. He then heard gunfire and the young man was not seen again.⁶⁰³⁹ The Chamber is satisfied that this detainee was killed in this incident. On 10 June 1992, Nusreta Sivac saw Žigić call out the names of three male detainees on the “pista”; when these three men finally returned, they were swollen, covered in bruises, and their “faces were completely distorted”.⁶⁰⁴⁰

1763. Detainees were also severely beaten during interrogations.⁶⁰⁴¹ Detainees brought to the red house for interrogation were often killed.⁶⁰⁴² KDZ093 testified that in July 1992, she saw men,

⁶⁰³¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1883–1884 (under seal). See also KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2728–2729, 2744–2749 (under seal); Adjudicated Fact 1155 (stating that on religious holidays or if the relative of a guard was killed in the battlefield, beatings intensified).

⁶⁰³² KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2657–2663, 2744–2749 (under seal).

⁶⁰³³ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2661–2663, 2730–2737, 2744–2751, 2761–2764, 2770–2771 (under seal) (testifying that both Knežević and Žigić wore camouflage “military” uniforms).

⁶⁰³⁴ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2737–2740 (under seal).

⁶⁰³⁵ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2740–2741 (under seal).

⁶⁰³⁶ Adjudicated Facts 1175, 1176.

⁶⁰³⁷ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1876–1877 (under seal). See Adjudicated Facts 1164, 1165.

⁶⁰³⁸ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1876–1877, 1885 (under seal). See Adjudicated Facts 1164, 1165.

⁶⁰³⁹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1908 (under seal).

⁶⁰⁴⁰ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 52–53 (under seal).

⁶⁰⁴¹ P3528 (Witness statement of Kerim Mešanović, undated), pp. 35–36; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1883, 1917–1918 (under seal); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2661–2662 (under seal); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3356–3357; Željko Mejakić, T. 44224–44225 (29 November 2013). See Adjudicated Facts 1150, 1151. See also P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 31–32, 38 (under seal); KDZ523, T. 23358–23359 (19 January 2012) (closed session); D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), paras. 62–63.

including a Muslim or Croat doctor and a Muslim teacher she recognised, being called out from an area in the restaurant building in Omarska called the “glass house”.⁶⁰⁴³ They were taken to the red house and later that night, KDZ093 heard gunfire and guards cursing, using the words “Ustashas” and “balijas”.⁶⁰⁴⁴

1764. After their interrogation, detainees were often made to sign false statements regarding their involvement in acts against Serbs.⁶⁰⁴⁵ Detainees were also ordered to beat other detainees.⁶⁰⁴⁶ They were humiliated in front of other detainees, forced to sing Serbian nationalist songs, make the three fingered Serbian sign, and were subjected to ethnic slurs by the camp guards.⁶⁰⁴⁷ On one occasion, on a Serb holiday, guards at the camp got drunk, set fire to rubber tires, and threw Smail Duratović, a well-known Bosnian Muslim athlete, into the fire, along with at least nine other detainees.⁶⁰⁴⁸ Detainees, including female detainees, were regularly threatened with death.⁶⁰⁴⁹ At one point during his detention in Omarska, KDZ026 was told by two guards that his name was on a list of detainees to be “liquidated”, but that he would be saved if he gave them money.⁶⁰⁵⁰

1765. The beatings were administered by camp guards at Omarska, including Milutin Popović, a.k.a. “Pop”, and Žarko Marmat,⁶⁰⁵¹ as well as by individuals from outside the camp who were permitted to enter and mistreat detainees, including Žigić and Knežević.⁶⁰⁵² Detainees feared these

⁶⁰⁴² See Adjudicated Fact 1179.

⁶⁰⁴³ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6230–6232.

⁶⁰⁴⁴ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6232.

⁶⁰⁴⁵ See Adjudicated Fact 1152.

⁶⁰⁴⁶ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2733, 2771 (under seal).

⁶⁰⁴⁷ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2737 (under seal) (testifying that after being beaten, his father was forced to lick his own blood); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6640–6641, 6644; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 11, 19–21, 30 (under seal); Željko Mejakić, T. 44224–44225 (29 November 2013). See also Adjudicated Facts 1135, 1169; 1171, 1182. But see Milorad Sajić, T. 44162–44164 (27 November 2013) (testifying that Radić told him that detainees at Omarska raised three fingers and sang songs about Serbia during a delegation visit at the camp, but that the detainees did these things spontaneously and he was not told that they were forced to do so); D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 57.

⁶⁰⁴⁸ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6682–6683 (testifying that Duratović managed to escape the fire, but was badly burned); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3357–3359 (testifying that one man who was thrown into the fire was never seen after this incident).

⁶⁰⁴⁹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 30 (under seal); KDZ026, T. 10320–10321 (17 January 2011) (closed session). See also Adjudicated Fact 1170.

⁶⁰⁵⁰ KDZ026, T. 10320–10321 (17 January 2011) (closed session) (testifying that the guards demanded 10,000 German marks but when KDZ026 protested that he did not have access to that amount of money, they suggested the sum of 3,000 marks and KDZ026 managed to send letters to his wife asking her to try to get the money; however, she was unable to raise enough money). See also P2094 (KDZ026’s letters from Omarska) (under seal).

⁶⁰⁵¹ P3528 (Witness statement of Kerim Mešanović, undated), pp. 34–35, 49–52; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 28, 38–40 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1883–1884 (under seal). See Adjudicated Fact 1154.

⁶⁰⁵² KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2728–2729, 2731–2737 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 40–41, 52–53 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1885 (under seal); D4138 (Witness statement of Željko Mejakić dated

outside individuals even more than the camp guards, as the beatings were worse when they appeared; the detainees were beaten with a variety of sticks, iron bars, and lengths of heavy electric cable, sometimes with nails embedded in them to pierce the detainees' skin.⁶⁰⁵³ They were also attacked with knives.⁶⁰⁵⁴ Members of the intervention squad also mistreated detainees at Omarska.⁶⁰⁵⁵

1766. Prominent Bosnian Muslim and Bosnian Croat political leaders, including SDA officials and members, as well as doctors, professionals, and police, were among the individuals most often mistreated and killed at Omarska.⁶⁰⁵⁶ Detainees frequently saw dead bodies on the lawn in front of or near the white house.⁶⁰⁵⁷ The detainees witnessed bodies being taken away by truck and they could also hear the sounds of earth-moving equipment in the vicinity of the camp.⁶⁰⁵⁸ Detainees were required to clean the white house and the red house and they often found hair, teeth, skin, blood, clothes, footwear and empty pistol cartridges.⁶⁰⁵⁹ Camp guards also forced detainees to load

26 November 2013), para. 15; Željko Mejakić, T. 44233–44235 (29 November 2013); D4219 (Witness statement of Miroslav Kvočka dated 17 January 2014), para. 57. *See* Adjudicated Facts 1153, 1157, 1158, 1173. *But see* D4388 (Witness statement of Momčilo Gruban dated 31 January 2014, paras. 25, 31 (stating that although no such beatings occurred in his presence, there were some cases of individual armed groups from the outside getting in to the camp and mistreating the detainees; however, these groups were armed and the guards at Omarska were not able to resist them because of low numbers).

⁶⁰⁵³ *See* Adjudicated Facts 1153, 1173.

⁶⁰⁵⁴ *See* Adjudicated Fact 1173.

⁶⁰⁵⁵ D4139 (Report of Prijedor SJB, 13 June 1992); D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 15; Željko Mejakić, T. 44218–44220 (29 November 2013). *See also* Adjudicated Fact 2487.

⁶⁰⁵⁶ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1909–1915, 1917–1921 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6629–6630; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 24–25 (under seal) (stating that Prcać and other guards called people, usually high-ranking members of the SDA or HDZ, out from lists and they were never seen again); P3528 (Witness statement of Kerim Mešanović, undated), pp. 40–41, 54; Kerim Mešanović, T. 19852 (4 October 2011); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3365–3368. *See also* Adjudicated Fact 1120. On 27 July 1992, Professor Muhamed Cehajić, an SDA official and the former mayor and president of the Prijedor Municipal Assembly, was humiliated, mistreated, and disappeared. Zlatan Besirević, the director of the Bosna Montaza company in Prijedor, was called out one day and never returned; Dr. Sadiković was also called out one night and taken away by bus with detainees who had been held in Keraterm, none of whom were seen again. Fikret Mujidžić and Camil Pezo were severely beaten and both subsequently died from their injuries. Similarly, Idriz Jakupović was severely beaten and then taken out and disappeared one night. Mustafa Crnalić, Burhurudin Kapetanović, Abdulah Puskar, Ziko Crnalić and his son, Zijad Mahmuljin, Osman Mahmuljin, Alessandra Komsić, Esref Crnkić, Nedžad Serić, Omere Kerenović, Esad Mehmedagić, Mustafa Tadzić, Mehmedalija Kapetanović, Asaf Kapetanović, Rufat Suljanović, Ibrahim Okanović, Bajram Zgog, Senad Mujkanović, Kadir Mujkaonović, Fikret Mujakić, Islam Bahonjić, Meho Tursić, Hamdija Balić, and Huseain Crnkić were called out at night and never returned. [REDACTED].

⁶⁰⁵⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 41–42 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1902 (under seal); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6204–6205. *See* P610 (Photograph of model of Omarska marked by KDZ093) (on which KDZ093 marked the areas where she saw the bodies outside of the white house); Adjudicated Fact 1178.

⁶⁰⁵⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 42–43 (under seal); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1902 (under seal); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6232–6233; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3370–3371.

⁶⁰⁵⁹ *See* Adjudicated Facts 1176, 1180.

onto trucks dead bodies of detainees who had been killed in the white and red houses.⁶⁰⁶⁰ As a result, the detainees constantly lived in fear of being killed at any time.⁶⁰⁶¹

1767. Detainees were also taken from Omarska and killed outside the camp.⁶⁰⁶² In late July 1992, 46 detainees, including two female detainees, were taken out of Omarska, put on a bus, and told that they would be exchanged in the direction of Bosanska Krupa.⁶⁰⁶³ They were never seen again.⁶⁰⁶⁴ The Chamber finds that these 46 detainees were killed after being taken out of Omarska in late July 1992.

1768. In addition, the Chamber received forensic evidence to support the deaths of some identified individuals who were detained at Omarska between 25 May 1992 and 21 August 1992.⁶⁰⁶⁵

⁶⁰⁶⁰ See Adjudicated Facts 1178, 1181.

⁶⁰⁶¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1905 (under seal).

⁶⁰⁶² [REDACTED].

⁶⁰⁶³ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2741, 2743–2744 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 46–47 (under seal) (stating that two female detainees, Edna Dautović and Sadeta Medunjanin, were called out one day by Mejakić and informed that they were going to be exchanged; they boarded a bus with other people which said “Šešelj Private Driving School” and had Bihać plates, and were never seen again until their bodies were exhumed in 2000 from a mass grave in Bosanska Krupa municipality); Željko Mejakić, T. 44257–44258 (29 November 2013) (confirming that he was present when 44 men and two women were called out from a list brought to the camp by Drljača’s driver and put on a bus and that the bodies of all of these detainees were exhumed from a mass grave in Jama Lisac in Bosanska Krupa). See also Adjudicated Fact 1186.

⁶⁰⁶⁴ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2741, 2743–2744 (under seal); P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 46–47 (under seal). See also Adjudicated Fact 1186.

⁶⁰⁶⁵ P4410 (Death certificates from Prijedor) (confirming the deaths of 21 identified individuals at Omarska between 3 June and 20 August 1992); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 14–15, 18–20, 22–32, 37–41; P5909 (Bihać MUP identification reports concerning Stari Kevljani mass grave, 30 June 2005), pp. 5, 7, 10–18, 20, 22–24, 29–36, 38–42, 45, 47–57, 59, 61–67 (confirming that 73 identified individuals who went missing from Omarska were exhumed from the Stari Kevljani mass grave); P4892 (BiH State Commission for Tracing Missing Persons list of exhumed persons from Prijedor, Čelinac, Bosanski Novi, 29 October 2002) (confirming two individuals who went missing from Omarska and were exhumed from Jakarina Kosa mass grave). See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 8–9; P4893 (Bihać MUP report on Stari Kevljani exhumation, 18 January 2004); P4890 (BiH State Commission for Tracing Missing Persons report on Jama Lisac exhumation, 20–28 June 2000); P4891 (Bihać Cantonal Court record of exhumation at Jama Lisac, 11 July 2000); P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 34–43 (under seal); Nicolas Sébire, P694 (Transcript from *Prosecutor v. Stakić*), T. 7370–7371; Nicolas Sébire, P694 (Transcript from *Prosecutor v. Brđanin*), T. 16699; Adjudicated Fact 1186 (stating that during the exhumation in Jama Lisac, 56 bodies were found and most of them died from gunshot injuries; DNA analysis allowed the investigators to identify the bodies of Sureta Medunjanin, the wife of Bećir Medunjanin, and Ekrem Alić and Smal Alić, who were last seen in Omarska). The Chamber notes that Adjudicated Fact 1186, which is based on Sébire’s testimony in the *Stakić* case, refers to the name “Sureta” Medunjanin as the wife of Bećir Medunjanin and one of the individuals who was exhumed in Jama Lisac; however based on the other evidence before it, including Sébire’s subsequent testimony in the *Brđanin* case, the Chamber considers that this was an error and is satisfied that the individual’s name is “Sadeta” Medunjanin. See Nicolas Sébire, P694 (Transcript from *Prosecutor v. Brđanin*), T. 16699; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), p. 37 (under seal).

Sexual violence

1769. At Omarska, there were frequent incidents of female detainees who were called out of their rooms by different guards, as well as the camp commander, and were raped or sexually assaulted.⁶⁰⁶⁶ On one occasion, Krkan called a female detainee into his office and told her that he knew high-ranking military officials and could help her if she had sexual intercourse with him.⁶⁰⁶⁷ Nedeljko Grabovac, a.k.a. “Kapitan”, who stayed at Omarska for only a short period and wore an olive uniform similar to the former JNA uniform, also sexually assaulted female detainees.⁶⁰⁶⁸

1770. KDZ093 testified that several times during her detention at Omarska, she was called out at night and during the day, by the same guard, and taken to another room in the restaurant building where she was raped by this guard; afterwards, several other men entered the room and raped her repeatedly.⁶⁰⁶⁹

1771. Guards at Omarska also attempted to force a male detainee to rape another female detainee.⁶⁰⁷⁰ On the night of 26 June 1992, a detainee heard some guards laughing, the voice of a young woman crying, and a man he recognised as Mehmedalija Sarajlić pleading with the guards.⁶⁰⁷¹ Sarajlić was told by the guards to rape the young woman and when he refused he was beaten.⁶⁰⁷² The next morning, the detainee saw Sarajlić’s body lying outside, not far from the white house.⁶⁰⁷³

1772. Female detainees were also physically assaulted at Omarska. On one occasion, a man, wearing a camouflage uniform and a cap with a cockade symbol on it, entered the restaurant and started shouting and hitting a Bosnian Muslim female prisoner sitting at a table; he then carved a cross on her cheek and she started to bleed.⁶⁰⁷⁴ On another occasion, a guard approached a female

⁶⁰⁶⁶ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 34, 47–51 (under seal); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6226, 6228–6230. See also Adjudicated Fact 1168. But see D4388 (Witness statement of Momčilo Gruban dated 31 January 2014), para. 29 (stating that there were no such cases of rape or sexual assault of female detainees during his shifts and he did not hear that such things took place during other shifts). The Chamber does not find Gruban’s evidence to be credible in this regard. In reaching that conclusion, the Chamber refers to its earlier assessment in fn. 6014 regarding the credibility of Gruban.

⁶⁰⁶⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 34, 47–49 (under seal).

⁶⁰⁶⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 49–51 (under seal).

⁶⁰⁶⁹ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6226, 6228–6229 (testifying that she did not know the name of the guard); see P611 (Plan of first floor of restaurant building in Omarska marked by KDZ093) (on which KDZ093 marked with a “U” the room in which she was raped at night, number B1).

⁶⁰⁷⁰ [REDACTED]. See also Adjudicated Fact 1183.

⁶⁰⁷¹ [REDACTED]. See also Adjudicated Fact 1183.

⁶⁰⁷² [REDACTED]. See also Adjudicated Fact 1183.

⁶⁰⁷³ [REDACTED]. See also Adjudicated Fact 1183.

⁶⁰⁷⁴ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 40–41 (under seal); Nusreta Sivac, T. 20413–20414 (26 October 2011) (private session).

detainee in the restaurant, uncovered her breast and took out a knife and went over her breast with it for several minutes, while other guards watched laughing.⁶⁰⁷⁵

1773. Female detainees were made to work in the canteen at Omarska.⁶⁰⁷⁶ On one occasion, Milorad Tadić, a.k.a. “Brk”, Mejakić’s driver and bodyguard, entered the kitchen and shouted at the women for giving prisoners more bread than permitted; he ordered them to face the wall with their hands up for 40 minutes, then laughed, and said it was a “warning” and he would shoot them if they gave out too much bread again.⁶⁰⁷⁷ After completing their work duty during the day, the women would clean the interrogation rooms in the evening; they found blood on the floors and walls, traces of torn clothing, and various devices, such as batons, with traces of blood as well.⁶⁰⁷⁸

Conclusion on conditions of detention and treatment of detainees

1774. Based on the above, the Chamber finds that non-Serbs, including civilians, were transferred to and detained at Omarska by Serb Forces between 25 May 1992 and 21 August 1992. The detainees were held in poor conditions characterised by lack of space, poor sanitary conditions, inadequate medical care, and insufficient food. The Chamber finds that the male detainees at Omarska were subjected to severe beatings by Serb Forces. The Chamber also finds that a number of Bosnian Muslim women detained at Omarska were subjected to acts of sexual violence by Serb Forces and were forced to work.⁶⁰⁷⁹ Finally, the Chamber finds that a large number of non-Serbs were killed by Serb Forces at Omarska, or after they were taken from the camp, between 25 May 1992 and 21 August 1992.⁶⁰⁸⁰

(iv) Scheduled Incident B.15.3

1775. The Indictment refers to the killing of a number of men and women taken from Omarska in the area called Hrastova Glavica on or about 5 August 1992.⁶⁰⁸¹

1776. On 5 August 1992, two bus loads of approximately 120 detainees from Keraterm were brought to Omarska.⁶⁰⁸² Dr. Esad Sadiković, who was regarded by other detainees as a “moral and

⁶⁰⁷⁵ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), p. 41 (under seal).

⁶⁰⁷⁶ Nusreta Sivac, T. 20429 (27 October 2011).

⁶⁰⁷⁷ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 30–31 (under seal).

⁶⁰⁷⁸ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 31–32 (under seal).

⁶⁰⁷⁹ However, the Chamber notes that this type of forced labour is not charged in the Indictment, which only covers forced labour at the frontlines.

⁶⁰⁸⁰ This finding does not include the persons alleged to have been killed in Scheduled Incidents B.15.3 and B.15.4, which are discussed below.

⁶⁰⁸¹ See Indictment, Scheduled Incident B.15.3, fn. 5 (wherein the Prosecution alleges that detainees from Keraterm were among the victims of Scheduled Incident B.15.3).

spiritual authority” at the camp, was called out by Prača that night and he was made to board one of the buses along with the other detainees from Keraterm already on the buses; they left Omarska in the direction of Sanski Most.⁶⁰⁸³

1777. The Chamber took judicial notice that on the way to Sanski Most, unidentified Bosnian Serbs shot dead a number of the detainees being transported on the buses.⁶⁰⁸⁴ The bodies of 126 individuals were later found in an area called Hrastova Glavica and 46 individuals were identified.⁶⁰⁸⁵ For 121 of the 126 bodies, the forensic experts determined that the cause of death was a gunshot wound.⁶⁰⁸⁶

1778. Based on the above, the Chamber finds that approximately 120 non-Serb civilians taken from Keraterm and Omarska were killed by Serb Forces on or about 5 August 1992 in the area of Hrastova Glavica.

(v) Scheduled Incident B.15.4

1779. The Indictment refers to the execution of over 150 men from the Brdo region of Prijedor at Omarska on or about 20 July 1992.

1780. On 16 July 1992, a group of about 200 people from the Brdo area, including Hambarine, were brought to Omarska in buses and detained in the white house.⁶⁰⁸⁷ In the middle of the night, KDZ048 heard gunshots and saw a number of dead and wounded people lying in front of the white

⁶⁰⁸² KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2522–2523, 2527, 2531–2532; P1949 (Excerpt from KDZ050’s witness statement dated 19 November 2000) (providing a list of about 60 names of men he knew who were taken from Keraterm on two buses and stating that he heard from other detainees that these men were first taken to Omarska); Željko Mejakić, T. 44258 (29 November 2013) (confirming that two busloads of detainees from Keraterm were brought to Omarska on the afternoon of 5 August 1992). *See also* Adjudicated Fact 1220.

⁶⁰⁸³ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6686–6687; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1837–1838 (under seal); KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2522; Željko Mejakić, T. 44258 (29 November 2013). *See also* Adjudicated Facts 1188, 1220; fn. 6056.

⁶⁰⁸⁴ *See* Adjudicated Fact 1220. *See also* P4887 (Bihać Cantonal Court record of Hrastova Glavica exhumation, 7 December 1998), p. 2.

⁶⁰⁸⁵ P4887 (Bihać Cantonal Court record of Hrastova Glavica exhumation, 7 December 1998), pp. 2, 8–9; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 32–33 (under seal); P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 7–8; P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 42–44; P4414 (Death certificate for Ismet Avdić). KDZ050 subsequently identified the bodies of some of the 120 men who were taken away in the two buses on 5 August 1992, which were recovered from Hrastova Glavica in Sanski Most. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2522–2523, 2527–2528, 2531–2532; P1949 (Excerpt from KDZ050’s witness statement dated 19 November 2000). *See also* Željko Mejakić, T. 44258–44259 (29 November 2013); Adjudicated Facts 1220, 1221.

⁶⁰⁸⁶ P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 32–33 (under seal). *See also* Adjudicated Fact 1222.

⁶⁰⁸⁷ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3359–3361; P3528 (Witness statement of Kerim Mešanović, undated), p. 56; Nusret Sivac, T. 19529–19530 (28 September 2011). *See also* Adjudicated Facts 1185, 1191.

house.⁶⁰⁸⁸ He then saw camp guards, including Zivko Marmat, firing one additional shot into the heads of each of these people.⁶⁰⁸⁹ A truck arrived, and detainees held in the hangar were given the task of loading the bodies on to the truck, which was then driven away.⁶⁰⁹⁰ The truck returned several times to be re-loaded and KDZ048 estimated that there were about 180 bodies in total.⁶⁰⁹¹ All of the detainees held in the white house were killed that night and it was empty the following day.⁶⁰⁹²

1781. Based on the totality of the evidence before it, the Chamber therefore finds that at least 150 non-Serb detainees from the Brdo region were killed by Serb Forces on or around 20 July 1992 at Omarska.

(vi) Visits to Omarska and transfer of detainees

1782. On or around 15 July 1992, a high-ranking delegation from Banja Luka and Prijedor, including Brđanin, Kuprešanin, Župljanin, Stakić, Radoslav Vujić, Predrag Radić, and Talić, visited Omarska and were received by Drljača and Mejakić.⁶⁰⁹³ Nusreta Sivac and other women watched the delegation arrive through the glass walls of the canteen at Omarska; a choir of detainees—“living skeletons”—had been lined up outside the canteen and they sang Chetnik songs and gave the three finger Serbian salute as the delegation passed by.⁶⁰⁹⁴

1783. According to Mejakić, Drljača then met with the delegation in the administration building without Mejakić present, where Župljanin denounced the camp and asked that it be dismantled

⁶⁰⁸⁸ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3360–3361. See also Adjudicated Fact 1185.

⁶⁰⁸⁹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3360. See also Adjudicated Fact 1185.

⁶⁰⁹⁰ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3360–3362; P3528 (Witness statement of Kerim Mešanović, undated), pp. 55–56. See also Adjudicated Fact 1185.

⁶⁰⁹¹ KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3362; P3528 (Witness statement of Kerim Mešanović, undated), p. 56. See also Adjudicated Fact 1185.

⁶⁰⁹² P3528 (Witness statement of Kerim Mešanović, undated), p. 56. However, Mejakić gave evidence that crimes in Prijedor were “fabricated and attributed to Serbs under RS leadership”. According to him, this includes the killing of 3,500 civilians at Omarska and, in particular, the killing of a group of 250 detainees brought in from the Brdo area; he stated that this incident was fabricated and is not supported by evidence. D4138 (Witness statement of Željko Mejakić dated 26 November 2013), pp. 3–4. However, the Chamber does not find Mejakić’s evidence to be reliable on this issue in light of the other evidence before the Chamber regarding this incident.

⁶⁰⁹³ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 10–22 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6639–6641; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), p. 10; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7437–7438; [REDACTED]. See also P6465 (Photograph of model of Omarska marked by Nusreta Sivac); P11 (Article from *Kozarski Vjesnik*, entitled “Krajina Representatives in Prijedor”, 17 July 1992), p. 1; P3482 (Article from *Kozarski Vjesnik*, entitled “It’s Difficult for Everyone”, 17 July 1992); Adjudicated Fact 1135.

⁶⁰⁹⁴ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 10–11, 12–21 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6640–6641; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7437–7438 (testifying that it amounted to psychological abuse to force the detainees to sing these kind of songs). See P6465 (Photograph of model of Omarska marked by Nusreta Sivac); Adjudicated Fact 1135.

immediately.⁶⁰⁹⁵ However, the camp was not closed immediately after this visit and, in fact, on 20 July 1992, Župljanin sought the view of RS officials regarding the status of detainees of no security interest being held in ARK detention facilities and recommended that they be treated as “hostages” to exchange for Serb detainees.⁶⁰⁹⁶ Furthermore, following the visit, Brđanin publicly stated that: “What we have seen in Prijedor is an example of a job well done”.⁶⁰⁹⁷ According to Kuprešanin, following the delegation visit, the Accused called Kuprešanin to suggest that he influence the municipal authorities in Prijedor to close the “investigation centres” in the municipality.⁶⁰⁹⁸ Kuprešanin subsequently asked the authorities of Omarska and Keraterm to close the facilities and to improve the living conditions for the detainees until their disbandment.⁶⁰⁹⁹

1784. As mentioned above, pursuant to an order issued by Mladić on 3 August 1992, Talić ordered the authorities at Omarska, Trnopolje, and Manjača to urgently prepare for visits by the ICRC and teams of reporters.⁶¹⁰⁰

1785. In early August 1992, the majority of detainees remaining at Omarska were transferred to either Trnopolje or Manjača camps.⁶¹⁰¹ On 3 August 1992, Dragoljub Prcać came to the restaurant building at Omarska and read out a list of women’s names, including the names of KDZ093 and Nusreta Sivac.⁶¹⁰² Although Prcać said they were “going home”, that day a bus came to pick up this group of women and took them to Trnopolje.⁶¹⁰³

1786. On 5 August 1992, Vulliamy and two television reporting teams from ITN, including Penny Marshall and Ian Williams, visited Omarska and met with Drljača, Stakić, Kovačević, and an

⁶⁰⁹⁵ D4138 (Witness statement of Željko Mejakić dated 26 November 2013), p. 10. See Željko Mejakić, T. 44264–44267 (29 November 2013).

⁶⁰⁹⁶ P1097 (Banja Luka CSB dispatch to SerBiH MUP, 20 July 1992).

⁶⁰⁹⁷ P11 (Article from Kozarski Vjesnik, entitled “Krajina Representatives in Prijedor”, 17 July 1992), p. 2.

⁶⁰⁹⁸ D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 46; Vojislav Kuprešanin, T. 43530, 43543–43545 (14 November 2013). See also P6510 (Excerpt of Vojo Kuprešanin's interview with OTP), e-court p. 11.

⁶⁰⁹⁹ D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 46; Vojislav Kuprešanin, T. 43543–43545 (14 November 2013).

⁶¹⁰⁰ P5461 (VRS Main Staff Order, 3 August 1992); P5460 (Order of 1st Krajina Corps, 3 August 1992). See para. 1404. See also 1849.

⁶¹⁰¹ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6211–6213; Željko Mejakić, T. 44280–44281 (29 November 2013); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1928 (under seal); KDZ026, T. 10391 (17 January 2011) (closed session); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2749–2750, 2766 (under seal); see Adjudicated Fact 2489.

⁶¹⁰² KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6211–6212; P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 53–54 (under seal).

⁶¹⁰³ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6211–6213; Željko Mejakić, T. 44281 (29 November 2013) (confirming that on 3 August 1992, a group of approximately 140 or 150 detainees were transferred to Trnopolje).

interpreter, Nada Balaban, upon their arrival.⁶¹⁰⁴ The journalists interviewed detainees; however, the detainees were told not to complain about the conditions of detention.⁶¹⁰⁵ The journalists were not allowed to see anything beyond the cafeteria, despite informing Drljača and Mejakić that they had approval from the Accused to visit the whole camp.⁶¹⁰⁶ On or around 12 August 1992, representatives from the ICRC, as well as international and Serbian journalists, visited Omarska.⁶¹⁰⁷ The ICRC delegation was given access to visit the whole camp.⁶¹⁰⁸

1787. Sejmenović was present when international journalists arrived at Omarska and was brought out to speak to them; however they did not interview him.⁶¹⁰⁹ He had been interviewed by Serbian journalists earlier, but he did not tell the truth; rather he answered in the manner he was told in order to save his life.⁶¹¹⁰ The day after the international journalists visited Omarska, Sejmenović met with Kuprešanin who informed him that he would be leaving Omarska for Banja Luka that day.⁶¹¹¹ Later Sejmenović learned Kuprešanin's intentions for taking him out of Omarska when he overheard a phone conversation between Kuprešanin and the Accused.⁶¹¹² Kuprešanin "received instructions" and responded that he was planning to get a suit for Sejmenović and allow him time to recuperate, and then he was planning round-table discussions for Sejmenović to speak publicly about the situation in Bosnian Krajina.⁶¹¹³ At his own request, Sejmenović was then taken to his sister's house in Vrbanja, where Kuprešanin visited him three times.⁶¹¹⁴ On the third visit, Kuprešanin informed Sejmenović he was going to Banja Luka to meet with the Accused and

⁶¹⁰⁴ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7937–7946, 7948–7953. See Adjudicated Facts 1136, 2488.

⁶¹⁰⁵ Mevludin Sejmenović, T. 20499–20501 (27 October 2011); see Adjudicated Fact 2488.

⁶¹⁰⁶ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7939–7946, 7948–7953; Edward Vulliamy, T. 21043–21048 (9 November 2011); P3543 (Excerpt from video clip of visits to Omarska and Trnopolje, with transcript); P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); P3785 (Excerpt of ITN video clip of journalist visits to Omarska and Trnopolje, with transcript); D4138 (Witness statement of Željko Mejakić dated 26 November 2013), p. 10; Željko Mejakić, T. 44271–44273 (29 November 2013).

⁶¹⁰⁷ D4138 (Witness statement of Željko Mejakić dated 26 November 2013), p. 10; Željko Mejakić, T. 44274 (29 November 2013).

⁶¹⁰⁸ D4138 (Witness statement of Željko Mejakić dated 26 November 2013), p. 10.

⁶¹⁰⁹ Mevludin Sejmenović, T. 20498–20499 (27 October 2011).

⁶¹¹⁰ Mevludin Sejmenović, T. 20499–20501 (27 October 2011). See P3696 (Video footage of Mevludin Sejmenović in Omarska).

⁶¹¹¹ Mevludin Sejmenović, T. 20503–20504 (27 October 2011).

⁶¹¹² Mevludin Sejmenović, T. 20504–20505 (27 October 2011), T. 20578–20579, 20586 (28 October 2011) (testifying that he learned that Kuprešanin wanted Sejmenović to "fatten up" and get better for upcoming public appearances). Sejmenović recognised the Accused's voice, which was "very familiar" to him, on the phone and later Kuprešanin confirmed it was the Accused. See also Vojislav Kuprešanin, T. 43546–43547 (14 November 2013). Sejmenović further confirmed that communication by telephone, "certainly [...] between Prijedor and Banja Luka" was possible in August 1992, despite the Accused suggesting that communication was restored only in September 1992. Mevludin Sejmenović, T. 20586–20587 (28 October 2011). See D1357 (Report of Prijedor SDS Municipal Board, 11 September 1991–26 December 1992), p. 6.

⁶¹¹³ Mevludin Sejmenović, T. 20504–20505 (27 October 2011). See also Vojislav Kuprešanin, T. 43546–43547 (14 November 2013).

⁶¹¹⁴ Mevludin Sejmenović, T. 20506–20507 (27 October 2011).

others.⁶¹¹⁵ Sejmenović was brought by Kuprešanin as one of the two official SDA functionaries to meet with the Accused, Vance, and Owen.⁶¹¹⁶ Following the meeting, Sejmenović confirmed Vance's public statement that Vance did not agree with the Accused that "no ethnic cleansing was taking place" in BiH, and stated that this was consistent with his own observations of what was occurring in the region.⁶¹¹⁷ Sejmenović left Vrbanja on 15 January 1993 after obtaining the proper documents to present to international agencies and officials to be able to leave.⁶¹¹⁸ Kuprešanin wrote an accompanying letter, confirming Sejmenović's identity, which referred to the fact that he was released from Omarska at the request of the Accused.⁶¹¹⁹

1788. On 6 August 1992, around 600 of the Omarska detainees were called out as being "not dangerous" and were sent to Trnopolje.⁶¹²⁰ On the same day, a second group of approximately 1,300 detainees, including KDZ026, were taken to Manjača.⁶¹²¹ The men in this second group were put on to buses by members of the intervention squad and the buses departed Omarska; there were approximately 100 to 120 men on KDZ026's bus.⁶¹²² Between 170 and 180 detainees remained at Omarska after these transfers.⁶¹²³

1789. That evening, approximately 200 military beds were delivered to Omarska and thereafter, detainees received two meals a day and conditions improved.⁶¹²⁴ A delegation of ICRC representatives and journalists visited the camp again a week later, on or around 12 August 1992.⁶¹²⁵ By mid-August 1992, a total of 1,773 detainees were transferred from

⁶¹¹⁵ Mevludin Sejmenović, T. 20507 (27 October 2011).

⁶¹¹⁶ Mevludin Sejmenović, T. 20507–20510 (27 October 2011), testifying about P3698 (STV video footage of interview with Radovan Karadžić).

⁶¹¹⁷ Mevludin Sejmenović, T. 20511–20512 (27 October 2011), testifying about P3699 (Video of NTV news re Vance's statements in Banja Luka).

⁶¹¹⁸ Mevludin Sejmenović, T. 20512 (27 October 2011).

⁶¹¹⁹ P3700 (Letter from Vojislav Kuprešanin to Banja Luka CSB, 12 January 1993). The Chamber notes that the letter is dated 12 January 1992; however given Sejmenović's evidence regarding when he left Vrbanja and the context of the surrounding evidence, the Chamber considers that this is a typographical error and the letter should in fact be dated 12 January 1993.

⁶¹²⁰ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1928 (under seal).

⁶¹²¹ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1928 (under seal); KDZ026, T. 10391 (17 January 2011) (closed session); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2749–2750, 2766 (under seal). See Adjudicated Fact 2489.

⁶¹²² KDZ026, T. 10322 (17 January 2011) (closed session).

⁶¹²³ Željko Mejakić, T. 44273, 44280 (29 November 2013); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4.

⁶¹²⁴ Željko Mejakić, T. 44273–44274, 44280 (29 November 2013).

⁶¹²⁵ Željko Mejakić, T. 44273–44274, 44280 (29 November 2013); P3543 (Excerpt from video clip of visits to Omarska and Trnopolje, with transcript).

Omarska to Trnopolje.⁶¹²⁶ On 21 August 1992, the last group of detainees was transferred to Manjača, on buses escorted by Mejakić, and Omarska was closed.⁶¹²⁷

(c) Scheduled Detention Facility C.20.3

1790. The Indictment refers to the use of Keraterm as a detention facility in Prijedor municipality between 15 May and 6 August 1992.

(i) Establishment of camp and arrival of detainees

1791. A former ceramic tile factory located on the eastern outskirts of Prijedor, Keraterm operated as a detention facility between 24 May and 21 August 1992.⁶¹²⁸ Keraterm was clearly visible from the main road from Prijedor to Banja Luka.⁶¹²⁹

1792. Keraterm was established by the Prijedor Crisis Staff.⁶¹³⁰ The camp operated under camp commander, Duško Sikirica, and security at the camp was provided by members of the Prijedor SJB and MP.⁶¹³¹

1793. Approximately 4,000 detainees, primarily Bosnian Muslim and Bosnian Croat men, were held at Keraterm throughout its operation as a camp.⁶¹³² Some of the detainees brought to

⁶¹²⁶ See Adjudicated Fact 2489; Željko Mejakić, T. 44280–44281 (29 November 2013). *But see* Željko Mejakić, T. 44281 (29 November 2013) (testifying that transfers of detainees to Trnopolje started in early June 1992 and that the total number of detainees transferred there was much lower than 1,700).

⁶¹²⁷ Željko Mejakić, T. 44281–44282 (29 November 2013); P6585 (SRNA press release, 22 August 1992) (reporting that Omarska had been closed down in the course of the day and that authority over Trnopolje had been handed over to the Red Cross). *See also* Milomir Stakić, T. 45278–45281 (17 December 2013) (testifying that once Manjača camp opened, there was no longer a reason to keep Omarska and Keraterm open and those who were “found to be guilty of war crimes” were transferred to Manjača).

⁶¹²⁸ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2312; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7081–7083; P541 (Photograph of Keraterm); P542 (Photograph of Keraterm); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; P2968 (Report of Prijedor SJB January 1993), p. 5; P5555 (Report of Prijedor SJB, 29 September 1992), p. 4. *See* Adjudicated Facts 1102, 1103, 1192, 1196.

⁶¹²⁹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7083. *See also* P6594 (Aerial photograph of Keraterm marked by Dragan Radetić); D4254 (Aerial photograph of Keraterm marked by KW609); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 3.

⁶¹³⁰ *See* Adjudicated Facts 1105, 1193; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2–3, 6, 11, 29, 32. *See also* P2741 (Decision of Prijedor Crisis Staff, 2 June 1992); P2637 (Report of Prijedor SJB, 1 July 1992). Defence witnesses Milomir Stakić and Slavko Budimir testified that the Crisis Staff did not participate in the formation of Keraterm and had no authority over the facility; rather that only the police was in charge of the facility. D4195 (Witness statement of Milomir Stakić dated 16 November 2013) paras. 23, 48–49; Milomir Stakić, T. 45242–45246, 45254 (17 December 2013); Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 12947–12958, 12964. However, the Chamber does not find this evidence to be credible based on the accepted evidence before the Chamber to the contrary which confirms that the Prijedor Crisis Staff was involved in the establishment of Keraterm and in its operations.

⁶¹³¹ *See* Adjudicated Facts 1193, 1194; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 3, 6, 11, 29, 32. *See also* P2915 (Summary of conclusions of Prijedor's Executive Board, 29 April–17 August 1992), p. 3; P2741 (Decision of Prijedor Crisis Staff, 2 June 1992); P2637 (Report of Prijedor SJB, 1

Keraterm were originally detained at the Prijedor SJB Building, but were brought to Keraterm when the SJB was unable to accommodate the increased number of detainees.⁶¹³³

1794. Keraterm held up to as many as 1,500 prisoners at one time, crowded into a number of large rooms or halls.⁶¹³⁴ Between 200 and 500 Bosnian Muslim and Croat men, between the ages of 17 and 55, were detained in Room 2 at Keraterm.⁶¹³⁵ There were other rooms used to house detainees, known as Rooms 1, 3, and 4.⁶¹³⁶ Between 250 and 270 men were initially held in Room 3 but later two more groups arrived and the number grew to 570.⁶¹³⁷ There were machine guns placed near the entrance to the camp.⁶¹³⁸

1795. Interrogation teams were sent to Keraterm to interview and investigate detainees there,⁶¹³⁹ the teams were comprised of representatives from civilian public security, state security, and military security.⁶¹⁴⁰ Dragan Radetić, a Serb military prosecutor appointed as a member of one of the commissions investigating detainees at Keraterm, testified that over a period of 15 days, his

July 1992). Damir Došen, a.k.a “Kajin”, was one of the shift commanders at Keraterm. See Adjudicated Fact 1195.

⁶¹³² P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4. See Adjudicated Fact 1197 (stating that “[t]here were a couple of Albanians, and a Bosnian Serb accused of not being a loyal Serb” detained at Keraterm).

⁶¹³³ KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16727–16728. See also Dušan Janković, T. 47285 (18 February 2014) (stating that people held at the Prijedor SJB who were under investigation or interrogation were taken to the Keraterm or Omarska detention facilities).

⁶¹³⁴ See Adjudicated Fact 1196. See also P572 (Sketches of Keraterm drawn by Jusuf Arifagić).

⁶¹³⁵ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3757–3758 (stating that approximately 500 men were being held in Room 2 when he arrived). Cf. Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7086–7087 (estimating that there were approximately 200 to 300 people in Room 2 when he arrived); KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2315; P711 (Witness statement of KDZ074 dated 23 September 1994), p. 8 (stating that about 200 other Bosnian Muslim male prisoners were being held in Room 2).

⁶¹³⁶ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7106–7108; P572 (Sketches of Keraterm drawn by Jusuf Arifagić).

⁶¹³⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2503; see Adjudicated Fact 1198. However, Dragan Radetić testified that (i) the number of Bosnian Muslims held at Keraterm was much lower than 4,000, and he had never heard of any Serbs or Albanians being held there; (ii) Keraterm camp could not have possibly held 1,500 prisoners at once; (iii) the number of 570 being detainees held in Room 3 is exaggerated. D4226 (Witness statement of Dragan Radetić dated 17 January 2014), paras. 36–38. The Chamber does not find Radetić’s evidence to be credible in this regard. In reaching that conclusion, the Chamber considers that he was not forthright with the Chamber on several occasions and that due to his involvement in interrogating detainees at Keraterm, he had an interest in distancing himself from any knowledge of conditions there.

⁶¹³⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7084–7086, 7108; see P572 (Sketches of Keraterm drawn by Jusuf Arifagić).

⁶¹³⁹ Defence witnesses testified that Keraterm was used as an investigation centre for those individuals who refused to mobilise and were considered armed and dangerous, or for those who had participated in armed rebellion, such as members of the Green Berets. D4882 (Witness statement of Dušan Đenadija undated), para. 6; Vojislav Kuprešanin, T. 43454–43455 (14 November 2013); D4010 (Report of Prijedor SJB, September 1993), p. 2.

⁶¹⁴⁰ D4226 (Witness statement of Dragan Radetić dated 17 January 2014), paras. 28, 30, 35; Dragan Radetić, T. 45677 (20 January 2014); KW609, D4246 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 16911–16913; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 3, 6, 29, 32. See Adjudicated Fact 1207 (stating that interrogators at Keraterm “consisted of members of the Banja Luka CSB and of the Banja Luka Corps”). See also Adjudicated Fact 1204 (stating that “most of the detainees in Keraterm

commission interviewed 50 detainees, all adult men who denied having been involved in the conflict or with the armed forces.⁶¹⁴¹

(ii) Conditions of detention

1796. Conditions in Keraterm were atrocious.⁶¹⁴² Detainees were crowded into unlit, windowless rooms, with barely enough space to lie down on concrete floors.⁶¹⁴³ In Room 3, the floor was wet and the walls were stained.⁶¹⁴⁴ The rooms in Keraterm were intensely hot in the summer with no ventilation and the detainees were kept locked in these rooms for days on end, crowded together.⁶¹⁴⁵

1797. There were few toilet facilities and the detainees were allowed to go to the toilet only once a day, five men at a time, and escorted by guards.⁶¹⁴⁶ Initially, one lavatory was available for all of the detainees but it became blocked and barrels were supplied instead which leaked, causing an overpowering stench.⁶¹⁴⁷ Detainees were not able to bathe, but they could occasionally wash a little.⁶¹⁴⁸ The detainees received no soap or toothpaste.⁶¹⁴⁹ Infestations of lice appeared.⁶¹⁵⁰ Dysentery was rife and there was no medical care.⁶¹⁵¹

were interrogated in an attempt to identify opponents of the new Serb regime"); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1840–1841 (under seal).

⁶¹⁴¹ D4226 (Witness statement of Dragan Radetić dated 17 January 2014), paras. 28, 30, 31, 35. See also KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1840–1841 (under seal); KDZ026, T. 10308, 10381–10382 (17 January 2011) (closed session).

⁶¹⁴² Adjudicated Fact 1198; P3661 (UNPROFOR Memo, 4 July 1992), p. 2 (reporting that “100–200 Muslims believed to be [held at Keraterm] under extremely bad conditions”). See also D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 54.

⁶¹⁴³ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2502–2503; see Adjudicated Facts 1198, 1199.

⁶¹⁴⁴ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2502–2503.

⁶¹⁴⁵ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2503, 2505; see Adjudicated Fact 1199.

⁶¹⁴⁶ See Adjudicated Fact 1200.

⁶¹⁴⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2505–2506; see Adjudicated Fact 1199. KDZ050 testified that in the first two days at Keraterm, they were not allowed to leave Room 3 for any reason, including to use the toilet, and they had to use a blue plastic barrel which had been placed inside the room. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2505–2506.

⁶¹⁴⁸ See Adjudicated Fact 1200. In addition, Radetić testified that the lack of hygienic care at Keraterm was due to a general shortage of water, and that the guards also suffered from this shortage. D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 39 (referring to D4227 (Notification re water supply in Prijedor, 29 September 2000), p. 1).

⁶¹⁴⁹ Adjudicated Fact 1200.

⁶¹⁵⁰ Adjudicated Fact 1200.

⁶¹⁵¹ Adjudicated Fact 1201. But see D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 40 (stating that he “did not know there were problems like this” at Keraterm). The Chamber does not find Radetić’s evidence to be credible in this regard. In reaching that conclusion, the Chamber refers to its earlier assessment in fn. 6137 regarding the credibility of Radetić.

1798. At Keraterm, both the quality and quantity of food provided to the detainees were totally inadequate, and they suffered from malnutrition and, in some instances, starvation.⁶¹⁵² The detainees received two pieces of bread that they had to eat very quickly or they would be beaten.⁶¹⁵³ Furthermore, the food was not delivered regularly and sometimes there was no food provided at all.⁶¹⁵⁴ To supplement the meagre camp provisions, detainees were sometimes allowed to receive food brought to the camp by their families, although these occasional supplements were not sufficient to alleviate their hunger and malnutrition.⁶¹⁵⁵

(iii) Treatment of detainees

1799. Detainees were beaten upon arrival at Keraterm.⁶¹⁵⁶ Jusuf Arifagić was brought to Keraterm on 14 June 1992, by bus, along with a group of about 40 other men captured with him in Mujkanovići.⁶¹⁵⁷ When his group arrived at the camp, two “Serb soldiers” entered the bus, ordered the men to get off in small groups, and began beating and kicking them as they lay on the ground.⁶¹⁵⁸ Safet Taći, a young Bosnian Muslim man who resided in Kozarac with his family until 1992, was also taken to Keraterm by “Serb forces” in mid-June 1992.⁶¹⁵⁹ Arifagić and Taći were put in Room 2, where other men from villages in the Prijedor region, who had also been physically mistreated, were being held.⁶¹⁶⁰ On the evening of their arrival, Arifagić and the men who had

⁶¹⁵² See Adjudicated Facts 1200, 1202. KDZ050 testified that he was given no food or water for two days after arriving at Keraterm. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2505.

⁶¹⁵³ Adjudicated Fact 1202.

⁶¹⁵⁴ Adjudicated Fact 1202.

⁶¹⁵⁵ See Adjudicated Fact 1203. KDZ093 visited her husband in Keraterm for the first time in mid-June 1992 and brought him food and clothes, but a guard took the bag at the gate and said he would give it to him; she saw her husband from far away and he looked very thin and exhausted. KDZ093 visited him a second time around the end of June 1992 and as she approached the gate, Zoran Žigić recognised her and brought her husband to the fence and said to her: “Here. Take a good look at your husband. He’s going to fall first for the freedom of this town.” Her husband was very thin and exhausted; he did not say anything to her at the fence, but tears ran down his face. KDZ093 never saw her husband again after that day; she heard later from more than a hundred witnesses that her husband was beaten and killed in broad daylight in Omarska camp. KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6191–6194, 6236, 6244. *But see* D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 41 (stating that the guards also suffered from malnutrition due to wartime shortages of food).

⁶¹⁵⁶ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7084, 7089; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2314–2315; P711 (Witness statement of KDZ074 dated 23 September 1994), p. 8; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2501–2502. *See also* Adjudicated Fact 1205.

⁶¹⁵⁷ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7080, 7083–7084. KDZ093 testified that her husband was detained by “Serb forces” in mid-June 1992 and taken to Keraterm. KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6189, 6191.

⁶¹⁵⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7084.

⁶¹⁵⁹ Safet Taći, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3755–3756.

⁶¹⁶⁰ Safet Taći, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3755–3757; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7084–7086, 7107; KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2315. *See also* P572 (Sketches of Keraterm drawn by Jusuf Arifagić).

been brought in with him were ordered to leave Room 2 and to lie down on the ground outside, where they were severely beaten and told to confess to being members of the Green Berets.⁶¹⁶¹

1800. KDZ074 was captured in the woods between Čarakovo and Hambarine by armed men in camouflage uniforms and taken to Keraterm on 8 July 1992.⁶¹⁶² Upon his arrival, he was interrogated and beaten, and then taken to Room 2.⁶¹⁶³

1801. While in detention, beatings were very frequent at Keraterm.⁶¹⁶⁴ The guards called out the names of detainees, often at night, and they were taken outside and beaten.⁶¹⁶⁵ Those who returned were bloody and bruised all over; some died of their injuries.⁶¹⁶⁶ Some detainees who were called out never returned, and the other detainees assumed that they had died as a result of the beatings.⁶¹⁶⁷ Arifagić testified that the bodies of the men who died after being taken out at night were deposited in a part of the camp referred to as the “garbage dump”.⁶¹⁶⁸

1802. Detainees were beaten with bars and batons, and made to beat each other.⁶¹⁶⁹ Detainees were often beaten and humiliated in front of other detainees.⁶¹⁷⁰ Two former Bosnian Muslim policemen were severely beaten with chains and metal rods, one of whom died as a consequence of this beating.⁶¹⁷¹ Detainees were also beaten during interrogations at Keraterm.⁶¹⁷² The beatings were administered by the guards at Keraterm, in particular by Nenad Banović, a.k.a. “Čupo”, and

⁶¹⁶¹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7087–7090 (further stating that he sustained a number of injuries as a consequence and the next day was taken to a hospital in a van, along with some other detainees, accompanied by Žigić, where his wounds were dressed, and then he was returned to Keraterm). One of the detainees who was with Arifagić—Emsud Bahonjić—later died as a result of his injuries and Arifagić assisted in carrying his body to the guards’ cabin in the camp. Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7090. Dušan Janković testified that members of the Green Berets were captured during the attack on the Prijedor municipal building on 30 May 1992 and were taken to the Keraterm and Omarska detention facilities to be investigated. Dušan Janković, T. 47272, 47274 (18 February 2014).

⁶¹⁶² KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2304–2305, 2312 (stating that he was unarmed and in civilian clothes at the time of his capture).

⁶¹⁶³ KDZ074, P709 (Transcript from *Prosecutor v. Stakić*), T. 2314–2315; P711 (Witness statement of KDZ074 dated 23 September 1994), p. 8.

⁶¹⁶⁴ See Adjudicated Fact 1208.

⁶¹⁶⁵ See Adjudicated Facts 1208, 1209; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7090–7091; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2506–2507; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3758.

⁶¹⁶⁶ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7090–7091; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2506–2507; see Adjudicated Fact 1209.

⁶¹⁶⁷ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7090–7091; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2506–2507; see Adjudicated Fact 1209. [REDACTED].

⁶¹⁶⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7091.

⁶¹⁶⁹ See Adjudicated Fact 1208.

⁶¹⁷⁰ See Adjudicated Fact 1212.

⁶¹⁷¹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7093–7094 (stating that the two men were wearing police uniforms when they arrived at Keraterm and said that although they had signed the oath of loyalty and had continued to work as policemen, they had nonetheless been disarmed and brought to the camp). See also Adjudicated Fact 1210.

⁶¹⁷² See Adjudicated Fact 1206.

Zoran Žigić,⁶¹⁷³ as well as by people from outside the camp allowed in by the guards, such as Duško Knežević.⁶¹⁷⁴ Additionally, some prisoners were questioned about money and taken to their homes and were made to search for money, which was handed over to the guards if found.⁶¹⁷⁵

1803. Women detained in Keraterm were also raped.⁶¹⁷⁶ KDZ093, a Bosnian Muslim woman from Prijedor, was arrested with others from her apartment building on 14 July 1992 by “Serb forces” wearing police uniforms—light blue shirts and grey-blue trousers—and brought to Keraterm.⁶¹⁷⁷ They were immediately brought to a room and Sikirica, who introduced himself as the commander of the camp, ordered them to take off their jewellery and everything they had on.⁶¹⁷⁸ That night, Neđeljko Timarac took KDZ093 and another Muslim woman who was her

⁶¹⁷³ See Adjudicated Facts 1195, 1211; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2501–2502, 2507, 2520–2521, 2536–2538 (stating that when “Čupo Banović’s shift was on duty, they took out people” to be beaten more often, and that he sometimes visited the camp when he was not on duty in order to “torture” the detainees); Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7089, 7091; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3758–3763 (stating that Žigić wore a camouflage uniform, often wore sunglasses, and always had a bandage on his hand, and that he was often involved in beatings and the detainees were all in fear of him; on one occasion, he was beaten by Žigić as he returned to Room 2 from the toilet); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6192–6194, 6244 (stating that she knew Žigić well from attending elementary school together and that he was wearing a military uniform and a red “beret” when she saw him at Keraterm at the end of June 1992); Dragan Radetić, T. 45681–45684 (20 January 2014), T. 45689–45691 (21 January 2014) (stating that Žigić was a member of the civilian police). However, the Chamber also received evidence that Žigić was an “armed uniformed person” who entered the camp in the evenings and beat detainees, despite warnings from officials of the camp not to enter, suggesting that Žigić was not a guard at Keraterm. D4140 (Official note of Prijedor SJB, 4 July 1992).

⁶¹⁷⁴ See Adjudicated Fact 1211; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7089; D4140 (Official note of Prijedor SJB, 4 July 1992). See also Dragan Radetić, T. 45681–45684 (20 January 2014), T. 45689–45690 (21 January 2014). Stakić also testified that at Keraterm, “people would be taken away by armed individuals”, but he did not know who these individuals were. Milomir Stakić, T. 45250–45251 (17 December 2013).

⁶¹⁷⁵ See Adjudicated Fact 1214. See also D1925 (Prijedor SJB criminal report, 2 July 1992) (stating that Zoran Žigić was under suspicion of having received a bribe from Esad Marošlić, a detainee held at Keraterm, on 9 June 1992); D1926 (Order of Banja Luka CSB, 1 July 1992) (ordering that Žigić be detained for three days for accepting the bribe from Marošlić). However, Radetić stated that (i) he never noticed that the persons he interviewed had any signs of physical abuse; (ii) beatings did not occur during interrogations while he worked at Keraterm; (iii) beatings never occurred in his presence; (iv) “Muslim members of the security structures, including the police, were not kept together with the civilians held at Keraterm” and he believed they were interviewed separately; and (v) he never heard of any cases of detainees being made to search for money in their homes by guards and he is convinced it was not done by anyone participating in the commissions interviewing detainees. D4226 (Witness statement of Dragan Radetić dated 17 January 2014), paras. 32, 43–46, 48; Dragan Radetić, T. 45680 (20 January 2014). However, Radetić also admitted that he received information and was aware that Žigić, Knežević, and others beat prisoners at Keraterm, after which the detainees died. Dragan Radetić, T. 45681–45684 (20 January 2014), T. 45689–45690 (21 January 2014). See also D4140 (Official note of Prijedor SJB, 4 July 1992). Based on these internal inconsistencies in Radetić’s evidence, as well as the Chamber’s observation that he was not forthright on several occasions, the Chamber does not find Radetić’s evidence that beatings did not occur at Keraterm to be reliable. The Chamber also notes that during his testimony, as demonstrated by these statements, Radetić attempted to distance himself from any knowledge of mistreatment of detainees or conditions of detention.

⁶¹⁷⁶ See Adjudicated Fact 1213.

⁶¹⁷⁷ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6194–6195.

⁶¹⁷⁸ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6196.

neighbour, to two separate offices inside the Keraterm building.⁶¹⁷⁹ KDZ093 was then repeatedly raped by Timarac and “other men” throughout the night on a table.⁶¹⁸⁰ A guard found her in the morning in a pool of blood and ordered her to wash up and brought her out to the yard where she sat for two to three hours in bloodstained clothes.⁶¹⁸¹ The same guard brought KDZ093’s neighbour out that morning; she looked frightened and was crying.⁶¹⁸² That afternoon, KDZ093, her neighbour, and a group of six or seven men were taken to Omarska camp in a “police van”.⁶¹⁸³

1804. Detainees at Keraterm were eventually transferred to Omarska or Trnopolje.⁶¹⁸⁴ Arifagić was transferred by bus from Keraterm to Trnopolje on 1 August 1992, along with many others.⁶¹⁸⁵ On 5 August 1992, a soldier read out a list of names of detainees, numbering about 120 men in total, and they were put on to two buses and drove away.⁶¹⁸⁶ After those two buses were driven away, new buses arrived and the remaining detainees in Keraterm, including KDZ050, were put on these buses and taken to Trnopolje.⁶¹⁸⁷

(iv) Conclusion on conditions of detention and treatment of detainees

1805. Based on the above, the Chamber finds that non-Serb civilians from multiple locations were brought to and detained at Keraterm by Serb Forces from 24 May 1992 until at least 5 August 1992. The detainees were held in poor conditions which included lack of space, inadequate bedding, poor sanitary conditions, lack of food, and inadequate medical care. The Chamber finds that detainees were subjected to regular beatings by Serb Forces at Keraterm. The Chamber finds that at least one

⁶¹⁷⁹ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6197–6198 (further stating that she knew Nedeljko Timarac well from primary school; he wore a military uniform with a grey military “cap”).

⁶¹⁸⁰ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6198–6199. See also Adjudicated Fact 1213.

⁶¹⁸¹ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6199–6200. See also Adjudicated Fact 1213.

⁶¹⁸² KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6200. Radetić stated there was no mention of such cases of rape during the time he was at Keraterm. D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 47. The Chamber does not find Radetić’s evidence in this regard to be credible given his attempt to distance himself from any knowledge of mistreatment of detainees at Keraterm.

⁶¹⁸³ KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6200–6201.

⁶¹⁸⁴ Adjudicated Fact 1197.

⁶¹⁸⁵ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7105.

⁶¹⁸⁶ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2522. KDZ050 provided a list of about 60 men, who he stated were “men who were taken away before, who were killed. That is, people that I used to know personally. And this shows also people who were taken out before and those men who were put on those two buses”. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2523; P1949 (Excerpt from KDZ050’s witness statement dated 19 November 2000). KDZ050 subsequently identified the bodies of some of the 120 men who were taken away in the first two buses on 5 August 1992, which were recovered from Hrastova Glavica in Sanski Most; though he confirmed that he had heard from other detainees that these men were first taken to Omarska. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2527, 2531–2532. See Schedule Incident B.15.3. See also Indictment, Scheduled Incident B.15.3, fn. 5 (wherein the Prosecution alleges that detainees from Keraterm were among the victims of Scheduled Incident B.15.3).

⁶¹⁸⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2524.

detainee died as a result of beatings.⁶¹⁸⁸ The Chamber also finds that a number of Bosnian Muslim women were raped by Serb Forces at Keraterm.

(v) Scheduled Incident B.15.1

1806. The Indictment refers to the killing of approximately 150 people in Room 3 at Keraterm on or about 24 and 25 July 1992.

1807. On 20 or 21 July 1992, the detainees held in Room 3 were relocated to Rooms 2 and 4.⁶¹⁸⁹ Room 3 was then filled with groups of Bosnian Muslim men who arrived in buses from the Brdo area.⁶¹⁹⁰ A few days later, on or around 24 July 1992, the detainees held in Room 3 were allowed to leave the room to lie on the grass outside for two or three hours.⁶¹⁹¹ On that day, there was a noticeable increase in activity at the camp, with more vehicles and more “soldiers” present, who were singing.⁶¹⁹² Early that evening, the detainees were brought back to Room 3, and the door was locked.⁶¹⁹³ The detainees in Room 2 were also told to go into their room early, just before nightfall, face the wall, and stay calm.⁶¹⁹⁴

1808. Later that night, around 9 or 10 p.m., the detainees heard a lot of commotion outside, including trucks and members of the army entering the camp.⁶¹⁹⁵ A table was set up opposite Room 3, with a chair beside it and the area was lit up with strong lights; later, a heavy machine gun was placed on the table, pointed towards Room 3.⁶¹⁹⁶

⁶¹⁸⁸ This finding does not include the persons alleged to have been killed in Scheduled Incident B.15.1, which is discussed below.

⁶¹⁸⁹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7095; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3766. See also Adjudicated Fact 1215.

⁶¹⁹⁰ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2498–2503 (testifying that he surrendered to “Serb troops” on 23 July 1992 at a check-point in the hamlet of Brkić and was transported to Keraterm camp in two buses with approximately 120 to 130 other Bosnian Muslim men who had surrendered or been captured in the Brdo area); Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7096–7097 (testifying that he saw their documents being taken away from them upon their arrival in the camp and after their arrival, this group of people were not permitted to leave Room 3 or to mix with the other detainees); Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3766. See also Adjudicated Fact 1215. Upon arriving at the camp, the men on the buses were searched, their valuables and personal documents taken, and their names recorded. They were then made to lie on the grass, and some of them were beaten; an hour or so later, they were moved into Room 3. KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2501–2502.

⁶¹⁹¹ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2507–2508.

⁶¹⁹² KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2509, 2535; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3764–3765; P572 (Sketches of Keraterm drawn by Jusuf Arifagić).

⁶¹⁹³ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2510.

⁶¹⁹⁴ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7097. See also Adjudicated Fact 1216.

⁶¹⁹⁵ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7097. See also Adjudicated Fact 1217.

⁶¹⁹⁶ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3764–3766; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7097, 7101. See also Adjudicated Fact 1217.

1809. At around 11 p.m. or midnight, there was a short burst of gunfire towards the window of Room 3, and later pebbles were thrown at the windows and on the roof.⁶¹⁹⁷ The detainees inside began to behave strangely, their eyes stinging, and KDZ050, who was at the back of the room, began to feel faint.⁶¹⁹⁸ He concluded that some kind of tear gas or other poisonous gas must have been thrown in the room.⁶¹⁹⁹ The detainees began to push against one another, and then broke the door down in an effort to escape, at which point KDZ050 heard the first burst of machine-gun fire from outside.⁶²⁰⁰ The shooting lasted for four or five minutes, and then there was a lull, before it started again.⁶²⁰¹ KDZ050 passed out briefly, but counted three such bursts of machine-gun fire in total.⁶²⁰² He heard men crying out for help, as well as the sound of the soldiers outside trying to prevent people from escaping.⁶²⁰³ Afterwards, he also heard infantry weapons being fired outside a couple of times.⁶²⁰⁴

1810. Detainees in Room 2 heard a burst of gunfire from automatic rifles, the sounds of metal and glass breaking, and men crying out from Room 3.⁶²⁰⁵ One of the detainees in Room 2 heard one of the “Serb soldiers” swearing and saying: “Don’t come out or we’ll shoot. There they are. They’re fleeing” and then the sound of gunfire.⁶²⁰⁶

1811. The next morning, KDZ050 saw blood all over the inside of Room 3, as well as the bodies of injured and killed men lying around.⁶²⁰⁷ He estimated that there were around 200 dead bodies piled inside and outside the room.⁶²⁰⁸ The survivors were then told to come outside, where they stayed on the grass for three or four hours.⁶²⁰⁹ Also that morning, a large truck arrived in the camp

⁶¹⁹⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2510.

⁶¹⁹⁸ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2511.

⁶¹⁹⁹ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2511. *See also* Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3780 (testifying that he subsequently learned from a survivor from Room 3 that some kind of poisonous gas had been thrown into the room, which meant the occupants could not breathe and had to try to break out of the room); [REDACTED].

⁶²⁰⁰ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2511, 2531. *See also* Adjudicated Fact 1217.

⁶²⁰¹ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2512–2514; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3767; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7098 (stating that the shooting lasted for about half an hour in total, or even an hour).

⁶²⁰² KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2512–2514.

⁶²⁰³ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2512. *See also* Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3766–3767.

⁶²⁰⁴ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2516. *See also* Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3767.

⁶²⁰⁵ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7097–7098; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3766–3767. *See also* Adjudicated Fact 1217.

⁶²⁰⁶ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3767.

⁶²⁰⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2516. *See also* Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7098–7099; Adjudicated Fact 1218.

⁶²⁰⁸ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2516–2517. *See also* Adjudicated Fact 1218

⁶²⁰⁹ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2516–2517.

and was parked in front of Room 3.⁶²¹⁰ All the detainees were told to come out of their rooms, and those who looked strongest, including Tači and Arifagić, were directed to load bodies from Room 3 into the truck.⁶²¹¹ It took about an hour to load all of the bodies, and then the truck drove away.⁶²¹² In addition, those who had survived but were injured were also taken away in the truck.⁶²¹³ Blood dripped from the truck as it left.⁶²¹⁴ A fire engine, or some type of truck equipped with water and a hose, arrived and was used to wash the blood from the ground of Room 3 and the surrounding area.⁶²¹⁵

1812. Those who survived were returned to Room 3 after it was cleaned.⁶²¹⁶ The following night, Arifagić heard shooting again from Room 3, although it did not last as long as the first time.⁶²¹⁷ At one point he heard someone shouting: “What are we going to do? There are survivors here”, and he then heard about 40 individual shots.⁶²¹⁸ Once again, the next morning, a truck arrived and bodies were loaded on to it.⁶²¹⁹ In addition, the occupants of Rooms 1, 2, and 4 were ordered to go outside, and those who had injuries were told to board the truck, as were the six men who had been involved in loading the bodies, and it drove away.⁶²²⁰ A day or two after the shootings, Arifagić saw Simo Drljača in the camp, near Room 1.⁶²²¹ Some of the detainees approached him, and he said that “this” should not have happened and they had his assurances that they would not be harmed again.⁶²²²

⁶²¹⁰ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3768–3769; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2517. See also Adjudicated Fact 1218; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3974 (under seal).

⁶²¹¹ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3768–3769; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7098–7099 (stating that the guards were looking for volunteers who “were not afraid of the dead”); KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2517–2518. See Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7947 (testifying that a detainee told him that he had to clear the bodies from a hangar in Keraterm after about 200 people had been killed in one night); Edward Vulliamy, T. 21050–21051 (9 November 2011). See also KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3974 (under seal).

⁶²¹² Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3770; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7098–7099; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2517–2518.

⁶²¹³ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2517–2518; Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3769. See also KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3974, 4066 [REDACTED].

⁶²¹⁴ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7098–7099. See also Adjudicated Fact 1218.

⁶²¹⁵ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3770; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7099. See also Adjudicated Fact 1219.

⁶²¹⁶ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2518 (testifying that out of approximately 570 Bosnian Muslim men who were detained in Room 3, about half of them survived the killings in Room 3).

⁶²¹⁷ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7100.

⁶²¹⁸ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7100.

⁶²¹⁹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7100.

⁶²²⁰ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7100.

⁶²²¹ Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7104.

⁶²²² Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7104.

1813. Defence witnesses testified that the killing incident which occurred in Room 3 at Keraterm (i) resulted from a rebellion or an escape attempt by the detainees;⁶²²³ or (ii) were spontaneous killings by local battalions or reservists, committed in revenge for Serbian soldiers killed at the frontline.⁶²²⁴ The Chamber considers that these claims are speculative and hearsay; therefore, the Chamber does not find the evidence of these witnesses to be reliable.

1814. The Chamber took judicial notice that a minimum of 190 persons were killed in Room 3 at Keraterm.⁶²²⁵ Furthermore, in assessing the overall number of persons killed during this incident, the Chamber has considered witness testimony that (i) there were approximately 200 dead bodies piled inside and outside of Room 3 the morning after the killings there;⁶²²⁶ and (ii) out of approximately 570 Bosnian Muslim men who were detained in Room 3, about half of them survived the killings in Room 3 on or around 24 July 1992.⁶²²⁷ In addition, the Chamber received forensic evidence to support the deaths of some identified individuals at Keraterm in connection with the killings in Room 3 on or around 24 July 1992.⁶²²⁸

1815. In weighing the totality of the evidence before it, the Chamber is therefore satisfied that at least 190 Bosnian Muslim men were killed in Room 3 at Keraterm by Serb Forces on or about 24 and 25 July 1992.

⁶²²³ D4242 (Witness statement of Draško Vujić dated 24 January 2014), para. 8 (stating that he received information that there had been a “rebellion” of detainees at Keraterm and that firearms were used and many people killed as a result); Dušan Janković, T. 47282–47283 (18 February 2014) (testifying that he heard there was a mutiny by the detainees at Keraterm and in the process, the mutineers were killed); D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 49 (stating that he heard that some of the detainees attempted to escape from Keraterm and that some of them were killed as a result).

⁶²²⁴ D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 24; Milomir Stakić, T. 45286 (17 December 2013) (testifying that according to his intelligence at the time, as well as information from Drljača, after several Serbian soldiers were killed at the frontline, members of their unit “raided Keraterm and killed several dozens of prisoners out of revenge”).

⁶²²⁵ See Adjudicated Fact 1219.

⁶²²⁶ See KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2516. [REDACTED]. See also P4853 (Updated Table 2 to the Report of Amor Mašović), p. 26 [REDACTED]; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002, pp. 173, 266 (under seal) [REDACTED]).

⁶²²⁷ See KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2518.

⁶²²⁸ See P4409 (Death certificates from Prijedor), e-court pp. 1–14, 17–24, 27–32, 35–38, 41–46, 58–63 (confirming the deaths of 22 identified individuals at Keraterm camp between 23 July and 28 July 1992); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 16–20, 23–31, 34, 41 (wherein Mašović identifies the names of 76 identified individuals who went missing from Keraterm on or around 24 July 1992 and who were later exhumed from various mass graves, including the Stari Kevljani mass grave, who he links to the killings in Room 3); P5909 (Bihać MUP identification reports concerning Stari Kevljani mass grave, 30 June 2005), pp. 1, 3–4, 8–12, 16, 19–20, 22–23, 31, 35–36, 43, 49–51, 57–58 (confirming that 21 identified individuals who went missing from Keraterm, and were linked to the killings in Room 3, were exhumed from the Stari Kevljani mass grave). See also P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 8–10; P4893 (Bihać MUP report on Stari Kevljani exhumation, 18 January 2004); [REDACTED]; P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 29–30, 259–268 (under seal) (stating that, at the time of the creation of his report, none of the bodies of the victims of the incident in Room 3 at Keraterm had been exhumed, but finding that 69 identified individuals died during the incident based on witness testimony and court rulings declaring individuals as officially dead in connection with this incident); Nicolas Sébire, P694 (Transcript from *Prosecutor v. Stakić*), T. 7358–7359.

(d) Scheduled Detention Facility C.20.4 and Scheduled IncidentB.15.5

1816. The Indictment refers to the use of Trnopolje as a detention facility in Prijedor municipality between at least 15 May and 30 September 1992. The Prosecution alleges that a number of people were killed at Trnopolje and at various places after they were taken from the camp between 28 May and October 1992.

(i) Arrival of detainees and control over detentionfacility

1817. Trnopolje is located in the village of Trnopolje, which lies to the southeast of Prijedor town and on the train line from Prijedor to Banja Luka.⁶²²⁹ The camp was established in a former elementary school and its surrounding buildings, which included a gymnasium, shop, the former municipal centre, and an attached theatre, known as the “dom”.⁶²³⁰

1818. Trnopolje became operational on or around 24 May 1992 during the attacks on Hambarine and Kozarac when residents of those areas who had been displaced from their homes were brought there.⁶²³¹ Initially, primarily Bosnian Muslim and Bosnian Croat women, children, and elderly were brought to Trnopolje; however, later Bosnian Muslim and Bosnian Croat men of military age were transferred there from Keraterm and Omarska.⁶²³²

⁶²²⁹ P569 (Map of Prijedor municipality). See Adjudicated Fact 1223.

⁶²³⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*, T. 6867, 6873; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*, T. 3407–3409; P535 (Aerial photograph of Trnopolje); P537 (Photograph of Trnopolje school); P538 (Photograph of Trnopolje); P539 (Photograph of Trnopolje); P540 (Photograph of Trnopolje); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7747–7748; P3894 (Sketch drawn by Idriz Merdžanić of Trnopolje); Idriz Merdžanić, T. 21455–21457 (16 November 2011); D1924 (Aerial photo of Trnopolje camp annotated by Idriz Merdžanić); P3528 (Witness statement of Kerim Mešanović, undated), pp. 65–68; P3543 (Excerpt from video clip of visits to Omarska and Trnopolje, with transcript); KDZ054, P682 (Transcript from *Prosecutor v. Stakić*, T. 6222–6223. See Adjudicated Fact 1226; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 2.

⁶²³¹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7755, 7759 (testifying that he arrived at Trnopolje on 26 May 1992); P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*, T. 7105; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*, T. 6867, 6873–6874; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6688–6690; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2–3, 28; P2968 (Report of Prijedor SJB, January 1993), p. 5; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 22; Milomir Stakić, T. 45239 (17 December 2013). See also KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 3997 (under seal); Adjudicated Facts 1102, 1224, 1225; P3898 (Photograph of detainees at Trnopolje); P3899 (Photograph of detainees at Trnopolje); P3900 (Photograph of detainees at Trnopolje).

⁶²³² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7756, 7787–7788; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*, T. 12468–12469 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*, T. 6876–6877; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 8, 12–13; KDZ014, P674 (Transcript from *Prosecutor v. Stakić*, T. 5748–5750; P5555 (Report of Prijedor SJB, 29 September 1992), p. 4; P2968 (Report of Prijedor SJB, January 1993), p. 5; P3785 (Excerpt of ITN video clip of journalist visits to Omarska and Trnopolje, with transcript), pp. 7–15; P3780 (Excerpt from ITN video clip of

1819. The Accused presented evidence that Trnopolje was an “open reception centre” where Bosnian Muslim and Bosnian Croat refugees went voluntarily and stayed for their own protection and shelter during the conflict.⁶²³³ The Accused argues that due to its “civilian nature”, Trnopolje was only partially enclosed by a fence.⁶²³⁴ The Chamber considers that although Trnopolje was not entirely fenced in, a barbed wire fence surrounded parts of the compound.⁶²³⁵ Further, the Chamber considers that despite Trnopolje being “open” in certain areas, detainees were not allowed to leave unless under certain circumstances.⁶²³⁶ For instance, some people were allowed to leave the camp to collect food from nearby villages, as long as they left their identification documents at the camp

men at Trnopolje). See also Adjudicated Facts 1103, 1225, 1296; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2–4, 28–29.

⁶²³³ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2–3, 28–29 (describing Trnopolje as an “Open Reception Centre” established to house citizens who did not want to participate in the fighting, to ensure their safety and protect them from attacks by “extremists”); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 3; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 22; D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), paras. 6–7, 18–19; Slavko Puhalić, T. 43397–43399, 43402–43405 (13 November 2013), T. 43452, 43454–43455 (14 November 2013); D4009 (Video footage of Trnopolje); D3968 (Report of Prijedor SJB, 9 August 1992); P3784 (Video clip of interview with Radovan Karadžić) (in which the Accused states that Trnopolje is a “place for people who have no place to stay”). See also D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 38; D4230 (Witness statement of Čedo Šipovac dated 18 January 2014), para. 16; Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7326–7327; P636 (ECMM Report, 3 September 1992), pp. 1–2. Mevludin Sejmenović testified that he entered Trnopolje twice unobserved. Mevludin Sejmenović, T. 20487–20488 (27 October 2011).

⁶²³⁴ See Defence Final Brief, paras. 1596–1597. The Accused further submits that Penny Marshall and her team of journalists chose to set up her camera and interview detainees inside the tool shed area at Trnopolje which was surrounded by barbed wire, but in fact all of the people they filmed were “free”. See Accused Opening Statement, T. 845–847 (1 March 2010).

⁶²³⁵ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7750–7751, 7838–7851 (testifying that a barbed wire fence was erected when Keraterm and Omarska were disbanded to contain the detainees transferred to Trnopolje from those camps and that Penny Marshall filmed detainees behind the fence surrounding the shop building at Trnopolje, but that this was not the same fence erected temporarily to contain the detainees transferred from Keraterm and Omarska); P3909 (Sketch of Trnopolje marked by Idriz Merdžanić); P3910 (Excerpt of video clip of Trnopolje); Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7946, 7963, 8141–8144 (testifying that on 5 August 1992, he and Penny Marshall interviewed detainees at Trnopolje who had been transferred from Keraterm and Omarska and were detained behind a barbed wire fence and in a “serious state of decay”, but there seemed to be two barbed wire fences at Trnopolje—one that was older and one newer); P3780 (Excerpt from ITN video clip of men at Trnopolje); P3781 (Excerpt from ITN video clip of men at Trnopolje); P3697 (Video footage of visit of foreign journalists to Trnopolje); Edward Vulliamy, T. 21051 (9 November 2011); Mevludin Sejmenović, T. 20491 (27 October 2011), T. 20581 (28 October 2011) (testifying that there was a fenced-in area used for agricultural equipment, but also that detainees transferred from Keraterm were specifically placed inside a wired area, called the “quarantine” by camp authorities, and were strictly prohibited from leaving the area); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6983–6984; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12464–12465 (under seal); KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6306–6309. See also Adjudicated Fact 1230.

⁶²³⁶ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7748, 7750–7751; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3350–3352; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12464–12465 (under seal); KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3997 (under seal); Milomir Stakić, T. 45239 (17 December 2013); Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7326–7327. See P2637 (Report of Prijedor SJB, 1 July 1992); P2741 (Decision of Prijedor Crisis Staff, 2 June 1992); P2915 (Summary of conclusions of Prijedor’s Executive Board, 29 April–17 August 1992), p. 3; [REDACTED]. See also Adjudicated Fact 1230.

or were escorted by guards.⁶²³⁷ Others could leave only if they were authorised for release by Drljača or the camp commander, Slobodan Kuruzović, or if they were transferred to another camp.⁶²³⁸ Furthermore, Trnopolje was otherwise surrounded on all sides by guards, machine-gun nests, and armed posts pointing guns towards the camp.⁶²³⁹ Idriz Merdžanić, a physician brought to Trnopolje, testified that “apart from the checkpoints and the guards, even if only a simple line had been drawn on the ground, nobody would dare cross that line”.⁶²⁴⁰ Stakić further testified that people were not brought to Trnopolje, or held there, voluntarily.⁶²⁴¹ The Chamber considers that in light of evidence of the security conditions surrounding the camp, the poor conditions and mistreatment which occurred there, and the testimony of witnesses who were held there,⁶²⁴² it finds that Trnopolje was a detention facility for the duration of its existence.

1820. Trnopolje was established by the Prijedor Crisis Staff.⁶²⁴³ The camp commander was Slobodan Kuruzović, a former TO commander and member of the Prijedor Crisis Staff; he was

⁶²³⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6875; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7757–7758; Mevludin Sejmenović, T. 20489–20490 (27 October 2011), T. 20580 (28 October 2011).

⁶²³⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6875, 6984; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7750; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6691; P2741 (Decision of Prijedor Crisis Staff, 2 June 1992); [REDACTED].

⁶²³⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7751–7755; P3909 (Sketch of Trnopolje marked by Idriz Merdžanić); Mevludin Sejmenović, T. 20491 (27 October 2011), T. 20581–20582 (28 October 2011); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3351–3352; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12464–12465 (under seal); Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7327. See also Adjudicated Fact 1230. However, Puhalić testified that Trnopolje was not surrounded by soldiers, nor were there machine-gun nests or armed positions with guns pointed at the camp. D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 21. The Chamber does not find Puhalić’s evidence to be credible in this regard. In reaching that conclusion, the Chamber considers that he was not forthright with the Chamber on several occasions and that due to his involvement at Trnopolje, he had an interest in distancing himself from knowledge of conditions there.

⁶²⁴⁰ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7751. See also KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12464–12465 (under seal) (stating that he did not feel free to leave Trnopolje at any time and people did not leave the camp); KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3997 (under seal) (testifying that “[i]t was not a place for refugees. It was a camp. There was no freedom there at all”); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3351–3352 (testifying that he felt imprisoned and was not there of his own free will).

⁶²⁴¹ Milomir Stakić, T. 45239 (17 December 2013). The Accused argues that people came to Trnopolje voluntarily and that Stakić did not suggest that they were brought in forcibly. See Accused Closing Argument, T. 47881–47882 (1 October 2014). The Chamber considers Stakić to be clear that everyone did not go to Trnopolje voluntarily.

⁶²⁴² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7751; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12464–12465 (under seal); KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3997 (under seal); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3351–3352. See also Edward Vulliamy, T. 21114–21116 (9 November 2011); Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7326–7327.

⁶²⁴³ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2, 28–29; P2772 (Report of Prijedor SJB, 5 August 1992); D4468 (Confirmation of decisions adopted by Crisis Staff by Prijedor Municipal Assembly, 24 July 1992), e-court p. 6. See Adjudicated Fact 1105. However, Stakić stated that Trnopolje was not established by the Crisis Staff. D4195 (Witness statement of Milomir Stakić dated 16 November 2013), paras. 22, 48; Milomir Stakić, T. 45238–45240 (17 December 2013). The Chamber does not find this evidence to be credible based on the accepted evidence before the Chamber to the contrary which confirms that the Prijedor Crisis Staff was involved in the establishment of Trnopolje.

referred to in the camp as “Major”.⁶²⁴⁴ Kuruzović and all of the camp guards at Trnopolje wore military uniforms.⁶²⁴⁵ Kuruzović stayed in a house on the camp premises and was often seen by the detainees with his body guards, the Balaban twin brothers.⁶²⁴⁶ Slavko Puhalić assisted Kuruzović in the operation of the camp early on.⁶²⁴⁷

1821. Trnopolje was officially closed at the end of September 1992 but some people remained there until December 1992.⁶²⁴⁸

(ii) Conditions of detention

1822. Detainees were held in poor conditions at Trnopolje.⁶²⁴⁹ Early on, the buildings at Trnopolje could not house all of the detainees, so detainees were forced to sleep outdoors in makeshift shelters of plastic bags, sticks, and blankets.⁶²⁵⁰ Only after the majority of the women

⁶²⁴⁴ P3710 (Decision of Prijedor Crisis Staff, 29 May 1992) (in which Stakić orders that Kuruzović be placed under the “Regional Command”); Milomir Stakić, T. 45239 (17 December 2013) (testifying that Kuruzović was appointed as commander on behalf of the “army”); D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 3; D4468 (Confirmation of decisions adopted by Crisis Staff by Prijedor Municipal Assembly, 24 July 1992), e-court p. 6 (assigning the duty of providing security for Trnopolje to the “Regional Command”); P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), p. 8; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7759–7760; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5823 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12513–12515 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 8; KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3352; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7105; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 6874–6875; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6224. *See also* Adjudicated Fact 1227.

⁶²⁴⁵ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12513–12515 (under seal); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*), T. 3352; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3998 (under seal); D3968 (Report of Prijedor SJB, 9 August 1992) (reporting that Trnopolje was secured by the SerBiH Army). *See also* Adjudicated Facts 1227, 1228.

⁶²⁴⁶ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6874–6875; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7830–7832; D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 3; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 8; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3959–3960 (under seal). *See also* Adjudicated Fact 1229 (stating that the Balaban brothers were “well known for their brutality”).

⁶²⁴⁷ D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), paras. 3–4; Slavko Puhalić, T. 43409 (13 November 2013) (testifying that he was at Trnopolje until 11 June 1992 and then went for a spa treatment until 17 July 1992, after which he returned to Trnopolje until around 15 August 1992).

⁶²⁴⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7800; D3110 (ICRC press release, 2 October 1992); P6504 (Report of Prijedor Red Cross, 30 September 1992), pp. 9–10; P2948 (Report of humanitarian organisation, 8 October 1992) (under seal), p. 2; P2968 (Report of Prijedor SJB, January 1993) (stating that Trnopolje remained in operation until November 1992). *See also* Adjudicated Fact 1224. The Chamber will address the date on which Trnopolje closed in further details below in this section.

⁶²⁴⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7756–7760; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12462 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6783–6784; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6875–6878; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3958–3960 (under seal); P3528 (Witness statement of Kerim Mešanović, undated), pp. 65–68; P3543 (Excerpt from video clip of visits to Omarska and Trnopolje, with transcript); P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); P6503 (Video footage of Penny Marshall's visit to Trnopolje). *See also* Slavko Puhalić, T. 43403–43404 (13 November 2013).

⁶²⁵⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6877–6878; KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5749; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12556; Idriz

and children were transferred out of Trnopolje were male detainees able to sleep inside in the sports hall of the school or elsewhere.⁶²⁵¹ Even then, there was little space to sleep, no beds or blankets, and detainees had to sleep on the floor.⁶²⁵²

1823. Little or no food was supplied to the detainees by the camp authorities;⁶²⁵³ detainees received some food which was brought to them by relatives or local residents in the area, but it was insufficient.⁶²⁵⁴ Detainees who had money were able to buy bread, but the remaining detainees had to rely upon others sharing food with them.⁶²⁵⁵ There was almost no potable water at Trnopolje, as only one pump existed for the whole camp.⁶²⁵⁶ There was no running water and only limited lavatory facilities.⁶²⁵⁷ Furthermore, there were no facilities to wash and the heat and flies made the situation unbearable.⁶²⁵⁸ Due to the lack of food and unsanitary conditions, lice and scabies were rampant, and the majority of detainees suffered from dysentery.⁶²⁵⁹ There was no organised

Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7756–7757; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6783–6784; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6223–6224; Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7327; P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje). See also D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 11; Slavko Puhalić, T. 43418 (13 November 2013); see Adjudicated Facts 1231, 1236.

⁶²⁵¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6877–6878.

⁶²⁵² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7757; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6877–6878; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; P3885 (Photographs at Trnopolje). See also Adjudicated Fact 1236.

⁶²⁵³ P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6249, 6309–6311; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12462 (under seal); P4101 (Statement of KDZ611 to investigators dated 26 June 1995), e-court p. 30; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7757–7758. See Adjudicated Fact 1234; P684 (Witness statement of KDZ054 dated 13 June 2002), e-court p. 3.

⁶²⁵⁴ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7757–7758; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12462 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6875–6876; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6311–6312; Mevludin Sejmenović, T. 20489–20490 (27 October 2011); P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 11.

⁶²⁵⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6876; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12462 (under seal); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7757–7758; KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5749; KDZ014, P674 (Transcript from *Prosecutor v. Brđanin*), T. 12556.

⁶²⁵⁶ Adjudicated Fact 1233.

⁶²⁵⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6876; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7759; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3959–3960 (under seal). See Adjudicated Fact 1232.

⁶²⁵⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6876.

⁶²⁵⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7759, 7778; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3959 (under seal); P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); P3903 (Photograph of a detainee at Trnopolje); P3904 (Photograph of a detainee at Trnopolje); see Adjudicated Fact 1235 (stating that as many as 95% of the detainees at Trnopolje suffered from dysentery). Detainees also noted that the condition of people who arrived at Trnopolje from the Omarska and Keraterm camps was much worse. They had all lost a lot of weight, were dirty, unshaven, had dysentery, and many of them had been severely beaten and could not even walk. KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12468 (under seal). But see D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 23 (stating that he

medical care at Trnopolje but some medical assistance was provided by non-Serb detainees held in the camp, including Merdžanić and Azra Blazević, a veterinarian.⁶²⁶⁰ They worked out of a clinic at the camp but were not provided with any medical supplies by the camp authorities until the International Red Cross arrived.⁶²⁶¹

(iii) Treatment of detainees

Beatings and killings

1824. Although the scale of abuse at Trnopolje was less than that at Omarska, mistreatment was common there.⁶²⁶² Camp guards cut male detainees with knives and beat them with baseball bats, iron bars, rifle butts, or whatever they had at their disposal.⁶²⁶³ Detainees who were taken out for questioning would often return badly beaten and covered with blood.⁶²⁶⁴

1825. A laboratory inside the clinic at Trnopolje was used for interrogations and beatings.⁶²⁶⁵ Merdžanić could hear the sounds of camp guards beating and verbally abusing the detainees there.⁶²⁶⁶ Merdžanić treated some of the detainees after they were beaten there and photographed them without anyone knowing.⁶²⁶⁷ Beatings also occurred outside and in a boiler room in the

did not witness these issues and given that he sat with the “people in the camp [...] he would have caught these diseases as well” if they had existed there).

⁶²⁶⁰ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7730–7731, 7747–7748; Mevludin Sejmenović, T. 20489 (27 October 2011); P3528 (Witness statement of Kerim Mešanović, undated), p. 66; P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6249–6252. See also D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 11.

⁶²⁶¹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7747–7748, 7785–7786; Idriz Merdžanić, T. 21473–21474 (17 November 2011); P3797 (Excerpt of ITN video clip of journalist visit to Omarska and Trnopolje); KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6249–6250.

⁶²⁶² See Adjudicated Fact 1237.

⁶²⁶³ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7766–7768; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3958 (under seal). See also Adjudicated Fact 1237.

⁶²⁶⁴ KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6250; P4101 (Statement of KDZ611 to investigators dated 26 June 1995), e-court p. 30; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9. See also Adjudicated Fact 1237. Further, Puhalić stated that there were some individual incidents of mistreatment at Trnopolje in the beginning before military security was introduced there; however, Puhalić reported these incidents to Kuruzović who went to the police and asked that these incidents be investigated. According to him, after military security was introduced, these incidents no longer occurred. D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), para. 25.

⁶²⁶⁵ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7766, 7780–7785; P3905 (Sketch drawn by Idriz Merdžanić of clinic in Trnopolje); P3906 (Photograph of interrogation room in Trnopolje) (showing blood stains on the walls from the beatings); P3907 (Photograph of interrogation room in Trnopolje); Mevludin Sejmenović, T. 20491 (27 October 2011).

⁶²⁶⁶ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7766, 7780–7785.

⁶²⁶⁷ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7766–7767, 7769–7774, 7780–7785; P3896 (Photograph of a detainee at Trnopolje); P3897 (Photograph of a detainee at Trnopolje).

school building.⁶²⁶⁸ On one occasion, Žigić beat and kicked one of the detainees who had arrived from Keraterm and no one tried to stop him.⁶²⁶⁹

1826. Detainees, including female detainees, at Trnopolje were verbally abused, insulted with ethnic slurs, and threatened with death.⁶²⁷⁰ Detainees were forced to fight each other in the camp.⁶²⁷¹ Detainees were selected to bury dead bodies in nearby villages and in the camp.⁶²⁷² They were also taken out to perform forced labour.⁶²⁷³

1827. Detainees at Trnopolje were killed inside and outside the camp.⁶²⁷⁴ A number of detainees died as a result of the beatings by the guards during interrogations.⁶²⁷⁵ At least two detainees died in Trnopolje as a result of lack of medical care.⁶²⁷⁶ Others were killed by camp guards or other soldiers who entered the camp.⁶²⁷⁷ For instance, on the first night of KDZ038's detention in the shop building at Trnopolje, a uniformed Serb he knew took out an elderly man, Sulejman Kekić, and beat him.⁶²⁷⁸ Later that night, the same man was taken away, KDZ038 heard two shots, and the man did not return.⁶²⁷⁹ The Chamber is satisfied that this individual was killed. KDZ054 recalled one night during his detention when soldiers from a reserve unit came into the camp and called out

⁶²⁶⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7768.

⁶²⁶⁹ Safet Tači, P693 (Transcript from *Prosecutor v. Kvočka*), T. 3770–3773; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7768–7769.

⁶²⁷⁰ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3995–3997 (under seal); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7760–7761; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9.

⁶²⁷¹ P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9.

⁶²⁷² KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12466 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 9; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7786–7787; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; Mevludin Sejmenović, T. 20489 (27 October 2011).

⁶²⁷³ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7786–7787, 7838. However, the Chamber notes that the Indictment only covers forced labour at the frontlines.

⁶²⁷⁴ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7785–7787, 7804; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 9; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6253–6254; KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2524–2525, 2532; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6870–6873; P3908 (Excerpt of video clip of Trnopolje, with transcript), p. 2. *See also* P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002) (under seal), p. 313; *see* Adjudicated Fact 1242.

⁶²⁷⁵ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7773–7774, 7785; P3908 (Excerpt of video clip of Trnopolje, with transcript), p. 2. *See also* Adjudicated Fact 1242.

⁶²⁷⁶ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7785–7786; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 8; P3908 (Excerpt of video clip of Trnopolje, with transcript), p. 2.

⁶²⁷⁷ KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3998–3999 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6880; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6253–6254. *See also* Adjudicated Fact 1242.

⁶²⁷⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6867, 6880 (testifying that he was in a group of men taken by bus from Bišćani to Trnopolje on 20 July 1992, and put into a shop building at Trnopolje).

⁶²⁷⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6880.

six detainees from the Forić family.⁶²⁸⁰ They took them behind the corner of the building and about 10 to 20 minutes later, KDZ054 heard shooting.⁶²⁸¹ Later, the detainees who were selected to bury the bodies confirmed that the six detainees who had been taken out earlier were shot dead.⁶²⁸²

1828. Shortly after KDZ038 arrived at Trnopolje on 20 July 1992, a group of men from Bišćani arrived at the camp on a bus; KDZ038 saw that 12 of the men were called out and sent back to the bus, which drove them away.⁶²⁸³ Later, he was told by people who had walked some of the way from the Brdo area to Trnopolje that they had seen the dead bodies of these men in an area called Kratalj.⁶²⁸⁴ KDZ038 later spoke to a man who had been in this group of 12, who told him that the bus drove them back towards Bišćani, but that it stopped along the way and the men were lined up and shot with some kind of automatic rifle.⁶²⁸⁵ He and one other man survived the incident.⁶²⁸⁶

1829. Furthermore, on or around 8 September 1992, KDZ050 saw some of the detainees taken out to a nearby fish pond.⁶²⁸⁷ Shortly afterwards, KDZ050 heard rounds of fire from that direction, and those detainees never returned.⁶²⁸⁸ The Chamber is satisfied that these individuals were killed in this incident.

Sexual violence

1830. There were many incidents of rape at Trnopolje between May and October 1992.⁶²⁸⁹ During one of these incidents, the perpetrator told the victim: "Muslim women should give birth to

⁶²⁸⁰ P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6253–6254; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 9; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7786, 7804; Mevludin Sejmenović, T. 20488–20489 (27 October 2011).

⁶²⁸¹ P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6253–6254.

⁶²⁸² P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; KDZ054, P682 (Transcript from *Prosecutor v. Stakić*), T. 6253–6254.

⁶²⁸³ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6870.

⁶²⁸⁴ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6871.

⁶²⁸⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6872–6873.

⁶²⁸⁶ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6871–6873.

⁶²⁸⁷ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2524–2525, 2532.

⁶²⁸⁸ KDZ050, P680 (Transcript from *Prosecutor v. Sikirica*), T. 2524–2525.

⁶²⁸⁹ P684 (Witness statement of KDZ054 dated 14 March 2000), p. 8; Mevludin Sejmenović, T. 20490 (27 October 2011) (testifying that he heard from other detainees that rapes of women, including younger women and children, were taking place in the former cinema in the camp); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7759–7764; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6690. See also Adjudicated Fact 1238. Puhalić also testified that he was aware of rapes committed at Trnopolje in the beginning before the military guard was established by "unknown people who were outside any control" who broke into the camp. He stated that he reported the incidents to Kuruzović and some of the individuals who committed the rapes were arrested by the military police, but he did not know if any of them were prosecuted. However, Puhalić stated that it was not true that people were allowed to visit the camp from the outside. D4008 (Witness statement of Slavko Puhalić dated 11 November 2013), paras. 18, 26; Slavko Puhalić, T. 43408, 43421–43423 (13 November 2013)

Serb children”, and he also told her earlier that “Muslims were not human beings”.⁶²⁹⁰
 [REDACTED].⁶²⁹¹ [REDACTED].⁶²⁹² [REDACTED].⁶²⁹³ [REDACTED].⁶²⁹⁴ [REDACTED].⁶²⁹⁵
 [REDACTED].⁶²⁹⁶ [REDACTED].⁶²⁹⁷ [REDACTED].⁶²⁹⁸ [REDACTED].⁶²⁹⁹ [REDACTED].⁶³⁰⁰

1831. Camp guards at Trnopolje allowed men from outside the camp, including Serb soldiers and other Serbs, to enter the camp and rape women and girls.⁶³⁰¹ Detainees assigned to work in the clinic at Trnopolje, including Merdžanić and Vasif Gutić, treated and counselled many victims of rape there, including a 12 year old girl.⁶³⁰² The incidents of rape at Trnopolje caused terrible fear and mental trauma among all of the detainees.⁶³⁰³

(iv) Conclusion on conditions of detention and treatment of detainees

1832. Based on the above, the Chamber finds that non-Serbs, including women and children, were transferred to and detained at Trnopolje by Serb Forces beginning on or around 24 May 1992 until at least 30 September 1992. The detainees were held in poor conditions, including lack of space, poor sanitary conditions, inadequate medical care, and insufficient food. The Chamber finds that male detainees at Trnopolje were subjected to beatings by Serb Forces and were forced to work.⁶³⁰⁴ The Chamber also finds that a number of women detained at Trnopolje were raped by Serb Forces, including by the camp commander, Kuruzović. Finally, the Chamber finds that a number of non-

⁶²⁹⁰ [REDACTED].

⁶²⁹¹ [REDACTED].

⁶²⁹² [REDACTED].

⁶²⁹³ [REDACTED].

⁶²⁹⁴ [REDACTED].

⁶²⁹⁵ [REDACTED].

⁶²⁹⁶ [REDACTED].

⁶²⁹⁷ [REDACTED].

⁶²⁹⁸ [REDACTED].

⁶²⁹⁹ [REDACTED].

⁶³⁰⁰ [REDACTED].

⁶³⁰¹ P684 (Witness statement of KDZ054 dated 14 March 2000), p. 8; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7761–7764. See also Adjudicated Fact 1238. However, on one occasion, on 3 August 1992, Žigić came to Trnopolje and a guard at the entrance of a room where women from Omarska were being held ordered the women to lie down because “Žigić is coming”. Žigić asked the guard where the women were, but the guard cocked his weapon at Žigić and told him that there were no women there and forbid him to enter the room. P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 54–55 (under seal); KDZ093, P705 (Transcript from *Prosecutor v. Kvočka*), T. 6234–6236.

⁶³⁰² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7760–7764; see Adjudicated Fact 1239.

⁶³⁰³ See Adjudicated Fact 1241.

⁶³⁰⁴ However, as noted above, the Chamber notes that the Indictment only covers forced labour at the frontlines.

Serbs were killed by Serb Forces in Trnopolje and at various places after they were taken from the camp between 28 May 1992 and approximately 8 September 1992.⁶³⁰⁵

(v) Scheduled Incident B.15.6

1833. The Indictment refers to the killing on or about 21 August 1992 of approximately 200 men taken from Trnopolje to Vlašić mountain in Skender Vakuf.

1834. On 21 August 1992, a convoy of four buses marked "Autotransport Prijedor", organised by the Prijedor Crisis Staff and the Prijedor Red Cross to transport people out of Prijedor into Muslim-held territory, arrived at Trnopolje.⁶³⁰⁶ Primarily male detainees, including witnesses KDZ038 and KDZ611, as well as some women and children, were loaded onto them.⁶³⁰⁷ Kuruzović and members of the intervention squad were present as the detainees boarded the buses.⁶³⁰⁸ When the buses were full, they left in the direction of Kozarac, accompanied by members of the intervention squad and escorted by police and military vehicles.⁶³⁰⁹ Near Kozarac, the convoy stopped and was joined by four other buses and eight trucks, which had been loaded in Tukovi with Bosnian Muslim men, women, and children under orders from intervention squad commander, Miroslav Paraš.⁶³¹⁰ Paraš and Kuruzović spoke to each other during this stop.⁶³¹¹ At this point, the convoy included eight buses and eight trucks, accompanied by a number of police vehicles.⁶³¹² The convoy.

⁶³⁰⁵ This finding does not include the persons alleged to have been killed in Scheduled Incident B.15.6 which is discussed below.

⁶³⁰⁶ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6883; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5823–5824 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12472 (under seal); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 13–14; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7789–7790; Dušan Janković, T. 47299–47301 (18 February 2014). See also Adjudicated Fact 1243; [REDACTED]; P4259 (Photograph of Autotransport Prijedor Bus).

⁶³⁰⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6883; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5823–5824 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12473 (under seal) (testifying that the drivers of the bus were regular civilian drivers and that the bus he was on also carried two armed men in former JNA uniforms); P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 13–14; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7829; Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4619–4620. See also Adjudicated Fact 1243.

⁶³⁰⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6884; P4101 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 14. See also Adjudicated Fact 1243.

⁶³⁰⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6887; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12473 (under seal) (testifying that the convoy escorts included men in camouflaged blue police uniforms); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 14–15 (under seal); Dušan Janković, T. 47300–47301 (18 February 2014); P2969 (Report of Prijedor SJB, 15 September 1992). See also Adjudicated Facts 1243, 1244; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 6; P697 (Witness statement of Elvedin Nasić dated 15 March 2000), e-court p. 10.

⁶³¹⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6887, 6896; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12472–12473 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 15 (under seal); [REDACTED]; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12711–12713; Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4619–4620. See also Adjudicated Fact 1243.

⁶³¹¹ [REDACTED].

⁶³¹² KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6896.

continued through Banja Luka and on to Skender Vakuf, moving towards their final destination, which was the line of separation between Serb and Muslim controlled territory near Travnik.⁶³¹³

1835. The convoy stopped a number of additional times on the way.⁶³¹⁴ At one stop, one of the guards on the bus ordered KDZ038 to collect money and valuables from the men on his bus.⁶³¹⁵ Members of the intervention squad also collected money and other valuables from the detainees and placed them in plastic bags.⁶³¹⁶ At another stop, soldiers in olive drab uniforms boarded the buses and remained for the rest of the journey.⁶³¹⁷

1836. Shortly after Skender Vakuf, the convoy stopped again near a stream; young men of military age were then pulled out of the convoy by members of the intervention squad at Paraš's orders and loaded into two empty buses.⁶³¹⁸ The men on KDZ038's bus were ordered to line up outside of the bus.⁶³¹⁹ They were then told to board one of two empty buses and to lie on the floor.⁶³²⁰ KDZ038 estimated that there were 100 men packed on to the first bus.⁶³²¹

1837. The men of military age on the bus of KDZ611 were separated and loaded into the other empty bus; some women and older men were allowed to stay on one of the original buses.⁶³²²

⁶³¹³ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6897; P599 (Map of Trnopolje-Vlašić route); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12473–12474 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 15–16 (under seal); P4101 (Statement of KDZ611 to investigators dated 26 June 1995), e-court pp. 30–31, 49; Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4619–4620. *See also* Adjudicated Fact 1245.

⁶³¹⁴ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6898; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12474 (under seal).

⁶³¹⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6898.

⁶³¹⁶ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12713; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 6; P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 18 (under seal); [REDACTED]; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6903; Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4619–4620.

⁶³¹⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6899–6900; P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 16 (under seal). KDZ611 noticed a man in an olive-grey uniform with a red beret on his head, carrying a walkie-talkie. KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5826–5827 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12474 (under seal).

⁶³¹⁸ [REDACTED]; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12475–12476 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 17–18 (under seal); P699 (Statement of KDZ611 to investigators dated 26 June 1995), e-court p. 50 (under seal); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6900–6901. *See also* Adjudicated Fact 1246.

⁶³¹⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6900. *See also* Adjudicated Fact 1246.

⁶³²⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6900–6901. *See also* Adjudicated Facts 1248, 1249.

⁶³²¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6902. *See also* Adjudicated Fact 1248.

⁶³²² KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12475–12476 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 17 (under seal); P699 (Statement of KDZ611 to investigators dated 26 June 1995), e-court p. 50 (under seal). *See* Adjudicated Fact 1247 (stating that a truck appeared and the women and children were told to board it; another truck arrived and departed with more detainees but left behind a number of people who had been at Trnopolje and some residents of Kozarac).

KDZ611 estimated that there were “well over 100 people” on his bus, which proceeded, behind the first bus while the rest of the convoy carried on ahead of them, towards Travnik.⁶³²³

1838. The buses continued for another 10 to 15 minutes before stopping again on a road flanked on one side by a steep cliff and on the other by a deep gorge; an area referred to as Korićanske Stijene.⁶³²⁴ Members of the intervention squad directed the detainees on the bus KDZ038 was on to disembark, form a column two by two, and walk down the road.⁶³²⁵ After they walked for about 100 metres, the men were ordered to stop, turn left, take three steps forward, and kneel down facing the abyss.⁶³²⁶ KDZ038 heard a man in police uniform in charge say: “Here we exchange the dead for the dead and the living for the living” and then shots were fired towards the line of men at the edge of the gorge.⁶³²⁷ KDZ038 saw people falling down and shouted at his father to throw himself into the abyss; his father then pushed him into the gorge.⁶³²⁸ KDZ038 then found himself at the bottom, his ankle broken, and his foot hanging by a tendon.⁶³²⁹ Two men came down into the abyss and shot anyone who tried to escape in the head; KDZ038 pretended to be dead.⁶³³⁰ He then heard more shooting and saw dead bodies around him.⁶³³¹

1839. Once the second bus stopped, the men on board, including KDZ611, were told to disembark by a soldier in a red beret.⁶³³² KDZ611 saw the other bus parked ten metres away.⁶³³³ They were

⁶³²³ P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 17–18 (under seal); see KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12475–12476 (under seal) (testifying that there were “around 150” men on his bus). Nasić testified that he was on this convoy but when it stopped and some of the men were told to get off, he stayed on it. At a place near Vlašić, the convoy stopped again and the remaining people were told to disembark and they walked from there to Travnik. According to Nasić, about 150 to 200 men who started out on the convoy did not make it to Travnik. Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12714. See also Senija Elkasović, P690 (Transcript from *Prosecutor v. Tadić*), T. 4620–4622 (testifying that after leaving on one of the organised buses from Trnopolje, her bus stopped at a big stone barricade and the passengers were told to get off and walk; she walked 40 or 50 kilometres to a school in Travnik while others who could not walk remained on the road and somehow were transported to Travnik).

⁶³²⁴ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6903–6905; KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5829, 5836 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12479–12480 (under seal); P564 (Photograph of road at Mount Vlašić); P565 (Photograph of road at Mount Vlašić); P566 (Photograph of road at Mount Vlašić); P567 (Photograph of Mount Vlašić); P568 (Photograph of Mount Vlašić). See also Adjudicated Facts 1250, 1251.

⁶³²⁵ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6904–6905; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21142 (under seal). See also Adjudicated Fact 1252.

⁶³²⁶ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6905; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12481 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 19 (under seal). See also Adjudicated Fact 1252.

⁶³²⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6905–6906; [REDACTED]. See also Adjudicated Fact 1253.

⁶³²⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6906. See also Adjudicated Fact 1255.

⁶³²⁹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6907.

⁶³³⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6907–6909.

⁶³³¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6908–6909.

⁶³³² KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12479–12480 (under seal).

⁶³³³ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12480 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 18 (under seal).

ordered to form a column two abreast and to walk for several minutes until they reached a wooded area with a steep slope on one side of the road and a steep drop on the other side.⁶³³⁴ The men were ordered to face the drop, to step forward to the edge, and to kneel down, at which point gunfire was directed at them by members of the intervention squad.⁶³³⁵ KDZ611 was pushed by the man beside him down the slope.⁶³³⁶ He fell to the bottom uninjured, and continued to hear the sounds of gunfire for a number of minutes.⁶³³⁷ He saw many other men falling down the slope to the bottom.⁶³³⁸ Individuals who did not fall into the abyss were pushed into it by the men shooting at them.⁶³³⁹ Grenades were also thrown into the gorge.⁶³⁴⁰

1840. When night fell, KDZ038 crawled to the river at the bottom of the gorge and spent the night there. He roughly bandaged his foot and the next day began to crawl along the river until he came to a derelict mill where he took shelter.⁶³⁴¹ He was later found by some soldiers who took him to Skender Vakuf, where he was given medical attention and a statement was taken from him about the killings at Korićanske Stijene; he was then taken by ambulance to a hospital in Banja Luka.⁶³⁴²

1841. KDZ611 and another man who had survived the shooting⁶³⁴³ remained hidden in the woods for two or three days, after which they surrendered to a group of Serb soldiers at a place called Galica.⁶³⁴⁴ They were then taken to Skender Vakuf and held with three other wounded survivors of

⁶³³⁴ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5829 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12480–12481 (under seal); [REDACTED].

⁶³³⁵ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12490 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 20 (under seal); [REDACTED]. *See also* Adjudicated Fact 1256 (stating that the primary perpetrators of the killings at Korićanske Stijene were members of the Prijedor intervention squad).

⁶³³⁶ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12490 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 20 (under seal).

⁶³³⁷ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12490–12491 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 20 (under seal).

⁶³³⁸ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12490 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 20 (under seal).

⁶³³⁹ [REDACTED]. *See also* Adjudicated Fact 1255.

⁶³⁴⁰ [REDACTED]; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6908. *See also* Adjudicated Fact 1255.

⁶³⁴¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6910–6913.

⁶³⁴² KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6913–6918.

⁶³⁴³ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5833 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 20–21 (under seal) (stating that at one point the other survivor he was with, Bahrija Jakupović, went back for a look and told KDZ611 that people from the other bus were being killed in small groups, rather than lining them up all at once).

⁶³⁴⁴ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5833–5834 (under seal). *See* P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 21 (under seal).

the incident, and interrogated about what had happened at Korićanske Stijene by both an army officer and the police.⁶³⁴⁵ They were then transferred to a hospital in Banja Luka.⁶³⁴⁶

1842. In the hospital, KDZ038, KDZ611, and other survivors were beaten and mistreated by other patients and by local civilians, police, and soldiers, with the permission of the guards who were watching them.⁶³⁴⁷ Later, they were transferred to another hospital at Paprikovac, near Banja Luka, where they and other non-Serbs were also mistreated.⁶³⁴⁸ Following his release from the hospital, and after being interviewed by a judge in Banja Luka about the incident at Korićanske Stijene, KDZ611 was housed by a Muslim charity in Banja Luka called Merhamet.⁶³⁴⁹ Later, an international organisation took him back to Trnopolje to get the necessary papers to permit him to leave RS, and then on to Karlovac, from where he travelled to a third country.⁶³⁵⁰ KDZ038 remained in the Paprikovac hospital until 15 October 1992, when he was told that he was free to leave and, with the assistance of Merhamet, he went to stay at the mosque.⁶³⁵¹ The wound on KDZ038's ankle festered badly and his foot was finally amputated.⁶³⁵²

1843. On 22 August 1992, a meeting was held with Paraš, Župljanin, Bogdan Subotić, Drljača, and other high level officials at the Prijedor SJB to discuss the incident at Korićanske Stijene.⁶³⁵³ That day, members of the intervention squad who had been told to go into hiding after the incident

⁶³⁴⁵ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12501–12503 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court p. 21 (under seal) (providing the names of the other survivors: Midhet Mujkanović, Mehmed Sivac, and Sulejman Kahrmanović and noting that they also gave a statement to a judge in Banja Luka after they had been released from the hospital).

⁶³⁴⁶ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5835 (under seal).

⁶³⁴⁷ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6920; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12503–12504 (under seal).

⁶³⁴⁸ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6922–6924; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12503–12505 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5835 (under seal) (testifying that there they also met another survivor of the incident at Korićanske Stijene, Sanimir Kljajić).

⁶³⁴⁹ KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12509 (under seal). See D4236 (Report of Banja Luka Lower Court, 24 September 1992); D2044 (Report of Banja Luka Public Prosecutor's Office, 14 September 1992).

⁶³⁵⁰ KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5835–5836 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12510 (under seal); P699 (Witness statement of KDZ611 dated 11 September 1995), e-court p. 37 (under seal).

⁶³⁵¹ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6923.

⁶³⁵² KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6922–6924, 6956, 6959 (testifying that during his time in Paprikovac, he met other survivors of the killings at Korićanske Stijene and gave a statement to the ICRC which he said was not a true statement; he stated that he was constantly watched by guards when he gave it and they told him not to tell the truth).

⁶³⁵³ [REDACTED]; Dušan Janković, T. 47302–47303 (18 February 2014). See also [REDACTED]; D2041 (1st Krajina Corps combat report, 22 August 1992), p. 2 (wherein the 1st Krajina Corps Command reported to the VRS Main Staff about the Mount Vlašić incident, including that “a massacre against civilians—Muslim men—was committed on 21 August between 1830 and 1900 hours [...] by a group of policemen escorting a convoy of refugees to Travnik”).

returned to Prijedor and resumed their duties.⁶³⁵⁴ On 23 or 24 August 1992, members of the intervention squad were taken back to Korićanske Stijene to attempt to recover bodies from the abyss; Drljača and Župljanin were both present.⁶³⁵⁵ Approximately 150 to 200 dead bodies were seen at Korićanske Stijene after the incident.⁶³⁵⁶ The attempt to extract the bodies failed as they did not have the heavy machinery required for such an operation.⁶³⁵⁷ A second attempt was made to extract the bodies with a crane but it also failed, as did their attempt to burn the bodies.⁶³⁵⁸ During the second attempt, some of the bodies were destroyed; members of the intervention squad then tried to cover the remaining bodies with stones and branches, under the supervision of Drljača, Paraš, and two other commanders.⁶³⁵⁹

1844. Shortly after the incident, the intervention squad was disbanded and its 40 members were sent on a combat mission to Han Pijesak.⁶³⁶⁰ On 3 September 1992, the 1st Krajina Corps reported to the VRS Main Staff that Drljača was responsible for the incident at Korićanske Stijene and that it had caused indignation among citizens and members of the 1st Krajina Corps, creating a “dark stain”, but that it was fortunate that the “international community did not find out about it in more detail”.⁶³⁶¹

1845. On 14 September 1992, in response to a request by Mićo Stanišić to initiate an investigation into the incident,⁶³⁶² Drljača stated that an investigation could not be carried out because the officers who had participated in the convoy and incident were currently deployed in the battlefield.⁶³⁶³ Although an investigation into the incident was initiated,⁶³⁶⁴ none of the policemen

⁶³⁵⁴ [REDACTED].

⁶³⁵⁵ [REDACTED].

⁶³⁵⁶ Nenad Krejić, P3760 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 14037–14039; P3767 (Aerial photograph marked by Nenad Krejić); P3768 (Witness statement of Milan Komljenović dated 28 October 2011), pp. 6–7; [REDACTED].

⁶³⁵⁷ [REDACTED]. See also D4379 (Witness statement of Vladimir Glamočić dated 10 February 2014), paras. 19–24.

⁶³⁵⁸ [REDACTED]; Vladimir Glamočić, T. 47240–47241 (17 February 2014); P6673 (Video footage re Korićanske Stijene). See also D4379 (Witness statement of Vladimir Glamočić dated 10 February 2014), para. 33.

⁶³⁵⁹ Nenad Krejić, P3760 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 14049–14050, 14055; Milan Komljenović, T. 20916–20919 (3 November 2011); P3768 (Witness statement of Milan Komljenović dated 28 October 2011), pp. 9–10, 21–22, 24–25; [REDACTED]. See P3929 (Report of 1st Krajina Corps, 3 September 1992), p. 4.

⁶³⁶⁰ Dušan Janković, T. 47303–47304 (18 February 2014) (testifying that disbanding the unit and sending them to the frontline was a compromise as if Drljača had arrested them, they would have resisted and “it could not be done without bloodshed”); [REDACTED]. See D1882 (Letter from Simo Drljača, 14 September 1992); D1885 (Dispatch from Simo Drljača to Stojan Župljanin, 13 October 1992).

⁶³⁶¹ P3929 (Report of 1st Krajina Corps, 3 September 1992), p. 4.

⁶³⁶² P3763 (Order of Banja Luka CSB forwarding order of RS MUP, 11 September 1992); Mićo Stanišić, T. 46411–46413 (4 February 2014).

⁶³⁶³ D1882 (Letter from Simo Drljača, 14 September 1992); D1885 (Dispatch from Simo Drljača to Stojan Župljanin, 13 October 1992). See also Adjudicated Fact 2492.

involved in the incident were held accountable for their involvement.⁶³⁶⁵ Furthermore, in November 1993 and June 1994, members of the intervention squad, as well as high officials involved in the incident, such as Drljača, Paraš, Milutin Čađo, and others in the Prijedor SJB, were promoted and awarded medals of bravery by the Accused.⁶³⁶⁶

1846. The Chamber took judicial notice of the fact that on 21 August 1992, approximately 200 men travelling in a convoy over Mount Vlašić were killed by Serb armed men at Korićanske Stijene.⁶³⁶⁷ Furthermore, in assessing the overall number of persons killed during this incident, the Chamber has considered witness testimony that there were two buses with approximately 100 men or more on each bus.⁶³⁶⁸ In addition, the Chamber received forensic evidence to support the deaths of some identified individuals in connection with the killings at Korićanske Stijene.⁶³⁶⁹

⁶³⁶⁴ D2040 (Special report of the 22nd Light Infantry Brigade, 21 August 1992); D2042 (Miloš's report re Korićanske Stijene incident, 22 August 1992); D2043 (Record of forensic examination at Korićanske Stijene, 31 August 1992); D2044 (Report of Banja Luka Public Prosecutor's Office, 14 September 1992); D4236 (Report of Banja Luka Lower Court, 24 September 1992); D1883 (Letter from Banja Luka Prosecutor's Office to Banja Luka CJB, 30 September 1992); P6644 (Letter from Banja Luka CJB to Banja Luka Prosecutor's Office, 1999); Mićo Stanišić, T. 46411–46413 (4 February 2014), T. 46542–46548 (5 February 2014); D4235 (Witness statement of Jevto Janković dated 24 January 2014), paras. 9–10, 12. See P3768 (Witness statement of Milan Komljenović dated 28 October 2011), para. 4; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 30.

⁶³⁶⁵ [REDACTED]; P3768 (Witness statement of Milan Komljenović dated 28 October 2011), pp. 6–7. See also P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 327–328.

⁶³⁶⁶ [REDACTED]; P4261 (Article in the Kozarski Vesnik entitled "Shoulder to Shoulder with the Army", 26 November 1993); P4265 (Compilation of video footage from various Serbian TV stations, undated, with transcript). The Chamber will discuss in further detail the Accused's knowledge of this incident and subsequent actions in Section IV.A.3.a.v: Accused's knowledge of crimes and measures he took to prevent them. See paras. 3346, 3418, 3432. Furthermore, rather than being treated as a "rogue police chief", as alleged by the Accused during his case, Drljača was rewarded as a hero for his actions in Prijedor and given more appointments in Banja Luka and Prijedor over the subsequent years. For instance, Drljača was appointed as assistant Chief of the Banja Luka CSB on 17 January 1994, and later, he was again appointed as Chief of the Prijedor SJB on 27 April 1994. P6638 (Decisions of RS MUP, 17 January 1994 and 27 April 1994); Mićo Stanišić, T. 46517–46518 (5 February 2014); Miroslav Kvočka, T. 45631 (20 January 2014); P4261 (Article in the Kozarski Vesnik entitled "Shoulder to Shoulder with the Army", 26 November 1993); P4265 (Compilation of video footage from various Serbian TV stations, undated, with transcript); [REDACTED].

⁶³⁶⁷ See Adjudicated Fact 1254.

⁶³⁶⁸ See paras. 1836–1837.

⁶³⁶⁹ P4437 (Death certificates for 16 individuals reported missing on Mount Vlašić) (under seal); P4421 (Death certificate for Bećir Bešić) (under seal); P4422 (Death certificate for Rasim Bašić) (under seal); P4423 (Death certificate for Almir Fazlić) (under seal); P4424 (Death certificate for Nedžad Čaušević) (under seal); P4425 (Death certificate for Samir Garibović) (under seal); P4426 (Death certificate for Šefik Garibović) (under seal); P4427 (Death certificate for Zijad Huskanović) (under seal); P4428 (Death certificate for Fehret Jaskić) (under seal); P4429 (Death certificate for Hasan Kararić) (under seal); P4430 (Death certificate for Fahrudin Mujkanović) (under seal); P4431 (Death certificate for Sejad Avdić) (under seal); P4432 (Death certificate for Zijad Tadžić) (under seal); P4433 (Death certificate for Suad Zulić) (under seal); P4434 (Death certificate for Mesud Zulić) (under seal); P4435 (Death certificate for Sejad Kadirić) (under seal); P4438 (Death certificate for Midhet Hodžić) (under seal); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 91–93 (wherein Mašović identifies the names of 55 identified individuals who went missing Korićanske Stijene on 21 August 1992 and who were later exhumed from Korićanske Stijene); P4640 (DNA reports of persons exhumed from Korićanske Stijene on 3 October 2003); P5911 (DNA reports of persons exhumed from Korićanske Stijene on 21 July–26 August 2006); P5912 (DNA reports of persons exhumed from Korićanske Stijene on 15–21 May 2003). KDZ611 identified Jasim Fazlić, his brother, eight neighbours with the last name Garibović, Kadir

1847. Based on the above, the Chamber finds that approximately 200 non-Serb men, some of whom were taken from Trnopolje, were killed on 21 August 1992 by Serb Forces at Korićanske Stijene.

(vi) Transfer of detainees out of Trnopolje

1848. Women and children were taken away in convoys from Trnopolje early on until there were primarily only men left in the camp.⁶³⁷⁰

1849. As mentioned above, pursuant to an order issued by Mladić on 3 August 1992, Talić ordered the authorities at Omarska, Trnopolje, and Manjača to urgently prepare for visits by the ICRC and teams of reporters.⁶³⁷¹

1850. When journalists and foreign delegations visited Trnopolje, camp officials would take down the barbed wire fence and sometimes a sign would be put up saying that it was a “collection centre”.⁶³⁷² On 18 August 1992, ICRC representatives were denied access to Trnopolje for a week.⁶³⁷³ In that week, officials prepared the camp for subsequent visits by journalists and ICRC representatives by organising numerous convoys, including the convoy to Mount Vlasić on 21 August 1992, to transfer Bosnian Muslims and Bosnian Croats out of Trnopolje in order to empty the camp.⁶³⁷⁴ The convoys transferring detainees out of Trnopolje were organised and secured by the Prijedor Crisis Staff, Prijedor SJB, Banja Luka SJB, and the VRS.⁶³⁷⁵ ICRC regained access to Trnopolje on 26 August 1992 and began registering detainees for the first time.⁶³⁷⁶

Kararić, and Elvir Kararić as individuals who were with him on the convoy and were killed at Korićanske Stijene). KDZ611, P698 (Transcript from *Prosecutor v. Kvočka*), T. 5830 (under seal); KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12511 (under seal); P699 (Witness statement of KDZ611 dated 27 February 1999), e-court pp. 14–15, 19 (under seal). See also P4851 (Witness statement of Amor Mašović dated 23 March 2012), Confidential Appendix B, pp. 16–19 (under seal); P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 63, 68–69, 72–73, 76–78, 84, 86, 95–96, 113–116, 123–124, 142, 148, 169, 176, 181–184, 201, 204–206, 210–213 (under seal).

⁶³⁷⁰ KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6876–6877 (testifying that he watched the convoys of buses and trucks leaving from the camp, carrying women and children, and sometimes tried to get on board, but was unable to board).

⁶³⁷¹ P5461 (VRS Main Staff Order, 3 August 1992); P5460 (Order of 1st Krajina Corps, 3 August 1992). See also paras. 1404, 1784.

⁶³⁷² Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7793; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6879.

⁶³⁷³ P807 (Address by ICRC President at the London Conference, 26 August 1992), p. 3.

⁶³⁷⁴ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7789–7791; Idriz Merdžanić, T. 21395–21398 (16 November 2011); P3901 (Photograph of detainees at Trnopolje); P3902 (Photograph of detainees waiting to board a truck at Trnopolje); KDZ014, P674 (Transcript from *Prosecutor v. Stakić*), T. 5748–5750; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*), T. 12517–12518 (under seal); Dušan Janković, T. 47301 (18 February 2014). See also Adjudicated Fact 1296.

⁶³⁷⁵ P5503 (Report of Prijedor SJB, 18 July 1992); KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6881–6882 (testifying that an intervention squad known as “Sarenci” would come to Trnopolje whenever one of the convoys was leaving to guard the convoys as the people were being loaded on to the buses and trucks and

1851. Trnopolje was officially closed at the end of September 1992, but some detainees stayed there longer so that they could be registered and leave.⁶³⁷⁷ A large convoy from Trnopolje was organised by the ICRC on 1 October 1992; 1,560 people were transferred from Trnopolje to a reception centre in Karlovac.⁶³⁷⁸ All of the detainees transferred in this convoy were required to sign documents relinquishing their property rights in Prijedor to Serbs.⁶³⁷⁹ It was only after signing these documents that they were permitted to leave.⁶³⁸⁰ According to the Prijedor Red Cross, over 23,000 people had been “housed” at Trnopolje by the end of September 1992.⁶³⁸¹

1852. Some detainees remained at Trnopolje until the end of 1992.⁶³⁸² On 2 December 1992, Kirudja co-ordinated a convoy of 600 to 800 people out of Trnopolje to Dvor, in Croatia.⁶³⁸³

(e) Scheduled Detention Facility C.20.5

1853. The Indictment refers to the use of the Miška Glava Dom as a detention facility in Prijedor municipality between 21 and 25 July 1992.

(i) Arrival of detainees and control over the detention facility

1854. Located in the village of Miška Glava, the Miška Glava Dom was used as a detention facility in Prijedor from around 21 to 25 July 1992.⁶³⁸⁴ Miška Glava Dom was a cultural club

describing that the unit wore a police combat uniform of blue and yellow camouflage with the word “Milicija” in Cyrillic); [REDACTED]. See also Adjudicated Fact 1296.

⁶³⁷⁶ P807 (Address by ICRC President at the London Conference, 26 August 1992), p. 3; KDZ038, P676 (Transcript from *Prosecutor v. Stakić*), T. 6882–6883; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7799. See D4253 (Video footage of interviews at Omarska, with transcript), p. 9. See also P6585 (SRNA press release, 22 August 1992) (reporting that authority over Trnopolje had been handed over to the Red Cross in the course of the day pursuant to a decision by the RS President).

⁶³⁷⁷ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7791, 7800; D3110 (ICRC press release, 2 October 1992); P6504 (Report of Prijedor Red Cross, 30 September 1992), pp. 9–10; P2948 (Report of humanitarian organisation, 8 October 1992) (under seal), p. 2. See also Adjudicated Fact 1224.

⁶³⁷⁸ D3110 (ICRC press release, 2 October 1992); Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7791, 7800, 7834–7835; P684 (Witness statement of KDZ054 dated 14 March 2000), e-court p. 9; P6504 (Report of Prijedor Red Cross, 30 September 1992), pp. 9–10. See P786 (Third notebook of Herbert Okun’s ICFY diary), e-court p. 13.

⁶³⁷⁹ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7800, 7834–7835; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7106, 7133–7134.

⁶³⁸⁰ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*), T. 7800, 7834–7835; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7106.

⁶³⁸¹ P6504 (Report of Prijedor Red Cross, 30 September 1992), p. 9.

⁶³⁸² P2968 (Report of Prijedor SJB, January 1993), p. 5 (stating that Trnopolje remained in operation until November 1992). See also Adjudicated Fact 1224. In a meeting with international representatives on 3 October 1992, it was brought to the attention of Okun and other ICFY representatives that more than 1,000 people entered Trnopolje “voluntarily” after it “had been emptied” a few days prior with the departure of the large convoy on 1 October. P786 (Third notebook of Herbert Okun’s ICFY diary), e-court p. 20.

⁶³⁸³ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 74, fn. 187; P3833 (UNPROFOR Memo, 8 December 1992).

which had been transformed into a command post staffed and guarded by members of the Miška Glava TO.⁶³⁸⁵

1855. Around 21 July 1992, a group of approximately 114 Bosnian Muslim men and boys were captured by Serb soldiers and transported in buses to Miška Glava Dom.⁶³⁸⁶ This group had been part of a column of between 200 and 300 men and boys walking in the direction of Bihać.⁶³⁸⁷ The column was attacked by Serb soldiers in the Kalejevo woods and it broke apart.⁶³⁸⁸ A group from the column, including Nermin Karagić and Elvedin Nasić, ran into the woods near Miška Glava and were surrounded by about 20 soldiers dressed in olive-grey JNA uniforms and blue reserve police uniforms.⁶³⁸⁹ The group was lined up in four columns, searched, and ordered to throw all of their possessions in a pile on the ground.⁶³⁹⁰ They were then led to the road, where a van was brought to take them in groups to Miška Glava Dom.⁶³⁹¹ Three men tried to escape on the way to the van, one of whom was shot.⁶³⁹²

1856. When they arrived at Miška Glava Dom, the detainees were locked in a room that had served as a café.⁶³⁹³ Their names were recorded by an officer.⁶³⁹⁴

⁶³⁸⁴ P598 (Map of Prijedor area); Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5215, 5217–5218, 5226; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12693–12695, 12698; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3. See also Adjudicated Fact 1102.

⁶³⁸⁵ P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5219–5220. See also Adjudicated Facts 1257, 1258. The secretary of the local commune had his office at Miška Glava Dom and local commune meetings were held there. Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5215, 5217, 5219.

⁶³⁸⁶ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5213–5215, 5223; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12691, 12693. See also Adjudicated Fact 1259.

⁶³⁸⁷ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5211–5212 (testifying that the column consisted of adult men and boys his age (17 years old)); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12690, 12723.

⁶³⁸⁸ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5213; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12690; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

⁶³⁸⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12690–12691; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5213–5214, 5219–5220; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

⁶³⁹⁰ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5214; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12691; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

⁶³⁹¹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5214–5215; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12691.

⁶³⁹² Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5215 (testifying further that he heard later that the other two men were killed in Sanski Most); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12691, 12700; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3. The Chamber notes these killings are not charged pursuant to Schedule A or Schedule B of the Indictment. See fn. 13.

⁶³⁹³ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12693; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5215, 5218; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

(ii) Conditions of detention and treatment of detainees

1857. Detainees were held in the café at Miška Glava Dom for between three to five days.⁶³⁹⁵ The room was small and so overcrowded that detainees had to sit in a crouching position, with their knees to their chests and their arms around their legs.⁶³⁹⁶ It was stiflingly hot.⁶³⁹⁷ While at Miška Glava Dom, detainees received little to no food and they had to “earn” drinking water by singing songs about Greater Serbia.⁶³⁹⁸

1858. Detainees were regularly called out of the café to a smaller room to be interrogated and were beaten by soldiers with their fists and rifle butts.⁶³⁹⁹ They suffered concussions, bleeding, and heavy bruising.⁶⁴⁰⁰ Karagić heard the moaning of his father as he was being beaten and when his father returned, he was covered in bruises.⁶⁴⁰¹ Karagić also saw a man named Islam Hopovac beaten until he was “black and blue”.⁶⁴⁰² Detainees were also beaten when they went outside to go to the bathroom.⁶⁴⁰³

1859. At one point, a man whose son was allegedly killed by Muslims in Rizvanovići entered the room and called out ten men from Rizvanovići, including Ismet Hamulić, and said he would “do

⁶³⁹⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5218; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12693; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3. See also Adjudicated Fact 1259.

⁶³⁹⁵ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5218; Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12694; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

⁶³⁹⁶ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5220, 5225; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3.

⁶³⁹⁷ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5220.

⁶³⁹⁸ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5219–5220 (stating that the detainees were given a single loaf of bread and a packet of sweets to share amongst all of them); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12709–12710 (testifying that he was given nothing to eat during his detention at Miška Glava Dom).

⁶³⁹⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12694; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5220–5221; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3. See also Adjudicated Facts 1258, 1259, 1260.

⁶⁴⁰⁰ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5220–5221, 5223. See also Adjudicated Fact 1260.

⁶⁴⁰¹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5220–5221.

⁶⁴⁰² Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5223.

⁶⁴⁰³ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12693.

the same” to them; these men were never seen again.⁶⁴⁰⁴ In addition, at least three men were taken out of the room by soldiers and did not return.⁶⁴⁰⁵

1860. On around 25 July 1992, the remaining detainees were put on to two buses and transferred to the Ljubija football stadium.⁶⁴⁰⁶

(iii) Conclusion

1861. Based on the above, the Chamber finds that Bosnian Muslims, including minors, were detained at Miška Glava Dom by Serb Forces from around 21 July to 25 July 1992. The Chamber also finds that detainees were held in poor conditions characterised by lack of space and insufficient food and were subjected to severe beatings by Serb Forces.

(f) Scheduled Detention Facility C.20.6 and Scheduled Incident

A.10.8

1862. The Indictment refers to the use of the Ljubija Football Stadium as a detention facility in Prijedor municipality on or about 25 July 1992.⁶⁴⁰⁷ The Prosecution alleges that a number of men were killed at the Ljubija Football Stadium and surrounding areas on or about 25 July 1992.⁶⁴⁰⁸

(i) Arrival of detainees and control over the detention facility

1863. On or around 25 July 1992 in the afternoon, Bosnian Muslim civilians who had been detained at Miška Glava Dom were transferred by bus to the Ljubija Football Stadium.⁶⁴⁰⁹ Ljubija

⁶⁴⁰⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5221–5225 (further testifying that he could not recall if the man was wearing a uniform or civilian clothing); Elvedin Nasic, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695, 12723–12724; P697 (Witness statement of Elvedin Nasic dated 15 January 1995), e-court p. 3. The Chamber notes these killings are not charged pursuant to Schedule B of the Indictment with respect to this detention facility. See fn. 13.

⁶⁴⁰⁵ P697 (Witness statement of Elvedin Nasic dated 15 January 1995), e-court p. 3; Elvedin Nasic, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12723–12724 (testifying that three men were taken out of the room by soldiers from Banja Luka and were never seen again); Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5221–5225 (testifying that a man from Cazin and a man from Višegrad were taken from the room and that he heard the sounds of these two men being killed outside and saw a soldier in an olive-grey uniform take three other detainees from the café one by one, and each time, the soldier returned to the café alone with blood on his knife and glove). The Chamber notes these killings are not charged pursuant to Schedule B of the Indictment with respect to this detention facility. See fn. 13.

⁶⁴⁰⁶ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5225–5226; P697 (Witness statement of Elvedin Nasic dated 15 January 1995), e-court p. 3; Elvedin Nasic, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695. See also Adjudicated Fact 1261; Scheduled Detention Facility C.20.6.

⁶⁴⁰⁷ In its Final Brief, the Prosecution notes a typographical error in the Indictment for Scheduled Detention Facility C.20.6, namely that it omitted to allege the year as 1992. See Prosecution Final Brief, Appendix B, p. 43, fn. 642.

⁶⁴⁰⁸ The Chamber notes that these killings are alleged under Schedule A of the Indictment. However, they are killings related directly to the Ljubija Football Stadium listed as Scheduled Detention Facility C.20.6 in the Indictment.

Football Stadium was located at the entrance to Gornja Ljubija.⁶⁴¹⁰ On the way to the stadium, one of the buses stopped at the entrance to an iron ore mine near Gornja Ljubija.⁶⁴¹¹ A policeman named “Simo”, soldiers wearing dark blue and black camouflage overalls, and members of a “Special Forces intervention squad” boarded the bus and began to beat and kick the detainees.⁶⁴¹² The bus then continued on to the stadium, and the detainees were ordered off.⁶⁴¹³

1864. Upon arriving at the stadium, children were separated from the other detainees and held in a building that served as a changing room for athletes.⁶⁴¹⁴

1865. Ljubija Football Stadium was guarded by Bosnian Serb policemen, members of the military, and members of the intervention squad who accompanied the buses.⁶⁴¹⁵ A guard in civilian clothes, who was called “vojvoda”, was also present at the stadium.⁶⁴¹⁶

(ii) Treatment of detainees

1866. As they exited the bus, the detainees were beaten by civilians who had assembled at the stadium, as well as by soldiers and members of the intervention squad and police, with metal rods, rifle butts, baseball bats, and other implements.⁶⁴¹⁷

⁶⁴⁰⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695–12696; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5226–5227. See also Adjudicated Facts 1102, 1261.

⁶⁴¹⁰ P569 (Map of Prijedor municipality); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12696–12697; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5227; P563 (Map of Ljubija-Briševo) (on which Karagić identified the stadium as photograph number 2). See also Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5634; P3688 (Excerpt from video clip of aerial flyover of Prijedor).

⁶⁴¹¹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695–12697 (testifying that the mine was located at “Ljubija Zeljezne Rude”, a different location than the “Kipe” mine); P569 (Map of Prijedor municipality).

⁶⁴¹² Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695–12696; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 3; P697 (Witness statement of Elvedin Nasić dated 15 March 2000), e-court p. 9.

⁶⁴¹³ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12696.

⁶⁴¹⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5228, 5234, 5236 (testifying that he only heard children had been separated later from the children themselves and that although he was only 17 years old, he was not sent to the changing room; in addition, one Serb detainee was allowed to go to the changing room later and survived); P563 (Map of Ljubija-Briševo) (on which Karagić identifies a white two-story building that served as the changing room in photograph number two).

⁶⁴¹⁵ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12698–12700, 12702 (testifying that he recognised a local reserve policeman called “Stiven” and a soldier named Predrag Vasiljević); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5231 (testifying that there was a “Major” in an olive-grey uniform and a military police officer in a camouflage uniform with a white belt). See also Adjudicated Facts 1078, 1262.

⁶⁴¹⁶ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5231.

⁶⁴¹⁷ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12698–12699 (testifying that there were civilians assembled at the entrance to the stadium who helped beat the detainees when they arrived); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5228, 5230 (testifying that detainees on his bus were ordered to run into the stadium past the bus driver as he beat them). See also Adjudicated Fact 1263.

1867. Some detainees were ordered to bend forward against a brick wall surrounding the stadium and were kicked until there was a stream of blood running along the wall.⁶⁴¹⁸ Karagić was kicked in the face and from behind; he sustained a broken nose and hit his head against the wall.⁶⁴¹⁹ Detainees were made to raise their arms so that their hands were positioned on top of the wall; the driver of the bus then walked on top of the wall, stepping on their fingers.⁶⁴²⁰ While being beaten, the detainees were forced to sing songs about Greater Serbia.⁶⁴²¹ For several hours, the soldiers beat the detainees until some of them died.⁶⁴²²

1868. A group of men were singled out from the detainees at the wall and taken to a wire fence surrounding the stadium to be killed.⁶⁴²³ Karagić witnessed at least one detainee being shot.⁶⁴²⁴ Furthermore, Nasić's cousin, Irfan Nasić, was singled out, sent to the fence, and shot by Stiven with a pistol at close range.⁶⁴²⁵ Nasić saw a guard nicknamed "Duča" fire at Muharem Petrovac, splitting his head in two.⁶⁴²⁶ Nasić also saw a third man shot and killed.⁶⁴²⁷ Nasić was then beaten on the head with a metal baton by a soldier and lost consciousness. When he regained consciousness, he was ordered to move the bodies of the three men who had been killed.⁶⁴²⁸

1869. The surviving detainees were then lined up in columns, with their hands behind their necks, and forced to board a bus as they were beaten further by soldiers with baseball bats.⁶⁴²⁹ Some detainees were ordered to load the dead bodies on to the bus.⁶⁴³⁰ Karagić thought that one of the

⁶⁴¹⁸ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5228, 5230–5231, 5233.

⁶⁴¹⁹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5233, 5235.

⁶⁴²⁰ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5235, 5241–5242.

⁶⁴²¹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5235, 5241.

⁶⁴²² Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5236.

⁶⁴²³ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5227, 5233–5234 (testifying that he saw two or three men, including Ismet Avdić and Ferid Kadić or Kadić taken to the fence; Karagić could not say how many men were singled out and taken to the fence but estimated that there were "a lot of people there"); P563 (Map of Ljubija-Briševo). See also Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12699; KDZ092, P702 (Transcript from *Prosecutor v. Stakić*), T. 3930–3931 (under seal) [REDACTED]; Adjudicated Fact 1079.

⁶⁴²⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5233–5235 (testifying that the detainees were ordered to look towards the wall, but Karagić looked up and saw a member of the military police wearing a multi-coloured uniform and white belt shoot three bullets into one man at the fence). See also Adjudicated Fact 1079.

⁶⁴²⁵ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12695, 12698–12699 (testifying that Stiven had asked if any of the men had weapons and someone said that Irfan Nasić had a "zolja", however Irfan Nasić did not have any weapons); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4. See also Adjudicated Fact 1078.

⁶⁴²⁶ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12699–12700; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4. See also Adjudicated Fact 1078.

⁶⁴²⁷ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12700; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4.

⁶⁴²⁸ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12701; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4.

⁶⁴²⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12701–12702.

⁶⁴³⁰ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5237. See also Adjudicated Fact 1080.

bodies he was made to carry was his father's, but he was not sure as the body was missing half of the skull.⁶⁴³¹ As Karagić was carrying the bodies, he saw a pile of between 15 and 20 bodies that were already in the back of the bus.⁶⁴³² After loading the dead bodies on to the bus, the detainees had to sit in the bus with their heads down, while the soldiers shouted ethnic slurs at them.⁶⁴³³ The detainees were then transported to the "Kipe" mine.⁶⁴³⁴

1870. The Chamber took judicial notice of the fact that at least 15 detainees were killed at Ljubija Football Stadium.⁶⁴³⁵ The Chamber also received forensic evidence to support the deaths of three identified individuals who were detained at Ljubija Football Stadium on or around 25 July 1992.⁶⁴³⁶ Furthermore in assessing the total number of detainees killed at the stadium, the Chamber has considered witness testimony that there were between 15 to 20 dead bodies loaded on to the bus before the detainees were transferred out of the stadium.

(iii) Conclusion

1871. Based on the above, the Chamber finds that on or around 25 July 1992, Bosnian Muslims, including minors, were transferred to and detained at Ljubija Football Stadium for several hours by Serb Forces, and that while held there, the detainees were subjected to severe beatings by Serb Forces. The Chamber also finds that at least 15 detainees were killed by Serb Forces at Ljubija Football Stadium on or around 25 July 1992.

(iv) Scheduled Incident A.10.7

1872. The Indictment refers to the killing of a number of men in the Ljubija iron ore mine Kipe on or about 25 July 1992.⁶⁴³⁷

⁶⁴³¹ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5238–5239 (testifying that he recognised his father's pale blue jumper on the torso, and that the body had the same build as his father).

⁶⁴³² Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5237.

⁶⁴³³ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5239.

⁶⁴³⁴ P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5244. *See also* Adjudicated Fact 1082.

⁶⁴³⁵ *See* Adjudicated Fact 1081.

⁶⁴³⁶ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 34–35 (confirming that the bodies of Ismet Avdić and Muharem Petrovac were exhumed from a mass grave in Redak in 2000); Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5247–5249 (testifying that a year and a half later, he identified his father's body at the exhumation in Redak and that a DNA analysis later confirmed that it was his father). *See also* P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 26–29 (under seal); Nicolas Sébire, P694 (Transcript from *Prosecutor v. Stakić*), T. 7356.

⁶⁴³⁷ The Chamber notes that these killings are alleged under Schedule A of the Indictment. However, they are killings related to the Ljubija Football Stadium listed as Scheduled Detention Facility C.20.6 in the Indictment.

1873. On or around 25 July 1992, at least 50 detainees from Ljubija Football Stadium were put on a bus, provided by a local public transport company and guarded by numerous armed soldiers.⁶⁴³⁸ They were taken to an iron ore mine southwest of Ljubija referred to as “Kipe” (“Kipe mine”).⁶⁴³⁹

1874. The bus stopped at Kipe mine between 8 p.m. and 10 p.m. and the soldiers called the detainees off the bus in groups of three and shot them.⁶⁴⁴⁰ The dead bodies were thrown into a hole in the ground.⁶⁴⁴¹ As Nasić and two other men were getting off the bus, four other detainees broke a window and tried to escape, distracting the soldiers.⁶⁴⁴² In the confusion, Nasić and the other two men were not shot, and Nasić hid in the hole between the bodies and pretended to be dead.⁶⁴⁴³ While this was going on, Karagić jumped through the broken bus window.⁶⁴⁴⁴ He managed to run away without being shot because the soldier guarding the bus was changing his ammunition clip.⁶⁴⁴⁵ As he was fleeing, Karagić recognised two other detainees from the bus who had also managed to escape.⁶⁴⁴⁶

1875. After the commotion, one of the soldiers said that some of the men were still alive so they illuminated the area with flashlights to ensure that everyone was dead.⁶⁴⁴⁷ If they noticed any survivors or heard moaning, the soldiers shot them again while cursing their “Muslim mothers”.⁶⁴⁴⁸

⁶⁴³⁸ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12701–12702; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5241, 5245 (testifying that the bus was a local “Autotransport” or “Autoservice” bus with approximately 50 seats and all the seats and aisle were full); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4 (stating that about 90 detainees were put on a “double bus”). See also Adjudicated Fact 1082.

⁶⁴³⁹ P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5242–5245; P563 (Map of Ljubija-Briševo); Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12697. See also Adjudicated Fact 1082; P569 (Map of Prijedor municipality); Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5592–5594 (noting the location of the mine on a video clip); P3689 (Video footage of destroyed buildings and monuments in Prijedor).

⁶⁴⁴⁰ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12702–12703; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5243–5246. See also Adjudicated Fact 1083.

⁶⁴⁴¹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12703, 12705–12706; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court pp. 4–5. See also Adjudicated Fact 1085.

⁶⁴⁴² Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12703 (testifying further that of the four men who managed to escape the Kipe mine, “only two are currently alive”); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 4; Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5246.

⁶⁴⁴³ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12703; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court pp. 4–5.

⁶⁴⁴⁴ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5246.

⁶⁴⁴⁵ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5246. See also Ivo Atljija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5614.

⁶⁴⁴⁶ Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5246–5247 (testifying further that he heard later that other detainees had managed to escape).

⁶⁴⁴⁷ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12703–12706 (stating that the soldiers also used the headlights of a car to illuminate the area); P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 5.

⁶⁴⁴⁸ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12705–12706.

Nasić was still lying in the hole but he was not hit by any bullets.⁶⁴⁴⁹ Once the soldiers were certain that everyone had been killed, they left.⁶⁴⁵⁰ Nasić returned to the site a few days later and the hole had been covered with dirt and he saw blood and pieces of clothing and shoes.⁶⁴⁵¹

1876. The Chamber took judicial notice of the fact that all of the detainees on the bus, save Nasić and Karagić, were killed.⁶⁴⁵² The Chamber also received forensic evidence to support the deaths of some identified individuals who were executed at Kipe mine on or around 25 July 1992.⁶⁴⁵³

1877. Based on the above, the Chamber finds that about 50 non-Serbs were killed by Serb Forces on or about 25 July 1992 at Kipe mine.

(g) Scheduled Detention Facility C.20.7

1878. The Indictment refers to the use of the Prijedor barracks as a detention facility in Prijedor municipality between at least May and June 1992.

(i) Arrival of detainees

1879. Located in Urije, the Prijedor Barracks, also known as the Žarko Zgonjanin barracks, was used as a transition detention facility in Prijedor in June 1992.⁶⁴⁵⁴ Prijedor Barracks was one of the

⁶⁴⁴⁹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12705–12706; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 5.

⁶⁴⁵⁰ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12706; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court p. 5.

⁶⁴⁵¹ Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12710; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court pp. 5–6. Ivo Atlija testified that “just after the attack on Briševo” he came across a heap of bodies, possibly as many as 200, at Kipe mine. He knew about the killings there because he met Karagić after he escaped. Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5611–5614. *See also* P3684 (Photograph of mass grave in Redak).

⁶⁴⁵² *See* Adjudicated Fact 1084. The Chamber however notes the evidence before it in this case establishing that there were additional survivors to Nasić and Karagić in this incident. *See* para. 1874.

⁶⁴⁵³ P646 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), pp. 28–29 (confirming that in 2000, the bodies of 64 individuals were exhumed from the Kipe mine site and 21 individuals were identified; for 63 of the 64 bodies, the forensic experts determined that the cause of death was a gunshot wound (under seal); Nicolas Sébire, P694 (Transcript from *Prosecutor v. Stakić*), T. 7355–7358; P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 34–36; P4415 (Death certificate for Sabahudin Kadirić). *See also* Elvedin Nasić, P696 (Transcript from *Prosecutor v. Brđanin*), T. 12706–12707; P697 (Witness statement of Elvedin Nasić dated 15 January 1995), e-court pp. 4–5 (testifying that the following men were detained with him and killed that night: Reuf Fikić; Abdulah (“Dule”) Muhić; Rasid Medić; Suad Mulalić, Islam Hopovac; Besim Hegić; and others with the surnames Muhić, Hamulić, Jamastagić, Kadirić, and Kekić); Nermin Karagić, P651 (Transcript from *Prosecutor v. Stakić*), T. 5247 (testifying further that a year and a half after the executions at Kipe mine, he identified the exhumed body of Islam Hopovac at the Redak grave).

⁶⁴⁵⁴ P3528 (Witness statement of Kerim Mešanović, undated), pp. 2–4; P3532 (Map of Prijedor with photographs); P3533 (Photograph of barracks in Prijedor); P3534 (Photograph of barracks in Prijedor); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2633, 2648 (under seal); P608 (Map of Prijedor town); KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1840 (under seal). *See also* Adjudicated Facts 1102, 1264. Defence witnesses testified that the Prijedor Barracks was not set up as a “prison” and that no civilians were detained there. D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 27 (stating further that Prijedor Barracks was only used for holding suspects); Slavko Budimir, D4463 (Transcript from *Prosecutor*

locations in Prijedor used by the military and civilian police to investigate and interrogate suspects.⁶⁴⁵⁵

1880. In early June 1992, KDZ026 was arrested and detained at Prijedor Barracks for a few hours; while there, he recognised another man detained there.⁶⁴⁵⁶

1881. Around 9 June 1992, KDZ392 and his mother and father were captured in Bešići by soldiers wearing camouflage uniforms.⁶⁴⁵⁷ They had been trying to reach the Sava River in order to cross over to Croatia.⁶⁴⁵⁸ At the time, the father of KDZ392 had a pistol with him but KDZ392 and his mother were not armed.⁶⁴⁵⁹ After being captured, KDZ392 and his parents were taken to Prijedor Barracks.⁶⁴⁶⁰ On the way, the soldiers captured two other men, a father and son named Suad and Fehid Trnjanin.⁶⁴⁶¹ En route, KDZ392 also observed traces of burning in all of the villages inhabited by Bosnian Muslims along the main road leading from Prijedor to Banja Luka; while the villages approaching Omarska and at the exit of Prijedor inhabited by Serbs were not burned.⁶⁴⁶²

(ii) Treatment of detainees

1882. While held at Prijedor Barracks, detainees were interrogated and mistreated by soldiers and military and civilian police.⁶⁴⁶³

1883. When KDZ392 and his parents arrived at the barracks, they were hit and made to kneel down in the field outside of the barracks with their hands behind their heads.⁶⁴⁶⁴ KDZ392 was taken to a building while his mother and father remained in the field.⁶⁴⁶⁵ He could hear the soldiers shouting ethnic slurs outside, and when his father entered the building, he was covered in blood and

v. Stakić), T. 12946 (testifying that he did not see any civilians being detained at Prijedor Barracks when he visited from time to time). However, the Chamber does not find this evidence to be reliable based on the evidence before the Chamber to the contrary which suggests that non-Serb civilians were brought to the Prijedor Barracks and detained there for a short period before being transferred to other detention facilities. In reaching this conclusion, the Chamber also considered that Radetić was not forthright with the Chamber on several occasions.

⁶⁴⁵⁵ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21108–21109 (under seal).

⁶⁴⁵⁶ KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1840 (under seal).

⁶⁴⁵⁷ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2628–2629, 2632, 2648 (under seal); P607 (Map of Prijedor).

⁶⁴⁵⁸ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2622, 2642 (under seal).

⁶⁴⁵⁹ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2627, 2630–2631 (under seal).

⁶⁴⁶⁰ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2629–2630, 2632 (under seal).

⁶⁴⁶¹ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2629–2630 (under seal).

⁶⁴⁶² KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2646–2647 (under seal).

⁶⁴⁶³ KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21108–21109 (under seal); KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2633–2635 (under seal).

⁶⁴⁶⁴ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2633–2634 (under seal).

⁶⁴⁶⁵ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2634 (under seal).

one side of his nose had been slit.⁶⁴⁶⁶ KDZ392 and his parents were then taken to the prison building in the barracks.⁶⁴⁶⁷ Despite being injured and physically exhausted, they did not receive medical treatment.⁶⁴⁶⁸

1884. Detainees were held at Prijedor Barracks for a short period before being transferred to Keraterm or Omarska.⁶⁴⁶⁹

(iii) Conclusion

1885. Based on the above, the Chamber finds that non-Serb civilians were detained at Prijedor Barracks by Serb Forces in June 1992. The Chamber also finds that detainees at Prijedor Barracks were subjected to beatings and deprived of medical treatment.

(6) Scheduled Incident D.17

1886. The Indictment refers to the destruction of 18 mosques and two Catholic churches in Prijedor between at least May and December 1992.⁶⁴⁷⁰

1887. The Chamber recalls its finding that Serb Forces burned and destroyed the Čaršijska mosque in Prijedor town on 30 May 1992 during the attack.⁶⁴⁷¹ As it was damaged beyond repair, in July 1992, pursuant to orders from the Prijedor Executive Board, Serb engineers and architects demolished the remainder of the Čaršijska mosque, as well as houses in the area, and removed the rubble.⁶⁴⁷² The Chamber recalls that the Zagrad mosque in Prijedor town was also burned and destroyed on 30 May by Serb Forces.⁶⁴⁷³

1888. The Chamber recalls that the Mutnik mosque, as well as other mosques in Kozarac, were destroyed during the attack on the area by Serb Forces at the end of May and June 1992.⁶⁴⁷⁴ The

⁶⁴⁶⁶ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2634–2635, 2638–2639, 2645 (under seal) [REDACTED].

⁶⁴⁶⁷ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2638 (under seal).

⁶⁴⁶⁸ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2625–2627, 2638 (under seal) [REDACTED].

⁶⁴⁶⁹ KDZ392, P707 (Transcript from *Prosecutor v. Kvočka*), T. 2645, 2647–2648 (under seal) [REDACTED].

⁶⁴⁷⁰ The religious sites identified in Schedule D.17 are the (1) Kozaruša mosque, (2) Stari Grad mosque, (3) Čarakovo mosque, (4) Hambarine old mosque, (5) Čaršijska mosque in Prijedor town, (6) Zagrad mosque in Prijedor town, (7) Biščani mosque, (8) Gornja Puharska mosque, (9) Donja Puharska mosque, (10) Rizvanović mosque, (11) Brežičani mosque, (12) Ališići mosque, (13) Zecovi mosque, (14) Čejreci mosque, (15) Gomjenica mosque, (16) Kevljani mosque, (17) Kamičani mosque, (18) Kozarac-Mutnik mosque; as well as the Prijedor town Catholic church and the Briševo church. Indictment, Schedule D.17.

⁶⁴⁷¹ See para. 1606.

⁶⁴⁷² P3484 (Decision of Prijedor Executive Board, 21 July 1992), pp. 1–3; Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6692–6694.

⁶⁴⁷³ See para. 1606.

⁶⁴⁷⁴ See para. 1639.

Chamber further recalls that the mosque in Kamičani was set alight by Serb Forces between 24 and 26 May 1992.⁶⁴⁷⁵

1889. Additionally, the Chamber recalls that the mosque in Hambarine was shelled during the attack on Hambarine in May 1992, and again during the attack on the village in July 1992, by Serb Forces.⁶⁴⁷⁶ The Chamber also recalls that the Rajkovac mosque was shelled in late July 1992.⁶⁴⁷⁷ The Chamber further recalls that the mosque in Biščani was destroyed on 20 July 1992, and that the mosque in Rizvanovići was destroyed in the summer months, before August 1992.⁶⁴⁷⁸ The Chamber also recalls that the mosque in Čarakovo was destroyed on 23 July 1992 by Serb soldiers.⁶⁴⁷⁹

1890. In addition, the Donja Puharska mosque in Prijedor was blown up and destroyed on 28 August 1992 by Serb Forces; the explosion occurred within ten minutes of the explosion that destroyed the Catholic church in Prijedor town.⁶⁴⁸⁰

1891. The Chamber took judicial notice of the facts that within the summer months of 1992, the mosque in Gornja Puharska was razed to the ground,⁶⁴⁸¹ the minaret of the mosque in Kozaruša was badly damaged,⁶⁴⁸² and that the new mosque in Kevljani was completely destroyed by mines.⁶⁴⁸³

1892. The Prijedor SJB reported that by September 1993, not a single Bosnian Muslim place of worship remained in Prijedor.⁶⁴⁸⁴

1893. In regard to the Catholic churches, the Chamber further recalls that on 29 July 1992, the Catholic church in Briševo was destroyed.⁶⁴⁸⁵ Furthermore, the Catholic church in Prijedor town

⁶⁴⁷⁵ See para. 1643.

⁶⁴⁷⁶ See paras. 1666, 1681.

⁶⁴⁷⁷ See para. 1681.

⁶⁴⁷⁸ See para. 1706.

⁶⁴⁷⁹ See para. 1684.

⁶⁴⁸⁰ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6606–6608; P3528 (Witness statement of Kerim Mešanović, undated), pp. 81–82; Drasko Vujić, T. 46079–46080, 46082–46083 (28 January 2014); P3564 (Photograph of destroyed mosque in Prijedor); P3565 (Photograph of destroyed mosque in Prijedor); P6613 (Photographs of destroyed mosque in Donja Puharska, Prijedor); D4381 (Prijedor Basic Court's on-site investigation report, 29 August 1992). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 231–232; Adjudicated Fact 1284.

⁶⁴⁸¹ See Adjudicated Fact 1292. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 229–230.

⁶⁴⁸² See Adjudicated Fact 1291. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 211–212 (stating that the minaret of the Kozaruša mosque had been destroyed down to its base by a blast).

⁶⁴⁸³ See Adjudicated Fact 1293. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 244–245

was destroyed on 28 August 1992 when Bosnian Serb soldiers broke into it and planted explosives which later detonated and destroyed the church.⁶⁴⁸⁶ Serb engineers and architects later toppled the bell of the Catholic church and used heavy machinery to remove the rubble.⁶⁴⁸⁷

1894. According to Riedlmayer's reports, a total of 18 mosques and two Catholic churches in Prijedor were damaged or destroyed during the war.⁶⁴⁸⁸ The Chamber notes that with respect to one mosque, the Gomjenica mosque, Riedlmayer describes it as "lightly damaged" and that it was the only mosque in the Prijedor region that still had a roof at the end of the war.⁶⁴⁸⁹ Riedlmayer states that all of the remaining 17 mosques and two Catholic churches were heavily damaged, almost destroyed, or completely destroyed. The Chamber therefore finds that 17 mosques and two Catholic churches were heavily damaged, almost destroyed, or completely destroyed.

1895. The Chamber has considered the evidence it has received which identified Serb Forces as responsible for the destruction of mosques in Prijedor between May and December 1992.⁶⁴⁹⁰ It also had regard to the fact that almost all mosques in the municipality sustained heavy damage or were completely destroyed after Serb Forces took over the municipality. Having weighed these factors, the Chamber is satisfied beyond reasonable doubt that Serb Forces were responsible for the attacks on and destruction of mosques and Catholic churches in Prijedor.

⁶⁴⁸⁴ D4010 (Report of Prijedor SJB, September 1993), p. 3. See P586 (Map of destroyed mosques in Prijedor).

⁶⁴⁸⁵ See para. 1727.

⁶⁴⁸⁶ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6606–6607; P3528 (Witness statement of Kerim Mešanović, undated), pp. 81–82; Drasko Vujić, T. 46082 (28 January 2014); P3563 (Photograph of destroyed church in Prijedor); D4381 (Prijedor Basic Court's on-site investigation report, 29 August 1992). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 251–254; Adjudicated Fact 1285.

⁶⁴⁸⁷ Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*), T. 6693–6694, 6756–6757.

⁶⁴⁸⁸ Riedlmayer identified the level of damage with respect to each of the mosques and Catholic churches listed by name in the Indictment: (i) completely destroyed: Stari Grad mosque, Čaršijska mosque, Zagrad mosque, Donja Puharska mosque, Rizvanovići mosque, Brezičani mosque, Ališići mosque, and Prijedor Catholic church; (ii) almost destroyed: Čarakovo mosque; (iii) heavily damaged: Kozaruša mosque, Biščani mosque, Hambarine mosque, Gornja Puharska mosque, Zecovi mosque, Čejreci mosque, Kevljani mosque, Kamičani mosque, Kozarac mosque, and Briševo Catholic church; (iv) lightly damaged: Gomjenica mosque. P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 211, 213, 216, 219, 222, 225, 227, 229, 231, 233, 236–238, 240, 243–244, 246, 248, 251, 255. See also P4069 (Cultural destruction database), records 214–215, 217–220, 224, 228, 232, 236–237, 239, 241, 245, 247–249, 251, 256–257.

⁶⁴⁸⁹ P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court p. 243.

⁶⁴⁹⁰ In his final brief, the Accused argues that some of the cultural sites in Prijedor were destroyed by forces outside the control of the legal authorities in Prijedor. See Defence Final Brief, para. 1612. However, the Chamber considers that in support of this argument, the Accused only refers to testimony from Drasko Vujić, who recounted that his soldiers told him that the explosion which destroyed the Donja Puharska mosque was "a total surprise". See D4242 (Witness statement of Draško Vujić dated 24 January 2014), para. 11. The Chamber does not consider that Vujić's evidence in this regard contradicts the evidence which relates to the conduct of Serb Forces in the destruction of the mosques and Catholic churches during the attacks on villages throughout Prijedor.

1896. Therefore, the Chamber finds that 17 mosques and two Catholic churches were heavily damaged, almost destroyed, or completely destroyed by Serb Forces in Prijedor between May and December 1992.

(7) Movement of the population from Prijedor and appropriation of property

1897. Following the attacks on towns and villages in Prijedor between late May and end of July 1992, the non-Serb population was expelled from the municipality.⁶⁴⁹¹

1898. At a meeting on 20 May 1992, the ARK Crisis Staff adopted several conclusions, including that there was “no reason for the population of any nationality to move out of the territory of the [ARK]”.⁶⁴⁹² However, on 29 May 1992, the ARK Crisis Staff decided that Bosnian Muslims and Bosnian Croats would be allowed to leave Prijedor and other municipalities in the ARK, as part of an organised resettlement of non-Serbs in central BiH and Serbs in Krajina.⁶⁴⁹³ On 1 June 1992, Kuprešanin informed the Civil Affairs Office in Sector North that 15,000 Bosnian Muslim refugees from municipalities in the ARK, including Prijedor, were moving across the border towards Dvor, Croatia, and that another 15,000 would likely follow.⁶⁴⁹⁴

1899. On 7 June 1992, Prijedor municipal authorities decided, along with six other municipalities in the region, that “Muslims and Croats should move out to a level at which all the municipalities can maintain Serbian power on their territories”.⁶⁴⁹⁵

1900. Mass departures from Prijedor began to take place after the attack on Hambarine in late May 1992 and gained momentum through June and July 1992.⁶⁴⁹⁶ The Prijedor SJB estimated that 20,000 citizens, primarily non-Serbs, had moved out of Prijedor by mid-1992.⁶⁴⁹⁷

⁶⁴⁹¹ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6802 (under seal). See Sections IV.A.1.b.i.D.3: Take-over of Prijedor town; IV.A.1.b.i.D.4: Attacks on surrounding villages.

⁶⁴⁹² D1309 (Conclusions of the ARK Crisis Staff, 20 May 1992); D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 95.

⁶⁴⁹³ P3461 (Conclusions of meeting of ARK Crisis Staff, 29 May 1992), p. 1.

⁶⁴⁹⁴ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 53.

⁶⁴⁹⁵ P2641 (Conclusions of sub-regional meeting of municipalities sent to ARK Crisis Staff, 7 June 1992), p. 2 (stating that if the leadership of the ARK fails to solve this issue “our seven municipalities will take all Muslims and Croats under military escort from our municipalities to the centre of Banja Luka”).

⁶⁴⁹⁶ P3852 (Banja Luka CSB Security Assessment for Prijedor Municipality, 23 October 1992), p. 2 (stating that since the security situation deteriorated in May 1992 Bosnian Muslims and Croats have started a “mass exodus” from Prijedor); Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7910–7912 (testifying that approximately “40,000 Muslims” had left the Kozarac area by 5 August 1992). See Scheduled Incidents A.10.1, A.10.2, A.10.5. See also Section IV.A.1.b.i.D.4.a.ii: Aftermath of the attack. See also Adjudicated Fact 1295 (stating that on 20 July 1992, 20,000 non-Serbs were expelled from the areas of Hambarine and Ljubija which were under Serb control).

⁶⁴⁹⁷ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 31.

1901. The Prijedor Crisis Staff and civilian authorities facilitated the movement of the non-Serb population of Prijedor out of the municipality through the use of buses, trucks, and other vehicles, and by negotiating with the ICRC and the Prijedor Red Cross regarding the movement of convoys.⁶⁴⁹⁸

1902. The Chamber recalls that thousands of non-Serbs were transferred to, and detained at, detention facilities in Prijedor municipality in 1992.⁶⁴⁹⁹ As detention facilities were closed in Prijedor, detainees held there were transferred around the municipality as well as to camps outside of the municipality and ultimately often to third countries.⁶⁵⁰⁰

1903. Non-Serb residents of Prijedor who left the municipality during the conflict had to sign over their property to the Serb authorities in Prijedor, either to the ARK or to the RS;⁶⁵⁰¹ at first, real property certificates were issued in order to justify the confiscation, but later on certificates were no longer issued.⁶⁵⁰² In contrast, Bosnian Serb residents did not have their property confiscated.⁶⁵⁰³

1904. Property left behind by non-Serbs was appropriated by the Prijedor Crisis Staff as “municipal property”, and was often redistributed to Bosnian Serbs⁶⁵⁰⁴ and, in some cases, to

⁶⁴⁹⁸ Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7834–7835; D4247 (Letter from Prijedor Municipal Secretariat for the Economy and Public Services, undated), p. 1 (stating that in the month of July 1992 alone, the Prijedor Crisis Staff rented 31 buses from Autotransport, a bus company from Prijedor town, which together travelled a total of 1,300 kilometres); P6614 (Record of Autotransport Prijedor, July 1992), pp. 1–3; P3852 (Banja Luka CSB Security Assessment for Prijedor Municipality, 23 October 1992), p. 2; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 31.

⁶⁴⁹⁹ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7.

⁶⁵⁰⁰ P2772 (Report of Prijedor SJB, 5 August 1992), p. 1; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 3–4, 6, 11; D1551 (Order of Banja Luka CSB, 21 August 1992), p. 1; D1864 (Order of Banja Luka CSB, 19 August 1992), p. 1; D1865 (Prijedor SJB dispatch to Banja Luka CSB, 22 August 1992), p. 1; D4464 (Minutes of Prijedor Municipal Assembly National Defence Council session, 29 September 1992), p. 1; P3757 (Official note from the Security Centre in Banja Luka, 10 August 1992), pp. 1–2 (under seal); P3753 (Manjača camp daily report to the 1st Krajina Corps, 22 August 1992), p. 1 (under seal). See paras. 1746, 1785, 1788–1789, 1804, 1848, 1850–1852, 1860, 1884.

⁶⁵⁰¹ P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 56–57 (under seal) (stating that the documents were signed by Budimir); KDZ092, P702 (Transcript from *Prosecutor v. Stakić*, T. 4003 (under seal) [REDACTED]; Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*, T. 5655; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7800, 7834–7835; Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*, T. 7106, 7133–7134; KDZ611, P698 (Transcript from *Prosecutor v. Brđanin*, T. 12510 (under seal); Nusret Sivac, P3478 (Transcript from *Prosecutor v. Stakić*, T. 6696. See Adjudicated Fact 1101. See also para. 1851.

⁶⁵⁰² See Adjudicated Fact 1101.

⁶⁵⁰³ Adjudicated Fact 1101.

⁶⁵⁰⁴ D4178 (Decision of the ARK Secretariat of National Defence, 5 June 1992), p. 26 (stating that flats left empty for more than 15 days would be used to house the homeless and particularly participants in the war); P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 16–17; Bosko Mandić, T. 45775 (21 January 2014); KDZ048, P678 (Transcript from *Prosecutor v. Stakić*, T. 3379–3382; Idriz Merdžanić, P3881 (Transcript from *Prosecutor v. Stakić*, T. 7800.

Bosnian Croats.⁶⁵⁰⁵ On 19 June 1992 the ARK Crisis Staff decided that all “abandoned” property would be proclaimed property of the state and placed at the disposal of the municipal assemblies.⁶⁵⁰⁶

1905. On 16 August 1992, the Prijedor SJB issued termination of residence notices to 13,180 residents, in exchange for the residents receiving permits to leave the municipality.⁶⁵⁰⁷ By the end of September 1992, the Prijedor SJB reported that due to the “increasing migration of the population, especially of the Muslim and Croat population”, it had received and processed 15,280 applications for departure.⁶⁵⁰⁸ Those who desired to leave the municipality were first required to unregister their official residences with the local Serb authorities as a condition to receive an exit permit.⁶⁵⁰⁹

1906. On 19 August 1992, representatives from Prijedor, including both Bosnian Muslims and Bosnian Serbs, met with UNHCR and the UN Civil Affairs Office to discuss, *inter alia*, whether the UN would assist in evacuating thousands of Bosnian Muslim “applicants”.⁶⁵¹⁰ The Prijedor delegation wanted a convoy to go through Sector North, and the applicants included 8,000 Bosnian Muslims from Prijedor who, according to the delegation, wanted to leave the municipality “voluntarily”.⁶⁵¹¹ The UNHCR representative responded that UNHCR would not assist with the removal of people.⁶⁵¹² Kirudja did not believe that these people wanted to leave voluntarily and furthermore, thought that the detailed lists of applicants prepared by the delegation demonstrated the “meticulous” system used to remove people from the area.⁶⁵¹³

⁶⁵⁰⁵ Ivo Atlija, P3672 (Transcript from *Prosecutor v. Stakić*), T. 5651–5653 (testifying that he was offered abandoned property in the Bosnian Muslim village of Bišćani directly from Stakić in late August 1992). See para. 1737.

⁶⁵⁰⁶ P3451 (Decisions of the ARK Crisis Staff, June 1992), p. 13.

⁶⁵⁰⁷ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 31. See P3691 (Witness statement of Nusreta Sivac dated 22 October 2011), pp. 56–57 (under seal); P3693 (Decision of SerBiH’s Ministry of Defence, Prijedor Section, 18 August 1992); Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 13142.

⁶⁵⁰⁸ P5555 (Report of Prijedor SJB, 29 September 1992), p. 8. See Jusuf Arifagić, P689 (Transcript from *Prosecutor v. Stakić*), T. 7133–7134. See also P2958 (Christian Nielsen’s expert report entitled “The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992”, 19 May 2011), para. 325.

⁶⁵⁰⁹ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 6–7, 31.

⁶⁵¹⁰ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 111.

⁶⁵¹¹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 112.

⁶⁵¹² P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 115.

⁶⁵¹³ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 112, 114.

1907. According to Serb assessments, by October 1992, about 38,000 Bosnian Muslims and Bosnian Croats had left the municipality of Prijedor.⁶⁵¹⁴ Approximately 3,600 of these individuals left the area with the help of the ICRC and the Prijedor Red Cross.⁶⁵¹⁵

1908. By 1993, the vast majority of non-Serb towns and villages in Prijedor were uninhabited and destroyed.⁶⁵¹⁶ In September 1993, the Prijedor SJB estimated that 80% of Bosnian Muslim houses in Prijedor had been destroyed.⁶⁵¹⁷ The Chamber also recalls that by mid-1993, most of the Bosnian Muslim places of worship in Prijedor had been almost or completely destroyed.⁶⁵¹⁸

1909. In May 1993, the Bosnian Serb MUP estimated that 42,000 Bosnian Muslims and 2,000 Bosnian Croats had moved out of Prijedor, while 14,000 Bosnian Serbs had moved in.⁶⁵¹⁹ Some of the Bosnian Muslims and Bosnian Croats who had moved out of Prijedor had been “deported in cattle cars”.⁶⁵²⁰ Bosnian Muslims and Bosnian Croats continued to move out of Prijedor into 1994.⁶⁵²¹

1910. Slobodan Kuruzović, the commander of Trnopolje, confirmed that the plan of the Serb authorities was to reduce the number of Bosnian Muslims in Prijedor to 10% or less, and then later to reduce this to 2% or less.⁶⁵²²

1911. The Accused contends that Bosnian Muslims, and to a lesser extent, Bosnian Serbs and Bosnian Croats, left Prijedor voluntarily and without external pressure, and that non-Serbs were not forced to sign over their possessions in order to receive permits to leave the municipality.⁶⁵²³ Furthermore, Budimir testified that everyone who applied to him for permission to leave Prijedor

⁶⁵¹⁴ P3852 (Banja Luka CSB Security Assessment for Prijedor Municipality, 23 October 1992), p. 2. See P2948 (Report of humanitarian organisation, 8 October 1992) (under seal), p. 2.

⁶⁵¹⁵ P3852 (Banja Luka CSB Security Assessment for Prijedor Municipality, 23 October 1992), p. 2; Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 13142. See P6504 (Report of Prijedor Red Cross, 30 September 1992), p. 9.

⁶⁵¹⁶ P3852 (Banja Luka CSB Security Assessment for Prijedor Municipality, 23 October 1992), p. 2 (stating that Čarakovo, Zecovi, Hambarine, Rizvanovići, Bišćani, Rakovčani, Kozaruša, Kozarac, Kamičani, Babići, and Kevljani had been completely destroyed, while Gornji Garevici, Čela, Čejreci, Donja Puharska, Trnopolje, Donja Ljubija, Gornji and Donja Ravska, Šurkovac, Briševo, Žune, Gornji Volar, and the old part of Prijedor were partly destroyed).

⁶⁵¹⁷ D4010 (Report of Prijedor SJB, September 1993), p. 3.

⁶⁵¹⁸ D4010 (Report of Prijedor SJB, September 1993), p. 3. See Scheduled Incident D.17.

⁶⁵¹⁹ P10 (Report of the MUP, Banja Luka SNB, May 1993), p. 2.

⁶⁵²⁰ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7436.

⁶⁵²¹ D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), pp. 3–4; D1138 (Radovan Karadžić’s Order, 3 April 1994); D4213 (Radovan Karadžić’s Order, 4 July 1994).

⁶⁵²² See Adjudicated Fact 1093.

⁶⁵²³ Defence Final Brief, paras. 1537, 1539. In support, the Accused refers to the following evidence: D1357 (Report of Prijedor SDS Municipal Board, 11 September 1991–26 December 1992), p. 3; D4195 (Witness statement of Milomir Stakić dated 16 November 2013), paras. 25–26; D4229 (Witness statement of Boško Mandić dated 18 January 2014), para. 9; D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 6; Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 13037, 13142.

received it, but that many people left on their own in their personal vehicles without approval from the municipality.⁶⁵²⁴

1912. However, the Chamber recalls the movement on a mass scale of non-Serbs within and out of Prijedor and the fact that non-Serbs in Prijedor were forced to sign over their property to Serb authorities. The Chamber has had regard to the immense pressure put on Bosnian Muslims and Bosnian Croats, given the surrounding circumstances in the municipality, including *inter alia*: (i) armed attacks against their towns, villages, and homes; (ii) destruction of religious and cultural property; (iii) forcible arrest and removal from their homes; (iv) detention in multiple detention facilities; as well as (v) mistreatment and killings.

1913. For these reasons, the Chamber finds that Bosnian Muslims and Bosnian Croats were forced to leave Prijedor. By 1995, the population of Prijedor municipality consisted of approximately 92% Bosnian Serbs, 5% Bosnian Muslims, and 1% Bosnian Croats.⁶⁵²⁵

(E) Sanski Most

(1) Charges

1914. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Sanski Most as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁶⁵²⁶ Under Count 1, the Prosecution further alleges that in certain municipalities, including Sanski Most, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical, and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.⁶⁵²⁷

1915. Acts alleged to have been committed in Sanski Most by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over,⁶⁵²⁸ killings related to one detention facility,⁶⁵²⁹ as well as killings committed during, and deaths resulting from,

⁶⁵²⁴ Slavko Budimir, D4463 (Transcript from *Prosecutor v. Stakić*), T. 13144 (testifying further, however, that although some people left voluntarily, “Muslims and Croats were worse off than Serbs”). *But see* KDZ026, T. 10407 (17 January 2011) (closed session) (testifying that he did not have the money to “pay for [his] exit out of that hell”).

⁶⁵²⁵ P5449 (Report of the MUP, Banja Luka RDB, February 1995), pp. 6–7. *See* D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 16 (reporting that approximately 2,000 non-Serbs remained in Prijedor in 1995).

⁶⁵²⁶ Indictment, paras. 48–49.

⁶⁵²⁷ Indictment, para. 38.

⁶⁵²⁸ Indictment, para. 60(a)(i). *See* Scheduled Incidents A.12.1, A.12.2, A.12.3, A.12.4, A.12.5.

⁶⁵²⁹ Indictment, para. 60(a)(ii). *See* Scheduled Incident B.17.

cruel and inhumane treatment at scheduled detention facilities.⁶⁵³⁰ The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁶⁵³¹

1916. Other acts alleged to have been committed in Sanski Most by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.⁶⁵³² In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Sanski Most thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.⁶⁵³³ In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.⁶⁵³⁴

1917. Under Count 3, other acts of persecution alleged to have been committed in Sanski Most by Serb Forces and Bosnian Serb Political and Governmental Organs include: (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁶⁵³⁵ (ii) unlawful detention in scheduled detention facilities;⁶⁵³⁶ (iii) forced labour at the frontlines and the use of Bosnian Muslims and Bosnian Croats as human shields;⁶⁵³⁷ (iv) appropriation or plunder of property during and after the take-over, during arrests and detention, and in the course of or following acts of

⁶⁵³⁰ Indictment, para. 60(a)(ii). *See* Scheduled Detention Facilities C.22.1, C.22.2, C.22., C.22.4, C.22.5.

⁶⁵³¹ Indictment, paras. 40(a), 60(a), 63(a), 63(b).

⁶⁵³² Indictment, para. 60(b), 60(c), 60(d) (specifying that the conditions included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities). *See* Scheduled Detention Facilities C.22.1, C.22.2, C.22.3, C.22.4.

⁶⁵³³ Indictment, para. 40(b).

⁶⁵³⁴ Indictment, para. 40(c). *See* Scheduled Detention Facilities C.22.1, C.22.2, C.22.3, C.22.4, C.22.5.

⁶⁵³⁵ Indictment, para. 60(f).

⁶⁵³⁶ Indictment, para. 60(g). *See* Scheduled Detention Facilities C.22.1, C.22.2, C.22.3, C.22.4, C.22.5.

⁶⁵³⁷ Indictment, para. 60(h).

deportation or forcible transfer;⁶⁵³⁸ (v) the wanton destruction of private property including homes and business premises and public property including cultural monuments and sacred sites;⁶⁵³⁹ and (vi) the imposition and maintenance of restrictive and discriminatory measures.⁶⁵⁴⁰

1918. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁶⁵⁴¹ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Sanski Most in which they had been lawfully present.⁶⁵⁴² It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killings, destruction of houses, cultural monuments, and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁶⁵⁴³

(2) Lead-up

1919. Sanski Most is a municipality centrally located in the ARK and is surrounded by Bosanski Novi, Bosanska Krupa, Bosanski Petrovac, Prijedor, Banja Luka, and Ključ.⁶⁵⁴⁴ In 1991, the population of Sanski Most was approximately 28,000 Bosnian Muslims, 25,000 Bosnian Serbs, and 4,000 Bosnian Croats.⁶⁵⁴⁵ Villages with a predominantly Bosnian Muslim population included Vrhopolje, Hrustovo, Sehovći, Begići, and Kenjari.⁶⁵⁴⁶ Škrljevitica was a village with a predominantly Bosnian Croat population.⁶⁵⁴⁷

⁶⁵³⁸ Indictment, para. 60(i).

⁶⁵³⁹ Indictment, para. 60(j). See Scheduled Incident D.19. The Indictment refers to the Hrustovo-Kukavice mosque as being two different mosques (the old and new mosque) situated next to each other. Indictment, fn. 17.

⁶⁵⁴⁰ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

⁶⁵⁴¹ Indictment, paras. 68–75.

⁶⁵⁴² Indictment, paras. 69, 72.

⁶⁵⁴³ Indictment, para. 71.

⁶⁵⁴⁴ P3638 (Map of Sanski Most municipality).

⁶⁵⁴⁵ P6548 (Conclusions of the Sanski Most Municipal Assembly, 4 October 1993), p. 6; D4452 (Map of ethnic composition of Sanski Most); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3302–3303 (under seal). See also P3310 (Map of Sanski Most's ethnic composition); Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5486; P3634 (Witness statement of KDZ490, undated), p. 3 (under seal); P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 30, 33, 39 (listing the 1991 population as approximately 22,830 Bosnian Muslims, 21,746 Bosnian Serbs, and 3,688 Bosnian Croats).

⁶⁵⁴⁶ P3634 (Witness statement of KDZ490, undated), p. 3 (under seal); P532 (Map of Sanski Most). For locations of these villages, see P3638 (Map of Sanski Most municipality); P3310 (Map of Sanski Most's ethnic composition).

⁶⁵⁴⁷ P532 (Map of Sanski Most).

1920. The SDS, SDA, and HDZ parties were formed in Sanski Most in 1990.⁶⁵⁴⁸ The Accused and Krajišnik came to Lušci Palanka, a Bosnian Serb village in Sanski Most, on the occasion of the formation of the SDS in Sanski Most.⁶⁵⁴⁹ As a result of the multi-party elections in November 1990, the SDS won 23 seats, the SDA won 22 seats, the HDZ won 4 seats, and the reform party won 11 seats in the 60 seat Municipal Assembly.⁶⁵⁵⁰ Nedeljko Rašula, who was then the president of the Sanski Most SDS, became the president of the Municipal Assembly.⁶⁵⁵¹ Vlado Vrkeš was the secretary of the Sanski Most SDS and he later became its president.⁶⁵⁵² Mirzet Karabeg, a Bosnian Muslim, was appointed as the president of the Executive Board.⁶⁵⁵³

(a) Militarisation of Sanski Most

1921. The arming of the Bosnian Serb population in Sanski Most began in late 1990, with the distribution of JNA weapons to SDS members.⁶⁵⁵⁴

1922. As in other municipalities in BiH, the armed conflict in Croatia led to a mobilisation call in Sanski Most for volunteers to fight in Croatia with the JNA.⁶⁵⁵⁵ Those who did not respond to the call-up were ordered to return their uniforms and weapons and were to be deleted from the mobilisation lists.⁶⁵⁵⁶

⁶⁵⁴⁸ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5486–5487. See also D4653 (Certificate of Sanski Most SJB, 7 May 1991).

⁶⁵⁴⁹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5488–5490, 7643–7645; P142 (Photograph of Radovan Karadžić and Momčilo Krajišnik).

⁶⁵⁵⁰ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6069; P3304 (Decision of Serb people of Sanski Most, 25 March 1992), p. 3. See also Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5492; D4233 (Witness statement of Branko Davidović dated 20 January 2014), para. 4.

⁶⁵⁵¹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6070; Mirzet Karabeg, T. 18686, 18690 (13 September 2011); KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7630 (under seal); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26141 (under seal); KDZ474, T. 19243 (21 September 2011) (closed session). See also Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5487, 5492; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7023; P3634 (Witness statement of KDZ490, undated), pp. 5, 18 (under seal); P3396 (Photographs depicting Radovan Karadžić, Ratko Mladić, Biljana Plavšić, Momčilo Krajišnik and others), p. 1; KDZ474, T. 19243 (21 September 2011) (closed session).

⁶⁵⁵² Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5487; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7642, 7654 (under seal); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26302–26303 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 1797.

⁶⁵⁵³ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6066; Mirzet Karabeg, T. 18690 (13 September 2011). Karabeg held the position of president of the Executive Board until 17 April 1992. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6066.

⁶⁵⁵⁴ P3634 (Witness statement of KDZ490, undated), pp. 38–42 (under seal); KDZ490, T. 20207 (19 October 2011) (closed session).

⁶⁵⁵⁵ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5497.

⁶⁵⁵⁶ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5497.

1923. At the end of 1991, Mladić attended a meeting in Sanski Most and, afterwards, JNA weapons were distributed to Bosnian Serbs in the area.⁶⁵⁵⁷

1924. In November 1991, weapons owned by the staff of the TO were transferred to the goods reserve of the TO.⁶⁵⁵⁸ This order came from the 5th corps of the JNA to the local TO staff.⁶⁵⁵⁹ In 1992, the weapons were taken by Colonel Branko Basara and distributed to the Bosnian Serbs in Sanski Most.⁶⁵⁶⁰

1925. At the end of 1991, the Serbian Defence Forces ("SOS") an armed group, was formed.⁶⁵⁶¹ They were commanded by Duško Šaović, a.k.a. Njunja.⁶⁵⁶² The SOS received orders from the SDS in Sanski Most.⁶⁵⁶³ On 28 February 1992, members of the SDS and the SOS broke into the premises of the Public Auditing Service and tried to physically remove the head of the institution.⁶⁵⁶⁴ Karabeg and the Executive Board condemned this action.⁶⁵⁶⁵ Soon after, the SOS started targeting buildings and businesses belonging to Bosnian Croats and Bosnian Muslims and blew them up with explosives.⁶⁵⁶⁶

⁶⁵⁵⁷ P3634 (Witness statement of KDZ490, undated), p. 39 (under seal).

⁶⁵⁵⁸ P3634 (Witness statement of KDZ490, undated), p. 42 (under seal); P3643 (Order of Sanski Most TO, 6 November 1991).

⁶⁵⁵⁹ P3634 (Witness statement of KDZ490, undated), p. 42 (under seal); P3643 (Order of Sanski Most TO, 6 November 1991).

⁶⁵⁶⁰ P3634 (Witness statement of KDZ490, undated), p. 43 (under seal).

⁶⁵⁶¹ P3634 (Witness statement of KDZ490, undated), p. 20 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3314–3315 (under seal).

⁶⁵⁶² P3634 (Witness statement of KDZ490, undated), p. 20 (under seal). Duško Šaović was also Vrkeš's bodyguard. P3634 (Witness statement of KDZ490, undated), p. 20 (under seal); D4387 (Witness statement of Dušan Mudrinić dated 15 February 2014), para. 4; Dušan Mudrinić, T. 47365 (19 February 2014); *see, e.g.*, KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7829 (under seal).

⁶⁵⁶³ P3634 (Witness statement of KDZ490, undated), pp. 22, 25, 30 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3316–3317, 3555 (under seal); Vinko Nikolić, T. 45439–45441 (16 January 2014).

⁶⁵⁶⁴ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6082–6083; P3309 (Minutes of meeting of Sanski Most's Executive Board, 5 March 1992).

⁶⁵⁶⁵ P3309 (Minutes of meeting of Sanski Most's Executive Board, 5 March 1992). *See also* Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6083; Mirzet Karabeg, T. 18767–18768 (14 September 2011) (testifying that it was an attempt to channel the taxes from Sanski Most to Banja Luka, instead of Sarajevo).

⁶⁵⁶⁶ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6076–6077; P3634 (Witness statement of KDZ490, undated), pp. 31–32 (under seal); P3397 (Report of Sanski Most SOS Intervention Platoon, 16 September 1992), p. 2. *See also* KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7634–7635 (under seal) (testifying that from late 1991 through the beginning of 1992, businesses in Sanski Most were blown up); *see* Adjudicated Fact 2523. Dušan Mudrinić testified that he was not aware of such explosions blowing up buildings and denied that the SOS was involved in these acts. Dušan Mudrinić, T. 47377–47378, 47385 (19 February 2014). The Chamber does not find his evidence on this point to be reliable. In reaching this conclusion, the Chamber found that the evidence of Mudrinić was evasive, contradicted on numerous occasions by other accepted evidence, including P3397 (Report of Sanski Most SOS Intervention Platoon, 16 September 1992), and was overall unconvincing.

1926. Soldiers of the JNA's 6th Partisan Brigade arrived in Sanski Most in early April 1992.⁶⁵⁶⁷ This brigade initially consisted of three battalions but later expanded.⁶⁵⁶⁸ It was commanded by Basara.⁶⁵⁶⁹ Rašula invited the SDA leaders to a meeting with Basara where Basara introduced himself and stated that he had brought the 6th Krajina Brigade to Sanski Most because they were on leave from fighting in Croatia and that they were "guarantors of peace".⁶⁵⁷⁰ The 6th Krajina Brigade was later subordinated to the 1st Krajina Corps.⁶⁵⁷¹ By the end of May 1992, the 6th Krajina Brigade was comprised of 3,907 soldiers, making up 11 battalions and artillery units.⁶⁵⁷²

1927. After the arrival of the 6th Krajina Brigade, check-points were set up throughout the municipality and soldiers from the 6th Krajina Brigade asked residents to stop and show their identity cards.⁶⁵⁷³

1928. On 22 April 1992, the Crisis Staff decided to integrate the SOS as a special unit of the TO.⁶⁵⁷⁴ The Crisis Staff also provided financial assistance to the SOS.⁶⁵⁷⁵

⁶⁵⁶⁷ P148 (Order of 5th Corps, 1 April 1992); P149 (5th Corps combat report, 2 April 1992); P3634 (Witness statement of KDZ490, undated), p. 35 (under seal); P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 2; P3640 (Document entitled "Informator of the Serbian Democratic Party Sanski Most", 1992), pp. 38–39 (referring to it as the 6th Krajina Brigade); Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5498–5499; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6099; P3660 (Handwritten "War Record" of the 6th Krajina Infantry Brigade, undated), p. 2 (referring to it as the 6th Infantry Brigade); KDZ490, T. 20181–20182 (19 October 2011) (closed session). As seen in the documents cited above, the 6th Partisan Brigade was also referred to as the 6th Krajina Brigade or another name. For ease of reference, the Chamber will refer to it as the 6th Krajina Brigade throughout this Judgement. KDZ490 stated that later when it grew to 12 battalions, it changed its name to the 6th Sana Brigade but "[t]his brigade, whether called Partisan/Krajina/Sana brigade was subordinated and under the command of General Momir Talić, Commander of the 5th JNA Corps, later the 1st Krajina Corps during 1992". P3634 (Witness statement of KDZ490, undated), pp. 34–35 (under seal).

⁶⁵⁶⁸ P3634 (Witness statement of KDZ490, undated), p. 34 (under seal).

⁶⁵⁶⁹ P3634 (Witness statement of KDZ490, undated), pp. 34, 37 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6100; P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 1; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7017; P2614 (Conclusions of Sanski Most's Crisis Staff, 30 May 1992).

⁶⁵⁷⁰ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7020–7021; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5499–5500; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6101–6102.

⁶⁵⁷¹ P3634 (Witness statement of KDZ490, undated) (under seal), p. 34.

⁶⁵⁷² P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 4. *See also* P3660 (Handwritten "War Record" of the 6th Krajina Infantry Brigade, undated). Members of the SOS were later integrated into the 6th Krajina Brigade. P3634 (Witness statement of KDZ490, undated), pp. 27, 30 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3315–3317 (under seal). *See also* P6681 (Report of Sanski Most SOS, 4 September 1992).

⁶⁵⁷³ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6099; *see* Adjudicated Fact 2525. *See also* Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6766–6767.

⁶⁵⁷⁴ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3325–3326 (under seal); D1679 (Conclusions of meeting of Sanski Most Crisis Staff, 22 April 1992), p. 1. *See also* Adjudicated Fact 2107.

⁶⁵⁷⁵ P6682 (Conclusions of Sanski Most Crisis Staff, 18 June 1992), p. 1 (showing that Aničić, the TO commander, submitted a report on the work of the SOS and the Crisis Staff approved giving the SOS financial assistance).

1929. On 28 April 1992, the Crisis Staff decided that Basara would meet with the Crisis Staff and “start regulating the relationship” between the TO forces and the JNA.⁶⁵⁷⁶ On 7 May 1992, the Crisis Staff held a meeting where Mladen Lukić and Mirko Vrućinić were ordered to hold talks with Basara to involve him in transforming the JNA into the “Serbian TO”.⁶⁵⁷⁷ The TO was ordered to set up a MP platoon.⁶⁵⁷⁸ All “able-bodied persons” were required to report to the Red Cross, the list would be forwarded to the TO staff, and those who were not registered would be “detained and sent to the municipalities of their residence”.⁶⁵⁷⁹

(b) Establishment of Bosnian Serb institutions

1930. The regionalisation process with the formation of the ZOBK led to increasing disagreements between members of the SDS, SDA, and HDZ in Sanski Most.⁶⁵⁸⁰ Faik Bišćević, the president of the SDA, stated that the SDA could not agree with this regionalisation process.⁶⁵⁸¹

1931. In February 1992, the SDS encouraged “all the Serbs of [BiH]” to abstain from voting in the upcoming referendum on the independence of BiH, claiming that it was against the interests of the “Serbian people”.⁶⁵⁸²

1932. In March 1992, the main issue that the SDS raised for discussions in the Municipal Assembly was whether Sanski Most should declare itself as “Serbian Sanski Most”, a part of the ARK.⁶⁵⁸³ Sanski Most was the only municipality (out of the 17 municipalities in the Bosnian Krajina) whose assembly had not yet decided on this matter.⁶⁵⁸⁴ On 25 March 1992, Rašula and Vrkeš signed a proclamation declaring that all Bosnian Serb territories in Sanski Most were part of the SerBiH, “as a unique Serb municipality of Sanski Most”.⁶⁵⁸⁵

1933. On 3 April 1992, Rašula issued a decision on behalf of the “Serbian People’s Assembly” that the “Serbian Municipality” of Sanski Most would become part of the ARK.⁶⁵⁸⁶ This decision

⁶⁵⁷⁶ P3328 (Conclusions of meeting of Sanski Most Crisis Staff, 28 April 1992), para. 4.

⁶⁵⁷⁷ P3645 (Conclusions of the Sanski Most Crisis Staff, 7 May 1992), p. 1.

⁶⁵⁷⁸ P3645 (Conclusions of the Sanski Most Crisis Staff, 7 May 1992), p. 1.

⁶⁵⁷⁹ P3645 (Conclusions of the Sanski Most Crisis Staff, 7 May 1992), p. 1.

⁶⁵⁸⁰ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5495–5496.

⁶⁵⁸¹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5496.

⁶⁵⁸² P3308 (SDS Leaflet); P3329 (Excerpt from handwritten diary of Nedeljko Rašula), p. 6; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6077–6078.

⁶⁵⁸³ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6095. *See also* Adjudicated Fact 2514.

⁶⁵⁸⁴ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6096–6097.

⁶⁵⁸⁵ P3304 (Decision of Serb people of Sanski Most, 25 March 1992) (listing 25 “local communities and Serb settlement” which formed a “unique Serb municipality” in Sanski Most); Mirzet Karabeg, T. 18688–18689 (13 September 2011). *See also* Adjudicated Fact 2515.

⁶⁵⁸⁶ P3325 (Decision of Sanski Most Municipal Assembly, 3 April 1992); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6102. *See also* Adjudicated Fact 2516.

was made by the Sanski Most SDS deputies only.⁶⁵⁸⁷ By 6 or 7 April 1992, the Sanski Most Municipal Assembly stopped meeting altogether.⁶⁵⁸⁸

1934. On 14 April 1992, the Crisis Staff of Sanski Most was established at a session of the Municipal Board of the Sanski Most SDS.⁶⁵⁸⁹ Rašula was appointed as president.⁶⁵⁹⁰ The Crisis Staff was the “centre of power” in Sanski Most and had, for instance, authority over the police.⁶⁵⁹¹

1935. On 16 April 1992, the “Serbian Municipality” of Sanski Most was formed.⁶⁵⁹²

1936. On 17 April 1992, Stojan Župljanin, head of the Banja Luka CSB, ordered that all police employees must sign a statement of loyalty to the Serb Municipality of Sanski Most.⁶⁵⁹³ The police then became effectively divided along ethnic lines: all of the Bosnian Serbs signed the statement, only one Bosnian Croat signed it, and none of the Bosnian Muslims did.⁶⁵⁹⁴ Those who did not sign the loyalty oath left the police.⁶⁵⁹⁵ The chief of the SJB ordered all police members to change the emblems on their caps to the Serbian tricolour to show loyalty as Serbs.⁶⁵⁹⁶ This was done in accordance with the order from Župljanin that police employees should wear new uniforms with sleeve insignias of the word “milicija” written in Cyrillic and blue berets with the tricolour

⁶⁵⁸⁷ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6102–6103.

⁶⁵⁸⁸ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6098.

⁶⁵⁸⁹ P3329 (Excerpt from handwritten diary of Nedeljko Rašula), pp. 19–21.

⁶⁵⁹⁰ P3634 (Witness statement of KDZ490, undated), p. 6 (under seal) (stating that the Secretariat of the SDS evolved into the Crisis Staff); P3329 (Excerpt from handwritten diary of Nedeljko Rašula), p. 20 (listing as other members: Colonel Nedeljko Ančić, Nemanja Tripković, Boro Savanović, Mirko Vrućinić, Dragan Majkić, Mladen Lukić, Vlado Vrkeš, and Zvonko Nikolić). See also KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3340–3342 (under seal). By 30 May 1992, the Crisis Staff of Sanski Most consisted of 12 persons, namely: (1) Rašula, (2) Vrkeš, (3) Mladen Lukić, economic affairs, (4) Boro Savanović, president of the club of SDS deputies, (5) Boro Tadić, secretary of the People’s Defence Secretariat, (6) Vrućinić, (7) Ančić, TO commander, (8) Milenko Stojinović, commander of the municipal civilian protection staff, (9) Nenad Davidović, medical services, (10) Basara, (11) Vinko Nikolić, in charge of vehicles, and (12) Nemanja Tripković, integrating and co-ordinating humanitarian associations. P2614 (Conclusions of Sanski Most’s Crisis Staff, 30 May 1992), p. 1

⁶⁵⁹¹ KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*) T. 26300–26302, 26325–26326, 26330–26331 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3328, 3342 (under seal). See, e.g., P2613 (Conclusions of Sanski Most’s Crisis Staff, 22 May 1992); P2614 (Conclusions of Sanski Most’s Crisis Staff, 30 May 1992).

⁶⁵⁹² KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7652 (under seal).

⁶⁵⁹³ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7652 (under seal); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26338 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3311 (under seal). See also Adjudicated Fact 2520.

⁶⁵⁹⁴ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7652 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3311 (under seal).

⁶⁵⁹⁵ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3311–3312 (under seal).

⁶⁵⁹⁶ P3634 (Witness statement of KDZ490, undated), pp. 46–47 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6104.

badge.⁶⁵⁹⁷ Rašula enforced this order by stating that all police members who accepted this would retain their jobs and those who refused would be transferred.⁶⁵⁹⁸

1937. After refusing to sign the loyalty oath, the Bosnian Muslim and Bosnian Croat policemen who had left the police went to the fire brigade building on the other bank of the Sana River to establish their own police force.⁶⁵⁹⁹ Karabeg and other Bosnian Muslim and Bosnian Croat leaders then went to the municipality building in Sanski Most both as a sign of protest and in order to organise their own administration.⁶⁶⁰⁰ In discussions on 18 April 1992, the SDA, SDS, and HDZ agreed that the municipality should be divided; however, the Executive Board of the SDS later rejected the agreement.⁶⁶⁰¹

1938. On 30 April 1992, the Crisis Staff appointed Vrućinić as acting chief of the SJB and Mladen Lukić as president of the Executive Board.⁶⁶⁰² Rašula maintained his power as the president of the Crisis Staff.⁶⁶⁰³

(3) Take-over of Sanski Most

1939. At approximately 9:30 p.m. on 19 April 1992, Rašula issued an ultimatum to the Bosnian Muslims and Bosnian Croats inside the municipality building to surrender by 10 p.m. or the Crisis Staff would not be responsible for the consequences—the 6th Krajina Brigade, which had been in Sanski Most since early April, was deployed close by.⁶⁶⁰⁴ In response, the Bosnian Muslims and

⁶⁵⁹⁷ P3330 (Conclusions of session of Banja Luka CSB Enlarged Centre Council, 6 April 1992), para. 4.

⁶⁵⁹⁸ KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26338 (under seal).

⁶⁵⁹⁹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7659–7660 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3311–3312 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6106–6107.

⁶⁶⁰⁰ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7660–7662 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6107; P3634 (Witness statement of KDZ490, undated), p. 47 (under seal). See also Adjudicated Fact 2521.

⁶⁶⁰¹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7661–7663 (under seal). KDZ474 specifies that the agreement from the SDA was coerced as the Bosnian Muslims were in a position of weakness. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7665 (under seal).

⁶⁶⁰² P3306 (Conclusions of meeting of Sanski Most Crisis Staff, 30 April 1992); P3634 (Witness statement of KDZ490, undated), pp. 10–11, 45 (under seal); D4347 (Decision of Sanski Most Crisis Staff, 1 May 1992). See also P6670 (List of Sanski Most SJB employees for advance on salary for April 1992), p. 3. Vrućinić was formally appointed as chief of the SJB on 13 June 1992. P6379 (Decision of Banja Luka CSB, 13 June 1992); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3410 (under seal).

⁶⁶⁰³ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7651 (under seal). See also P2614 (Conclusions of Sanski Most's Crisis Staff, 30 May 1992), p. 1.

⁶⁶⁰⁴ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7666–7668, 7671–7677, 7862–7863 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3312–3313 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6110, 6113–6116; P3634 (Witness statement of KDZ490, undated), pp. 47–48 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7023–7024. See also Adjudicated Facts 1299, 2521, 2522; Mirzet Karabeg, T. 18692 (13 September 2011); P3305 (5th Corps combat report, 20 April 1992), p. 1. Rašula did not offer any guarantees of safety for those who surrendered. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7671 (under seal).

Bosnian Croats exited through the back of the municipality building and escaped to Sehovći.⁶⁶⁰⁵ The building was subsequently attacked by the 6th Krajina Brigade and members of the SOS and TO.⁶⁶⁰⁶

1940. The following day, on 20 April 1992, representatives of the SDS, SDA, and HDZ met with military representatives, including Talić, Commander of the 1st Krajina Corps, and Basara, Commander of the 6th Krajina Brigade.⁶⁶⁰⁷ The SDA presented six requests, which the SDS rejected.⁶⁶⁰⁸ Talić ended the meeting by threatening that the SDA should not call anyone for help.⁶⁶⁰⁹ On the same day, the Crisis Staff held a meeting in which it concluded that it only recognised the “Serbian Municipality” of Sanski Most, including the “Serbian TO” and the “Serbian SJB”.⁶⁶¹⁰ The Crisis Staff also declared that the “former Municipal Assembly of Sanski Most” was illegal and that only the laws of the SerBiH would be in effect in Sanski Most.⁶⁶¹¹

1941. On 28 April 1992, the Crisis Staff concluded that all citizens in Sanski Most must surrender their weapons.⁶⁶¹² Radio Sana then broadcast a message that all citizens in Sanski Most must turn in their weapons to the SJB or the TO by 3 May 1992 and that their security would be protected.⁶⁶¹³

⁶⁶⁰⁵ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7672–7673 (under seal); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3312–3313 (under seal).

⁶⁶⁰⁶ P3634 (Witness statement of KDZ490, undated) (under seal), pp. 48–49; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6116–6118; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3317, 3322 (under seal). See also Adjudicated Facts 1299, 2523.

⁶⁶⁰⁷ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7700 (under seal); KDZ474, T. 19336 (21 September 2011) (closed session). See also P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992); P3929 (Report of 1st Krajina Corps, 3 September 1992), p. 8.

⁶⁶⁰⁸ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7701–7702, 7706 (under seal); KDZ474, T. 19339 (21 September 2011) (closed session). The requests included: (i) guarantee of the public safety of citizens and their property; (ii) establishment of the organisation and the functioning of the legal public security service and police station by finding the appropriate facilities and dividing resources; (iii) functioning of the legitimate municipal assembly and its organs; (iv) functioning of the economy and payment of transactions in keeping with the agreement in Bosanski Novi of 17 April 1992; (v) establishment of activity by all public institutions and companies with special emphasis on the work of the radio station with parity programming; and (vi) determination of the sequence of events on 18 and 19 April 1992 through the work of a mixed committee with the presence of European Community observers and representatives of the regular army. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7702 (under seal); P3329 (Excerpt from handwritten diary of Nedeljko Rašula), p. 23.

⁶⁶⁰⁹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7708 (under seal).

⁶⁶¹⁰ P3399 (Conclusions of meeting of Sanski Most Crisis Staff, 20 April 1992), para. 4.

⁶⁶¹¹ P3399 (Conclusions of meeting of Sanski Most Crisis Staff, 20 April 1992), para. 4. See also Adjudicated Fact 2517.

⁶⁶¹² P3328 (Conclusions of meeting of Sanski Most Crisis Staff, 28 April 1992), para. 1; P3634 (Witness statement of KDZ490, undated), pp. 55–56 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6133–6134. See also KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26173 (under seal).

⁶⁶¹³ P3634 (Witness statement of KDZ490, undated), pp. 55–57 (under seal); Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5507–5508, 5510, 5513; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7021, 7054; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court pp. 5–6; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2967–2969; KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8052–8054. See also Adjudicated Fact 1307; Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6768.

Operations were carried out to disarm the citizens in predominantly Bosnian Muslim and Bosnian Croat villages.⁶⁶¹⁴ There were never any efforts made to disarm the Bosnian Serb population.⁶⁶¹⁵

1942. On 11 May 1992, the ARK Crisis Staff issued a decision to the presidents of the municipalities in the ARK that the deadline for the voluntary surrender of “illegally acquired” weapons, as ordered in a decision issued by the ARK government on 4 May 1992,⁶⁶¹⁶ was extended to “24:00 on 14 May 1992”.⁶⁶¹⁷

1943. Beginning on 20 May 1992, the Crisis Staff ordered the disarmament of “paramilitary formations” in Sanski Most in accordance with the decision from the ARK government.⁶⁶¹⁸

1944. By 25 May 1992, soldiers from the 6th Krajina Brigade searched the houses of Bosnian Muslims and Bosnian Croats in Sanski Most in order to disarm them.⁶⁶¹⁹ The Sanski Most SJB reported on the total number of weapons seized from Muslim villages.⁶⁶²⁰ In Mahala, an announcement was made on the radio that people should hand over weapons to check-points.⁶⁶²¹ In addition, an announcement was made that all Bosnian Muslims who were loyal to the Serbian state should fly white flags in front of their houses.⁶⁶²²

1945. On 25 May 1992, the 6th Krajina Brigade attacked the Bosnian Muslim neighbourhoods of Mahala, Muhići, and Otoka in Sanski Most town.⁶⁶²³ The attack started with shelling, followed by

⁶⁶¹⁴ P3648 (Report of Sanski Most SJB, 10 July 1992); KW545, T. 46963 (12 February 2014) (closed session).

⁶⁶¹⁵ P3634 (Witness statement of KDZ490, undated) (under seal), pp. 58–60.

⁶⁶¹⁶ P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992).

⁶⁶¹⁷ P3694 (Conclusions of ARK Crisis Staff, 11 May 1992), para. 1; Mirzet Karabeg, T. 18801–18802 (14 September 2011); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3351 (under seal).

⁶⁶¹⁸ P3647 (Order of Sanski Most Crisis Staff, 20 May 1992); P2613 (Conclusions of Sanski Most Crisis Staff, 22 May 1992), p. 2; P3402 (Conclusions of Sanski Most Crisis Staff, 22 May 1992).

⁶⁶¹⁹ D4233 (Witness statement of Branko Davidović dated 20 January 2014), para. 21. The Sanski Most SJB report states that the disarming and surrendering of weapons was carried out until 25 May 1992. P3928 (Report of Sanski Most SJB, 15 June 1992), p. 1; Mile Dobrijević, T. 44632 (6 December 2013).

⁶⁶²⁰ P3648 (Report of Sanski Most SJB, 10 July 1992), p. 1 (stating that “[a] special group was established for these jobs that went to Muslim villages seizing weapons, based on orders from the SJB and that the military police were also engaged in the operations).

⁶⁶²¹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5512–5513.

⁶⁶²² Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5514. Bišćević stated that it was used as a sign to identify houses belonging to the Bosnian Muslims and Bosnian Croats, differentiating them from the Bosnian Serb-owned houses when the houses were destroyed later. Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5515.

⁶⁶²³ P3928 (Report of Sanski Most SJB, 15 June 1992); Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5513; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26198 (under seal); Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8105–8106; KDZ474, T. 19247 (21 September 2011) (closed session). See also Adjudicated Facts 2527, 2528. KDZ490 states that the attack occurred on 26 May 1992. P3634 (Witness statement of KDZ490, undated), pp. 69–70 (under seal). Given the volume of consistent and accepted documentary evidence, witness testimony, and adjudicated facts in this regard, the Chamber finds that the attack occurred on 25 May 1992.

soldiers entering the area.⁶⁶²⁴ The soldiers set houses on fire.⁶⁶²⁵ According to a Sanski Most SJB report, the attack against Mahala resulted in the “capture of 2,000 civilians” but no significant amount of weapons was found.⁶⁶²⁶

1946. Attacks continued the following day.⁶⁶²⁷ Nedeljko Aničić ordered “upon completion of the task, [to] take the prisoners to the sports hall” and “hand over the war booty” to the “Sanski Most Serbian TO Staff”.⁶⁶²⁸ Other villages in Sanski Most were subsequently attacked, including Hrustovo, Vrhpolje, Lukavica, and Trnovo.⁶⁶²⁹ According to a military report, there was a “comprehensive operation” undertaken between 25 May and 4 June 1992 to “mop up the terrain and disarm Muslim extremists” in Sanski Most.⁶⁶³⁰

1947. Meetings of the Crisis Staff were to be held daily to discuss a “long-term solution” for the “problem of refugees from the Mahala area, as well as the Muslims and Croats who are not loyal to the Constitution and laws of the [SerBiH]”.⁶⁶³¹ The Crisis Staff concluded that all “those who have not taken up arms and want to change their municipality” should be allowed to move out.⁶⁶³²

1948. Pursuant to an order from the Crisis Staff, the “displaced population” from the Mahala, Muhići, and Otoka areas was to be transferred by a *Sanatrans* bus to the sports hall for “care and

⁶⁶²⁴ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3365 (under seal); P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 31. See also Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8106.

⁶⁶²⁵ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3365 (under seal); Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5513 (testifying that 192 houses were set on fire, destroyed, and looted, namely “the entire Gornji Mahala was destroyed”). Mihajlo Orlović testified that he passed through Mahala two or three years later and did not see houses burned. He also refuted the shelling of Mahala. Mihaljo Orlović, T. 46643–46645 (6 February 2014). The Chamber does not find this evidence to be reliable. In reaching this conclusion, the Chamber found that Orlović was not completely forthright with the Chamber and his evidence was contradicted on numerous occasions by other accepted evidence, including P3928 (Report of Sanski Most SJB, 15 June 1992), witnesses Faik Bišćević, KW545, Sakib Muhić, KDZ474, and Adjudicated Fact 2528.

⁶⁶²⁶ P3928 (Report of Sanski Most SJB, 15 June 1992), p. 1.

⁶⁶²⁷ P3313 (Order of Sanski Most TO, undated), pp. 1–2; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 31; P3634 (Witness statement of KDZ490, undated), p. 70 (under seal).

⁶⁶²⁸ P3313 (Order of Sanski Most TO, undated), p. 3. See Scheduled Detention Facility C.22.3.

⁶⁶²⁹ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 36, 41–42; P3928 (Report of Sanski Most SJB, 15 June 1992), p. 1. See also KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8052–8053; P3318 (Order of Sanski Most Crisis Staff, 2 June 1992) (ordering the machinery and manpower for the burial of persons killed in combat operations in Vrhpolje and Hrustovo); Adjudicated Fact 2529. See, e.g., Scheduled Incidents A.12.1, A.12.2, A.12.4. KW540 testified that in Vrhpolje, there were approximately 400 Bosnian Muslim men who were “the best armed and the best organised” by the SDA and this was why the 6th Krajina Brigade attacked Vrhpolje. KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3485–3486 (under seal).

⁶⁶³⁰ P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 5.

⁶⁶³¹ P2614 (Conclusions of Sanski Most’s Crisis Staff, 30 May 1992), p. 1.

⁶⁶³² P2614 (Conclusions of Sanski Most’s Crisis Staff, 30 May 1992), p. 1.

accommodation”.⁶⁶³³ The following day, the TO ordered the “clean up” of the terrain in Mahala, Otoka, and Mahići and the search, identification, and burial of dead bodies.⁶⁶³⁴

1949. On 27 May 1992, Bišćević was arrested, beaten, and taken to Radio Sana, which was by then controlled by the SDS.⁶⁶³⁵ He was forced to read a statement on the radio.⁶⁶³⁶ The statement announced that the VRS had taken over the municipality and all Bosnian Muslims and Bosnian Croats must unconditionally surrender their weapons in order to prevent the destruction of the town.⁶⁶³⁷ After making this statement, Bišćević was taken to Magarice village.⁶⁶³⁸ An additional announcement was broadcast on the radio stating that residents who wished to leave Sanski Most would be allowed to and those who wished to stay were required to submit a request for a permanent residence permit.⁶⁶³⁹

(4) Events after the take-over of Sanski Most

1950. Following the take-over, Bosnian Serbs were appointed to positions in the municipality of Sanski Most while Bosnian Muslims and Bosnian Croats employees of the municipality were removed from their jobs.⁶⁶⁴⁰ This included judges and employees of the municipal court, directors

⁶⁶³³ P3315 (Order of Sanski Most TO Municipal Staff, 26 May 1992) (also ordering that medical treatment shall be provided); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6149–6151; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3453–3454 (under seal). Karabeg testified that members of the SDS executive board, Boro Savanović, Tomo Delić, and Nemanja Tripković, visited him in the SJB prison and told him that Mahala and Otoka had been “liberated” and set on fire. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6150–6151. See para. 2006.

⁶⁶³⁴ P3316 (Order of Sanski Most TO Municipal Staff, 27 May 1992); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6151–6152.

⁶⁶³⁵ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5520–5524; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7030–7036. See also P3634 (Witness statement of KDZ490, undated) (under seal), pp. 17, 69; P3644 (Conclusions of the Sanski Most Crisis Staff, 12 May 1992), p. 1; see Adjudicated Fact 2530.

⁶⁶³⁶ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5520–5524; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7030–7036; P725 (Audio recording of radio announcement); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6156–6159; Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6770; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7449–7750 (under seal). See also P3634 (Witness statement of KDZ490, undated), pp. 17, 69 (under seal); P3644 (Conclusions of the Sanski Most Crisis Staff, 12 May 1992), p. 1. Mihaljo Orlović testified that he asked Faik Bišćević about this radio statement and that Bišćević had read it out of his own free will and was not coerced. Mihaljo Orlović, T. 46651–46652 (6 February 2014). The Chamber does not find his evidence to be reliable. In reaching this conclusion, the Chamber found that the evidence of Orlović was contradicted by other accepted evidence, including that of witnesses KDZ474, Mirzet Karabeg, and Faik Bišćević, and that he was not completely forthright with the Chamber.

⁶⁶³⁷ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5522; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7037–7038.

⁶⁶³⁸ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042. See para. 2021.

⁶⁶³⁹ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6771–6772.

⁶⁶⁴⁰ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5512; P3634 (Witness statement of KDZ490, undated), pp. 49, 53–55, 61–62 (under seal). See also P2740 (Decision of ARK Crisis Staff, 22 June 1992); P3646 (Conclusion of the Sanski Most Crisis Staff, 20 May 1992); see Adjudicated Fact 2518. Mićan Davidović testified that non-Serbs did not show up for work, rather than being dismissed from employment in May 1992. However, he confirmed that Bosnian Muslims and Bosnian Croats in top positions, such as directors

of public companies, and employees of the local radio and health centre.⁶⁶⁴¹ Bosnian Muslim and Bosnian Croat political leaders were arrested.⁶⁶⁴²

1951. On 8 June 1992, the TO was dismantled, the 6th Krajina Brigade set up a forward command post in Sanski Most, and Aničić was appointed Commander.⁶⁶⁴³ All the former TO units in Sanski Most were integrated into the 6th Krajina Brigade.⁶⁶⁴⁴ Throughout June, July, and August 1992, armed attacks on villages throughout the municipality continued.⁶⁶⁴⁵

(a) Scheduled Incident A.12.1

1952. The Prosecution alleges that about 28 men were killed between Begići and Vrhpolje Bridge on or about 31 May 1992.

1953. Begići is a hamlet in the village of Kljevci with approximately 80 inhabitants.⁶⁶⁴⁶ Begići is divided into two halves: Gornji Begići and Donji Begići, which were several 100 metres apart.⁶⁶⁴⁷ In 1992, the majority of the population in Begići was Bosnian Muslim.⁶⁶⁴⁸

1954. On 25 May 1992, soldiers from the 6th Krajina Brigade entered Gornji Begići and Donji Begići.⁶⁶⁴⁹ They damaged property and beat some of the residents.⁶⁶⁵⁰ The soldiers then returned to their check-point near Stojanovići.⁶⁶⁵¹

1955. On 31 May 1992, soldiers from the 6th Krajina Brigade entered Donji Begići and ordered the residents to come out of their houses and to go towards Gornji Begići.⁶⁶⁵² Once they arrived

and judges, were replaced by Bosnian Serbs. Mikan Davidović, T. 44521-44522 (5 December 2013). Vinko Nikolić testified that all citizens were allowed to maintain their employment if they respected the RS constitution. Vinko Nikolić, T. 45446-45451 (16 January 2014). However, his testimony was contradicted by evidence showing that Bosnian Croat and Bosnian Muslim employees were removed from their jobs. The Chamber notes that this was one of many contradictions in his evidence which magnified his lack of credibility on the stand.

⁶⁶⁴¹ P3634 (Witness statement of KDZ490, undated) (under seal), pp. 61–62. See Adjudicated Fact 2518.

⁶⁶⁴² Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7027–7030.

⁶⁶⁴³ P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 6.

⁶⁶⁴⁴ P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), p. 6.

⁶⁶⁴⁵ P3663 (Report on the 6th Brigade in the period between 8 October 1991 and 28 August 1992), pp. 6–7.

⁶⁶⁴⁶ P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 5; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2962–2963. For the location of Kljevci and Begići, see P3638 (Map of Sanski Most municipality); P1159 (Map of Hrstovo-Vrhpolje marked by Rajif Begić).

⁶⁶⁴⁷ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2971, 2975.

⁶⁶⁴⁸ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2963.

⁶⁶⁴⁹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2969–2971; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 6.

⁶⁶⁵⁰ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2970; P692 (Witness statement of Rajif Begić Sanski Most Court dated 16 April 1995), e-court p. 13.

⁶⁶⁵¹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2970; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court pp. 13–14.

there, they saw that the men from Gornji Begići had gathered outside.⁶⁶⁵³ The women and children were separated from the men and taken away.⁶⁶⁵⁴ The soldiers ordered the men, approximately 20 in the group, to go towards the Vrhpolje Bridge where they were told there would be buses waiting to transport them to Sanski Most.⁶⁶⁵⁵ The men walked, two-by-two, in a column through the fields towards the Vrhpolje Bridge.⁶⁶⁵⁶ According to Rajif Begić, there were 20 Bosnian Muslim men in this column, including himself, and they were escorted by eight armed soldiers.⁶⁶⁵⁷

1956. Jadranko Palija, a soldier from the 6th Krajina Brigade, was in charge of leading the column of men from Begići to the Vrhpolje Bridge.⁶⁶⁵⁸ During the walk to the bridge, two of the Bosnian Muslim men were taken out of the column by Palija, shot, and killed near a slaughterhouse.⁶⁶⁵⁹ As the group continued towards the bridge, Palija shot and killed another man near the crossroads of the main road connecting Sanski Most and Ključ.⁶⁶⁶⁰ Before the group reached the bridge, approximately 50 metres away, a military van pulled up and Palija got in to speak to the driver.⁶⁶⁶¹ Palija ordered another man, Ismet Kurbegović, from the column to come to the passenger side of the van, which he did.⁶⁶⁶² Palija shot and killed Kurbegović.⁶⁶⁶³

⁶⁶⁵² Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2973–2975; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 6. See also Adjudicated Fact 1303.

⁶⁶⁵³ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2979.

⁶⁶⁵⁴ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2979. See also Adjudicated Fact 1303.

⁶⁶⁵⁵ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2979. See also Adjudicated Fact 1304 (which states that “between 20–30 men” were in this group. For the location of the Vrhpolje Bridge, see P1159 (Map of Hrstovo-Vrhpolje marked by Rajif Begić).

⁶⁶⁵⁶ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2980; P1159 (Map of Hrstovo-Vrhpolje marked by Rajif Begić).

⁶⁶⁵⁷ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2980; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court pp. 13, 15; P1159 (Map of Hrstovo-Vrhpolje marked by Rajif Begić). Begić named the 19 other men who were taken with him, namely Miralem Cerić, Enes Cerić, Midhet Cerić, Hakiya Begić, Muharem Begić, Šaćir Begić, Safet Begić, Muhamed Begić, Irfan Begić, Fuad Begić, Elmedin Begić, Najil Begić, Ismet Kurbegović, Munib Begić, Nedžad Begić, Ismet Dizdarević, Muhamed Dizdarević, Mirsad Dizdarević, and Enes Dizdarević. Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2981, 2984; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 16.

⁶⁶⁵⁸ P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court pp. 15–16; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2973–2974, 2980. See also Adjudicated Fact 1305; D4387 (Witness statement of Dušan Mudrinić dated 15 February 2014), para. 21. Mudrinić confirmed that it was Jadranko Palija who was in charge and responsible because “the incident was investigated and an on-site investigation was conducted”. D4387 (Witness statement of Dušan Mudrinić dated 15 February 2014), para. 21.

⁶⁶⁵⁹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2982–2983 (Begić identifies these men as Miralem Cerić and Enes Cerić); P692 (Witness statement of Rajif Begić dated 16 April 1995), e-court p. 16; P1159 (Map of Hrstovo-Vrhpolje marked by Rajif Begić). See also Adjudicated Fact 1306.

⁶⁶⁶⁰ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2983 (Begić identifies this man as Ismet Kurbegović); P692 (Witness statement of Rajif Begić dated 16 April 1995), e-court p. 16. See also Adjudicated Fact 1306.

⁶⁶⁶¹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2984.

⁶⁶⁶² Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2984; P692 (Witness statement of Rajif Begić dated 16 April 1995), e-court pp. 16–17.

1957. When the remaining men reached the bridge, armed soldiers were waiting for them.⁶⁶⁶⁴ The men were ordered to line up along the bridge and told that they would be killed because VRS soldiers had been killed.⁶⁶⁶⁵ They were ordered to take off their clothes and shoes.⁶⁶⁶⁶ One of the men was ordered to jump into the river.⁶⁶⁶⁷ He did and as he was swimming in the river, the soldiers leaned over the bridge, shot, and killed him.⁶⁶⁶⁸ The soldiers repeated this with every man.⁶⁶⁶⁹ Begić was the sixth man who was ordered to jump off the bridge.⁶⁶⁷⁰ He did so and instead of swimming to the surface, he dived under the water and swam towards the left bank where he hid under trees and shrubbery.⁶⁶⁷¹ The soldiers continued in this manner with each man on the bridge.⁶⁶⁷² Begić was the only survivor.⁶⁶⁷³

1958. Begić identified 19 Bosnian Muslim men who were killed in relation to this incident.⁶⁶⁷⁴ The Chamber also received evidence that in July 1992, the bodies of 13 males were found buried under the Vrhpolje Bridge on the right bank of the Sana River, the bodies of 11 other males were taken out of the Sana River, and Irfan Begić was found dead by the road near the bridge.⁶⁶⁷⁵ Of the

⁶⁶⁶³ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2984 (Begić identifies this man as Irfan Begić); P692 (Witness statement of Rajif Begić dated 16 April 1995), e-court pp. 16–17. See also Adjudicated Fact 1306.

⁶⁶⁶⁴ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2985–2986; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18. See also Adjudicated Fact 1306.

⁶⁶⁶⁵ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2986–2987; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18.

⁶⁶⁶⁶ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2987; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18. See also Adjudicated Fact 1306.

⁶⁶⁶⁷ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2987; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18. Begić identifies this man as Midhet Cerić. P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18.

⁶⁶⁶⁸ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2987; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18.

⁶⁶⁶⁹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2988–2990; P1158 (Photograph of Vrhpolje bridge marked by Rajif Begić); P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18. Begić identifies other men who were killed as Munib Begić, Mirsad Dizdarević, Enes Dizdarević, and Elmedin Begić. Enes Dizdarević was shot on the bridge before he could jump off. Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2989–2990. See also Adjudicated Facts 1304, 1306; P3634 (Witness statement of KDZ490, undated), p. 77 (under seal).

⁶⁶⁷⁰ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2991; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 6; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 19.

⁶⁶⁷¹ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2991; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 18.

⁶⁶⁷² Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2992. See also Adjudicated Fact 1306. KDZ492 testified that he had heard from soldiers of the 6th Krajina Brigade that Bosnian Muslim civilians were killed and thrown off the bridge into the Sana River. KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*), T. 3861–3862 (under seal).

⁶⁶⁷³ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2992–2993; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court p. 6; P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court p. 19. Begić states that “more than 20” Bosnian Muslims were killed on 31 May 1992. P692 (Witness statement of Rajif Begić to Sanski Most Court dated 18 April 1996), e-court p. 11.

⁶⁶⁷⁴ P692 (Witness statement of Rajif Begić to Sanski Most Court dated 16 April 1995), e-court pp. 15–17.

⁶⁶⁷⁵ P557 (Report on bodies found in Vrhpolje, 10 July 1992).

11 bodies taken out of the river, five of them match the names of men that were identified as having been with Begić's group.⁶⁶⁷⁶ Further, the Chamber received evidence that in May 1996, the bodies of 28 males were exhumed from mass graves connected to this incident.⁶⁶⁷⁷ Of those 28 males, seven were identified as having been with Begić's group and four were also named in the July 1992 report as bodies taken from the Sana River.⁶⁶⁷⁸ Injuries noted by the forensic report include gunshot wounds and fractured bones, mainly of the skull and ribs.⁶⁶⁷⁹ Some of the bodies in one part of the mass grave were in civilian clothing and another section of the mass grave contained a large quantity of civilian clothing.⁶⁶⁸⁰ The Chamber also received evidence that the body of Ismet Kurbegović was discovered in a mass grave in Prijedor.⁶⁶⁸¹

1959. The Chamber took judicial notice of the fact that at least 28 Bosnian Muslim men were killed in this event.⁶⁶⁸²

1960. The Chamber therefore finds that approximately 20 men were killed by Serb Forces between Begići and Vrhpolje Bridge on or about 31 May 1992.

(b) Scheduled Incident A.12.2

1961. The Prosecution alleges that a number of people in the village of Hrustovo were killed on or about 31 May 1992.

1962. Hrustovo is a village in Sanski Most.⁶⁶⁸³ It has six hamlets: Merdanovići, Keranovići, Jelečevići, Kukavice, Handanovići, and Zukići.⁶⁶⁸⁴ In 1992, the population of these hamlets was primarily Bosnian Muslim.⁶⁶⁸⁵

⁶⁶⁷⁶ P557 (Report on bodies found in Vrhpolje, 10 July 1992), pp. 3–4.

⁶⁶⁷⁷ P4901 (Sanski Most Court record on the investigation and exhumation of mass graves by the Vrhpolje Bridge in Sanski Most, 7 May 1996). See also P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 44–45 (listing 22 individuals connected to this scheduled incident); P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), e-court pp. 51–52 (listing 28 bodies exhumed from three gravesites near the Vrhpolje Bridge); P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 12–13. See P4870 (DNA report for Najil Begić, 25 June 2007); P4871 (Record of identification for Najil Begić, 25 June 2007).

⁶⁶⁷⁸ P4901 (Sanski Most Court record on the investigation and exhumation of mass graves by the Vrhpolje Bridge in Sanski Most, 7 May 1996), pp. 20–21 (reporting that only 15 of the 28 bodies were positively identified by relatives). The men who were also identified in P557 (Report on bodies found in Vrhpolje, 10 July 1992) include Muhamed Dizdarević, Fuad Begić, Irfan Begić, and possibly Mirsad Dizdarević.

⁶⁶⁷⁹ P4901 (Sanski Most Court record on the investigation and exhumation of mass graves by the Vrhpolje Bridge, Sanski Most, 7 May 1996), pp. 5–20.

⁶⁶⁸⁰ P4901 (Sanski Most Court record on the investigation and exhumation of mass graves by the Vrhpolje Bridge, Sanski Most, 7 May 1996), pp. 3–4.

⁶⁶⁸¹ P6689 (Excerpts from report on exhumations in Prijedor municipality, 28 August 2002), p. 111.

⁶⁶⁸² See Adjudicated Fact 1306.

⁶⁶⁸³ KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7206 (under seal); P616 (Map of Hrustovo-Vrhpolje marked by KDZ097).

⁶⁶⁸⁴ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 4 (under seal).

1963. On the morning of 31 May 1992, in Jelečevići, approximately 20 to 25 Bosnian Muslim civilians, mainly women and children, were ordered by soldiers wearing JNA uniforms to go to Kukavice.⁶⁶⁸⁶ The reason given was that the soldiers were going to search houses for weapons and it would be easier if there were fewer people in the village.⁶⁶⁸⁷ In Kukavice, the group grew to about 30 individuals who were gathered in the garage of a house.⁶⁶⁸⁸ Shortly afterwards, soldiers came to the garage and opened fire at the garage door.⁶⁶⁸⁹ The soldiers yelled for everyone to come out of the garage.⁶⁶⁹⁰ Husein Merdanović went outside and told the soldiers to stop shooting and that there were only women and children inside the garage.⁶⁶⁹¹ The soldiers shot and killed him.⁶⁶⁹² The soldiers opened fire on the garage a second time.⁶⁶⁹³ As the civilians panicked, they came out of the garage and started running away, the soldiers fired at them.⁶⁶⁹⁴ Only eight people survived the attack.⁶⁶⁹⁵

⁶⁶⁸⁵ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 4 (under seal); KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8047.

⁶⁶⁸⁶ KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7208–7209, 7213, 7222–7223 (under seal); P715 (Witness statement of KDZ097 dated 21 April 2001), e-court pp. 4–6 (under seal). *See also* Adjudicated Facts 1307, 1308.

⁶⁶⁸⁷ KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7209 (under seal).

⁶⁶⁸⁸ P715 (Witness statements\ of KDZ097 dated 21 April 2001), e-court p. 4 (under seal); KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7212 (under seal) (testifying that a number of people from Keranovići had joined). Merdanović was the only “able bodied man” in the garage; he was “50-60” years old. The other males in the garage were under the age of 14 years old. Of the 30 people in the garage, the following 22 individuals were identified by name: Muharema Keranović, Almadina Keranović, Sabina Keranović, Sabra Merdanović, Jasmin Merdanović, Besima Merdanović, Edita Merdanović, Husein Merdanović (age 4-5 years) (listed twice), Zumra Merdanović, Fatima Zukić, Senija Keranović, Sejida Keranović, Čama Jelečević, Razija Jelečević, Sead Jelečević, Asim Jelečević, Elvira Jelečević, Edina Jelečević, Jasmina Merdanović, Dino Keranović, Ernes Keranović, and Husein Merdanović (age 50-60 years). [REDACTED]. *See also* Adjudicated Fact 1308.

⁶⁶⁸⁹ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 6 (under seal). *See also* Adjudicated Facts 1309, 1310.

⁶⁶⁹⁰ KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7215-7216 (under seal); P715 (Witness statements of KDZ097 dated 21 April 2001 and 11 December 2001), p. 4 (under seal).

⁶⁶⁹¹ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 6 (under seal). *See also* Adjudicated Fact 1311.

⁶⁶⁹² P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 6 (under seal); KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7214 (under seal). *See also* Adjudicated Fact 1311.

⁶⁶⁹³ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 6 (under seal). *See also* Adjudicated Fact 1312.

⁶⁶⁹⁴ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 6 (under seal); KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7233 (under seal). *See also* Adjudicated Fact 1312.

⁶⁶⁹⁵ P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 8 (under seal). The survivors were Čama Jelečević, Edina Jelečević, Razija Jelečević, Sead Jelečević, Ernes Keranović, Semija Keranović, Dino Keranović, and KDZ097. P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 8 (under seal). On cross-examination, Boro Tadić testified that with respect to this scheduled incident, he could not confirm what had happened, nor could he confirm that a prosecution for those responsible had been conducted. Boro Tadić, T. 44414–44415 (3 December 2013). Mihaljo Orlović testified that he did not believe this killing incident happened and that it may have been a rumour or propaganda. Mihaljo Orlović, T. 46646 (6 February 2014). The Chamber does not find his evidence on this point to be reliable as it amounted to mere speculation. The Chamber also found that the evidence of Orlović was marked with numerous contradictions and that he was not completely forthright with the Chamber.

1964. The Chamber took judicial notice of the fact that at a minimum, 15 people were killed in this incident.⁶⁶⁹⁶ The Chamber received evidence that bodies were found in a mass grave in Hrustovo in relation to this incident.⁶⁶⁹⁷

1965. Accordingly, the Chamber finds that a number of people were killed by Serb Forces in Hrustovo village on or about 31 May 1992.

(c) Scheduled Incident A.12.3

1966. The Prosecution alleges that about 18 men from Kenjari were killed on or about 27 June 1992 in the hamlet of Blaževići.

1967. Kenjari is a hamlet located north of Begići.⁶⁶⁹⁸ In 1992, the population of Kenjari was primarily Bosnian Muslim.⁶⁶⁹⁹ Around 27 or 28 June 1992, Bosnian Serb soldiers, led by Milorad Mijatović, entered Kenjari and started searching houses for weapons.⁶⁷⁰⁰ The Bosnian Muslims in the hamlet were ordered to leave their houses and wait outside at the crossroads.⁶⁷⁰¹ After the soldiers were finished searching the houses, they ordered that all the men be taken elsewhere for interrogation, while the women and children could return to their homes.⁶⁷⁰² KDZ052 testified that about 18 or 20 men were with him when they were taken to a house to be interrogated.⁶⁷⁰³ They were kept at the house in Kenjari until the following day when Vrkeš, the president of the SDS in Sanski Most, came to see the men and told them they would be exchanged for Bosnian Serbs in eastern BiH.⁶⁷⁰⁴ The men were then taken to a house in Blaževići.⁶⁷⁰⁵ While they were in the house, there was an explosion inside.⁶⁷⁰⁶ KDZ052 managed to jump out of the window and hide.⁶⁷⁰⁷ He and others were shot at while they attempted to escape out of the house.⁶⁷⁰⁸ The

⁶⁶⁹⁶ See Adjudicated Fact 1313.

⁶⁶⁹⁷ P4898 (Sanski Most Municipal Court record of Hrustovo I exhumation, 15 April 1997), pp. 3–20 (listing 30 bodies found in the mass grave Hrustovo I, of which eight are also named by KDZ097); P3637 (Report of BiH Federal Ministry of the Interior, 22 October 1996), p. 6 (listing 31 bodies found in the mass grave Hrustovo I, of which seven are also named by KDZ097); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 45–47 (which names 13 individuals in relation to this scheduled incident); P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), e-court pp. 53–54, 56 (which identifies 31 bodies recovered from two mass graves, of which nine were also named by KDZ097).

⁶⁶⁹⁸ P532 (Map of Sanski Most); Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2962–2964.

⁶⁶⁹⁹ P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2962–2963.

⁶⁷⁰⁰ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8054–8058. See also Adjudicated Fact 2531.

⁶⁷⁰¹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8058.

⁶⁷⁰² KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8058.

⁶⁷⁰³ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8059, 8073. See also Adjudicated Fact 2532.

⁶⁷⁰⁴ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8059–8060. See also Adjudicated Fact 2532.

⁶⁷⁰⁵ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8060–8062; P3377 (Map of Hrustovo-Vrhpolje marked by KDZ052) (under seal). See also Adjudicated Fact 2532.

⁶⁷⁰⁶ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8063. See also Adjudicated Fact 2532.

⁶⁷⁰⁷ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8063.

bodies of the men who were killed were taken by the soldiers back to the house and the house was set on fire.⁶⁷⁰⁹ KDZ052 survived and made his way to Tomina.⁶⁷¹⁰

1968. The Chamber received evidence that the bodies of 18 men were identified in a mass grave and linked to this scheduled incident.⁶⁷¹¹

1969. Based on the evidence presented above, the Chamber finds that approximately 18 men from Kenjari in the hamlet of Blaževići were killed by Serb Forces on or about 27 June 1992.

(d) Scheduled Incident A.12.4

1970. The Prosecution alleges that a number of people from the hamlet of Budim in Lukavice village were killed on or about 1 August 1992.

1971. Lukavice is a village in the northwestern region of Sanski Most municipality.⁶⁷¹² The population of Lukavice was primarily Bosnian Muslim.⁶⁷¹³ The Chamber took judicial notice of the fact that on 1 August 1992, Bosnian Serb Forces attacked Budim and killed 14 members of the Alibegović family, all of whom were unarmed civilians.⁶⁷¹⁴ The Chamber also took judicial notice of the fact that the victims were shot from a close distance with automatic weapons.⁶⁷¹⁵

⁶⁷⁰⁸ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8063–8064. See also Adjudicated Fact 2532.

⁶⁷⁰⁹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8065–8066. See also Adjudicated Fact 2532.

⁶⁷¹⁰ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8067–8068. See also P3377 (Map of Hrustovo-Vrhopolje marked by KDZ052) (under seal).

⁶⁷¹¹ P3373 (Excerpt of exhumation report on Hrustovo and Vrhopolje mass grave) (under seal) (stating that charred remains were found in the house and in a nearby mass grave, and information from KDZ052 and others identified 19 persons who were executed and whose bodies were set on fire); P3376 (Excerpt of exhumation report on Hrustovo and Vrhopolje mass grave) (under seal) (listing the 18 names as identified by KDZ052); KDZ052, T. 19082–19083 (19 September 2011); KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8075; P3637 (Report of BiH Federal Ministry of the Interior, 22 October 1996), p. 2. See also P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), e-court pp. 58–59.

⁶⁷¹² P532 (Map of Sanski Most); P3638 (Map of Sanski Most municipality).

⁶⁷¹³ P532 (Map of Sanski Most); P3638 (Map of Sanski Most municipality).

⁶⁷¹⁴ See Adjudicated Fact 1315.

⁶⁷¹⁵ See Adjudicated Fact 1315. In his Final Brief, the Accused acknowledges that “[o]n 1 August 1992, Serb soldiers attacked Budin[sic] and killed 14 unarmed members of the Alibegović family”. However, the Accused also submits that “KDZ097 testified that large numbers of people roamed his area in uniform”. The Accused therefore argues that there was “no plan to perpetrate killings by official Serb authorities.” Defence Final Trial Brief, p. 437 (section on Persecution), para. 1623. The Accused also submits that the crimes committed in Sanski Most cannot be attributed to him because they were acts committed without his knowledge, against his policies, and by people outside of his control. He also submits that there was no plan to permanently remove non-Serbs from Sanski Most. Defence Final Brief, paras. 2894–2900. This submission will be dealt with in Section IV.A.3.iii: Authority over military and police forces acting in BiH.

1972. The Chamber also received evidence that 14 bodies were exhumed in a mass grave in relation to this incident.⁶⁷¹⁶ These bodies were determined to be Bosnian Muslim male civilians.⁶⁷¹⁷

1973. The Chamber finds that approximately 14 people from the hamlet of Budim in Lukavice village were killed by Serb Forces on or about 1 August 1992.

(e) Scheduled Incident A.12.5

1974. The Prosecution alleges that approximately seven men were killed near the village of Škrljevita on or about 2 November 1992.

1975. Škrljevita is a village in eastern Sanski Most.⁶⁷¹⁸ In 1992, the majority of the population in Škrljevita was Bosnian Croat.⁶⁷¹⁹ On 2 November 1992, Grgo Stojić and his cousin were walking from Sanski Most town to Škrljevita when they encountered two soldiers from the 6th Krajina Brigade on the road near the Glamošnica forest.⁶⁷²⁰ The soldiers asked them for identification.⁶⁷²¹ After looking at their identity cards, the soldiers asked Stojić and his cousin to follow them.⁶⁷²² They were led through the forest and to the Glamošnica River, where four of Stojić's neighbours were already lined up.⁶⁷²³ A soldier was pointing a machine gun at the four men.⁶⁷²⁴ Stojić and his cousin were told to line up next to his neighbours.⁶⁷²⁵ They were searched, their personal

⁶⁷¹⁶ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 47–48; P4899 (Bihać Cantonal Court record of Lukavice postmortem examination, 11 June 1997); P4900 (Bihać Cantonal Court record of Lukavice exhumation, 2 June 1997). See also P6690 (Addendum to Nicolas Sébire's report, 16 May 2003), e-court pp. 60–61.

⁶⁷¹⁷ P4900 (Bihać Cantonal Court record of Lukavice exhumation, 2 June 1997); P4899 (Bihać Cantonal Court record of Lukavice postmortem examination, 11 June 1997).

⁶⁷¹⁸ P3638 (Map of Sanski Most municipality).

⁶⁷¹⁹ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6764. See also Adjudicated Fact 1316. There was also a Bosnian Serb minority. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6764.

⁶⁷²⁰ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6773–6774. The soldiers were identified as members of the 6th Krajina Brigade. P3519 (Indictment of the 1st Krajina Corps Military Prosecutor's Office, 2 June 1993), p. 1; P3520 (Decision of Banja Luka Military Court, 9 July 1993, p. 1; P3521 (Ruling of Banja Luka Military Court, 14 March 1995, p. 1. The name of Stojić's cousin was Dragan Tadić. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6774. See also Adjudicated Fact 1317.

⁶⁷²¹ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6775.

⁶⁷²² Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6775–6776.

⁶⁷²³ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6776. See also Adjudicated Fact 1317. The neighbours detained by the armed men were Ante Tutić, Petar Nikić, Žarko Nikić, and Josip Banović. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6776. All of the men detained were Bosnian Croats. See Adjudicated Fact 1317.

⁶⁷²⁴ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6776. Stojić and his cousin met these neighbours earlier that day as they were walking to Škrljevita, but the neighbours had walked ahead of them. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6774.

⁶⁷²⁵ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6776.

belongings were taken, and they were questioned.⁶⁷²⁶ The soldiers declared: “We are Šešelj army,” and shot Stojić, his cousin, and his neighbours, killing five of them.⁶⁷²⁷ Stojić was the only survivor.⁶⁷²⁸

1976. Stojić was shot in his left arm and hip.⁶⁷²⁹ He continued heading through the forest towards Škrljevitica.⁶⁷³⁰ While in the forest, Stojić heard strong bursts of gunfire.⁶⁷³¹ He later learned that this gunfire came from VRS soldiers killing four other men from Škrljevitica.⁶⁷³²

1977. The Chamber took judicial notice of the fact that seven Bosnian Croats were killed in relation to this incident.⁶⁷³³ The Chamber received evidence from Stojić, an eye-witness to the incident that five men were killed and he learned after he escaped that an additional four men were killed soon after. The Chamber also received evidence that nine bodies were recovered in a mass grave and in relation to this incident, the identities of which are corroborated by Stojić’s evidence.⁶⁷³⁴

1978. The Chamber finds that nine men were killed by Serb Forces near the village of Škrljevitica on or about 2 November 1992.

⁶⁷²⁶ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6777. In addition to the two armed men Stojić encountered, there were two more armed men by the river who wore camouflage military uniforms, had light machine guns with the four S’s carved into the rifle butts, and carried two clips of ammunition. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6776–6777. On cross-examination, Stojić stated that the armed men were part of Šešelj’s men. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6797.

⁶⁷²⁷ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6777–6778. See also P3518 (Report of Sanski Most’s Lower Court Investigating Judge, 9 November 1992), pp. 1–2; P3519 (Indictment of the 1st Krajina Corps Military Prosecutor’s Office, 2 June 1993), pp. 1–2. According to Stojić, the victims killed within his line of sight were Ante Tutić, Petar (Pero) Nikić, Žarko Nikić, Josip Banović, and Dragan Tadić. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6778, 6780. See also Adjudicated Facts 1318, 1319.

⁶⁷²⁸ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6778. See also P3518 (Report of Sanski Most’s Lower Court Investigating Judge, 9 November 1992), pp. 1–2.

⁶⁷²⁹ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6777–6778.

⁶⁷³⁰ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6779. He reached Škrljevitica, where he received assistance and first aid. He was subsequently brought to the Sanski Most Health Centre, then transferred to Prijedor, and ultimately transported to the Banja Luka Hospital. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6780–6781. See also P3516 (Photographs of Grgo Stojić); P3522 (Recommendation for medical treatment of Grgo Stojić, 14 December 1992); P3527 (Letter of discharge of Grgo Stojić from Banja Luka Clinical Hospital Centre, 2 December 1992). While recovering in the Banja Luka hospital, Stojić was visited by a VRS soldier who ordered him to raise the three-finger salute and said, “[n]ow you are a Serb”. He was also called “ustasha” by the nurses and other patients. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6782–6786.

⁶⁷³¹ Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6779.

⁶⁷³² Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6779, 6791. A sister of one of the victims informed Stojić of the killings while he was at the Banja Luka Hospital. She told him that the victims were Ivo Tutić, Bone Tutić, “Adlo Tatić [phone], and Josip Fertalac [phone]”. Grgo Stojić, P3515 (Transcript from *Prosecutor v. Brđanin*), T. 6779.

⁶⁷³³ See Adjudicated Fact 1319.

⁶⁷³⁴ P3518 (Report of Sanski Most’s Lower Court Investigating Judge, 9 November 1992) (listing nine men killed in relation to this scheduled incident). See also P4853 (Updated Table 2 to the Report of Amor Mašović), p. 48 (listing eight individuals in relation to this scheduled incident); P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), e-court pp. 64–65 (listing nine bodies exhumed in relation to this scheduled incident).

(5) Detention Facilities in Sanski Most

1979. Detention facilities in Sanski Most were established by the Crisis Staff.⁶⁷³⁵ After military operations against Bosnian Muslim and Bosnian Croat villages in Sanski Most, soldiers collected the able-bodied military-aged men from the village and transferred them by bus to Sanski Most town.⁶⁷³⁶ In town, they were handed over to the civilian authorities.⁶⁷³⁷ An inspector from the SJB and an inspector from the CSB interrogated the men believed to be “military prisoners”.⁶⁷³⁸ KW540 estimated that 1,600 “military prisoners” were handed over to the civilian authorities in Sanski Most in 1992.⁶⁷³⁹ The majority of detainees in Sanski Most were transferred to Manjača camp.⁶⁷⁴⁰ They would be labelled into three categories of “prisoners”: (i) politicians, (ii) nationalist extremists, and (iii) people unwelcome in Sanski Most municipality.⁶⁷⁴¹ The majority of detainees in Sanski Most were civilians, as will be addressed below.

(a) Scheduled Detention Facility C.22.1

1980. The Indictment refers to the use of the SJB building and prison in Sanski Most as a detention facility at least between 26 May and August 1992.

(i) Establishment and control

1981. The SJB building and prison were located in the centre of Sanski Most town, near the Betonirka Factory Garage.⁶⁷⁴² The prison facility was located behind the SJB police building.⁶⁷⁴³

⁶⁷³⁵ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3453 (under seal); D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 7–8.

⁶⁷³⁶ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3377, 3386 (under seal).

⁶⁷³⁷ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3377, 3386 (under seal).

⁶⁷³⁸ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3377, 3500–3501 (under seal).

⁶⁷³⁹ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3392 (under seal).

⁶⁷⁴⁰ See paras. 1987, 1990, 2009, 2017.

⁶⁷⁴¹ P2639 (Conclusions of Sanski Most Crisis Staff, 4 June 1992); see Adjudicated Fact 2558. Mile Dobrijević testified that he had no knowledge of the three categories of detainees and when presented with P2639, he insisted that he made no decisions on categorisation. Mile Dobrijević, T. 44636–44639 (6 December 2013). The Chamber does not accept his evidence on this point given that he was an SJB employee at Betonirka Factory Garage and the Hasan Kikić school and his claim to be unaware of these categories defy credibility.

⁶⁷⁴² P3667 (Map of Sanski Most with photos of various buildings); P3314 (Photograph of Sanski Most police station); D4335 (Map of Sanski Most with photographs).

⁶⁷⁴³ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6139–6140; D4339 (Photograph of Sanski Most SJB). See also D4341 (Photograph of Sanski Most SJB).

The chief of the police station was Vručinić.⁶⁷⁴⁴ Miladin Paprić was in charge of the SJB prison until 4 June 1992, when he was dismissed and replaced by Drago Vujanić.⁶⁷⁴⁵

1982. Detainees started arriving at the SJB building and prison on 25 May 1992, after the attack on Sanski Most town.⁶⁷⁴⁶ The majority of the detainees at the SJB building were prominent civilians who held important positions in the community.⁶⁷⁴⁷ There was one underage detainee.⁶⁷⁴⁸

(ii) Conditions of detention and treatment of detainees

1983. The detainees were held in small cells in the SJB prison and guarded by the police.⁶⁷⁴⁹ Due to the size of the cell, it was not possible for detainees to lie down to sleep and they had to sit very closely to each other.⁶⁷⁵⁰ The cells had a concrete roof, a metal door, and a metal plate with holes over the window.⁶⁷⁵¹ During the summer months, the strong heat caused the room to be very hot and damp, with a terrible stench, making it very difficult to breathe.⁶⁷⁵² There was no fresh air until someone removed the metal plate covering the window after approximately 40 days into the detention.⁶⁷⁵³ Furthermore, the guards did not permit the cells to be aired out.⁶⁷⁵⁴ There were blankets and an old mat for bedding.⁶⁷⁵⁵

⁶⁷⁴⁴ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6145; P3319 (Report of Sanski Most SJB, 6 June 1992).

⁶⁷⁴⁵ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6145, 6162; P2639 (Conclusions of Sanski Most Crisis Staff, 4 June 1992); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26104, 26318–26319, 26322 (under seal); Mile Dobrijević, T. 44635–44636 (6 December 2013).

⁶⁷⁴⁶ Mirzet Karabeg was arrested on 25 May 1992 and taken to the SJB prison. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6139–6140.

⁶⁷⁴⁷ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5530–5532; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7768 (under seal). See also Adjudicated Fact 1321.

⁶⁷⁴⁸ See Adjudicated Fact 1321.

⁶⁷⁴⁹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7743 (under seal); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6139, 6300–6301; D4340 (Photograph of Sanski Most SJB); D4342 (Photograph of Sanski Most SJB). See also Adjudicated Fact 1323.

⁶⁷⁵⁰ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7067. KW545 admitted that conditions in the prison were inhumane, the facility and rooms did not meet the minimum requirements for holding people for long periods of time, and it was very difficult to maintain order. KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26114, 26239, 26241–26243 (under seal).

⁶⁷⁵¹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7746 (under seal); D4342 (Photograph of Sanski Most SJB); D4343 (Photograph of Sanski Most SJB); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6301.

⁶⁷⁵² KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7753–7754 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7067–7068; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26239 (under seal).

⁶⁷⁵³ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7753 (under seal).

⁶⁷⁵⁴ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7753 (under seal).

⁶⁷⁵⁵ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751–7752 (under seal).

1984. The detainees were not provided with sufficient food and water.⁶⁷⁵⁶ After the first 15 days, the detainees' meals were reduced from three to two meals per day; these meals were insufficient and resulted in the detainees suffering substantial weight loss.⁶⁷⁵⁷ Meals consisted of a piece of bread, a cup of something to drink and, if available, left-over food from the soldiers.⁶⁷⁵⁸ For water, the detainees were occasionally allowed to fill up bottles, but only when there was enough water for the toilets in the detention facility.⁶⁷⁵⁹ There were no toilets in the cells of the prison.⁶⁷⁶⁰ The detainees had access to two toilets but they became blocked.⁶⁷⁶¹ The detainees were allowed five minutes in the morning and five minutes in the evening to use the toilets.⁶⁷⁶² They subsequently dug a hole behind the building, which they were only permitted to use during lunchtime.⁶⁷⁶³ Save for a couple of exceptions, it was not possible to shower given the lack of water.⁶⁷⁶⁴

1985. The guards took the detainees out of the cells only for about 20 minutes per day, including for meals and for work they had to carry out.⁶⁷⁶⁵ On leaving the cell for work, the detainees were frequently beaten and mistreated.⁶⁷⁶⁶ Despite these conditions, Rašula told a detainee at the SJB: "[y]ou're safest where you are. If we release you, you will be killed either by your people or by mine".⁶⁷⁶⁷

⁶⁷⁵⁶ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751 (under seal).

⁶⁷⁵⁷ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751, 7754 (under seal). The lunches contained pork with hair still on it. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751 (under seal).

⁶⁷⁵⁸ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7068. Bišćević testified that he lost 32 kilograms while in detention. Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7067–7068.

⁶⁷⁵⁹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7751 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7065.

⁶⁷⁶⁰ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7065.

⁶⁷⁶¹ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7752 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7064.

⁶⁷⁶² Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7064–7065.

⁶⁷⁶³ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7752 (under seal).

⁶⁷⁶⁴ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7752 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7065. Bišćević testified that he was allowed to shower and wash his clothing twice during his 95 days of detention. Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7065–7066.

⁶⁷⁶⁵ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7754 (under seal). Work included digging a makeshift toilet behind the building, washing dishes, and cleaning the SJB complex. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7752, 7757 (under seal). The Chamber notes that only forced labour at the frontlines is charged in the Indictment.

⁶⁷⁶⁶ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7757 (under seal). In addition to being beaten, one detainee had his hands burned with hot water. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7757 (under seal).

⁶⁷⁶⁷ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7651, 7761 (under seal). See also P3396 (Photographs depicting Radovan Karadžić, Ratko Mladić, Biljana Plavšić, Momčilo Krajišnik and others). Basara, also visited the SJB building and made speeches to VRS soldiers there. See Adjudicated Fact 1325; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7899 (under seal).

1986. The guards, regular police officers, and VRS soldiers beat the detainees.⁶⁷⁶⁸ Sometimes the guards would hand over the keys to the cells to the VRS soldiers, and according to Bišćević, “[a]nyone could come in and beat us if they so pleased”.⁶⁷⁶⁹ Some of the detainees were taken from their cells to the SJB building and interrogated.⁶⁷⁷⁰ During interrogations, regular police officers and VRS soldiers beat the detainees, using rifle-butts, electric cables, poles, and wooden planks.⁶⁷⁷¹ Detainees were also beaten in their cells, and some were forced to beat each other.⁶⁷⁷² The detainees did not receive any medical treatment for injuries sustained in SJB custody.⁶⁷⁷³ As a result of the severe beatings, Karabeg suffered severe injuries to his body and head and lost all of his teeth.⁶⁷⁷⁴ Two men were beaten at the SJB prison and subsequently killed.⁶⁷⁷⁵

1987. In early June 1992, detainees in the SJB prison were transferred to Manjača camp pursuant to an order from the Crisis Staff.⁶⁷⁷⁶

1988. The frequency of the beatings decreased after a visit from the ICRC in July 1992.⁶⁷⁷⁷ Furthermore, visits by family members were allowed after the ICRC visit.⁶⁷⁷⁸

⁶⁷⁶⁸ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7756, 7758 (under seal). See also P3519 (Indictment of the 1st Krajina Corps Military Prosecutor's Office, 2 June 1993), p. 1; Adjudicated Facts 1328, 1329; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7064. A soldier from the 6th Krajina Brigade was known for beating several detainees. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7758 (under seal); P3519 (Indictment of the 1st Krajina Corps Military Prosecutor's Office, 2 June 1993), p. 1. Members of the VRS, including the military police, and regular police ran the SJB prison together. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6154–6155.

⁶⁷⁶⁹ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7073. See also Adjudicated Fact 1329.

⁶⁷⁷⁰ See Adjudicated Fact 1321.

⁶⁷⁷¹ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7068–7073; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6166–6168; Adjudicated Facts 1326; 1327.

⁶⁷⁷² KDZ474, T. 19334 (21 September 2011) (closed session); KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7757 (under seal).

⁶⁷⁷³ KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7759–7760 (under seal); Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7064. For example, a detainee had two ribs broken during a beating. He was taken to a hospital, where he waited for three hours and then was returned to his cell. KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7754, 7759 (under seal). See also KDZ474, T. 19334 (21 September 2011) (closed session).

⁶⁷⁷⁴ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6180–6182.

⁶⁷⁷⁵ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6182–6183. Karabeg and Bišćević identifies these two men as Hasib Kamber and Emir Seferović. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6182; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5535; P146 (Record of identification of Emir Seferović's body, 2 June 1992). See also Adjudicated Fact 1330. With respect to the two men who were beaten and subsequently killed, without more evidence as to their deaths, the Chamber cannot find that they died as a result of the beating they were subjected to. These killings are therefore not covered by the charges in the Indictment under paragraph 60(a)(ii). Further, the Chamber notes that there is no Schedule B killing incident charged with respect to this detention facility.

⁶⁷⁷⁶ P3327 (Order of Sanski Most Crisis Staff, 6 June 1992); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6164, 6252–6253 (Karabeg estimated that 152 people were transferred from the Hasan Kikić school on 3 June 1992 to Manjača camp and 172 persons were transferred on 6 June 1992 from the SJB prison, the Betonirka Factory Garage, and the sports hall).

⁶⁷⁷⁷ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6176–6177, 6256–6257, 6324. See also Adjudicated Fact 1332.

1989. By 27 July 1992, the Crisis Staff estimated that some 1,245 people had been questioned in the SJB.⁶⁷⁷⁹

1990. On 28 August 1992, the detainees were called out of their cells and told to take their belongings.⁶⁷⁸⁰ Some of the detainees were placed on a bus for transfer to Manjača camp.⁶⁷⁸¹ Other detainees were transferred to different detention facilities in Sanski Most, including the Betonirka Factory Garage, the Hasan Kikić School, and a military facility at Magarice.⁶⁷⁸²

(iii) Conclusion

1991. Based on the above, the Chamber finds that Serb Forces detained non-Serb civilians, including prominent political leaders and an underage boy, at the SJB prison from 25 May until August 1992. The Chamber finds that the detainees were held in poor conditions, including lack of adequate food, accommodation, medical care, and sanitary facilities. The Chamber also finds that detainees were subjected to interrogations and beatings.

(b) Scheduled Detention Facility C.22.2

1992. The Indictment refers to the use of the Betonirka Factory Garage as a detention facility at least between 27 May and 7 June 1992.

(i) Establishment and control

1993. The Betonirka Factory was located approximately 100 to 150 metres behind the SJB building in Sanski Most town.⁶⁷⁸³ The factory had a main building and three garages attached.⁶⁷⁸⁴ Each garage was five to six metres long and four metres wide.⁶⁷⁸⁵

⁶⁷⁷⁸ See Adjudicated Fact 1332.

⁶⁷⁷⁹ P3657 (Minutes of 9th session of Sanski Most Executive Board, 27 July 1992), p. 3.

⁶⁷⁸⁰ KDZA74, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7760 (under seal).

⁶⁷⁸¹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6176, 6182, 6258; KDZA74, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7742–7747, 7760 (under seal); KDZA74, T. 19335 (21 September 2011) (closed session).

⁶⁷⁸² See Adjudicated Fact 1331. See also paras. 1995, 2007.

⁶⁷⁸³ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 49–50; P726 (Map of Sanski Most town); P3667 (Map of Sanski Most with photos of various buildings); D4335 (Map of Sanski Most with photographs); KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3397 (under seal).

⁶⁷⁸⁴ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 50; P726 (Map of Sanski Most town); P719 (Photograph of Betonirka Factory Garage); D4335 (Map of Sanski Most with photographs). See also D4336 (Photograph of Betonirka Factory Garage). The three garages together will be referred to in the singular as the Betonirka Factory Garage.

⁶⁷⁸⁵ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 55; P732 (Photograph of the interior of Betonirka Factory Garage). See also D4336 (Photograph of Betonirka Factory Garage); D4337 (Photograph of Betonirka Factory Garage); D4338 (Photograph of Betonirka Factory Garage); P719 (Photograph of Betonirka Factory Garage).

1994. In May 1992, the Betonirka Factory Garage was set up as a detention centre by the Crisis Staff.⁶⁷⁸⁶ On 25 May 1992, Paprić, who was also in charge of the SJB prison, was appointed as the head of the detention facility but was later replaced by Vujanić, a member of the police.⁶⁷⁸⁷ Vujanić was the warden of both the SJB prison and Betonirka Factory Garage.⁶⁷⁸⁸ The guards at the Betonirka Factory Garage were members of the Bosnian Serb police and reserve soldiers.⁶⁷⁸⁹ Rade Martić was the chief of the guards.⁶⁷⁹⁰

1995. Approximately 120 detainees, all males, were held at the Betonirka Factory Garage.⁶⁷⁹¹ Members of the core leadership of the SDA were detained at Betonirka.⁶⁷⁹² Detainees were held at Betonirka Factory Garage up to one month.⁶⁷⁹³ In June and July 1992, the detainees were transferred to Manjača camp.⁶⁷⁹⁴

(ii) Conditions of detention and treatment of detainees

1996. The detainees were kept inside the cramped and over-heated garage with little water.⁶⁷⁹⁵ The detainees were given two meals per day, which usually were the left-over food from the staff.⁶⁷⁹⁶ Sometimes family members were allowed to visit the detainees and bring them food.⁶⁷⁹⁷ The sanitary conditions were inadequate as the detainees were only allowed out of their cells for

⁶⁷⁸⁶ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 7; P3634 (Witness statement of KDZ490, undated), p. 113 (under seal); see Adjudicated Fact 2537. See also KW540, D4449 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 3399–3400 (under seal); KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin) T. 26112 (under seal).

⁶⁷⁸⁷ KDZ490, T. 20184 (19 October 2011) (closed session); P3635 (Handwritten diary of Nenad Davidović), e-court p. 4; KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin) T. 26112 (under seal); see Adjudicated Fact 1345.

⁶⁷⁸⁸ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 66; KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 26115, 26323 (under seal); Mirzet Karabeg, P3303 (Transcript from Prosecutor v. Brđanin), T. 6254. See Adjudicated Fact 1344.

⁶⁷⁸⁹ See Adjudicated Fact 1344; KW540, D4449 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 3399–3400 (under seal); P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 51.

⁶⁷⁹⁰ P2639 (Conclusions of Sanski Most Crisis Staff, 4 June 1992); P3634 (Witness statement of KDZ490, undated), p. 113 (under seal).

⁶⁷⁹¹ See Adjudicated Fact 1333; KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 26129–26130 (under seal).

⁶⁷⁹² KW540, D4449 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 3403 (under seal).

⁶⁷⁹³ See Adjudicated Fact 1334.

⁶⁷⁹⁴ Mirzet Karabeg, P3303 (Transcript from Prosecutor v. Brđanin), T. 6164, 6175; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 86–87. See also KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 26130 (under seal). On 6 or 7 July 1992, all the remaining detainees at Betonirka were transferred to Manjača camp, except for Karabeg and six others, who were transferred back to the SJB prison. Mirzet Karabeg, P3303 (Transcript from Prosecutor v. Brđanin), T. 6175–6176.

⁶⁷⁹⁵ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 54, 57–64, 68–71 (Zulić identified some of the men who were held in his cell, including a Bosnian Croat); P3634 (Witness statement of KDZ490, undated), p. 113 (under seal); KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 26119–26120 (under seal); Mirzet Karabeg, P3303 (Transcript from Prosecutor v. Brđanin), T. 6169–6171; P3320 (Photograph of building).

⁶⁷⁹⁶ Mirzet Karabeg, P3303 (Transcript from Prosecutor v. Brđanin), T. 6169–6170; see Adjudicated Fact 1337.

⁶⁷⁹⁷ KW545, D4328 (Transcript from Prosecutor v. Stanišić & Župljanin), T. 26133 (under seal).

five minutes in the morning and five minutes in the evening to use the toilet.⁶⁷⁹⁸ There were no toilets inside the garage.⁶⁷⁹⁹ There was only one small window in each garage that was open for ventilation, which was inadequate.⁶⁸⁰⁰ One of the garages was so overcrowded that the detainees were forced to sleep standing up.⁶⁸⁰¹

1997. The detainees were interrogated and beaten regularly.⁶⁸⁰² Ahmet Zulić testified that out of the 21 nights he spent at Betonirka, he was not subjected to beatings on only three of those nights.⁶⁸⁰³ The beatings caused serious injuries to the detainees.⁶⁸⁰⁴ There were no medical facilities available onsite.⁶⁸⁰⁵

(iii) Conclusion

1998. Based on the above, the Chamber finds that Serb Forces detained Bosnian Muslim and Bosnian Croat male civilians, including some political leaders, from Sanski Most in the Betonirka Factory Garage from May until June 1992. The Chamber finds that the detainees were held in poor conditions, including lack of adequate food and sanitary facilities. The Chamber also finds that the detainees were subjected to beatings.

(iv) Scheduled Incident B.17.1

1999. The Prosecution alleges that approximately 17 men were taken from the Betonirka Factory Garage to Kriva Cesta near the Partisan cemetery and killed on or about 22 June 1992.

2000. On 22 June 1992, Zulić was taken from the Betonirka Factory Garage, where he had been detained, and driven to Kriva Cesta.⁶⁸⁰⁶ He was taken down to the stream, given a hoe, and ordered

⁶⁷⁹⁸ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6170; see Adjudicated Fact 1338. See also KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26119–26121 (under seal).

⁶⁷⁹⁹ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6170; see Adjudicated Fact 1338.

⁶⁸⁰⁰ Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6170–6175; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26239 (under seal); see Adjudicated Fact 1336; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3397, 3399 (under seal).

⁶⁸⁰¹ See Adjudicated Fact 1335.

⁶⁸⁰² P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 60–64, 68–71; P3634 (Witness statement of KDZ490, undated), p. 113 (under seal); Mirzet Karabeg, T. 18698–18699 (13 September 2011); Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6171–6175; see Adjudicated Fact 1339. KW545 testified that except for two specific cases, he had no knowledge of regular beatings and that he never heard screams or saw injuries on detainees. KW545, T. 47003–47004 (13 February 2014) (closed session). KW540 testified that he also found out after the war that detainees at Betonirka had been beaten. KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3401 (under seal).

⁶⁸⁰³ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 63.

⁶⁸⁰⁴ See Adjudicated Facts 1340, 1341.

⁶⁸⁰⁵ See Adjudicated Fact 1343.

⁶⁸⁰⁶ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 75–76; P726 (Map of Sanski Most town). Kriva Cesta is an area near the Partisan cemetery; P730 (Sketch drawn by Ahmet Zulić). See also Adjudicated Facts 1346, 1347, 2541.

to dig his own grave.⁶⁸⁰⁷ He saw 20 to 25 other men there doing the same thing.⁶⁸⁰⁸ The men were being watched by Bosnian Serb soldiers wearing JNA uniforms.⁶⁸⁰⁹ Rašula was also present.⁶⁸¹⁰ During the operation, the soldiers pointed their guns at the men.⁶⁸¹¹ When the men had finished digging the holes, they were killed; their throats were either slit or they were shot to death.⁶⁸¹² Zulić was spared by Rašula, who stated that he should be kept alive in order to tell them where weapons were being hidden in Pobrjeđe.⁶⁸¹³ Zulić was taken back to the Betonirka Factory Garage.⁶⁸¹⁴ In total, three men survived.⁶⁸¹⁵

2001. The Chamber took judicial notice of the fact that 17 men were killed in relation to this incident.⁶⁸¹⁶ The Chamber also received evidence that bodies of civilians were recovered in a mass grave in relation to this incident.⁶⁸¹⁷

2002. The Chamber finds that approximately 17 men were taken by Serb Forces from the Betonirka Factory Garage to Kriva Cesta near the Partisan cemetery and killed on or about 22 June 1992.

⁶⁸⁰⁷ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 77.

⁶⁸⁰⁸ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 77–78. Zulić identified three men by their surnames only: Cerić, Džafić, and Velić. He identified one man as the brother-in-law of Ikan Smailović. The others were Ibro Eminić, “Lolo or Smail” Pašić, and Muhamed Hakić. P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 77–78, 84.

⁶⁸⁰⁹ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 79.

⁶⁸¹⁰ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 79; Ahmet Zulić, T. 1029–1030 (13 April 2010), T. 1129 (14 April 2010). *See also* Adjudicated Fact 2542.

⁶⁸¹¹ *See* Adjudicated Fact 1349.

⁶⁸¹² P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 80; Ahmet Zulić, T. 1130 (14 April 2010). *See also* Adjudicated Fact 1348.

⁶⁸¹³ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), paras. 81–83.

⁶⁸¹⁴ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 81.

⁶⁸¹⁵ P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 84. The other survivors were Muhamed Halkić and another man whose surname was Cerić. P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 84.

⁶⁸¹⁶ Adjudicated Facts 1347, 1348.

⁶⁸¹⁷ P5442 (Decision of Sanski Most Crisis Staff, 23 May 1992) (a decision of the Crisis Staff determining that persons killed at the Greda Muslim cemetery shall be buried in a common grave); P4896 (Bihać Cantonal Court record of Greda, Kruhari exhumation, 28 May 1997) (describing the location of the Greda I mass grave and that 36 bodies were recovered from it. No names are included in this report); P4897 (Bihać Cantonal Court record of autopsy and identification of victims exhumed from graves in Greda, Kruhari, 9 June 1997) (listing 36 bodies exhumed from the Greda I-Kruhari mass grave. Eight were unidentified males, seven were females, and 21 were males identified by name. Of the males identified by name, Ibro Eminić was also named by Zulić). *See also* P4853 (Updated Table 2 to the Report of Amor Mašović); p. 94 (listing three individuals in relation to this scheduled incident); P6690 (Addendum to Nicolas Sébire’s report, 16 May 2003), e-court pp. 66-70 (listing that at least two bodies exhumed from the mass grave are victims of the scheduled incident, but recovering 36 bodies total. Of those 36 bodies, there were 29 males and 7 females.).

(c) Scheduled Detention Facility C.22.3

2003. The Indictment refers to the use of the “Hasan Kikić School sports halls” as a detention facility at least between May and July 1992. The Prosecution submits that Hasan Kikić School and the sports hall are two separate detention facilities.⁶⁸¹⁸ The Prosecution submits that while civilians were detained in both facilities, it proceeds on the basis that Scheduled Detention Facility C.22.3 relates only to the sports hall.⁶⁸¹⁹ The Chamber will also proceed on the basis that the detention facility referred to in Schedule C.22.3 is the sports hall.

(i) Establishment and control

2004. The sports hall was located in the northeastern part of Sanski Most town.⁶⁸²⁰ On 26 May 1992, the Crisis Staff converted the sports hall into a detention centre.⁶⁸²¹ The sports hall was staffed by guards in police and camouflage uniforms, under the command of Martić.⁶⁸²² Milorad Krunić was appointed as the head of the detention centre.⁶⁸²³

2005. On 27 May 1992, an announcement on the radio ordered all Bosnian Muslims in Sanski Most town to gather at the training grounds of a driving school.⁶⁸²⁴ Sakib Muhić went there.⁶⁸²⁵ He estimated that 1,800 people had gathered there, including women and children.⁶⁸²⁶ There were armed soldiers outside the driving school, and they shouted, “we will slaughter you all” at the people gathered there.⁶⁸²⁷ After an hour, the soldiers ordered everyone to go to the Krkojević

⁶⁸¹⁸ Prosecution Final Brief, Appendix B, fn. 750. See P3667 (Map of Sanski Most with photos of various buildings).

⁶⁸¹⁹ Prosecution Final Brief, Appendix B, fn. 750.

⁶⁸²⁰ P726 (Map of Sanski Most town); P3667 (Map of Sanski Most with photos of various buildings); D4335 (Map of Sanski Most with photographs). The sports hall was also referred to as the sports complex. The Chamber will use the term “sports hall” to refer to this alleged detention facility.

⁶⁸²¹ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 7; P3315 (Order of Sanski Most TO Municipal Staff, 26 May 1992); D1813 (Report of Sanski Most Crisis Staff, 30 May 1992); P3634 (Witness statement of KDZ490, undated), p. 75 (under seal). See also D4345 (Photograph of Hasan Kikić building); KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26112 (under seal); Adjudicated Facts 2537, 2538.

⁶⁸²² Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8114; see Adjudicated Fact 1351.

⁶⁸²³ KDZ490, T. 20184 (19 October 2011) (closed session). See also P3635 (Handwritten diary of Nenad Davidović), e-court p. 4.

⁶⁸²⁴ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8106-8108; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 4; P718 (Witness statement of Ahmet Zulić dated 22 February 2010), para. 32.

⁶⁸²⁵ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 4; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8106-8107.

⁶⁸²⁶ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 4; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8111. See P639 (List of persons captured in Sanski Most municipality), p. 2.

⁶⁸²⁷ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 4; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8113. See P639 (List of persons captured in Sanski Most municipality), p. 2.

football stadium.⁶⁸²⁸ Around dusk, approximately 80 soldiers arrived at the stadium and began ordering people onto buses, which took them to the sports hall—the men left around midnight after the women and children.⁶⁸²⁹

2006. The next day at the sports hall women and children were separated from the men and sent to neighbouring villages.⁶⁸³⁰ Approximately 900-1,000 men remained in the sports hall for approximately five days.⁶⁸³¹ The detainees included 200 men brought in from Ključ.⁶⁸³² People who were detained at the sports hall were also from Mahala, Muhići, and Otoka.⁶⁸³³

2007. The sports hall was guarded by men in both military and police uniforms.⁶⁸³⁴ After approximately five days, Muhić and four other men were taken to the SJB and interrogated.⁶⁸³⁵ Afterwards, they were transported back to the sports hall.⁶⁸³⁶

(ii) Conditions of detention and treatment of detainees

2008. The conditions in the sports hall were extremely overcrowded and lacked basic sanitation.⁶⁸³⁷ The temperature was very hot due to the summer heat wave, which made the conditions worse.⁶⁸³⁸ Some detainees were not provided with food for a few days but family members were allowed to visit and bring some food.⁶⁸³⁹ There was no bedding available for

⁶⁸²⁸ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8110–8111; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5.

⁶⁸²⁹ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8113; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5.

⁶⁸³⁰ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8113; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5.

⁶⁸³¹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8117; P3634 (Witness statement of KDZ490, undated) (under seal), p. 115.

⁶⁸³² See Adjudicated Fact 1350.

⁶⁸³³ KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26135 (under seal). See para. 1945.

⁶⁸³⁴ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8114; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5.

⁶⁸³⁵ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8119–8120.

⁶⁸³⁶ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8121.

⁶⁸³⁷ P3634 (Witness statement of KDZ490, undated) (under seal), p. 114; KDZ490, T. 20280–20281 (20 October 2011) (closed session); see Adjudicated Fact 2544. KW545 testified that the conditions in the sports hall were “all right” and that there were enough bathrooms, running water, and an outdoor area for walking. KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26162 (under seal). In weighing the totality of the evidence, the Chamber is not satisfied that it can rely on KW545’s evidence on this particular point.

⁶⁸³⁸ P3634 (Witness statement of KDZ490, undated), p. 114 (under seal).

⁶⁸³⁹ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5; Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8119.

sleeping and no medical attention for the sick.⁶⁸⁴⁰ Some men were taken to the SJB, interrogated, and transported back to the sports hall.⁶⁸⁴¹

2009. The detainees were beaten.⁶⁸⁴² In particular, on 6 June 1992, detainees were beaten severely before being forced to board trucks.⁶⁸⁴³ Two trucks transported approximately 150 detainees to Manjača camp.⁶⁸⁴⁴

2010. On 8 June 1992, pursuant to an order from the Crisis Staff, detainees at the sports hall were screened and those who were “brought in accidentally from other areas, persons from mixed marriages, persons in poor health, and persons who have fought on the front with the JNA” were to be released.⁶⁸⁴⁵ Again on 18 June 1992, certain detainees were screened and released.⁶⁸⁴⁶ By 1 August 1992, the remaining detainees had been transferred elsewhere.⁶⁸⁴⁷

(iii) Conclusion

2011. Based on the above, the Chamber finds that Serb Forces detained non-Serb civilians in the sports hall in Sanski Most from May until August 1992. The Chamber finds that some of the detainees were subjected to beatings. The Chamber further finds that the conditions of detention were poor, including a lack of adequate food and sanitary facilities.

(d) Scheduled Detention Facility C.22.4

2012. The Indictment refers to the use of Krings Hall as a detention facility at least between May and July 1992.

⁶⁸⁴⁰ P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 5.

⁶⁸⁴¹ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8120.

⁶⁸⁴² Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8121–8122; P701 (Witness statement of Sakib Muhić dated 11 April 2000), pp. 5–6. See also Adjudicated Fact 1352; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26268 (under seal).

⁶⁸⁴³ Adjudicated Fact 1353. See also Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8122.

⁶⁸⁴⁴ Sakib Muhić, P700 (Transcript from *Prosecutor v. Brđanin*), T. 8122–8123; P701 (Witness statement of Sakib Muhić dated 11 April 2000), p. 6; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6164. See also Adjudicated Facts 583, 1353.

⁶⁸⁴⁵ P5444 (Conclusions of Sanski Most Crisis Staff, 8 June 1992).

⁶⁸⁴⁶ D4108 (Order of Sanski Most Crisis Staff, 18 June 1992); D4329 (Order of Sanski Most Crisis Staff, 18 June 1992).

⁶⁸⁴⁷ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 14. This report notes that 1,655 people were brought to the “collection centres” (the sports hall, Krings Hall, and Betonirka Factory Garage). It also notes that 1,528 were Bosnian Muslims and 122 were Bosnian Croats. D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 14.

(i) Establishment and control

2013. Krings Hall is located on the eastern edge of Sanski Most town.⁶⁸⁴⁸ It was a large, empty hall situated next to an office building, that was formerly used to manufacture equipment for the Famos company.⁶⁸⁴⁹ In May 1992, Krings Hall was set up as a detention centre by the Crisis Staff.⁶⁸⁵⁰ Initially, when detainees were brought to Krings Hall, they were guarded by soldiers and after one week, the soldiers were replaced by the police.⁶⁸⁵¹

2014. In early July 1992, VRS soldiers drove into Tomina and ordered all of the “refugees” who were hiding in the town to come out of the houses.⁶⁸⁵² People from Kamicak and Vrhpolje had fled to Tomina.⁶⁸⁵³ People came out of their houses and saw buses lined up on the main street.⁶⁸⁵⁴ Approximately 500 to 600 individuals were boarded onto buses and taken to Krings Hall.⁶⁸⁵⁵ The women and children spend one night there and were transferred out the following day to eastern or central BiH.⁶⁸⁵⁶ The men stayed behind in Krings Hall.⁶⁸⁵⁷

(ii) Conditions of detention and treatment of detainees

2015. In the beginning, when the VRS soldiers were guarding the detainees, there were no beatings or mistreatment.⁶⁸⁵⁸ However, when the police took control of Krings Hall, things changed.⁶⁸⁵⁹ The police regularly interrogated and beat the detainees, sometimes with batons and

⁶⁸⁴⁸ P3667 (Map of Sanski Most with photos of various buildings); D4335 (Map of Sanski Most with photographs).

⁶⁸⁴⁹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26235 (under seal); P3371 (Photograph of exterior of Krings Hall); P3372 (Photograph of interior Krings Hall); P3375 (Photograph of exterior of Krings Hall); KDZ052, T. 19078–19079, 19082 (19 September 2011); D4344 (Photograph of Krings); D4335 (Map of Sanski Most with photographs).

⁶⁸⁵⁰ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 7; P3667 (Map of Sanski Most with photos of various buildings); P3634 (Witness statement of KDZ490, undated), p. 115 (under seal). *See also* Adjudicated Fact 2537.

⁶⁸⁵¹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069–8070; KDZ052, T. 19075–19076 (19 September 2011).

⁶⁸⁵² KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8068; KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7227 (under seal); Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2997–2998, 3015–3019; P692 (Witness statement of Rajif Begić dated 15 March 2000), e-court pp. 6–7. *See also* Adjudicated Fact 2543; KW545, D4328 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 26135 (under seal).

⁶⁸⁵³ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8068.

⁶⁸⁵⁴ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2998.

⁶⁸⁵⁵ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8068–8069; Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2998. *See also* Adjudicated Fact 2543.

⁶⁸⁵⁶ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8068–8069.

⁶⁸⁵⁷ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2998. *See also* P3657 (Minutes of 9th session of Sanski Most Executive Board, 27 July 1992), p. 3.

⁶⁸⁵⁸ Rajif Begić, P691 (Transcript from *Prosecutor v. Krajišnik*), T. 2098–2099; KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8070.

⁶⁸⁵⁹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8070.

rifles.⁶⁸⁶⁰ While KDZ052 was detained there, he witnessed one man who died as a result of a beating.⁶⁸⁶¹

2016. The detention facility had running water and a sink but no working toilets.⁶⁸⁶² The hygiene conditions were extremely poor.⁶⁸⁶³ There was inadequate bedding for the detainees.⁶⁸⁶⁴ In the beginning, relatives of the detainees were allowed to bring food to Krings Hall but later this was not allowed.⁶⁸⁶⁵

2017. In August 1992, the detainees from Krings Hall were transferred to Manjača camp.⁶⁸⁶⁶

(iii) Conclusion

2018. Based on the above, the Chamber finds that Serb Forces detained Bosnian Muslim and Bosnian Croat civilians, mainly males, from Sanski Most at Krings Hall from May to August 1992. The Chamber further finds that the detainees were held in poor conditions, including lack of sanitary facilities. The Chamber also finds that the detainees were subjected to beatings and that one person died as a result of the beatings.

(e) Scheduled Detention Facility C.22.5

2019. The Indictment refers to the use of the “Magarica military facility” as a detention facility at least between May and June 1992. In its Final Brief, the Prosecution alleges that the “evidence led shows Magarice military facility operated as a detention facility” in May 1992.⁶⁸⁶⁷

2020. Magarice is a village located on the outskirts of Sanski Most town.⁶⁸⁶⁸ The Magarice military facility consisted of a house and a barn in the village of Magarice that was used by Basara and the 6th Krajina Brigade for operations and the storage of weapons.⁶⁸⁶⁹

⁶⁸⁶⁰ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069–8070. See also Adjudicated Fact 2545.

⁶⁸⁶¹ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8070–8071.

⁶⁸⁶² KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069. See also P3372 (Photograph of interior Krings Hall); KDZ052, T. 19079 (19 September 2011).

⁶⁸⁶³ See Adjudicated Fact 2544.

⁶⁸⁶⁴ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069.

⁶⁸⁶⁵ KDZ052, P3370 (Transcript from *Prosecutor v. Brđanin*), T. 8069.

⁶⁸⁶⁶ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5536, 5539; Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6183; Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7076–7079. Approximately 50 Bosnian Muslim and Bosnian Croat men who were also detained with Bišćević at the SJB prison were transported to Manjača camp with him. Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7079–7080. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6183. Karabeg was placed on a bus with men from the SJB prison and Krings Hall and they were transported to Manjača camp. Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6183.

⁶⁸⁶⁷ Prosecution Final Brief, Appendix B, fn. 761.

⁶⁸⁶⁸ Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7030.

2021. On 27 May 1992, Bišćević was arrested at his home and taken to Magarice village.⁶⁸⁷⁰ He saw Basara there, along with other VRS soldiers.⁶⁸⁷¹ He was taken to an orchard where one of the soldiers cursed at him about his “balija God”.⁶⁸⁷² Bišćević was then taken to a meadow where he was handcuffed, searched, and his pockets were emptied.⁶⁸⁷³ The soldiers took his money and driving license.⁶⁸⁷⁴ They beat him severely with their truncheons and sticks.⁶⁸⁷⁵ He was then taken to the Sanski Most radio station.⁶⁸⁷⁶ After being forced to make a statement on the radio, Bišćević was brought back to Magarice.⁶⁸⁷⁷

2022. Bišćević was detained in the “curing room, hut” in the Magarice military facility for 30 hours.⁶⁸⁷⁸ This was a wooden room with pebble stones on the floor and was two metres by two metres.⁶⁸⁷⁹ There was no toilet in the room.⁶⁸⁸⁰ He was alone on the first day but two other Bosnian Muslim men were brought in the following day.⁶⁸⁸¹ They were beaten and their personal effects were taken from them.⁶⁸⁸² During the time Bišćević was detained, he was not given any food or water.⁶⁸⁸³

2023. Bišćević and the two other men were then taken to the soldiers’ canteen, given food, and transferred to the SJB prison.⁶⁸⁸⁴

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- 6869 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7030, 7043; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5527; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7749 (under seal).
- 6870 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7029–7030. *See also* Adjudicated Fact 2546.
- 6871 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7031.
- 6872 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7031.
- 6873 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7032–7033.
- 6874 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7033.
- 6875 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7033–7034. *See also* KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7748–7750 (under seal).
- 6876 *See* para. 1949.
- 6877 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042; *see* para. 1949.
- 6878 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5528; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7749 (under seal). *See also* Adjudicated Fact 2546.
- 6879 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042–7043; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5528.
- 6880 Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5528.
- 6881 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042; KDZ474, P3395 (Transcript from *Prosecutor v. Brđanin*), T. 7749 (under seal).
- 6882 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7042.
- 6883 Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5528. *See also* Adjudicated Fact 2546.
- 6884 Faik Bišćević, P135 (Transcript from *Prosecutor v. Brđanin*), T. 7044; Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5528. *See also* Mirzet Karabeg, P3303 (Transcript from *Prosecutor v. Brđanin*), T. 6158–6159.

2024. Based on the above, the Chamber finds that Bišćević and two other Bosnian Muslim men were detained in a room at the Magarice military facility on or about 27 May 1992. The Chamber also finds that during their detention, these men were beaten and mistreated by Serb Forces.

(6) Scheduled Incident D.19

2025. The Indictment refers to the destruction of 17 mosques and one Catholic church in Sanski Most between at least between May and December 1992.⁶⁸⁸⁵

2026. The Chamber took judicial notice of the fact that the mosques in Sanski Most were subjected to major damage by Bosnian Serb forces.⁶⁸⁸⁶ The Chamber also took judicial notice of the fact that in mid-1992, the SDS ordered the destruction of the Donji Kamengrad mosque and that Mladen Majkić, a military engineer, was ordered by a member of the SDS to set explosives in the mosque.⁶⁸⁸⁷

2027. Bišćević testified that there were 26 mosques and four Catholic churches in Sanski Most municipality, and that all of them were destroyed.⁶⁸⁸⁸ KDZ490 testified that by the end of 1992, all of the mosques in Sanski Most had been destroyed.⁶⁸⁸⁹ According to KDZ490, the mosques were destroyed pursuant to orders from the Crisis Staff and were destroyed so that Bosnian Muslims would not return.⁶⁸⁹⁰

2028. By the end of May 1992, the Trnova mosque and the Hrustovo-Kukavice mosque had been destroyed.⁶⁸⁹¹ In 1992, the mosque in Vrhpolje and the mosque in Stari Majdan were destroyed.⁶⁸⁹²

⁶⁸⁸⁵ The religious sites identified in Scheduled Incident D.19 are the (1) Sanski Most town mosque, (2) Probiježje mosque, (3) Hrustovo-Kukavice mosque, (4) Hrustovo-Kerani mosque, (5) Vrhpolje mosque, (6) Šehovci mosque, (7) Trnova mosque, (8) Stari Majdan (Palanka) mosque, (9) Stari Majdan (Utriška) mosque, (10) Novo Naselje (Dževar) mosque, (11) Husimovci mosque, (12) Donji Kamengrad mosque, (13) Skucani Vakuf mosque, (14) Lukavice mosque, (15) Tomina mosque, (16) Čaplje mosque, and the Town Catholic church. The Indictment refers to the Hrustovo-Kukavice mosque as being two different mosques (the old and new mosque) situated next to each other. Indictment, Schedule D.19, fns. 17–19.

⁶⁸⁸⁶ See Adjudicated Fact 1358.

⁶⁸⁸⁷ Adjudicated Fact 2548.

⁶⁸⁸⁸ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5541. He further testified that none of the Serb religious institutions were destroyed. Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5541.

⁶⁸⁸⁹ P3634 (Witness statement of KDZ490, undated), p. 120 (under seal).

⁶⁸⁹⁰ P3634 (Witness statement of KDZ490, undated), pp. 120–121, 123–124 (under seal).

⁶⁸⁹¹ Faik Bišćević, P122 (Transcript from *Prosecutor v. Krajišnik*), T. 5541, 5543; KDZ490, T. 20180 (19 October 2011) (closed session); KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7225 (under seal); P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 7 (under seal). See also P4070 (Attachment to the expert report of András J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), e-court pp. 276–280, 289–290 (identifying damage to the old and new Hrustovo-Kukavice mosques and the Trnova mosque); P4069 (Cultural destruction database), records 278–279, 300; P716 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 15. The old Hrustovo-Kukavice mosque was also referred to as the Hrustovo mosque. P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 4 (under seal).

The Pobrježje mosque was destroyed in mid-1992.⁶⁸⁹³ The town mosque in Sanski Most was destroyed by October 1992.⁶⁸⁹⁴ The Šehovci mosque was blown up with explosives.⁶⁸⁹⁵ The mosques in Donji Kamengrad, Čaplje, Hrustovo, Lukavice, Šehovci, Stari Majdan, and Tomina were destroyed.⁶⁸⁹⁶ The Catholic church in Sanski Most was also damaged.⁶⁸⁹⁷

2029. According to Riedlmayer's reports, a total of 17 mosques and the town Catholic church in Sanski Most were damaged or destroyed during the war.⁶⁸⁹⁸ However, the Chamber notes that included in these 17 mosques is the Vrhpolje mosque, which Riedlmayer describes as only "lightly damaged" and as one of three mosques in Sanski Most that survived the war without structural damage.⁶⁸⁹⁹ The Chamber therefore finds that 16 mosques and the town Catholic church were heavily damaged, almost destroyed, or completely destroyed.

⁶⁸⁹² KDZ490, T. 20180 (19 October 2011) (closed session); P3634 (Witness statement of KDZ490, undated), p. 123 (under seal). There were two mosques in Hrustovo, one in Kukavice and the other in Karavići. The mosque in Kukavice was the largest mosque and known as the Hrustovo mosque. P715 (Witness statement of KDZ097 dated 21 April 2001), e-court p. 4 (under seal); KDZ097, P714 (Transcript from *Prosecutor v. Brđanin*), T. 7206–7207 (under seal); P616 (Map of Hrustovo-Vrhpolje marked by KDZ097). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 283–285, 291–294; P4069 (Cultural destruction database), records 297–298, 301.

⁶⁸⁹³ P3634 (Witness statement of KDZ490, undated), p. 121 (under seal); P3670 (Report on the work of Sanski Most Municipal Civilian Protection Staff, 15 July–15 October 1992), p. 3. See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 273–275; P4069 (Cultural destruction database), record 289.

⁶⁸⁹⁴ P3670 (Report on the work of Sanski Most Municipal Civilian Protection Staff, 15 July–15 October 1992); P3634 (Witness statement of KDZ490, undated), p. 121 (under seal). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 269–272; P4069 (Cultural destruction database), record 290.

⁶⁸⁹⁵ P3634 (Witness statement of KDZ490, undated), p. 122 (under seal). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 286–288; P4069 (Cultural destruction database), record 294.

⁶⁸⁹⁶ P3634 (Witness statement of KDZ490, undated), pp. 122–123 (under seal); P692 (Statements to Sanski Most Court, 18 April 1996), e-court p. 12; KDZ490, T. 20180 (19 October 2011) (closed session). See also P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 286–288, 291–294, 303–304, 305–307, 308–309; P4069 (Cultural destruction database), records 270, 273, 284, 294, 297–299; see Adjudicated Fact 1358.

⁶⁸⁹⁷ P3634 (Witness statement of KDZ490, undated) (under seal), p. 123.

⁶⁸⁹⁸ Riedlmayer identifies the level of damage with respect to each of the mosques listed by name in the Indictment: Town mosque (completely destroyed), Pobrježje mosque (completely destroyed), Hrustovo-Kukavice new mosque (completely destroyed), Hrustovo-Kukavice old mosque (heavily damaged), Hrustovo-Kerani mosque (heavily damaged), Vrhpolje mosque (lightly damaged), Šehovci mosque (heavily damaged), Trnova mosque (heavily damaged), Stari Majdan (Palanka) mosque (completely destroyed), Dževar mosque (heavily damaged), Husimovci mosque (heavily damaged), Donji Kamengrad new mosque (almost destroyed), Skucani Vakuf mosque (heavily damaged), Lukavice mosque (heavily damaged), Tomina mosque (almost destroyed), Čaplje mosque (heavily damaged), the town Catholic church (completely destroyed). P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 269–311. See also P4069 (Cultural destruction database), records 270, 273, 275, 278–281, 284, 287, 289, 290, 292, 294–295, 297–301; P4068 (Andrés Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992–1995, 7 May 2009), paras. 40–46; P4071 (Slide images of damaged religious sites in BiH), e-court pp. 4, 16–17.

⁶⁸⁹⁹ P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 283–285.

2030. The Chamber has considered the evidence it has received which identified Serb Forces as responsible for the destruction of mosques in Sanski Most.⁶⁹⁰⁰ It also had regard to the fact that almost all mosques in the municipality sustained heavy damage or were completely destroyed after Serb Forces took over the municipality. Having weighed these factors, the Chamber is satisfied beyond reasonable doubt that Serb Forces were responsible for the attacks on and destruction of mosques and the Catholic church in Sanski Most.

2031. Therefore, the Chamber finds that at least 16 mosques and the town Catholic church were heavily damaged, almost destroyed or completely destroyed by Serb Forces between May and December 1992.

(7) Movement of the population from Sanski Most and appropriation of property

2032. Following the attack on Sanski Most on 25 May 1992, the non-Serb population was expelled from the municipality.⁶⁹⁰¹

2033. On 2 July 1992, the Crisis Staff adopted a decision on the criteria for voluntary departure from Sanski Most.⁶⁹⁰² It ordered that those citizens who wish to permanently leave Sanski Most must hand over their real property to the Sanski Most municipal authorities.⁶⁹⁰³ People were allowed to take their movable property on the condition that they made a list of all of the property to be verified by an “authorised municipal administration organ”.⁶⁹⁰⁴ People who wished to stay were required to sign a loyalty oath and those who refused were threatened and often left under duress.⁶⁹⁰⁵

2034. On 23 June 1992, the Crisis Staff formed a committee to deal with the “migration” of the population.⁶⁹⁰⁶ Vrkeš was appointed as the person responsible for matters relating to the removal

⁶⁹⁰⁰ See paras. 2026–2028.

⁶⁹⁰¹ P3634 (Witness statement of KDZ490, undated), pp. 80–81 (under seal). See paras. 1945–1946.

⁶⁹⁰² P3307 (Decision of Sanski Most Crisis Staff, 2 July 1992); Mirzet Karabeg, T. 18703–18706 (13 September 2011). See also Adjudicated Facts 2550, 2556.

⁶⁹⁰³ P3307 (Decision of Sanski Most Crisis Staff, 2 July 1992). See also Mirzet Karabeg, T. 18701 (13 September 2011). See also Adjudicated Fact 2556.

⁶⁹⁰⁴ P3307 (Decision of Sanski Most Crisis Staff, 2 July 1992), p. 1.

⁶⁹⁰⁵ Mirzet Karabeg, T. 18701, 18706–18707 (13 September 2011); P3330 (Conclusions of session of Banja Luka CSB Enlarged Centre Council, 6 April 1992), para. 3; see Adjudicated Fact 2552.

⁶⁹⁰⁶ P3636 (Order of Sanski Most Crisis Staff, 23 June 1992); P3634 (Witness statement of KDZ490, undated) (under seal), p. 85. See also Adjudicated Fact 2555.

and exchange of the population and prisoners and was to report to Vojo Kuprešanin of the ARK Crisis Staff.⁶⁹⁰⁷

2035. By 27 July 1992, the Crisis Staff estimated that approximately 18,000 Bosnian Muslims and Bosnian Croats remained in Sanski Most and that approximately 6,000 to 7,000 had moved away.⁶⁹⁰⁸ It stated that Bosnian Muslims were requesting to move and noted that it should be made possible for them to do so by organising their voluntary resettlement.⁶⁹⁰⁹

2036. On 1 August 1992, the SJB reported that 12,000 individuals, mainly Bosnian Muslims but also some Bosnian Croats, had applied to the SJB to unregister their permanent residences in order to leave the municipality.⁶⁹¹⁰

2037. On 14 August 1992, the Sanski Most Municipal Assembly granted permission to transfer the ownership of movable and immovable property based on exchange contracts and gift contracts.⁶⁹¹¹ It also noted that the first group of 3,000 people would be “resettled” from the municipality and transported by bus.⁶⁹¹² It was decided that while Bosnian Muslims were voluntarily going into exile, their property would be taken over for “safe keeping and use”.⁶⁹¹³

2038. On 19 August 1992, Vrkeš and representatives of the Sanski Most Bosnian Muslims and Croats met with UNHCR and Civil Affairs to discuss, *inter alia*, whether the UN would assist in evacuating up to 11,000 Bosnian Muslim “applicants” for evacuation.⁶⁹¹⁴ Vrkeš explained that all those who wished to leave, should be able to do so.⁶⁹¹⁵ In addition, Vrkeš stated that those who

⁶⁹⁰⁷ See Adjudicated Fact 2555. KDZ490 stated that the ARK Crisis Staff had great influence over the municipalities and that the Sanski Most Crisis Staff implemented decisions from the ARK Crisis Staff. P3634 (Witness statement of KDZ490, undated), pp. 11, 86–87 (under seal). See also P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 111.

⁶⁹⁰⁸ P3657 (Minutes of 9th session of Sanski Most Executive Board, 27 July 1992), p. 4. See also P3851 (Conclusion of the Executive Board of Sanski Most Municipal Assembly, 30 July 1992).

⁶⁹⁰⁹ P3657 (Minutes of 9th session of Sanski Most Executive Board, 27 July 1992), pp. 3–4. See also P3851 (Conclusion of the Executive Board, of Sanski Most's Municipal Assembly, 30 July 1992). Boro Tadić testified that Bosnian Muslims voluntarily wanted to leave Sanski Most and that Vrkeš and others were trying to make it possible for the Bosnian Muslims to leave safely. Boro Tadić, T. 44424–44425 (4 December 2013). The Chamber does not accept Tadić's evidence. The Chamber found that Tadić's testimony was ambiguous, misleading, and often resorted to *tu quoque*. The Chamber finds that Tadić's reliability was compromised to such an extent that the Chamber could not accept his evidence.

⁶⁹¹⁰ D470 (CSB Banja Luka Report concerning collection centres, undated), e-court p. 15. See also Adjudicated Fact 2557. By 11 August 1992, it was reported that 28,000 people, mainly Bosnian Muslims from Bosanski Novi, Sanski Most, Bosanska Kostajnica, and Bosanski Petrovac, were being forced to move from their homes. P2941 (Article from The Associated Press, 11 August 1992) (under seal).

⁶⁹¹¹ P3659 (Minutes of 11th session of Sanski Most Executive Board, 14 August 1992), p. 12.

⁶⁹¹² P3659 (Minutes of 11th session of Sanski Most Executive Board, 14 August 1992), p. 9; P3634 (Witness statement of KDZ490, undated), pp. 89–90 (under seal).

⁶⁹¹³ P3659 (Minutes of 11th session of Sanski Most Executive Board, 14 August 1992), p. 14.

⁶⁹¹⁴ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 111–112.

⁶⁹¹⁵ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 114.

were leaving would sign a declaration stating they were leaving voluntarily, they had no wish to return, and they were leaving their properties to the authorities.⁶⁹¹⁶ The UNHCR representative responded that UNHCR would not assist with the removal of people.⁶⁹¹⁷

2039. The Chamber finds that Bosnian Muslims and Bosnian Croats were forced to leave Sanski Most following immense pressure put on them, given the surrounding circumstances in the municipality, including, *inter alia*, (i) armed attacks against their villages and homes; (ii) destruction of religious and cultural property; (iii) forcible arrest and removal from their homes; (iv) detention in multiple detention facilities; as well as (v) mistreatment and killings.

2040. By February 1995, the population of Sanski Most municipality was approximately 3,350 Bosnian Muslims, 1,050 Bosnian Croats, and 33,600 Bosnian Serbs.⁶⁹¹⁸

ii. *Regional level*

2041. As stated earlier, the Serb-majority community of municipalities called the ZOBK was transformed into the ARK on 16 September 1991.⁶⁹¹⁹ This community of municipalities included the following municipalities relevant to the Indictment: Banja Luka, Bosanski Novi, Ključ, Prijedor, and Sanski Most (“ARK Municipalities”).⁶⁹²⁰ The ARK was vested with both executive and legislative powers within its area of jurisdiction and acted as an intermediate level of authority between the SerBiH and the municipalities.⁶⁹²¹

2042. According to the ARK Statute, the ARK was a voluntary association.⁶⁹²² The statute provided that other municipalities could join the ARK.⁶⁹²³ In this context, in the municipalities where the Bosnian Serbs were a majority, the respective decision to join the ARK was in fact taken only by the Bosnian Serb municipal delegates of these municipalities, with the SDA and the HDZ delegates either opposed to this idea or unaware that such a decision was being taken.⁶⁹²⁴ In the municipalities where the Bosnian Serbs were in a minority, the decision by the respective municipalities to join the ARK was taken either only by the Bosnian Serb delegates in the

⁶⁹¹⁶ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 114.

⁶⁹¹⁷ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 115.

⁶⁹¹⁸ P5449 (Report of the MUP, Banja Luka RDB, February 1995), p. 8. In terms of percentages, in 1995, the population was 8% Bosnian Muslim, 2% Bosnian Croat, and 88% Bosnian Serb. P5449 (Report of the MUP, Banja Luka RDB, February 1995), p. 8.

⁶⁹¹⁹ See paras. 42, 75. On 16 September 1991, the ZOBK Assembly transformed the ZOBK into the ARK. P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 136.

⁶⁹²⁰ P4258 (Map of ARK). See Indictment, para. 48.

⁶⁹²¹ See Adjudicated Fact 520.

⁶⁹²² D4014 (Statute of the ARK, September 1991), Articles 1, 10, 11. See Adjudicated Fact 521.

⁶⁹²³ D4014 (Statute of the ARK, September 1991), Articles 10, 11.

⁶⁹²⁴ See Adjudicated Fact 521.

municipality or by the assemblies of the newly established Bosnian Serb municipalities.⁶⁹²⁵ Despite provisions of the ARK Statute which established the ARK as a multi-ethnic institution,⁶⁹²⁶ the ARK was in practice a Serb body.⁶⁹²⁷ Out of the 189 delegates to the ARK Assembly, only a negligible number were Bosnian Croats or Bosnian Muslims.⁶⁹²⁸

2043. The ARK Assembly had the power to enact decisions in accordance with the constitution and the law.⁶⁹²⁹ Upon the creation of the ARK, Vojo Kuprešanin was elected President of the ARK Assembly, and Radoslav Brđanin became First Vice President.⁶⁹³⁰

2044. On 4 March 1992, during its 15th Session, the ARK Assembly adopted a decision to form the CSB of the ARK; its seat was in Banja Luka and Stojan Župljanin was appointed as Chief of the CSB.⁶⁹³¹ Furthermore, on 27 April 1992, the ARK Assembly established a “special purpose police detachment” within the Banja Luka CSB.⁶⁹³²

⁶⁹²⁵ See Adjudicated Fact 521. For example, in Ključ, when the decision to join the ARK was confirmed by the SDS delegates of the Ključ Municipal Assembly on 26 December 1991, the SDA representatives at the Municipal Assembly walked out and did not vote on the issue. In Prijedor, the Prijedor Serb Assembly unanimously voted to join the ARK on 17 January 1992. In Sanski Most, Rašula issued a decision on behalf of the “Serbian People’s Assembly” that Sanski Most would become part of the ARK on 3 April 1992; the decision was only made by the Sanski Most SDS deputies. See paras. 1496, 1579, 1932–1933.

⁶⁹²⁶ D4014 (Statute of the ARK, September 1991), Article 4 (stating: “In performing tasks within the jurisdiction of the [ARK], all peoples and nationalities of the [ARK] shall have equal rights and duties [...]”; Article 5, stating: “The official language of the [ARK] organs shall be Serbo-Croatian and Croato-Serbian, using the Cyrillic or Latin alphabets.”).

⁶⁹²⁷ See Adjudicated Fact 522.

⁶⁹²⁸ See Adjudicated Fact 522.

⁶⁹²⁹ D4014 (Statute of the ARK, September 1991), Article 18; P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990–1992”, 30 July 2002), para. 142.

⁶⁹³⁰ D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 1; D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 1. See also Adjudicated Fact 523; P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990–1992”, 30 July 2002), paras. 142–143; D4014 (Statute of the ARK, September 1991), Articles 18, 28, 31. In October 1991, Brđanin also became a member of the Bosnian Serb Assembly. See Adjudicated Fact 523. Anđelko Grahovac was appointed as President of the ZOBK in May 1991 and subsequently was the Prime Minister of the ARK until January 1992, when he was dismissed from the post because of his desire to establish strong links with the “Knin Krajina”. D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), paras. 14, 35; Anđelko Grahovac, T. 44035–44036 (26 November 2013).

⁶⁹³¹ D4075 (Excerpt of Minutes of 15th session of ARK Assembly, 4 March 1992); D4071 (Summary of 15th session of ARK Assembly, 4 March 1992); D4023 (Decision of ARK Assembly, 4 March 1992) (wherein the ARK Assembly also established funds for the ARK). See also Adjudicated Facts 530, 531. See para. 218.

⁶⁹³² P5454 (Decision of ARK Assembly, 27 April 1992). See D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 59; D4300 (Witness statement of KW426 dated 31 January 2014), para. 8; D4138 (Witness statement of Željko Mejakić dated 26 November 2013), para. 15; Željko Mejakić, T. 44218–44220 (29 November 2013); D4075 (Excerpt of Minutes of 15th session of ARK Assembly, 4 March 1992); D4306 (Report of Banja Luka CSB, 5 August 1992), p. 1. See also Adjudicated Fact 530. The unit consisted of 140–150 men and while it was formed as a police unit, it had three army platoons and one police platoon. Members of this unit provided security at Omarska but after ten days, Župljanin withdrew the unit from Omarska after he was informed of “terrible problems” they were causing there. The unit was disbanded in July 1992 pursuant to an order from Mićo Stanišić. D4300 (Witness statement of KW426 dated 31 January 2014), paras. 9–11; Željko Mejakić, T. 44218–44220 (29 November 2013); D4139 (Report of Prijedor SJB, 13 June 1992); D4273 (Order of RS MUP, 27 July 1992); D4306 (Report of Banja Luka CSB, 5 August 1992), p. 2; P3761 (Payroll of Banja

(A) Establishment of ARK Crisis Staff

2045. The ARK Crisis Staff was formally established on 5 May 1992 by a decision of the ARK Executive Council,⁶⁹³³ however, it had been functioning since January 1992.⁶⁹³⁴ Brđanin was appointed as President of the newly created ARK Crisis Staff, which was later renamed the ARK War Presidency on 9 July 1992.⁶⁹³⁵ The Accused supported Brđanin to lead the ARK.⁶⁹³⁶ Brđanin retained this position until the abolition of the ARK on 15 September 1992.⁶⁹³⁷ The ARK War Presidency continued to meet at least until 8 September 1992, one week prior to the adoption of the SerBiH constitutional amendment that abolished the ARK as a territorial unit of SerBiH.⁶⁹³⁸

2046. Other members of the ARK Crisis Staff included Milorad Sajić, Secretary of the Regional Secretariat for National Defence, who was appointed Vice President of the ARK Crisis Staff; Vojo Kuprešanin, Deputy of the Bosnian Serb Assembly and President of the ARK Assembly; Milovan Milanović, Deputy of the Bosnian Serb Assembly; Nikola Erceg, President of the ARK Executive Council; Predrag Radić, President of the Banja Luka Municipal Assembly and Banja Luka Crisis Staff; Radislav Vukić; Talić; Župljanin; and Nenad Stevandić, head of the SOS.⁶⁹³⁹

2047. The ARK Crisis Staff acted as an intermediary regional body between the republican-level authorities and the ARK Municipalities by co-ordinating the implementation of instructions sent by the republic-level authorities in the ARK Municipalities.⁶⁹⁴⁰ Municipal Crisis Staff presidents in

Luka's CSB Special Police Detachment, August 1992). See KW426, T. 46715–46718, 46732–46737 (6 February 2014).

⁶⁹³³ P6 (Decision on the formation of ARK Crisis Staff, 5 May 1992).

⁶⁹³⁴ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 7. The Chamber recalls that Čizmović was appointed as the co-ordinator of activities of the executive bodies of the SAOs. See para. 130. See also Patrick Treanor, T. 14033–14035 (1 June 2011); Adjudicated Fact 524. *But see* D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 53; D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 37; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 63 (all stating that they had no knowledge of the ARK Crisis Staff being formed in January 1992).

⁶⁹³⁵ P6 (Decision on the formation of ARK Crisis Staff, 5 May 1992); D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 1, 12. See Adjudicated Fact 526.

⁶⁹³⁶ P2596 (Intercept of conversation between Radovan Karadžić and “Miroslav”, 7 January 1992), pp. 3–6. See Milorad Dodik, T. 36885–36886 (9 April 2013).

⁶⁹³⁷ Adjudicated Fact 526.

⁶⁹³⁸ See Adjudicated Fact 529; P2536 (Patrick Treanor's expert report entitled “The Bosnian Serb Leadership 1990–1992”, 30 July 2002), paras. 158–161.

⁶⁹³⁹ P6 (Decision on the formation of ARK Crisis Staff, 5 May 1992); D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 1; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7364, 7378–7379, 7387–7388; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 2, 33; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 2. See Adjudicated Facts 527, 528, 531. See also paras. 75, 179.

⁶⁹⁴⁰ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7401–7404, 7409–7410, 7419–7421 (testifying further that not all of the instructions communicated to the municipal Crisis Staffs by the ARK Crisis Staff emanated from the republican authorities; there were maybe one or two instructions which arrived from the “very top” in Pale); Branko Đerić, T. 28057–28058 (25 April 2012). See P2824 (RS Communication Centre

the ARK regularly gave reports to the ARK Crisis Staff on events within their area of responsibility⁶⁹⁴¹ and took actions in response to directives from the ARK Crisis Staff.⁶⁹⁴² In some municipalities, for example in Prijedor, Srdić reported directly to Pale.⁶⁹⁴³ When authorities in the ARK Municipalities disobeyed instructions from Pale, some were replaced immediately, while others were subjected to disciplinary procedures, or “ironed”, and would subsequently change their views.⁶⁹⁴⁴

2048. Decisions and conclusions of the ARK Crisis Staff were binding on the ARK Municipalities and were abided and implemented by the municipal Crisis Staffs.⁶⁹⁴⁵ Whenever the ARK Crisis

telegram logbook, June and July 1992), p. 4 (referring to a 5 June 1992 order from the Bosnian Serb Government which was implemented by the ARK Assembly on 6 June 1992); P6532 (Public announcement of ARK Assembly, 6 June 1992). See also P3645 (Conclusions of the Sanski Most Crisis Staff, 7 May 1992), p. 2. However, according to Kuprešanin, Erceg, and Sajić, the ARK operated independently from Pale as a “state within a state”. D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 37–38; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 71; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 51–53. Furthermore, according to Brđanin, the ARK Crisis Staff was not supported by the central republican authorities in Pale, primarily due to a rift between the ARK leadership and the RS leadership over what city should be the capital of the RS, Banja Luka or Pale; in addition, according to Brđanin, Kuprešanin, Erceg, and Sajić, until a corridor was opened on 28 June 1992, there was limited communication with the central authorities in Pale and Brđanin did not receive instructions from Pale or the Accused while the ARK Crisis Staff existed. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 6–7, 9; Vojislav Kuprešanin, T. 43553–43554 (14 November 2013); D4086 (Witness statement of Nikola Erceg dated 24 November 2013), paras. 22–23, 29, 32, 34, 36, 42, 45–46, 57; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 12, 47–52. See D4088 (Letter from President of ARK Executive Board, 18 June 1992). See also D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 14. The Chamber considers that while there may have been limited communication at times between the authorities in Pale and the ARK authorities, the Chamber finds that instructions were indeed sent from Pale to the ARK and that, as such, the ARK Crisis Staff did not operate entirely independently as a “state within a state” as alleged by the Accused. The Chamber will discuss in further detail the relationship between the ARK Crisis Staff and the Bosnian Serb leadership and the impact of these lines of communication on the Accused’s responsibility. See Section IV.A.3.a.ii.B: Regionalisation and creation of SAOs.

⁶⁹⁴¹ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7404. See also Adjudicated Fact 2182.

⁶⁹⁴² Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7404–7409; P7 (Decision of ARK Crisis Staff, 22 June 1992); P8 (Communication from Petrovac Municipal Assembly Crisis Staff to ARK Crisis Staff, 25 June 1992).

⁶⁹⁴³ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7422–7424.

⁶⁹⁴⁴ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7456–7457.

⁶⁹⁴⁵ P5415 (Decision of ARK Crisis Staff, 9 May 1992); Milorad Dodik, T. 36886–36887 (9 April 2013); P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), e-court p. 54 (in which at a 2 June 1992 meeting with the Accused, Brđanin stated that “everything in the ARK is done at [the crisis staff] level”). See paras. 2051–2053, 2056, 2058–2061, 2874. See, e.g., P3536 (Decisions and orders of Prijedor Municipal Assembly and Prijedor Crisis Staff, published in Prijedor Official Gazette on 25 June 1992), pp. 5–6; P3708 (Decision of Prijedor Crisis Staff, 22 May 1992) (stating that in accordance with the decision of the ARK Crisis Staff, “permanent operational duty” shall be introduced in all municipalities of the ARK); P2606 (Minutes from sessions of Ključ Crisis Staff, 27 May–10 July 1992), p. 2; P2614 (Conclusions of Sanski Most Crisis Staff, 30 May 1992). However, Brđanin, Kuprešanin, and Grahovac testified that there was no subordination and hierarchy in the relationship between the ARK Crisis Staff and municipal crisis staffs and they were independent of each other, in particular because the functioning of the ARK was dependent on funds provided by the municipalities and ultimately, the municipalities stopped earmarking funds for the ARK. Further, according to Brđanin, Erceg, Stakić, Mišković, and Sajić, although the ARK Crisis Staff tried to impose its decisions on the municipal crisis staffs, the ultimate implementation rested with the ARK Municipalities themselves and some chose to implement them while others did not. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 20–22; Radoslav Brđanin, T. 43655–43656 (18 November 2013); D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 40, 49; Vojislav Kuprešanin, T. 43512–43517 (14 November

Staff wanted to implement a decision in the ARK Municipalities, the deputies would say that the order came from Pale, whether or not it was in fact the truth.⁶⁹⁴⁶ Municipal Crisis Staff presidents attended ARK Crisis Staff meetings.⁶⁹⁴⁷

2049. On 11 June 1992, the ARK Crisis Staff issued a statement setting forth the composition of municipal Crisis Staffs/War Presidencies in the ARK, which stated:

The War Presidency, that is the Crisis Staff, shall lead all-people's resistance on the territory of the municipality, ensure unity in implementing the policy of the [...] All People's Defence, repair war damage, coordinate the work of municipal administrative organs, adopt regulations within the competence of the Municipal Assembly if it is unable to convene and establish cooperation with the competent organs of other municipalities and the commands of armed forces units.⁶⁹⁴⁸

2050. Republican level ministers from Pale attended an ARK Assembly session on 17 July 1992 to receive reports on the situation in the ARK.⁶⁹⁴⁹ Furthermore, General Talić briefed the ARK

2013); D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 16; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), paras. 14, 77, 81–82, 84, 86, 94 (stating that some municipalities, such as Prijedor, demonstrated a high degree of independence because they were economically strong and the ARK was therefore unable to control them); D4206 (Witness statement of Simo Mišković dated 6 December 2013), para. 12 (stating that Prijedor was independent in relation to ARK policy, as well as independent from the republican authorities in Pale); D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 55 (stating that Banja Luka municipality ignored the conclusions of the ARK Crisis Staff and considered them invalid); D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 13 (stating that although the municipal authorities in Prijedor used the ARK for inter-municipal cooperation, they never considered that ARK decisions or documents were binding on the municipal government in Prijedor); D4057 (Prijedor Crisis Staff conclusions, published in Official Gazette, 23 June 1992) (concluding that the Prijedor Crisis Staff does not accept, and deems invalid, all decisions of the ARK Crisis Staff adopted before 22 June 1992, but shall “give effect” to all documents of the ARK Crisis Staff adopted after 22 June 1992); Nikola Erceg, T. 44095 (27 November 2013). See P6437 (Minutes from inter-municipality talks, 14 June 1992), p. 3. However, the Chamber does not find this evidence to be convincing in light of other accepted evidence, in particular documentary evidence, demonstrating that the orders and decisions issued by the ARK Crisis Staff were implemented in the majority, if not all, of the ARK Municipalities. For example, the Chamber refers to the implementation of the orders related to the (i) disarmament of the non-Serb population; (ii) policy to “resettle” the non-Serb population; and (iii) dismissals of non-Serbs from management and other positions in the ARK. In addition, the Chamber considers that the evidence provided by these witnesses was marked with contradictions and evasiveness on this issue; they had a clear incentive to distance themselves from events in the ARK Municipalities and the Chamber did not find them forthright when they claimed the ARK Municipalities were acting independently and could not be controlled. The Chamber will therefore not rely on their evidence in this regard.

⁶⁹⁴⁶ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7419–7421, 7428–7431 (testifying further that the deputies, such as Brđanin or Krajišnik, would come back from Assembly sessions or government meetings where decisions were made, and would inform the municipality-level authorities what took place at the republican level of the government).

⁶⁹⁴⁷ Radoslav Brđanin, T. 43649–43651 (18 November 2013); D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 37. See P6512 (Excerpt of video from Banja Luka news broadcast, with transcript); P6437 (Minutes from inter-municipality talks, 14 June 1992), p. 2; P6564 (Excerpt of Miloš Milinčić's testimony from *Prosecutor v. Krajišnik*), T. 18443–18444; Miloš Milinčić, T. 44987–44988 (11 December 2013). However, according to Sajić, leaders from Pale never attended any of the ARK Crisis Staff meetings. D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 47.

⁶⁹⁴⁸ P2620 (Order of ARK Crisis Staff, 11 June 1992).

⁶⁹⁴⁹ P5513 (Extract of Minutes from 18th session of ARK Assembly, 17 July 1992). The following ministers attended the session: Generals Talić and Ninković, Goran Hadžić, Milan Martić, Minister of Defence Bogdan

Assembly on military operations and, in turn, informed his subordinate officers within the 1st Krajina Corps of decisions of the ARK Crisis Staff.⁶⁹⁵⁰ ARK Crisis Staff members, particularly Brđanin, visited the frontlines regularly, where they were briefed by military personnel in order to gain an understanding of the situation and they, in turn, informed the ARK Crisis Staff about the military campaign.⁶⁹⁵¹

(B) ARK Crisis Staff decisions

(1) Disarmament of non-Serbs

2051. As discussed above, an imminent threat of war was declared by the SerBiH Presidency on 15 April 1992, and the following day, the mobilisation of the TO was ordered.⁶⁹⁵² Minister of Defence Bogdan Subotić forwarded this decision for implementation to all Serb assemblies, including in the ARK,⁶⁹⁵³ and on 29 April 1992, the decision was then forwarded by Erceg to the President of Banja Luka Municipal Assembly also for implementation.⁶⁹⁵⁴ On 4 May 1992, the decision was implemented by the ARK Regional Secretariat for National Defence in an order issued by Milorad Sajić, the Secretary of the Regional Secretariat for National Defence, and forwarded to the ARK Municipalities, providing for the following measures: (i) general mobilisation of the territory of the ARK; (ii) imposition of a curfew; and (iii) disarmament of “[a]ll paramilitary formations and individuals who illegally possess weapons” by 11 May 1992.⁶⁹⁵⁵ Also on 4 May 1992, Župljanin ordered the SJB chiefs to implement the ARK decision of the same day.⁶⁹⁵⁶ In a decision issued on 11 May 1992, the ARK Crisis Staff reiterated the same measures as in the 4 May decision and extended the disarmament deadline to 14 May 1992 at 12 a.m. in response to the request of citizens to “return the weapons in a peaceful way and without the intervention of the police”.⁶⁹⁵⁷

Subotić, Velibor Ostojić, and Dragan Kalinić. P5513 (Extract of Minutes from 18th session of ARK Assembly, 17 July 1992), p. 1.

⁶⁹⁵⁰ P5513 (Extract of Minutes from 18th session of ARK Assembly, 17 July 1992), p. 1; *see* Adjudicated Fact 547.

⁶⁹⁵¹ *See* Adjudicated Fact 548. *See also* D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 38.

⁶⁹⁵² P3922 (Decision of SerBiH Presidency, 15 April 1992). *See* para. 212.

⁶⁹⁵³ P2412 (Decision of SerBiH Ministry of Defence, 16 April 1992).

⁶⁹⁵⁴ P6531 (Information of ARK Executive Council, 29 April 1992). *See* Nikola Erceg, T. 44080 (27 November 2013).

⁶⁹⁵⁵ P2818 (Decision of ARK Regional Secretariat for National Defence, 4 May 1992); D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 14, 18–20. *See* Adjudicated Fact 2160.

⁶⁹⁵⁶ P2819 (Dispatch from Banja Luka CSB to all SJBs, 4 May 1992). *See* D4049 (Dispatch of Banja Luka CSB to all SJBs, 14 May 1992); Adjudicated Fact 536.

⁶⁹⁵⁷ P3694 (Conclusions of ARK Crisis Staff sent to municipality presidents, 11 May 1992). *See* P3925 (Report of 5th Corps, 12 May 1992), p. 1 (wherein Talić reports the extension of the deadline); D4453 (Banja Luka CSB dispatch to all SJBs, 11 May 1992) (wherein Župljanin informs the local SJB chiefs of the extension of the

2052. On 18 May 1992, the ARK Crisis Staff further decided that all individuals in the ARK who were “not part of the armed forces of the [SerBiH] or its police must hand in their weapons”.⁶⁹⁵⁸ In accordance with the 18 May 1992 decision, Župljanin ordered all SJBs to report back to the CSB on the disarmament operations.⁶⁹⁵⁹ The municipal SJBs, as ordered, reported back to the CSB on the operations implemented in their respective areas of control.⁶⁹⁶⁰

2053. The measures ordered in the 4 May 1992 decision were implemented in the ARK Municipalities through public announcements and ultimatums to hand in illegally owned weapons.⁶⁹⁶¹ Although the calls for disarmament in the ARK were directed to all “paramilitary units and individuals who illegally possess weapons”, they were selectively enforced against non-Serbs.⁶⁹⁶²

(2) Resettlement of non-Serbs and appropriation of property

2054. In the same 11 May 1992 decision discussed above, the ARK Crisis Staff instructed that the property of all able-bodied men between 18 and 55 years old who failed to return to their municipalities in response to the mobilisation calls would be confiscated.⁶⁹⁶³ At a meeting on 20 May 1992, the ARK Crisis Staff adopted several conclusions, including that there was “no reason for the population of any nationality to move out of the territory of the [ARK]”.⁶⁹⁶⁴

deadline to implement the measures ordered in the 4 May ARK decision). *See also* D4035 (Conclusions of ARK Crisis Staff, 14 May 1992) (reiterating that the CSB of the ARK shall “consistently carry out” the ARK Crisis Staff decision on the disarming of paramilitary units and individuals who are illegally in possession of weapons and ammunition).

⁶⁹⁵⁸ D4038 (Conclusions of ARK Crisis Staff, 18 May 1992).

⁶⁹⁵⁹ Adjudicated Fact 537. *See* D4456 (Dispatch from Banja Luka CSB to all SJBs, 18 August 1992); Adjudicated Fact 2161.

⁶⁹⁶⁰ *See, e.g.*, P3648 (Report of Sanski Most SJB, 10 July 1992). *See* Adjudicated Fact 537.

⁶⁹⁶¹ *See* paras. 1441 (Bosanski Novi), 1501, 1509 (Ključ), 1586, 1602, 1616, 1665, 1673, 1682 (Prijeđor), 1942–1944, 1949 (Sanski Most). *See also* Adjudicated Fact 535.

⁶⁹⁶² Adjudicated Fact 538. *See* fn. 6961. *See also* Milorad Sajić, T. 44137–44138 (27 November 2013); Adjudicated Facts 539, 540. However, Brđanin, Erceg, and Sajić testified that the ARK Crisis Staff demanded the disarmament of all paramilitary formations, regardless of their nationality, though they were aimed first at Serb paramilitary units and individuals who possessed weapons illegally; its aim was to ensure the safety of all citizens of the ARK. Furthermore, they testified that a hierarchical relationship between the municipal authorities, the CSB, and the SJBs did not exist and it was purely upon the initiative of the municipalities themselves whether to implement these decisions or not. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 24, 42–47; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 108; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 40, 65–66; Milorad Sajić, T. 44135–44138 (27 November 2013). However, the Chamber does not find this evidence to be convincing in light of the other accepted evidence before the Chamber demonstrating that the ARK Crisis Staff decision ordering the disarmament of non-Serbs exclusively was implemented throughout the ARK Municipalities.

⁶⁹⁶³ P3694 (Conclusions of ARK Crisis Staff sent to municipality presidents, 11 May 1992). *See* Adjudicated Fact 2227; D4047 (Conclusions of ARK Crisis Staff, 27 May 1992) (stating that “[s]pecial records are to be kept” on all persons between 18 and 60 who may obtain permission to leave the ARK).

⁶⁹⁶⁴ D1309 (Conclusions of ARK Crisis Staff, 20 May 1992). *See* D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 95.

However, on 29 May 1992, the ARK Crisis Staff issued a decision stating that “all Muslims and Croats, who so wish, should be able to move out of the area of the [ARK]” and based on a concern that “several thousand Muslims from Prijedor, Sanski Most and Bosanski Novi wish to move to Central Bosnia, of their own free will”, the ARK Crisis Staff provided for an organised “resettlement” of the population.⁶⁹⁶⁵

2055. On 3 June 1992, the ARK War Presidency issued a decision stating that individuals leaving the ARK could take with them no more than 300 German marks;⁶⁹⁶⁶ in turn, the Banja Luka CSB instructed its subordinate SJBs to implement this decision by seizing any larger amount of money from anyone leaving the ARK.⁶⁹⁶⁷

2056. On June 7 1992, municipal authorities from the ARK Municipalities decided at a sub-regional meeting that “Muslims and Croats should move out of our municipalities until a level is reached where Serbian authority can be maintained and implemented on its own territory in each of these municipalities” and requested that the ARK Crisis Staff provide a corridor for the resettlement of non-Serbs.⁶⁹⁶⁸

2057. On 12 June 1992, the ARK Crisis Staff established an Agency for Population Movement and Exchange of Material Wealth for the ARK (“ARK Agency”), appointing Miloš Bojinović as its Chief, to aid in the implementation of the resettlement policy.⁶⁹⁶⁹ At the municipal level, other

⁶⁹⁶⁵ P3461 (Conclusions of ARK Crisis Staff, 29 May 1992). See Adjudicated Fact 541. Later on 10 June, the ARK Crisis Staff decided that only women, children, and the elderly could be moved from the ARK if they so wish, in co-operation with humanitarian organisations. D4046 (Decision of ARK Crisis Staff, 10 June 1992). See D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 23(f) (stating that he does not remember the 10 June decision but that the police would have wanted to check able-bodied male non-Serbs before they left the ARK). Furthermore, the ARK Crisis Staff provided that there should be “reciprocity” with regard to the relocation of people throughout the SerBiH, including that Serbs should be given the freedom to choose their place of residence. D4038 (Conclusions of ARK Crisis Staff, 18 May 1992); D4044 (Conclusions of ARK Crisis Staff, 28 May 1992), p. 2. See D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 23(b), (d).

⁶⁹⁶⁶ P3447 (Report of the Banja Luka CJB, undated). See para. 1561. See also Adjudicated Fact 2454.

⁶⁹⁶⁷ D1307 (Order of Banja Luka CSB to all ARK SJBs, 31 July 1992). But see Miloš Bojinović, D4176 (Testimony from *Prosecutor v. Brđanin*), T. 22801–22802, 22893–22896 (testifying that as Chief of the Agency for Population Movement and Exchange of Material Wealth for the ARK, he never received any instructions to limit the amount of money people leaving the ARK could take with them and he was not aware of any searches for money or valuables on the convoys organised by his agency). See para. 2057.

⁶⁹⁶⁸ P2641 (Conclusions of sub-regional meeting of municipalities sent to ARK Crisis Staff, 7 June 1992), p. 2 (further stating that if the leadership of the ARK fails to solve this issue “our seven municipalities will take all Muslims and Croats under military escort from our municipalities to the centre of Banja Luka”). See also para. 1899. According to Brđanin, the ARK Crisis Staff held a meeting the following day, at which it rejected the request of the municipal authorities as it was “contrary to our policy”. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 23(e). However, the Chamber considers that based on the events and specific actions taken by the ARK Crisis Staff following the request from the municipal authorities, it does not find reliable Brđanin’s evidence that the ARK Crisis Staff rejected their request outright. See e.g. para. 2057.

⁶⁹⁶⁹ P2718 (Decision of ARK Crisis Staff, 12 June 1992); P2719 (Decision of ARK Crisis Staff, 12 June 1992); Miloš Bojinović, D4176 (Testimony from *Prosecutor v. Brđanin*), T. 22765–22768 (testifying that the ARK

agencies were established throughout the ARK and, along with other competent institutions, were charged with establishing the resettlement procedures.⁶⁹⁷⁰ Departures of non-Serbs from the ARK had to be authorised by these competent institutions.⁶⁹⁷¹ In order to obtain permits to leave the territory of the ARK, non-Serbs usually had to “de-register” from their places of residence and either relinquish their property to the SerBiH or the ARK without compensation or, in other cases, exchange their property for property located outside of the ARK.⁶⁹⁷² The ARK Agency organised convoys, on a bi-weekly basis or more often, to transport non-Serbs to the Muslim or Croat-controlled lines near Travnik and Zagreb; passengers were required to buy tickets from the ARK Agency in order to leave on the convoys.⁶⁹⁷³ On 19 June 1992, the ARK Crisis Staff issued a decision declaring that all abandoned property will be declared state property and placed at the disposal of the municipal authorities.⁶⁹⁷⁴

Agency operated until the end of 1992). See D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 23(g). See also Adjudicated Facts 542, 552.

⁶⁹⁷⁰ See Adjudicated Facts 542, 543. See, e.g., paras. 1559 (Ključ), 2034 (Sanski Most).

⁶⁹⁷¹ Adjudicated Fact 543.

⁶⁹⁷² See Section IV.A.1.b.i.B.5: Movement of the population within and from Bosanski Novi; Section IV.A.1.b.i.C.8: Movement of the population from Ključ; Section IV.A.1.b.i.D.7: Movement of the population from Prijedor and appropriation of property; Section IV.A.1.b.i.E.7: Movement of the population from Sanski Most and appropriation of property. See also Miloš Bojinović, D4176 (Testimony from *Prosecutor v. Brđanin*), T. 22790–22792; Adjudicated Fact 544. However, Brđanin, Kuprešanin, Sajić, Erceg, and Bojinović testified that the ARK authorities never engaged in forcible displacement and that the positions of the ARK Crisis Staff in this regard developed depending on the “situation on the ground”. The ARK Agency was established to oversee the exchange of property and departure of people of all ethnicities, including Serbs, and furthermore, at the request of non-Serbs who were interested in having such services provided to them and was thus aimed at providing a humanitarian way to exchange property and secure transport. Finally, Brđanin stated that “had we wanted to expel non-Serbs, we would not have set any requirements and conditions for their leaving the ARK”. Kuprešanin further stated he was not aware of the establishment of any agency to implement a policy of resettlement, nor that any such policy was co-ordinated at the regional level by the ARK. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 23, 49, 55, 57; Radoslav Brđanin, T. 43666–43667 (18 November 2013) (testifying further that there was no “strategic plan ever about forcible relocation”, instead they “followed the situation which dictated for people to be relocated rather than to be killed or to perish”); D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 56–57, 60–61; D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 54, 67–69; D4086 (Witness statement of Nikola Erceg dated 24 November 2013), para. 95; Miloš Bojinović, D4176 (Testimony from *Prosecutor v. Brđanin*), T. 22776–22777, 22783–22784. However, as further expanded upon above in relation to each of the ARK Municipalities, the Chamber does not find this evidence to be convincing in light of the accepted evidence before the Chamber demonstrating that the resettlement policy promulgated by the ARK Crisis Staff was in fact implemented in the ARK Municipalities, resulting in the movement of the majority of the non-Serb population out of the ARK. The Chamber also does not find the evidence of Brđanin, Kuprešanin, Sajić, Erceg, and Bojinović to be reliable on this issue based on their close involvement in this policy and its implementation, creating an incentive to distance themselves from these events. Therefore, the Chamber will not rely on their evidence in this regard.

⁶⁹⁷³ Miloš Bojinović, D4176 (Testimony from *Prosecutor v. Brđanin*), T. 22786–22790, 22794–22795 (testifying further that tickets were purchased in dinars—a ticket cost 14,000 dinars in October 1992—though German marks were also used). See Miloš Bojinović, T. 44710–44716 (9 December 2013).

⁶⁹⁷⁴ D4054 (Decision of ARK Crisis Staff, 19 June 1992). See D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 29 (stating that this policy was adopted in order to protect abandoned property from being unlawfully usurped by the influx of refugees); Radoslav Brđanin, T. 43726 (18 November 2013).

2058. The municipal Crisis Staffs of the ARK Municipalities implemented this ARK policy.⁶⁹⁷⁵ For example, on 30 May 1992, the day following the ARK Crisis Staff decision setting out the policy, the Sanski Most Crisis Staff concluded that it would liaise with the ARK leadership regarding the “implementation of the idea on resettlement of the population”.⁶⁹⁷⁶ On 4 June 1992, the Ključ Crisis Staff issued a statement regarding the resettlement of “all citizens who wish to permanently move out of the [m]unicipality of Ključ in an organized manner”.⁶⁹⁷⁷ In August 1992, the Bosanski Novi SJB reported that following the ARK decision on “voluntary resettlement”, it de-registered 5,680 individuals, 5,629 of whom were Bosnian Muslim who had applied to leave the municipality “voluntarily”.⁶⁹⁷⁸ Immediately following the issuance of the decision, the 1st Krajina Corps also reported on the implementation of the policy, reporting that the ARK had issued a decision to facilitate the departures of the non-Serb population and that those departing “will not be allowed to return” and referring to “public statements made in the media by SDS [ARK] leaders who advocate moving and expelling all Muslims and Croats from these areas”.⁶⁹⁷⁹

2059. On 1 June 1992, Kirudja was informed that Kuprešanin had called the Civil Affairs Office in Sector North to report the concerns of mayors from Bosanski Novi, Prijedor, Ključ, Dubica, Sanski Most, and Banja Luka in relation to the situation of the Bosnian Muslim population in those areas.⁶⁹⁸⁰ Kuprešanin informed the office that 15,000 Bosnian Muslim refugees from these municipalities were moving across the border towards Dvor, Croatia, and that another 15,000 would likely follow, appealing to UNPROFOR to “find a way to protect the civilian Muslim population”.⁶⁹⁸¹

2060. The detention facilities in the ARK were also discussed at ARK Crisis Staff meetings; for example, representatives from Prijedor, Stakić, Drljača, and Kuruzović, attended one meeting and reported a shortage of food, clothing, and accommodation in the detention facilities in Prijedor.⁶⁹⁸²

⁶⁹⁷⁵ See, e.g., P2614 (Conclusions of Sanski Most Crisis Staff, 30 May 1992), p. 1; P3448 (Statement of Ključ Crisis Staff, 4 June 1992); D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 4. See also paras. 1467–1471, 1559–1561, 1563 (Ključ), 1898–1901 (Prijedor), 2033–2035 (Sanski Most).

⁶⁹⁷⁶ P2614 (Conclusions of Sanski Most Crisis Staff, 30 May 1992), p. 1.

⁶⁹⁷⁷ P3448 (Statement of Ključ Crisis Staff, 4 June 1992).

⁶⁹⁷⁸ D1921 (Report of Bosanski Novi SJB, 15 August 1992), p. 4.

⁶⁹⁷⁹ P3662 (1st Krajina Corps report, 31 May 1992), p. 2; P3656 (1st Krajina Corps report, 1 June 1992), p. 1. See also P5459 (Report of 1st Krajina Corps, 2 August 1992), p. 2 (reporting that “[m]ethods of exercising pressure are increasing, as are organised expulsions of the Muslim and Croat population from the area of Bosnian Krajina and further afield”).

⁶⁹⁸⁰ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 53.

⁶⁹⁸¹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 53.

⁶⁹⁸² D4114 (Witness statement of Milorad Sajić dated 24 November 2013), paras. 56–58; Milorad Sajić, T. 44146–44147 (27 November 2013). However, Brđanin and Erceg testified that detention facilities in the ARK were not discussed at meetings of the ARK Crisis Staff and that ARK authorities had nothing to do with the facilities. D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 52; D4086 (Witness statement

(3) Dismissals of non-Serbs

2061. On 8 May 1992, 11 May 1992, and 13 May 1992, the ARK Crisis Staff issued decisions stating that all management positions in SerBiH must be filled by “people who are absolutely loyal”.⁶⁹⁸³ Later, in a decision adopted on 22 June 1992 and directed to all municipal Crisis Staff presidents, the ARK Crisis Staff stated that all posts important for the functioning of the economy may only be held by “personnel of Serbian ethnicity”.⁶⁹⁸⁴ The 22 June 1992 decision was forwarded by Župljanin to all SJBs on 1 July 1992 for its immediate implementation within the ARK.⁶⁹⁸⁵ In accordance with this decision, numerous municipalities dismissed non-Serb personnel; by the end of 1992, the majority of Bosnian Muslims and Bosnian Croats in the ARK had been dismissed from their jobs and were replaced by Bosnian Serbs.⁶⁹⁸⁶ ARK Crisis Staff member Radić confirmed that the policy of dismissals of non-Serbs originated in Pale at the republic level.⁶⁹⁸⁷

of Nikola Erceg dated 24 November 2013), para. 89. The Chamber considers that the evidence given by Sajić regarding the discussion of the detention facilities in the ARK Municipalities at the ARK Crisis Staff meeting is reliable given the detail he provides regarding at least this one particular meeting. The Chamber shall not rely on the evidence given by Brđanin and Erceg in this regard given their potential interest in distancing themselves from any knowledge of conditions at ARK detention facilities or invoking their lack of recollection of such a discussion at the meetings.

⁶⁹⁸³ D4043 (Conclusions of ARK Crisis Staff, 8 May 1992), p. 2; P3694 (Conclusions of ARK Crisis Staff sent to municipality presidents, 11 May 1992); D4041 (Conclusions of ARK Crisis Staff, 13 May 1992), p. 1; P5470 (Excerpts of conclusions of ARK Crisis Staff of 13 May 1992 sent to enterprises, 10 June 1992). See Mevludin Sejmenović, T. 20468–20469 (27 October 2011).

⁶⁹⁸⁴ P7 (Decision of ARK Crisis Staff, 22 June 1992) (further stating that the personnel were expected to confirm their “Serbian ethnicity” in the plebiscite and to express their loyalty to the SDS). See also Adjudicated Facts 532, 533.

⁶⁹⁸⁵ P6533 (Decision of ARK Crisis Staff forwarded by Banja Luka CSB, 1 July 1992). See also Adjudicated Fact 534.

⁶⁹⁸⁶ See paras. 1374 (Banja Luka), 1437 (Bosanski Novi), 1504 (Ključ), 1596–1601 (Prijedor), 1950 (Sanski Most). See Adjudicated Fact 532 (stating that the replacement of Bosnian Muslims and Bosnian Croats personnel by Bosnian Serbs guaranteed “an overall Bosnian Serb control over public and private enterprises and institutions throughout the ARK”). See also P2637 (Report of Prijedor SJB, 1 July 1992) (reporting that the 22 June 1992 ARK Crisis Staff decision “has been implemented in this [SJB]”); Adjudicated Fact 534. However, Brđanin testified that a leak of sensitive information about the movements of the 1st Krajina Corps resulted in these measures being “temporarily” adopted by the ARK Crisis Staff and its decision involved the removal of executive positions of people that could misuse such positions and threaten the security of Krajina. Furthermore, the non-Serbs were not fired, but only removed from positions considered to be important due to security, and were given different jobs: D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), paras. 15–17, 39–41. According to Sajić and Erceg, although the 22 June 1992 decision provided for the dismissals of non-Serbs, it was implemented to “some extent”, but was not put into practice in all cases. Furthermore, Sajić did not believe that Brđanin personally called for the dismissal of non-Serbs despite what the decision states. D4114 (Witness statement of Milorad Sajić dated 24 November 2013), para. 41; Milorad Sajić, T. 44139–44142 (27 November 2013); D4086 (Witness statement of Nikola Erceg dated 24 November 2013), paras. 98–101, 107. See Defence Final Brief, paras. 1172–1175 (wherein the Accused submits that he does not dispute that there may have been individual incidents of people being dismissed from their employment, but “this had nothing to do with alleged persecutions”). However, the Chamber does not find this evidence to be convincing based on the considerable evidence before the Chamber demonstrating that this policy of dismissals of non-Serb personnel as ordered by the ARK Crisis Staff was, in turn, implemented throughout the ARK Municipalities.

⁶⁹⁸⁷ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7412–7415.

c. Sarajevo Area

i. *Hadžići*

(A) Charges

2062. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Hadžići as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁶⁹⁸⁸

2063. Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Hadžići include (i) torture, beatings, and physical and psychological abuse, during and after the take-over and in scheduled detention facilities, as cruel or inhumane treatment;⁶⁹⁸⁹ (ii) rape and other acts of sexual violence, during and after the take-over and in the Hadžići Culture and Sport Centre, as cruel and inhumane treatment;⁶⁹⁹⁰ (iii) the establishment and perpetuation of inhumane living conditions in scheduled detention facilities, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁶⁹⁹¹ (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes within Hadžići;⁶⁹⁹² (v) unlawful detention in scheduled detention facilities;⁶⁹⁹³ (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁶⁹⁹⁴ (vii) the appropriation or plunder of property, during and after the take-over of Hadžići, during arrests and detention and in the course of or following acts of deportation or forcible transfer;⁶⁹⁹⁵ and (viii) the imposition and maintenance of restrictive and discriminatory measures.⁶⁹⁹⁶

2064. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁶⁹⁹⁷ In this regard, the Prosecution alleges that, by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly

⁶⁹⁸⁸ Indictment, paras. 48–49.

⁶⁹⁸⁹ Indictment, para. 60(b). *See* Scheduled Detention Facilities C.11.1, C.11.2.

⁶⁹⁹⁰ Indictment, para. 60(c). *See* Scheduled Detention Facility C.11.2.

⁶⁹⁹¹ Indictment, para. 60(d). *See* Scheduled Detention Facilities C.11.1, C.11.2.

⁶⁹⁹² Indictment, para. 60(f).

⁶⁹⁹³ Indictment, para. 60(g). *See* Scheduled Detention Facilities C.11.1, C.11.2.

⁶⁹⁹⁴ Indictment, para. 60(h).

⁶⁹⁹⁵ Indictment, para. 60(i).

⁶⁹⁹⁶ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services. The Chamber notes that the Prosecution does not allege criminal responsibility for wanton destruction of private property in Hadžići. Indictment, fn. 9.

⁶⁹⁹⁷ Indictment, paras. 68–75.

displaced most Bosnian Muslims and Bosnian Croats from areas in Hadžići in which they were lawfully present.⁶⁹⁹⁸ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.⁶⁹⁹⁹

(B) Lead-up

2065. Hadžići is a municipality in central BiH, located about 12 kilometres southwest of Sarajevo.⁷⁰⁰⁰ The municipality is bordered to the northeast by Ilidža; to the north by Kiseljak; to the northwest by Kreševo; to the west and southwest by Konjic; and to the south and southeast by Trnovo.⁷⁰⁰¹

2066. Before the conflict, the population of Hadžići municipality was about 24,000 inhabitants with the demographic breakdown of approximately 63.6% Bosnian Muslim, 26.3% Serb, and 3.1% Croat.⁷⁰⁰² The town of Hadžići, however, had a Serb majority.⁷⁰⁰³ Tarčin,⁷⁰⁰⁴ Binježevo, and Pazarić were large settlements within the Hadžići municipality, each of which was composed of a number of villages.⁷⁰⁰⁵

2067. The municipality was strategically important because of its geographical position, as well as the fact that it contained a large engineering factory run by the JNA, called the TRZ,⁷⁰⁰⁶ and a

⁶⁹⁹⁸ Indictment, paras. 69, 72.

⁶⁹⁹⁹ Indictment, para. 71.

⁷⁰⁰⁰ D1064 (Map of Sarajevo marked by Tihomir Glavaš) (showing the town of Hadžići and the surrounding Serb-held areas at "1" and the Serb villages in majority-Muslim territory at "2").

⁷⁰⁰¹ D1087 (Map of Hadžići municipality marked by Tihomir Glavaš). Kiseljak, Kreševo, and Busovača all had predominantly Croat populations. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 22.

⁷⁰⁰² P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995). *See also* D225 (Ethnic map of BiH based on 1991 census); P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22, p. 3; D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 2; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 4.

⁷⁰⁰³ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22.

⁷⁰⁰⁴ D1087 (Map of Hadžići municipality marked by Tihomir Glavaš). Tarčin had a majority Croat population. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 12.

⁷⁰⁰⁵ Tihomir Glavaš, T. 11818 (14 February 2011). Both Bare in Drozgometva community and Miševići in Binježevo community had large Serb populations. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

⁷⁰⁰⁶ P1494 (ABiH map of Sarajevo, 15 June–20 July 1992) (showing the location of the repair and maintenance depot marked as "TRZ" in Hadžići municipality). The TRZ employed 1,500 workers and held tanks, Pragas, artillery weapons, and mortars. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 2; P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), pp. 3–4. *See also* D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 8.

sizeable weapons depot at Žunovnica.⁷⁰⁰⁷ JNA military barracks were also situated in Žunovnica, as well as in Ušivak⁷⁰⁰⁸ and Pazarić.⁷⁰⁰⁹

2068. Following the 1990 elections, the SDA won 60% of the vote, the SDP won 12.5%, and the SDS won 11%.⁷⁰¹⁰ The parties came to an agreement whereby the President of the Municipal Assembly would be a member of the SDA, the President of the Executive Board of the Municipal Assembly would be a member of the SDS,⁷⁰¹¹ the head of the police would be a member of the SDA,⁷⁰¹² and the head of the Secretariat for Peoples Defence would be a member of the SDS.⁷⁰¹³ In accordance with this agreement, SDA member Mustafa Dželilović, was made President of the Municipality.⁷⁰¹⁴

(1) Militarisation of Hadžići

2069. During the course of 1991, the number of military personnel and the amount of weapons in the municipality increased. Around mid-1991, tanks appeared in the hills around Hadžići, and

⁷⁰⁰⁷ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 2; D583 (SRK combat report, 31 May 1992), para. 1; Vidomir Banduka, T. 33503 (12 February 2013); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 32. The Žunovnica complex” held “extremely large quantities of all sorts of ammunition”. D317 (TO Hadžići report on combat readiness, 29 May 1992), p. 1. Prior to the 1990 elections, the Hadžići TO had its own supply of weapons which was controlled by the TO headquarters but stored in the JNA barracks at Žunovnica. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3. These arms included rifles, automatic and semi-automatic rifles, sniper rifles, 82 mm mortars, anti-tank rockets, and recoilless guns. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3.

⁷⁰⁰⁸ Vidomir Banduka testified that Serbs were the majority in Ušivak and thus these barracks were the only ones in a Serb-majority area. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 35.

⁷⁰⁰⁹ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), pp. 3–4; P2405 (Map of Hadžići marked by Mehmed Musić); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 34. Vidomir Banduka also mentioned army barracks in Krupska Rijeka, where a large quantity of weapons was stored. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 33.

⁷⁰¹⁰ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3; P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3 (stating that the SDS was the second party). Of the 50 municipal assemblymen, the SDA had 23, the SDP 12, the SDS had 11, and two smaller parties had two deputies each. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 17. The HDZ did not have any assemblymen. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 17.

⁷⁰¹¹ SDS member Nevenko Samouković was appointed President of the Executive Board of Hadžići after the multi-party elections. D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), paras. 3, 3a; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 18. By mutual agreement between the parties, the Executive Board of Hadžići was composed of three Serbs and three Muslims. D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 4; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 18.

⁷⁰¹² The Chief of the SJB was Bosnian Muslim Fadil Čović and the Commander was a Bosnian Serb, Tihomir Glavaš. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 18.

⁷⁰¹³ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3. Other positions, such as the President of the Magistrate’s Court and the Secretary of the Assembly, were filled by the SDA, while others, such as the Administration for Income and the Land Registration and Real Estate were filled by the SDS. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 3.

⁷⁰¹⁴ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 11 (stating that he had been president of the SDA municipal board); D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 3a. Dželilović remained in this position until April 1992. See P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

mortar positions were established around the village of Bare.⁷⁰¹⁵ Several tanks were also positioned in Binježevo.⁷⁰¹⁶ During the last week of August and the first week of September, Bosnian Serb reserve soldiers in JNA uniforms who appeared to be mapping the area arrived at a barracks located in the village of Blažuj.⁷⁰¹⁷ Around the same time, Mehmed Musić saw men unloading boxes of ammunition,⁷⁰¹⁸ and Zijad Okić noticed weapons were taken up to trenches built on Tinovo Hill.⁷⁰¹⁹

2070. From its founding until the commencement of the war, the SDS provided Serbs with weapons taken from the JNA military warehouses in Žunovnica.⁷⁰²⁰ Serbs also obtained weapons from the TRZ, which was controlled by the Serbs.⁷⁰²¹ In particular, Marinko Đukanović, who had been a warehouse clerk at the TO (and thus had access to the weapons),⁷⁰²² as well as Ratko Radić, the President of the Hadžići SDS,⁷⁰²³ distributed weapons to the Serb population in Hadžići.⁷⁰²⁴

2071. At the end of September and beginning of October, Croats in western BiH began to organise militarily, which contributed to incipient instability in Hadžići.⁷⁰²⁵ During the course of 1991,

⁷⁰¹⁵ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 2 (further specifying that Pragas and APCs appeared on Tinovo Hill).

⁷⁰¹⁶ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 2.

⁷⁰¹⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 8–9; Mehmed Musić, T. 12840–12841 (3 March 2011) (referring to the soldiers as unshaven “Chetniks dressed in JNA uniforms” estimating that he saw this happening between 30 August and 6 September 1991); P2405 (Map of Hadžići marked by Mehmed Musić) (showing the Čatina Bara barracks located at Point 2 on the map).

⁷⁰¹⁸ Mehmed Musić, T. 12849 (3 March 2011).

⁷⁰¹⁹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 4.

⁷⁰²⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 39; Tihomir Glavaš, T. 11954 (16 February 2011); P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 2. *See also* P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5. The Chamber notes that Vidomir Banduka originally professed that he was unaware that Serbs obtained arms from the JNA, but when presented with his testimony in the *Krajišnik* case, wherein he had stated that the Serbs obtained weapons through the mobilisation of the reserve police, as well as the JNA reserves and the TO, Banduka clarified that reservists had obtained weapons through these channels but maintained that Serb civilians had not. Vidomir Banduka, T. 33499–33500 (12 February 2013). *See also* D2490 (Witness statement of Radojka Pandurević dated 27 November 2012), para. 62. However, the Chamber observes that according to a JNA report dated 19 March 1992, by that date, 1,500 “volunteers” who were *not* part of the JNA or the TO had been armed by the JNA or the SDS in Hadžići. P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), pp. 1, 6, 11. The Chamber therefore finds that in addition to arms provided during the mobilisation process, arms from JNA sources were also provided to Serbs outside the JNA, TO, and police mobilisation processes.

⁷⁰²¹ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22. In order to consolidate control over these barracks, troops, and equipment, the SDS—including Ratko Radić—spread rumours that units from Croatia were present in the municipality with the aim of committing crimes against Serbs. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. The TRZ remained under Bosnian Serb control throughout the conflict. Vidomir Banduka, T. 33503 (12 February 2013). *See also* D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), p. 8.

⁷⁰²² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 39.

⁷⁰²³ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3; P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4; D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 9; D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 17; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 13.

⁷⁰²⁴ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 27.

⁷⁰²⁵ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 22.

troops from the JNA engineering unit stationed at the TRZ began to return from Knin and Slavonia and spoke of having seen JNA units fighting in Croatia wearing Chetnik insignia. Thereafter, Muslims began to avoid JNA conscription and training.⁷⁰²⁶

2072. In the interim, Bosnian Muslims had obtained arms. On 15 October 1991, pursuant to an order of the SRBiH Presidency,⁷⁰²⁷ the Hadžići MUP mobilised 480 members of the reserve police force;⁷⁰²⁸ this enabled members of the reserve police to obtain arms.⁷⁰²⁹ Meanwhile, the SDA was distributing weapons in municipalities within the city of Sarajevo, including Hadžići.⁷⁰³⁰ Some wealthier Bosnian Muslims bought weapons for themselves.⁷⁰³¹

2073. By the beginning of February 1992, residents of the Hadžići municipality had begun to organise nightly patrols and guards in the local areas where each ethnic group was prominent.⁷⁰³² Around the same time, Bosnian Serbs began to leave the regular and reserve police units,⁷⁰³³ and the JNA began distributing firearms to the Serb population at night.⁷⁰³⁴

2074. In late March 1992, the police warehouse in Rakovica, which was full of weapons, was broken into during a time when Bosnian Muslim officers were on duty.⁷⁰³⁵ Machine-guns, police

⁷⁰²⁶ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), pp. 3–4. *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 34.

⁷⁰²⁷ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4; D2491 (Report of Tarčin police station, 6 August 1992), p. 3.

⁷⁰²⁸ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4; Tihomir Glavaš, T. 11815, 11818–11819, 11822–11823 (14 February 2011).

⁷⁰²⁹ The number of reserve police forces was reduced pursuant to a SRBiH MUP order of 21 December 1991 before being re-mobilised in January 1992. D2491 (Report of Tarčin police station, 6 August 1992), p. 3. Bosnian Muslims began to obtain arms through this mobilisation of the reserve police force, which was primarily made up of Bosnian Muslims. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), paras. 23, 29; D2490 (Witness statement of Radojka Pandurević dated 27 November 2012), para. 5.

⁷⁰³⁰ Tihomir Glavaš, T. 11812 (14 February 2011). The police were also aware that SDA leader Hasan Čengić had sent Bosnian Muslim policemen to Croatia to receive training and that he had obtained weapons by forging MUP IDs. Tihomir Glavaš, T. 11814 (14 February 2011). *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 30. In February 1992, Serb policemen attempted to stop a vehicle carrying weapons from entering Hadžići municipality but were prevented by Bosnian Muslim police. Tihomir Glavaš, T. 11815 (14 February 2011). The vehicle escaped in the direction of Mokrin, a predominantly Muslim village in the northern part of the municipality. Tihomir Glavaš, T. 11815 (14 February 2011); D1087 (Map of Hadžići municipality marked by Tihomir Glavaš) (showing Mokrin as being located northwest of the town of Hadžići, near the border with the Kiseljak municipality).

⁷⁰³¹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 3.

⁷⁰³² P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 13.

⁷⁰³³ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5. At the same time Bosnian Muslims heard that a separate Serb MUP was established in the local community of Drozgometa. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5.

⁷⁰³⁴ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5.

⁷⁰³⁵ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 59; Tihomir Glavaš, T. 11821 (14 February 2011).

gear, and some transportation devices all went missing.⁷⁰³⁶ By the end of the month, Bosnian Muslim formations in Hadžići were “well-organised and armed”.⁷⁰³⁷

(2) Division of municipal organs

2075. In the meantime, the work of municipal organs had ground to a halt; shortly after the first mobilisation of the reserve police in October 1991, the SDS delegates had stopped co-operating in the joint Hadžići Municipal Assembly and the Municipal Assembly Executive Board.⁷⁰³⁸ Eventually, only the Municipal Defence Council remained functional.⁷⁰³⁹ Beginning in January 1992, at meetings of the Municipal Defence Council, Ratko Radić called for the establishment of a Serb assembly in Hadžići, an idea which had already been discussed by the Bosnian Serb Assembly in December 1991,⁷⁰⁴⁰ and which was later reiterated by other SDS delegates at successive meetings of the Hadžići Municipal Defence Council.⁷⁰⁴¹

2076. In early to mid-April 1992,⁷⁰⁴² the SDS stopped participating in the Municipal Defence Council,⁷⁰⁴³ and the Bosnian Serbs attended a meeting of the Municipal Assembly for the last

⁷⁰³⁶ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 59; Tihomir Glavaš, T. 11821 (14 February 2011). Glavaš, who was commander of the joint police station at the time, was criticised for having allowed this to happen. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 59.

⁷⁰³⁷ D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 30.

⁷⁰³⁸ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. Ostensibly, this lack of co-operation originated when Bosnian Muslims refused to place the mobilisation of the reserve police on the Municipal Assembly’s agenda. D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 7; D2490 (Witness statement of Radojka Pandurević dated 27 November 2012), para. 7; Radojka Pandurević, T. 30667–30668 (29 November 2012); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), paras. 20–21, 24–28. See also D2917 (Statement of Hadžići SDS Municipal Board, 10 October 1991). According to Radojka Pandurević, the mobilisation of the reserve police sparked a “fierce argument” because the mobilisation was done without the knowledge of the “then commander”, Tihomir Glavaš. D2490 (Witness statement of Radojka Pandurević dated 27 November 2012), paras. 5–6.

⁷⁰³⁹ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. The municipal Defence Council included a representative of the Army, the Police, the TO, the Administration Services and the Secretary of the Secretariat for People’s Defence. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. See also D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 28; Vidomir Banduka, T. 33496–33497 (12 February 2013).

⁷⁰⁴⁰ D84 (Shorthand Record of 3rd Session of Assembly of SerBiH, 11 December 1991), pp. 16–17. See also para. 131.

⁷⁰⁴¹ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. Radić further stated that the Serb people did not want to be a part of a sovereign BiH and that Muslims should establish their own bodies of government. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 4. Finally, Radić demanded that a Serb be assigned as the director of the primary school in Tarčin, stating, “if we cannot do it by goodwill we will do it by force”. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3. The President of the Municipality warned Radić not to make threats, and ultimately a Bosnian Muslim was assigned as the director of the Tarčin primary school. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

⁷⁰⁴² Balić testified that this meeting occurred “about 20 days before the shooting on Hadžići”. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

⁷⁰⁴³ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), pp. 4–5.

time.⁷⁰⁴⁴ There, Ratko Radić called for the abolition of “joint policing” and the establishment of a Serb police.⁷⁰⁴⁵

2077. On 11 April 1992, citing the “extremely difficult political and security situation”,⁷⁰⁴⁶ the SDS held a Serb Assembly session at the Hadžići Culture and Sport Centre,⁷⁰⁴⁷ where the Serb Municipality of Hadžići was proclaimed.⁷⁰⁴⁸ At the same session, Nevenko Samouković was “given a mandate to form the municipal government”.⁷⁰⁴⁹ The SDS selected Drago Milošević as President of the Serb Municipality of Hadžići as well as President of the Hadžići Assembly of the Serbian People,⁷⁰⁵⁰ but he was soon replaced by Ratko Radić,⁷⁰⁵¹ who remained President of the Municipality until the end of the war.⁷⁰⁵²

2078. The SDS also decided to create a Serb SJB and appointed Tihomir Glavaš as Chief and Branislav Mijatović as Commander.⁷⁰⁵³ The Serb police wore the same uniforms as the previous

⁷⁰⁴⁴ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

⁷⁰⁴⁵ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3.

⁷⁰⁴⁶ The SDS claimed that the proclamation was made “in order to protect the Serbian people and preserve peace in the Territory of Hadžići municipality”. D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1; D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 34; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 37. According to Vidomir Banduka, Bosnian Muslims’ refusal to be mobilised into the JNA, combined with the simultaneous mobilisation of Bosnian Muslims into the reserve police force and the mobilisation of the Bosnian Muslim TO, also informed the SDS decision to establish the Serb Municipality of Hadžići. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 36.

⁷⁰⁴⁷ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3 (stating that the proclamation session was held in the “Dom building” about 10 days before the war); P2298 (Photograph of Hadžići Radnički Dom); Tihomir Glavaš, T. 11777–11779 (14 February 2011) (identifying P2298 as the Culture and Sport Centre).

⁷⁰⁴⁸ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 6; D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3; D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 31. *See also* Adjudicated Fact 2563; P2306 (Report on the work of the Hadžići Municipal Assembly in 1992), p. 1; P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5. *But see* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 37.

⁷⁰⁴⁹ D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1; Nevenko Samouković, T. 34600 (1 March 2013).

⁷⁰⁵⁰ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 6; D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1.

⁷⁰⁵¹ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 6, 21, 23. Dragan Kapetina and Ratko Gengo were chosen as Vice President and Secretary of the Assembly, respectively. D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1; D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 31; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 39. *See also* P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5.

⁷⁰⁵² P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 25. Radislav Petrić, Vidomir Banduka, and Nevenko Samouković, all functioned as President of the Executive Board of the Serbian Municipality of Hadžići at different times throughout the war. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 25; D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 17.

⁷⁰⁵³ D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1; D2491 (Report of Tarčin police station, 6 August 1992), p. 4; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 6, 21; Tihomir Glavaš, T. 11830–11831 (14 February 2011); D1068 (List of employees of Hadžići SJB, April 1992), p. 1; D1070 (List of employees of

joint police, but replaced the star badge on their caps with a tricolour Serb badge.⁷⁰⁵⁴ Initially stationed at the Culture and Sport Centre where the proclamation session was held,⁷⁰⁵⁵ the Serb police later relocated to the ground floor of the Hadžići Municipal Assembly Building.⁷⁰⁵⁶ The SDS further called on Serbs of military age to register in the Serb TO, which was to be commanded by Mile Bratić,⁷⁰⁵⁷ or in the reserve police formation.⁷⁰⁵⁸

2079. The Serb Municipality of Hadžići covered the parts of Hadžići municipality where the Serbs were the majority population,⁷⁰⁵⁹ and the Serb police confined their public security tasks within that territory.⁷⁰⁶⁰ During the period immediately after the Serb police force was established in Hadžići, certain small groups of armed “free agents” who committed theft were present in the municipality.⁷⁰⁶¹ Some members of the Serb police were also involved in crime.⁷⁰⁶² The Serb police carried out mobilisation for the VRS and provided uniforms to “citizens of Serb nationality”,⁷⁰⁶³ which led to a reduction in “the number of groups and individuals forming paramilitary formations”.⁷⁰⁶⁴

Hadžići SJB, July 1992); D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 6; P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5.

⁷⁰⁵⁴ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 3.

⁷⁰⁵⁵ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3. The headquarters of the Serbian Assembly were also on the ground floor of the Hadžići Culture and Sport Centre throughout the period of April through August 1992. Tihomir Glavaš, T. 11778 (14 February 2011). *But see* D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 6.

⁷⁰⁵⁶ Tihomir Glavaš, T. 11779 (14 February 2011).

⁷⁰⁵⁷ D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), p. 1; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 38. *See also* P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 5; D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 33.

⁷⁰⁵⁸ D1066 (Proclamation of the Hadžići Municipal Assembly, undated), p. 1; D2916 (Announcement of Hadžići Municipal Assembly, undated), pp. 1–2; D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 33. *See also* P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3 (stating that the TO split into separate Serb and Muslim branches approximately one month before the conflict).

⁷⁰⁵⁹ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22; Tihomir Glavaš, T. 11934 (15 February 2011), T. 12038–12039 (16 February 2011); D1087 (Map of Hadžići municipality marked by Tihomir Glavaš) (showing the areas controlled by Serbs marked by an “S”); D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 32; D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 20; Vidomir Banduka, T. 33494 (12 February 2013). *See also* Nevenko Samouković, T. 34615–34616 (1 March 2013).

⁷⁰⁶⁰ D3856 (Witness statement of Dragan Kapetina dated 13 July 2013), para. 32.

⁷⁰⁶¹ Tihomir Glavaš, T. 11982–11983 (16 February 2011); D1074 (Correspondence from Hadžići Police Station to Sarajevo CSB, 9 August 1992), pp. 1–2. Vidomir Banduka testified that the term “free agent” in BCS denotes a person who is not “part of the system”. Vidomir Banduka, T. 33524 (12 February 2013).

⁷⁰⁶² Tihomir Glavaš, T. 11984 (16 February 2011); D1074 (Correspondence from Hadžići Police Station to Sarajevo CSB, 9 August 1992), p. 2. *See also* Vidomir Banduka, T. 33523–33524 (12 February 2013) (stating that the Serb Hadžići municipal authorities “had problems with such individuals and small groups”).

⁷⁰⁶³ *See also* P134 (Witness statement of Adem Balić dated 25 June 1997), p. 2 (stating that the SDS began to distribute JNA uniforms and mobilisation papers to local Serbs about 15 days before the conflict).

⁷⁰⁶⁴ D1074 (Correspondence from Hadžići Police Station to Sarajevo CSB, 9 August 1992), p. 2.

2080. Immediately after the proclamation session, the Hadžići Crisis Staff was established as the highest organ of authority for the Serb municipality, taking over the functions of the Serb Municipal Assembly.⁷⁰⁶⁵ The members of the Hadžići Crisis Staff included the President of the Serb Municipality, the president of the Executive Board of the Serb Municipality, one member of the military, representatives of the management of the TRZ, and the Chief of the Serb police.⁷⁰⁶⁶ The first task of the Crisis Staff was to “organise the defence of the Serb territory of Hadžići and to take care of, feed and organise the citizens as much as war circumstances allow”.⁷⁰⁶⁷ The Crisis Staff authorised security actions, which were then carried out by the military and/or the police.⁷⁰⁶⁸

(3) Continued militarisation of Hadžići

2081. From about 10 April, the co-operation between the SDS and the JNA commanders at the barracks located throughout Hadžići became more overt,⁷⁰⁶⁹ and reserve units from Serbia and Montenegro began to arrive in the municipality to be deployed at the TRZ.⁷⁰⁷⁰ Military preparations also began in the Serb-majority villages of Bare and Miševići.⁷⁰⁷¹

⁷⁰⁶⁵ P2306 (Report on the work of the Hadžići Municipal Assembly in 1992), p. 1; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 23, 26, 61; Nevenko Samouković, T. 34602 (1 March 2013); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 42. *See also* Tihomir Glavaš, T. 11780–11781 (14 February 2011); D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 12.

⁷⁰⁶⁶ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 23; Tihomir Glavaš, T. 11780 (14 February 2011); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 43. *See also* D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 14; Nevenko Samouković, T. 34616 (1 March 2013). Although as Chief of the police station, Glavaš was technically a member of the Crisis Staff, he rarely attended the meetings and sent the commander of the police station, Brane Mijatović, as a representative to report back to him on the topics covered. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 23, 61; Tihomir Glavaš, T. 11782 (14 February 2011).

⁷⁰⁶⁷ P2306 (Report on the work of the Hadžići Municipal Assembly in 1992), p. 1; D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 13. The Serb Municipal Assembly did not convene again until approximately July 1992. Nevenko Samouković, T. 34621 (1 March 2013). *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 43. The Crisis Staff met every morning in a conference room in the Hadžići Municipal Assembly building. Tihomir Glavaš, T. 11781 (14 February 2011); P2301 (Photograph of Hadžići municipal building marked by Tihomir Glavaš).

⁷⁰⁶⁸ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 61. Because Radić was both President of the municipality as well as President of the Crisis Staff, all units in the territory of Hadžići—including those stationed at the TRZ—as well as the regular and reserve police units were under the control of the Crisis Staff. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 24. Glavaš explained that the Crisis Staff obtained intelligence that was of interest for both the security service and the military; depending on the content of the information, decisions related to “domestic issues and the rear of the territory” would be taken by the Chief of the SJB or otherwise by the army. Tihomir Glavaš, T. 11782–11783 (14 February 2011).

⁷⁰⁶⁹ *See* Adjudicated Fact 2562.

⁷⁰⁷⁰ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), pp. 5–6.

⁷⁰⁷¹ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3; D1087 (Map of Hadžići municipality marked by Tihomir Glavaš) (showing Miševići located at the northernmost tip of the Hadžići municipality). *See also* D313 (Excerpt from Igman Brigade’s analysis of rocket units, undated), p. 1 (stating that in April 1992 the VRS Igman Brigade formed two howitzer batteries with 122mm and 155mm guns and its first fire-support groups); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 22 (referring to Serb defence lines being established in the areas of Kasatići, Tinovo Hill, and in the direction of the TRZ).

2082. Also in April 1992, Serb soldiers began to capture and occupy significant buildings and positions in the town of Hadžići.⁷⁰⁷² During the proclamation session,⁷⁰⁷³ an anti-aircraft artillery weapon was positioned outside of the Culture and Sport Centre and was manned by members of the Serb TO.⁷⁰⁷⁴ Thereafter, the Serb police began arresting “Muslim terrorists” who were transporting arms.⁷⁰⁷⁵

2083. Between the morning of 16 April and the afternoon of 17 April, approximately 2,200 people reported to the SRBiH TO in Hadžići, which had been mobilised during the preceding days after fighting broke out in Zvornik and Bijeljina.⁷⁰⁷⁶ Most of those who reported were non-Serbs,⁷⁰⁷⁷ thereby rendering the SRBiH TO a *de facto* Bosnian Muslim organ. Because the Bosnian Muslim TO lacked arms, however, the leadership sent the men home, telling them that they would be invited to report again later.⁷⁰⁷⁸

(C) Take-over

(1) Hadžići town

2084. On 7 May 1992, a group of armed Serb reservists and policemen took over the municipal building in Hadžići and expelled all the workers.⁷⁰⁷⁹ The building was then locked and guarded.⁷⁰⁸⁰ On the following day, “small hostilities” broke out between the Bosnian Serb and Bosnian Muslim police.⁷⁰⁸¹ After negotiations between the SDS and SDA, the Serbs took control of the health centre next to the municipal building and took positions in the hills.⁷⁰⁸² At about 3 p.m., “key persons and parties of the Municipality” on both sides met to discuss the security situation.⁷⁰⁸³ Radić concluded the meeting by stating that if they did not “finish this work, the others would

⁷⁰⁷² P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6. *See also* Adjudicated Fact 2562.

⁷⁰⁷³ *See* para. 2071.

⁷⁰⁷⁴ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 3. At the initial Assembly meeting, Ratko Radić had stressed that it was important for the Serb TO and the army to act together in order to protect the Serb population from “all possible attacks”. P2297 (Minutes of meeting of Hadžići Municipal Assembly, 11 April 1992), p. 2.

⁷⁰⁷⁵ D1067 (SRNA news report, 20 April 1992), p. 1. *See also* D2919 (Report of ABiH 9th Mountain Brigade, 5 January 1993) (stating that before the war a truck carrying 280 Kalashnikov rifles had been diverted to Ljubovčići in order to avoid interception by “Serbian extremists” and that these rifles were later distributed by the SDA in various villages including Pazarić, Tarčin, and Hadžići).

⁷⁰⁷⁶ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6.

⁷⁰⁷⁷ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6.

⁷⁰⁷⁸ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6.

⁷⁰⁷⁹ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4; *see* Adjudicated Fact 2564.

⁷⁰⁸⁰ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4.

⁷⁰⁸¹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 3. According to Vidimir Banduka, on 8 May 1992, Bosnian Muslim forces put up a blockade in front of the entrance to the TRZ. D2915 (Witness statement of Vidimir Banduka dated 9 February 2013), paras. 45, 71.

⁷⁰⁸² P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 3.

⁷⁰⁸³ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6.

come” and they “would have blood [...] deep up to the knees”.⁷⁰⁸⁴ Approximately 30 minutes later, the police station came under artillery attack.⁷⁰⁸⁵

2085. Meanwhile, the SDS had issued an order demanding that the Muslim members of the police, TO Headquarters, and other municipal authorities leave Hadžići by 6 p.m. on 8 May.⁷⁰⁸⁶ The SDS provided residents with a map and indicated that they should leave in the direction of Pazarić.⁷⁰⁸⁷ That night, between roughly 2,000 and 3,000 Muslim and Croat men, women, and children withdrew from Hadžići town, leaving only 200 or 300 behind.⁷⁰⁸⁸ By 9 May, the Serbs had taken control of parts of the municipality of Hadžići and had encircled the TRZ.⁷⁰⁸⁹

2086. Over the following few days, Serb reservists began setting up check-points around Hadžići town, thereby restricting residents’ movements.⁷⁰⁹⁰ Serb women and children were put on buses headed toward Montenegro,⁷⁰⁹¹ and the Serb Forces began to arrest, expel, or kill people who remained in the municipality.⁷⁰⁹² The Serb police went around to homes, instructing people to stay inside.⁷⁰⁹³ Police officers were placed in front of buildings in Hadžići, thus preventing any movement by the residents.⁷⁰⁹⁴ Many houses were searched.⁷⁰⁹⁵

2087. Between 10 and 12 May 1992, Serb Forces and the Bosnian Muslim TO engaged in a “heavy exchange of fire” in Hadžići.⁷⁰⁹⁶ By 12 May, Serb Forces in the Krupačka Rijeka area, near

⁷⁰⁸⁴ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6.

⁷⁰⁸⁵ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6. *See also* P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4; Adjudicated Fact 2566.

⁷⁰⁸⁶ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6. *See also* Adjudicated Facts 2565, 2570.

⁷⁰⁸⁷ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 6; D1087 (Map of Hadžići municipality marked by Tihomir Glavaš).

⁷⁰⁸⁸ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 7 (further testifying that according to official records, 186 of those people were later listed as missing). *See also* Adjudicated Fact 2567; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 46. Bosnian Muslim forces set up a check-point near the quarry on the road to Pazarić just outside town, which became and remained the frontline until the end of the war. P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 7.

⁷⁰⁸⁹ P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 7; P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), p. 269. *See also* Adjudicated Fact 2566.

⁷⁰⁹⁰ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4. *See also* Adjudicated Fact 2568.

⁷⁰⁹¹ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4. *See also* Adjudicated Fact 2567.

⁷⁰⁹² P41 (Witness statement of Ramiz Dupovac dated 16 January 1998), p. 7. The Chamber notes these killings are not charged pursuant to either Schedule A or Schedule B of the Indictment. *See* fn. 13.

⁷⁰⁹³ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4; P161 (Adem Balić’s statement to BiH authorities dated 7 February 1993), p. 1.

⁷⁰⁹⁴ P161 (Adem Balić’s statement to BiH authorities dated 7 February 1993), p. 1.

⁷⁰⁹⁵ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 4; P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), p. 1; P161 (Adem Balić’s statement to BiH authorities dated 7 February 1993), p. 1.

⁷⁰⁹⁶ D1073 (SerBiH MUP report on daily activities, 12 May 1992), p. 1. At the break of dawn on 11 May, Bosnian Muslim forces attacked locations in Hadžići town, including the Serb police station. D2921 (RS MUP information, 11 May 1992), p. 1; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), paras.

Tinovo Hill, and the JNA complex at Žunovnica were all surrounded by Bosnian Muslim forces; however, the Serb Forces maintained control over the situation and the area.⁷⁰⁹⁷ Fighting in and around Hadžići town continued throughout May and into June 1992.⁷⁰⁹⁸

(2) Attacks against surrounding villages

2088. Meanwhile, villages surrounding Hadžići had also come under attack. On 7 or 8 May 1992, using weapons stationed in front of the Culture and Sport Centre, Serb Forces opened fire on the village of Kovačevići.⁷⁰⁹⁹ On 8 May 1992, some Kovačevići residents were killed by a Serbian paramilitary group.⁷¹⁰⁰ During the following two days, a peace commission was set up to calm the situation.⁷¹⁰¹ The Serb Forces took control of Kovačevići on 11 May 1992.⁷¹⁰²

2089. After the attack on Kovačevići, the residents of Musići, a Muslim settlement within the Serb village of Ušivak,⁷¹⁰³ came under fire from the Serb Forces.⁷¹⁰⁴ On 8 May 1992, tanks approached

46, 47. See also P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court pp. 3–4; D2491 (Report of Tarčin police station, 6 August 1992), p. 5; Vidimir Banduka, T 33531, 33529 (13 February 2013). Small arms fire continued after the shelling. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 4.

⁷⁰⁹⁷ D1073 (SerBiH MUP report on daily activities, 12 May 1992), p. 1; P2790 (SerBiH MUP daily report, 12 May 1992), p. 1. On 25 May 1992, Bosnian Muslim forces attacked the Serb-held Žunovnica complex and took control of over half of the storage premises, but Serb Forces had regained control by the following evening. D317 (TO Hadžići report on combat readiness, 29 May 1992), p. 1; P133 (Witness statement of Matija Bošković dated 20 November 2003), p. 8. See also D1211 (Ilidža Crisis Staff letter, 13 May 1992) (suggesting that the Muslim forces were intent on taking over the TRZ).

⁷⁰⁹⁸ D2915 (Witness statement of Vidimir Banduka dated 9 February 2013), paras. 49–51; Vidimir Banduka, T 33531 (13 February 2013). See also D1212 (Intercept of conversation between Nedeljko Prstojević and Milosav Gagović, 13 May 1992), p. 2; Mladen Tolj, T. 34649 (1 March 2013). Hadžići continued to come under heavy fire from the ABiH throughout the remainder of 1992 and into early 1993. D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 17; D2453 (Report of Igman Brigade, 2 October 1992); D2454 (Report of Igman Brigade, 24 September 1992); D2456 (Report of Igman Brigade, 8 December 1992); D2457 (Report of Igman Brigade, 7 December 1992); D2458 (Report of Igman Brigade, 6 December 1992); D2459 (Report of Igman Brigade, 4 December 1992); D2460 (Report of Igman Brigade, 27 November 1992); D2461 (Report of Igman Brigade, 23 November 1992); D2462 (Report of Igman Brigade, 21 November 1992); D2463 (Report of Igman Brigade, 18 November 1992); D2468 (Report of Igman Brigade, 22 December 1992); P4228 (UNPROFOR report re meeting with Radovan Karadžić and Alija Izetbegović, 16 February 1993), para. 6.

⁷⁰⁹⁹ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4. The firing only lasted for the day, but the situation was very tense afterwards. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4. The Serb village of Bare began shooting with rifles as well as light and heavy machine guns at the nearby Muslim village of Grivići. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 3. See also P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 67 (recalling a weapons seizing operation which occurred in Grivići).

⁷¹⁰⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 19; Mehmed Musić, T. 12831 (3 March 2011). The Chamber notes these killings are not charged pursuant to either Schedule A or B of the Indictment. See fn. 13.

⁷¹⁰¹ P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4.

⁷¹⁰² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 21.

⁷¹⁰³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 6–7; P2405 (Map of Hadžići marked by Mehmed Musić) (showing Musići at Point 1).

⁷¹⁰⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 19, 21. The Serb police were “[one] hundred percent certain” that the residents of Musići settlement had illegal weapons. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 33, 34, 39. See also P2403 (Witness statement of

Musići from Tinovo Hill.⁷¹⁰⁵ Realising that they would not be able to “offer resistance to the Chetniks”, the residents of Musići organised buses and had already begun taking the women and children out of Musići between 7 and 9 May.⁷¹⁰⁶

2090. Around 15 May, Serb Forces shelled houses and other buildings in Musići from positions located in Ušivak.⁷¹⁰⁷ After about two days, two Bosnian Serbs came to Musići and called on the residents to surrender.⁷¹⁰⁸ They refused, so the shelling resumed that evening and continued for three days.⁷¹⁰⁹

2091. On 20 May, pursuant to a decision of the Crisis Staff,⁷¹¹⁰ approximately 50 to 60 members of the Serb Forces entered Musići from all sides, supported by two Praga tanks.⁷¹¹¹ The Serb Forces announced through a loudspeaker that all weapons should be handed over.⁷¹¹² The soldiers then went from house to house to conduct searches and seize weapons.⁷¹¹³

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- Mehmed Musić dated 28 February 2011), paras. 15, 25; Mehmed Musić, T. 12830–12831, 12847 (3 March 2011). Glavaš acknowledged that the Serb police was aware that some people had permits allowing them to keep weapons, but suggested that the Serb police still sought out the owners of such weapons because they were being used illegally. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 67.
- ⁷¹⁰⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 20.
- ⁷¹⁰⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 18.
- ⁷¹⁰⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 23–24. *See also* Adjudicated Fact 2569.
- ⁷¹⁰⁸ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 22, 25, 27 (stating that Boro Đukanović told the residents: ‘This is Serb land. You have nothing to look for here’ and that Dragan Pušara threatened to burn down the settlement if they did not surrender). The Musići residents had already been asked to surrender their weapons at the end of April, but they had refused. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 15. *See also* P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 4; Tihomir Glavaš, T. 11787 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 35.
- ⁷¹⁰⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 22, 26–27, 29–30.
- ⁷¹¹⁰ Tihomir Glavaš, T. 11787 (14 February 2011). *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 66.
- ⁷¹¹¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 31, 33, 36, 39, 40. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 37–38, 61. Glavaš himself was not present during the events in Musići but was informed of the events afterwards. Tihomir Glavaš, T. 11787 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 37, 62, 65.
- ⁷¹¹² P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 37, 68. Glavaš testified that when the SJB received information that a settlement was in possession of illegal weapons, the SJB would go to the settlement in an official vehicle and would inform the population over the loudspeakers that they were to hand over weapons in a certain location. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 35.
- ⁷¹¹³ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 68. The Serbs seized illegally owned weapons, including approximately 20 or 30 M-48 rifles, explosives, and machine guns, from the settlement and took them to the police station. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 37, 40–41, 43. The weapons were then distributed to either the Serb police or the military pursuant to a decision of the Crisis Staff. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 40–41; Tihomir Glavaš, T. 11787–11788 (14 February 2011).

2092. Mehmed Musić was arrested in his home by two members of the Serb MP and was taken along with 14 other men from Musići to Alija Musić's house,⁷¹¹⁴ where he saw three dead bodies.⁷¹¹⁵ Dragan Pušara sent a man to fetch the Musići residents who were still hiding, threatening to kill all of the 14 men if those in hiding refused to surrender.⁷¹¹⁶

2093. Eventually, the Serb soldiers led the 14 men away to the primary school in Hadžići,⁷¹¹⁷ which was guarded by men wearing olive-grey uniforms.⁷¹¹⁸ Once the men had arrived inside a classroom on the first floor, the guards threatened to kill them and began to curse at them, stating, "there would be no balija state soon".⁷¹¹⁹ The guards spat on the detainees and told them that they were finished.⁷¹²⁰ After approximately 30 minutes, the detainees were taken out of the school and marched to the garage of the Municipal Assembly building, which was located approximately 150 metres away.⁷¹²¹

(D) Detention facilities in Hadžići

2094. In the meantime, the Hadžići Crisis Staff had decided to arrest and detain all Bosnian Muslim men of military age from areas in the municipality such as Binježevo, Žunovnica, and Kučice.⁷¹²² According to Tihomir Glavaš, this decision was taken because the Serbs had

⁷¹¹⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 36, 38.

⁷¹¹⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 38 (identifying the dead as Alija, Derviš, and Fadil Musić). *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 37, 62 (stating that three Bosnian Muslims were killed during the 20 May 1992 incident in Musići). The Chamber notes these killings are not charged pursuant to either Schedule A or B of the Indictment. *See fn.* 13.

⁷¹¹⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 38. Rade Veselinović also suggested "liquidat[ing]" all 14 of the men lined up outside of Alija Musić's house, but Pušara opposed that. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 38, 40 (describing Veselinović as singing "Chetnik" songs). *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 36, 44 (stating that Veselinović, who was a member of the reserve police before moving to the military police, was often tasked with disarmament operations and that he took part in the operation in Musići).

⁷¹¹⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 41. According to Tihomir Glavaš, the men were arrested because long-barrelled weapons were found on them. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 45.

⁷¹¹⁸ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 42. The school was closed so the detainees were told to climb through a window and go up to a classroom on the first floor. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 42.

⁷¹¹⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 42. The guards appeared to Musić to be in some kind of hurry or panic. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 43.

⁷¹²⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 43.

⁷¹²¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 44. *See also* Adjudicated Fact 2611; paras. 2095–2100.

⁷¹²² Tihomir Glavaš, T. 11784 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 26. The Chamber notes the testimony of Nevenko Samouković, who stated that, as far as he knew, "no one in the territory of Hadžići municipality made a decision to designate certain facilities as camps for detaining Muslims". Nevenko Samouković, T. 34614, 34624 (1 March 2013). Samouković also stated that this was consistent with a report from the Serb police in Hadžići dated 9 August 1992, which asserted that "in the area of Hadžići municipality, we do not have collection camps used by the army to bring in the Muslim population without documents on the reasons for detention". D1074 (Correspondence from Hadžići Police

information that Muslims were arresting military-aged Serbs and were preparing to attack;⁷¹²³ the Serbs also claimed to be arresting Bosnian Muslims for possession of illegal weapons.⁷¹²⁴ The arrests were carried out by the Serb police and the Serb TO.⁷¹²⁵

(1) Scheduled Detention Facility C.11.1

2095. The Indictment refers to the use of the garage of the Hadžići Municipal Assembly Building as a detention facility from 20 May 1992 until at least June 1992.

2096. After the Hadžići SJB building was shelled around 10 May,⁷¹²⁶ the Serb police moved into the Hadžići Municipal Assembly Building.⁷¹²⁷ From 12 May until 1 June, Bosnian Muslims were arrested and held in the garage under the building “for interrogation”.⁷¹²⁸

Station to Sarajevo CSB, 9 August 1992), p. 5. However, the Chamber observes that Samouković qualified his own testimony by referring to the extent of his own knowledge, which was itself questionable, and that he acknowledged that both the Culture and Sport Centre and the garage of the Municipal Building had been used to house “the remaining Muslim population” and as a holding centre, respectively. D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), paras. 17, 22. The Chamber further notes that the correspondence from the Hadžići Serb police pertained to the situation in August 1992, several months after the arrests and detentions in Hadžići began. The Chamber therefore shall not place weight on either Samouković’s testimony or D1074 in relation to whether there was a decision to arrest and detain Bosnian Muslim men.

⁷¹²³ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 26.

⁷¹²⁴ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 45; Tihomir Glavaš, T. 11784 (14 February 2011). See also D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 14 (suggesting that the records of detention reflected *bona fide* reasons for taking each person into custody). According to Tolj, the prevailing security conditions in Hadžići precluded compliance with the requirement that civilians be brought before an investigative judge within three days of their detention. Mladen Tolj, T. 34647 (1 March 2013). See also para. 305, fn. 935; D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 58 (stating that the Law on Criminal Procedure prevented anyone from being held for more than a month). According to Banduka, if there was a need to hold someone for a period that exceeded the three days prescribed by law, they were transferred to Kula prison. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 58; Vidomir Banduka, T. 33520 (12 February 2013). Banduka also noted that the transport to Kula Prison would have required permission to transit through the airport, which was held at the time by international forces and thus would have required their consent. Vidomir Banduka, T. 33520–33521 (12 February 2013).

⁷¹²⁵ Tihomir Glavaš, T. 11784 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 47 (stating that he as Chief of the Serb police was aware that the Serb TO and the Serb police were taking people out of their homes). Defence witnesses Nevenko Samouković and Vidomir Banduka suggested that Bosnian Muslims had gone voluntarily to the collection centres but when presented with the testimonies of Mehmed Musić, Adem Balić, and Tihomir Glavaš, all of whom acknowledged that the Serb police and Serb TO had taken people from their houses, Banduka admitted that he was not in a position to answer whether they were taken voluntarily or not, while Samouković speculated that the police “probably had some operative intelligence” or that the arrests had been the result of incompetence or abuses of power. Nevenko Samouković, T. 34613–34614 (1 March 2013); Vidomir Banduka, T. 33512–33513 (12 February 2013). The Chamber thus considers the evidence of Samouković and Banduka to be speculative and shall not rely upon it relation to whether Bosnian Muslims were taken “voluntarily” to detention centres.

⁷¹²⁶ See para. 2084, fn. 7096.

⁷¹²⁷ D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 57; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 45; P2406 (Photograph of Hadžići municipal building); P2301 (Photograph of Hadžići municipal building marked by Tihomir Glavaš); Tihomir Glavaš, T. 11789–11790 (14 February 2011).

⁷¹²⁸ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 4. P2300 (Photograph of garage underneath Hadžići municipal building); Tihomir Glavaš, T. 11784, 11788–11789 (14 February 2011); P2403

2097. When the 14 men from Musići arrived on 20 May, one Croat and one Muslim prisoner were already inside the garage.⁷¹²⁹ Mehmed Musić spent six days in the garage with about 47 other men.⁷¹³⁰ The detainees were only fed one slice of bread once or twice a day, as well as some watery soup, and were given only one or two bottles of water for the entire group.⁷¹³¹

2098. One by one, each detainee was called out and taken up into the Hadžići Municipal Assembly Building to be interrogated by members of the Serb Forces about the supply of weapons to Bosnian Muslims.⁷¹³² On their third day in the garage, the group of men from Musići were taken to the weapons storage facility in Žunovnica to load ammunition.⁷¹³³

2099. On 25 May 1992, all but three of the men from Musići were moved to the Culture and Sport Centre.⁷¹³⁴ The other detainees remained behind in the Municipal Assembly Building garage until 22 June,⁷¹³⁵ when they were transferred to the “Slaviša Čiča” Barracks in Lukavica.⁷¹³⁶

(Witness statement of Mehmed Musić dated 28 February 2011), paras. 47, 51–52. *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 57; Vidomir Banduka, T. 33538–33539 (13 February 2013) (stating that the detainees in the garage included Serbs and that all had been brought into custody for having committed crimes).

⁷¹²⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 46. *See also* Mladen Tolj, T. 34633 (1 March 2013).

⁷¹³⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 48; Mladen Tolj, T. 34634–34635 (1 March 2013). *See also* Adjudicated Fact 2611; Tihomir Glavaš, T. 11793 (14 February 2011) (estimating that 30 people, mostly from Muslić, Visasoci, Binježevo, and Kučiste were detained in the garage).

⁷¹³¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 48; Mehmed Musić, T. 12838 (3 March 2011). Mladen Tolj testified that “until 1994 there was no water in Hadžići”. Mladen Tolj, T. 34652 (1 March 2013); D3064 (Report of Hadžići Secretariat for Housing, Public Utilities, Transport and Communications, 1 December 1992), p. 3 (stating that after the outbreak of the war, the Serb municipality of Hadžići was affected by a water supply outage, forcing the use of an improvised pipeline to reroute the well located at the TRZ, which enabled the water supply to the immediate centre of Hadžići to be re-established; however, other parts were supplied via water from cisterns); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 64 (stating that because the water supplies were in territory held by Bosnian Muslims, the water supply was cut at the beginning of the war).

⁷¹³² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 47.

⁷¹³³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 49; Mehmed Musić, T. 12834 (3 March 2011); P2405 (Map of Hadžići marked by Mehmed Musić) (showing Žunovnica at Point 3).

⁷¹³⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 51–52. *See also* D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 13; Mladen Tolj, T. 34635–34636 (1 March 2013) (stating that people on whom no weapons were found were taken to the Culture and Sport Centre). *See* para. 2102.

⁷¹³⁵ Tihomir Glavaš estimated that by mid-June, approximately 30 Bosnian Muslims were being held in the garage of the Municipal Assembly Building. Tihomir Glavaš, T. 11793 (14 February 2011) (referring to the number of people being held when he prevented the White Eagles from entering the garage). *See also* fn. 7158.

⁷¹³⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 65. *See also* Scheduled Detention Facility C.18.1. The detainees from the garage smelled badly and told Musić that they had spent 33 days in the garage without being able to bathe. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 66; Mehmed Musić, T. 12838 (3 March 2011). *See also* P161 (Adem Balić’s statement to BiH authorities dated 7 February 1993), p. 1. Around 25 June 1992, a woman and her sister were moved to the garage of the Municipal Assembly Building from the Hadžići civil defence headquarters. Adjudicated Fact 2613. The Chamber further notes that in early June, Arkan’s men also removed a man from the Culture and Sport Centre and took him to the garage of the Municipal Assembly Building, where he was detained for 40 days. P161 (Adem Balić’s statement to BiH authorities dated 7 February 1993), p. 1. The Chamber therefore concludes that

2100. Based on the above, the Chamber finds that between 20 May and at least late June 1992, approximately 50 Bosnian Muslims, some of whom were civilians and two of whom were women, were detained in the garage under the Hadžići Municipal Assembly Building by members of Serb Forces and that while held there, the detainees were given inadequate food and water and on one occasion were forced to work.

(2) Scheduled Detention Facility C.11.2

2101. The Indictment refers to the use of the Hadžići Culture and Sport Centre as a detention facility from at least 25 May until September 1992.

(a) Establishment and control of detention facility

2102. Sometime prior to 25 May 1992,⁷¹³⁷ the Crisis Staff decided to detain military-aged Bosnian Muslims in the Culture and Sport Centre and to place the facility under military control.⁷¹³⁸ As mentioned above,⁷¹³⁹ on 25 May 1992, 12 men from Musići were moved from the garage of the Municipal Assembly Building to the Culture and Sport Centre.⁷¹⁴⁰ By that time, about 60 men—as

people continued to be detained in the garage even after the group of men was transferred to the “Slaviša Čiča” Barracks in Lukavica on 22 June 1992.

⁷¹³⁷ The Chamber notes that Vidomir Banduka testified that the Crisis Staff only decided that the Culture and Sport Centre would be used as a “holding centre to accommodate people” after approximately 16 June 1992. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), paras. 53–54. However, Banduka conceded that he never visited the Culture and Sport Centre. Vidomir Banduka, T. 33510 (12 February 2013). The Chamber therefore considers that, even if taken as true, Banduka’s testimony does not preclude the possibility that the decision to use the Culture and Sport Centre to accommodate Bosnian Muslims was taken earlier than 16 June 1992, and recalls that Adem Balić testified that Serb Forces had taken him from his home in Hadžići to the Culture and Sport Centre already on 16 May 1992. P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4; P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 1. The Chamber is therefore satisfied that the detention facility at the Culture and Sport Centre was established prior to 25 May 1992.

⁷¹³⁸ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 26, 46, 48; Tihomir Glavaš, T. 11784 (14 February 2011). *See also* Adjudicated Fact 2615. The Chamber notes that Vidomir Banduka and Mladen Tolj both testified that Muslims had *chosen* to be accommodated in the Culture and Sport Centre. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 56; D3063 (Witness statement of Mladen Tolj dated 25 February 2013), paras. 9, 13. When presented with his testimony in the *Krajišnik* case, wherein he had conceded that Bosnian Muslims had been held against their will but stated that such detention “was for their own protection”, Banduka denied that he had so testified and suggested that his testimony had been misinterpreted. Vidomir Banduka, T. 33516 (12 February 2013); P6110 (Excerpt from Vidomir Banduka’s testimony in *Prosecutor v. Krajišnik*), p. 3. Having reviewed his prior testimony, the Chamber is of the view that the credibility of Banduka’s testimony in this case on this point is undermined. The Chamber also observes that Tolj conceded that “very few went voluntarily”, stating that “[m]ost were brought there and kept with the best of intentions because that’s where it was the safest for them”. Mladen Tolj, T. 34636–34637 (1 March 2013). The Chamber further notes that Banduka admitted that the guards would have had to give prior approval in order for anyone to leave. Vidomir Banduka, T. 33514–33515 (12 February 2013). The Chamber therefore finds that the people in the Culture and Sport Centre were indeed detained and not accommodated pursuant to mutual agreement. *See further* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 46, 49 (stating that people were “brought in [...] for their safety” and that men were detained because the Serbs needed people for exchange) (emphasis added).

⁷¹³⁹ Scheduled Detention Facility. C.11.2.

⁷¹⁴⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 51–52; P2404 (Photograph of Hadžići Culture and Sport Centre); P2299 (Photograph of Hadžići Culture and Sport Centre).

well as a woman⁷¹⁴¹—were already being detained in two locker rooms of the Culture and Sport Centre.⁷¹⁴² The facility was first guarded by members of the Serb TO,⁷¹⁴³ although the Serb police began to provide security along with members of the military after approximately August 1992.⁷¹⁴⁴

(b) Conditions of detention and treatment of detainees

2103. Since the men from Musići could not fit in the locker rooms, they were taken to the main gym area, where they slept on the floor without blankets.⁷¹⁴⁵ The detainees were fed one slice of bread each day and some rice or soup in the morning and afternoon.⁷¹⁴⁶ Only two toilets were available to the detainees.⁷¹⁴⁷

2104. While in detention in the Culture and Sport Centre, the detainees were often beaten and sexually abused by members of paramilitary units.⁷¹⁴⁸ On or before 25 May,⁷¹⁴⁹ three of Arkan's

⁷¹⁴¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 55. *See also* Adjudicated Fact 2614.

⁷¹⁴² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 56; P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1.

⁷¹⁴³ The members of the TO who served as guards included Trifko Ignjatović, Rade Milović, Momo Vujović, Simo Kuzman, Marinko Djokić, Keko Krajišnik, and Radovan Duka. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 54; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 50; Tihomir Glavaš, T. 11785 (14 February 2011). Momo Vujović and, occasionally, Sretan Krajišnik (a.k.a. Kekan) were in charge of the facility. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 54.

⁷¹⁴⁴ Mladen Tolj, T. 34637, 34639–34640, 34561 (1 March 2013); D1074 (Correspondence from Hadžići Police Station to Sarajevo CSB, 9 August 1992), p. 2 (stating that between April and July 1992, police officers of the Serb police were “included in all combat activities” but since 1 August 1992 had returned from the frontlines and were put back on regular MUP activities). Tihomir Glavaš denied that the Culture and Sport Centre was under the control of the Serb police. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 48, 50, 51 (suggesting that the Culture and Sport Centre was under military control). However, the Chamber also observes that Glavaš himself qualified his evidence in this regard, stating, “at least for as long as I was in Hadžići”, and conceded that he never personally visited the Culture and Sport Centre. Tihomir Glavaš, T. 11785 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 53. The Chamber further notes that Glavaš testified that by 9 August 1992 he had already been transferred to Iliđa. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 82. The Chamber is therefore of the view that Glavaš's personal knowledge would therefore necessarily be limited and considers that Glavaš's testimony does not conflict with further evidence indicating that the Serb police were involved in the guarding and organisation of the detention facility at the Culture and Sport Centre from August 1992. *See also* P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court p. 7 (stating that organisation and security were being provided by the Hadžići SJB).

⁷¹⁴⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 56.

⁷¹⁴⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 56. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 64 (testifying that at the beginning of their detention, detainees were fed the same as the Serbs but that they were then fed poorly after it was discovered that Serbs were being mistreated in Tarčin and Pazarić); P804 (Sky news report re Kula prison, with transcript), 1:20–1:47.

⁷¹⁴⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 56.

⁷¹⁴⁸ *See* Adjudicated Fact 2616. *See also* P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 57; P804 (SKY news report re Kula prison, with transcript), 1:20–1:47.

⁷¹⁴⁹ Adem Balić estimated that Arkan's men arrived “around 1 June 1992”. P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1. However, Mehmed Musić was told that Arkan's men had been present at the Culture and Sport Centre on 25 May 1992 before he arrived from the Municipal Assembly Building garage. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 63. In light of Musić's

men, who were dressed in black uniforms, arrived and beat and humiliated the prisoners.⁷¹⁵⁰ On approximately 15 June, Šešelj's men arrived at the Culture and Sport Centre.⁷¹⁵¹ The men wore gloves with the fingertips cut off, painted their faces black, wore camouflage uniforms, and carried big knives.⁷¹⁵² A woman with dyed blond hair named Ljiljia who was with Šešelj's men removed one man's pants and told another man to "suck the first man's sexual organ".⁷¹⁵³ She then removed her own pants and told the second man to lick her buttocks, threatening to slit the men's throats if they did not comply.⁷¹⁵⁴

2105. Šešelj's men singled out certain detainees and beat them severely,⁷¹⁵⁵ while forcing other detainees to fight each other.⁷¹⁵⁶ These beatings took place in the presence of the Serb TO guards.⁷¹⁵⁷ Later that day, when ten or fifteen people from Žunovnica arrived, Šešelj's men forced

further testimony that the second group of paramilitaries arrived on the second day of Bajram, which was 12 June 1992, Balić's testimony that the second group arrived 15 days after the first, and the fact that Musić had not yet been transferred when Arkan's men first arrived, the Chamber concludes that Arkan's men came to the Sport and Culture Centre on or before 25 May, and considers that this is not inconsistent with Balić's estimate of this date.

⁷¹⁵⁰ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1; P134 (Witness statement of Adem Balić dated 25 June 1997), p. 4 (stating that the guards revealed that the men were Arkan's men). *See also* D3063 (Witness statement of Mladen Tolj dated 25 February 2013), paras. 9–10. Arkan's men also removed a man from the Culture and Sport Centre and took him to the garage of the Municipal Assembly Building. *See fn.* 7136.

⁷¹⁵¹ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1. Mehmed Musić referred to this second group as Arkan's men, stating that one of the men had identified himself and the group as such. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 57. However, Musić also testified that this group arrived on the second day of Bajram, which was 12 June 1992. Mehmed Musić, T. 12833, 12866 (3 March 2011). Adem Balić identified the group that arrived 15 days after Arkan's men, which would have been around 12 June, as Šešelj's men. P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1. This identification is corroborated by the testimony of Tihomir Glavaš, who testified that he heard that Šešelj's men had sexually abused the detainees in the Culture and Sport Centre. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 53–54. The Chamber therefore concludes that the paramilitaries in the second group were Šešelj's men rather than Arkan's men.

⁷¹⁵² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 57.

⁷¹⁵³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 58 (stating that he could identify her because she had taught his daughters at the technical school in Ilidža); P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 54; P804 (Sky news report re Kula prison, with transcript), 1:20–1:47. Musić explained that he had not mentioned this event in past statements because he did not want to embarrass these men, but did so once they passed away. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 59; Mehmed Musić, T. 12867 (3 March 2011).

⁷¹⁵⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 58–59.

⁷¹⁵⁵ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), pp. 1–2. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 54. Even in February 1993, Balić could still feel pain in his left kidney area from this beating. P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 1. Balić's brother was beaten with a flagpole and sustained a broken arm and leg. P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2. *See also* P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 59–60 (recalling how after sexually abusing two men, Ljiljia then began to jump on a 70 year old man, causing him to cry).

⁷¹⁵⁶ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), pp. 1–2; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 60–62.

⁷¹⁵⁷ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), pp. 1–2.

one of the arrivals to run around the Culture and Sport Centre and swear at the detainees' "balija mother".⁷¹⁵⁸

(c) Transfer and exchange of detainees at the Culture and Sport Centre

2106. By 22 June, 282 people had been detained in the Hadžići Culture and Sport Centre.⁷¹⁵⁹ On approximately 22 June 1992, "a rather large group" of men, women, and children from Kučice, a settlement located nearby, arrived at the Culture and Sport Centre.⁷¹⁶⁰ Soon thereafter, the guards told the detainees that they were going to be exchanged.⁷¹⁶¹ Around 10 p.m. that evening, in accordance with a decision of the Crisis Staff,⁷¹⁶² the male detainees in the Culture and Sport Centre were loaded onto several buses.⁷¹⁶³ While en route, one bus stopped first in front of the garage of the Hadžići Municipal Assembly Building,⁷¹⁶⁴ where it picked up detainees before proceeding to Kula Prison.⁷¹⁶⁵ There, "Chetniks" boarded the bus, beat the detainees with rifle butts, and extinguished cigarettes on their faces.⁷¹⁶⁶ Ultimately, the detainees were taken to the Slaviša Vajner Čiča Barracks in Lukavica.⁷¹⁶⁷

⁷¹⁵⁸ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 61. After leaving the Culture and Sport Centre, Šešelj's men tried to go to the Municipal Assembly Building garage and do the same thing to the detainees there, but were prevented from doing so by Tihomir Glavaš. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 53–54; Tihomir Glavaš, T. 11993 (16 February 2011). *See also* D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 55 (testifying that in mid-June 1992, the Crisis Staff was made aware that "a group of hooligans [had] entered the sports hall where the Muslims were held, [and had] abused and physically molested them", and that the Crisis Staff condemned the incident and asked the Chief of Police to increase security at the facility and to "remove all those who might be expected to do something of the kind").

⁷¹⁵⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 64.

⁷¹⁶⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 64; P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2 (stating that the people from Kučice arrived on 20 June); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), e-court pp. 261–262.

⁷¹⁶¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 65. Mehmed Musić testified that the women, children, and three men were allowed to remain behind. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 65.

⁷¹⁶² P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 50; Tihomir Glavaš, T. 11784, 11786 (14 February 2011); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), e-court p. 219. Glavaš explained that this group was exchanged in return for the release of Serbs who were in detention in Tarčin and Pazarić, and that the authorities had been under "enormous pressure" from Serb citizens to facilitate such an exchange. Tihomir Glavaš, T. 11785–11786 (14 February 2011). *See also* Mladen Tolj, T. 34640–34641 (1 March 2013) (referring to a large-scale exchange of prisoners that had been agreed at the level of state organs between the Muslim and Serb sides).

⁷¹⁶³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 65–69; P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2.

⁷¹⁶⁴ *See* para. 2102.

⁷¹⁶⁵ *See* Scheduled Detention Facilities C.18.1, C.18.2.

⁷¹⁶⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 67–69; P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2.

⁷¹⁶⁷ P161 (Adem Balić's statement to BiH authorities dated 7 February 1993), p. 2; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 65–69. *See also* paras. 2276–2278; KDZ088, T. 6315–6316 (7 September 2010) (closed session); Adjudicated Fact 2617.

2107. On the morning of 7 September, approximately 200 Bosnian Muslims from Binježevo, Garovići, Žunovnica, and Grivići—including men women, children, and elderly who had been under “house arrest” in Hadžići since the outbreak of armed conflict⁷¹⁶⁸—boarded five buses, which took them to the check-point at Kobiljača for an exchange.⁷¹⁶⁹ The group remained at the check-point until approximately 8 p.m.,⁷¹⁷⁰ but the exchange fell through when the Serbs brought women and children to the exchange instead of the captured Bosnian Muslim men from Hadžići and Ilidža as had been previously agreed.⁷¹⁷¹

2108. Thus, around 8 p.m., the convoy returned to the Culture and Sport Centre, where the detainees were placed under the guard of TRZ employees.⁷¹⁷² At 9 a.m. on 8 September, the detainees were transported back to the check-point at Kobiljača, but again, no exchange took place.⁷¹⁷³ The convoy, which now numbered eight buses filled with approximately 500 people, returned to the Culture and Sport Centre by 10:30 p.m. that evening.⁷¹⁷⁴ When the detainees

⁷¹⁶⁸ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5 (further stating that Zoran Gašević and a girl nicknamed “Beba”, both of whom were wearing camouflage uniforms, had arrived at his house and given him, his wife, and their children 30 minutes to dress, gather belongings, and meet in front of the kindergarden); P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 113 (stating that his father, brother, and brother’s family had been among this group and had been given 30 minutes to gather their belongings and assemble near the Municipal Assembly Building). *But see* Mladen Tolj, T. 34643, 34649 (1 March 2013) (testifying that in such situations, people already knew in advance that they would be ready, but had only learned their exact departure time 30 minutes beforehand). *See also* Vidomir Banduka, T. 33526 (12 February 2013) (testifying that he thought that all civilians had left the Culture and Sport Centre by August 1992, but later conceding that the centre was used as a “staging area” prior to exchanges of civilians at Kobiljača), T. 33539 (13 February 2013).

⁷¹⁶⁹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5.

⁷¹⁷⁰ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5. Each bus was driven by a policeman, and one police guard was aboard each bus. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5. While at Kobiljača the Bosnian Muslims were not provided with food or water. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5.

⁷¹⁷¹ D1075 (Report of Committee for Exchange of POWS, 21 December 1992), p. 1; P4850 (Witness statement of Amor Mašović dated 23 March 2012), paras. 33–34. *See also* P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 114; Mladen Tolj, T. 34643 (1 March 2013).

⁷¹⁷² P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5; P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), p. 1.

⁷¹⁷³ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5. As a member of the Missing Persons Institute of BiH, Amor Mašović attended the exchange which had been scheduled to take place at Kobiljača on 8 September. P4850 (Witness statement of Amor Mašović dated 23 March 2012), paras. 33–34. After the failed exchange, Mašović, his deputy, and his bus driver were arrested by Serbs and taken first to the Hadžići Culture and Sport Centre, then to the Hadžići Serb police station, and then to spend the night at Brane Mijatović’s house. P4850 (Witness statement of Amor Mašović dated 23 March 2012), paras. 35–37. On the following day, Mašović, his deputy, and the bus driver were taken to Ratko Radić’s office, where Mašović promised Radić that he would organise another exchange once he returned to Sarajevo and said that no one was to blame for the failure of the exchange on the previous day. P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 37. Thereafter, Mašović and the two others were taken to the Red Cross premises in Ilidža and later crossed the confrontation line back into Sarajevo. P4850 (Witness statement of Amor Mašović dated 23 March 2012), paras. 37–38.

⁷¹⁷⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 117; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5. *See also* Adjudicated Fact 2618. The Chamber notes that Okić stated that the extra buses joined the convoy on 7 September rather than on 8 September, but notes that Okić returned to the check-point on the day after the first failed exchange, while Musić, who testified that he was bussed in from Ilidža on 8 September, did not. P2403 (Witness statement of Mehmed Musić dated 28 February

arrived, they were given some food for the children, who at that point had not eaten for two days.⁷¹⁷⁵ Thereafter, the group spent approximately 12 days in the Culture and Sport Centre, receiving food every third day.⁷¹⁷⁶ On about 18 September, the Serb Forces released all the women and children “to go home”, leaving about 100 male detainees out of the original 500.⁷¹⁷⁷

2109. Between 9 and 23 September, detainees at the Culture and Sport Centre were engaged in a work platoon that dug trenches near Oštrik and at a mountain pass above the reservoir in Dupovci.⁷¹⁷⁸ While there, the detainees were exposed to sporadic crossfire.⁷¹⁷⁹ The work platoon also built “machine-gun nests” in some buildings and “were taken by a certain Miki Šarenac to loot houses”.⁷¹⁸⁰

2110. During his second detention at the Culture and Sport Centre, Mehmed Musić was interrogated twice by Rade Veselinović.⁷¹⁸¹ Zijad Okić gave conflicting evidence regarding whether or not the prisoners were abused, first stating that the detainees were beaten and abused most by Zoran Gašević, Nemanja Jovičić, and Rade Veselinović.⁷¹⁸² However, Okić later stated that the detainees were not beaten or hurt during the 12 days in the Culture and Sport Centre.⁷¹⁸³ The Chamber considers this evidence insufficient to establish that the detainees were beaten during this period.

2011), paras. 115–117. The Chamber therefore concludes that the additional buses joined the convoy on 8 September 1992.

⁷¹⁷⁵ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5.

⁷¹⁷⁶ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 5; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 118. After three days, some women were allowed to go home to get food, and some women from the town also brought food to the Culture and Sport Centre. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 118; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court pp. 5–6.

⁷¹⁷⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 119; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6.

⁷¹⁷⁸ P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), pp. 1–2; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 121. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 57–58. While Okić described the work platoon as “voluntary”, Musić stated that although some prisoners volunteered to work in exchange for cigarettes, Vujović would come in with a list of names and have the men escorted out by police in camouflage uniforms. P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 121–122. The Chamber therefore finds that at least some men were forced to work.

⁷¹⁷⁹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 7. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 58 (stating that he believed that some detainees were killed and wounded while at the frontline).

⁷¹⁸⁰ P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), p. 2.

⁷¹⁸¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 122. Brane Mijatović and Zoran Gašević were present at the second interrogation. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 122. Musić did not mention any beatings during either interrogation.

⁷¹⁸² P125 (Zijad Okić’s statement to the BiH authorities, 3 February 1993), p. 2.

⁷¹⁸³ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6, he states that “noone [sic] was beaten or hurt during this period”.

2111. On 22 October 1992, RS Ministry of Justice representative Slobodan Avlijaš submitted a report to the RS Minister of Justice, Momčilo Mandić, stating that at the time, 90 Muslim “prisoners of war” were being held in the Culture and Sport Centre, which was being secured by the Hadžići SJB.⁷¹⁸⁴ The report also stated that the Hadžići SJB did not have the authority to keep people in custody for longer than three days, and therefore was acting “without any authorisation or justification in law”.⁷¹⁸⁵ On the same day, Mandić ordered the Serb Municipality of Hadžići to transfer all of its detainees to the Butmir KPD Investigations Department in Svrače.⁷¹⁸⁶ On the following day, all but 14 of the remaining men were transferred to Planjo’s house in Svrače.⁷¹⁸⁷

(d) Conclusion

2112. Based on the above, the Chamber finds that Bosnian Muslims, including women and children, were detained at the Hadžići Culture and Sport Centre between at least 25 May and approximately 18 September 1992. In particular, during a first period lasting from at least 25 May to approximately 22 June, Bosnian Muslims were subjected to beatings by Arkan’s men, as well as to beatings and sexual abuse by Šešelj’s men, who each visited the premises once during the first half of June. The Chamber finds that throughout this period, the group was detained in poor conditions that included a lack of food and water. Additionally, the Chamber finds that between 7 September and approximately 18 September, when the women and children were released, Bosnian Muslims were held under conditions which included lack of food and poor sanitation and hygiene. The Chamber finds that after the women and children were released on 18 September, the men were forced to work by digging trenches near the frontlines.

(E) Movement of the population from Hadžići and appropriation of property

2113. On 24 May 1992, President of the Hadžići Crisis Staff appointed a commission charged with listing all abandoned flats and other property within the territory of the Hadžići Serb

⁷¹⁸⁴ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court pp. 6–7, 28.

⁷¹⁸⁵ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court p. 7.

⁷¹⁸⁶ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court p. 28; P2307 (RS Ministry of Justice order to Hadžići and Ilidža municipalities, 22 October 1992).

⁷¹⁸⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 123–125; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6; P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), p. 1 (estimating that he was transferred on 23 September but was unsure of the date). *See also* Scheduled Detention Facility C.26.1. The Chamber recalls that Mladen Tolj testified that the men who were transferred to Planjo’s House had been captured in combat and were not civilians. Mladen Tolj, T. 34652 (1 March 2013). However, the Chamber notes that Tolj did not mention the basis for his knowledge in this regard, and in light of the extensive evidence of Okić and Musić regarding their prior periods of detention, the Chamber shall not rely on Tolj’s testimony in this regard.

Municipality,⁷¹⁸⁸ the “vast majority” of which belonged to Muslims.⁷¹⁸⁹ Radić ordered that the flats be sealed, registered, and placed at the disposal of the Serb municipality.⁷¹⁹⁰ This was done immediately upon Radić’s order.⁷¹⁹¹ On 19 July 1992, the Accused sent a memorandum to the municipality of Hadžići requesting an inventory of all vacant housing facilities following the “voluntary departure of Muslims”, explaining that vacant homes would be used to house Serb residents of the Muslim part of Sarajevo, who would soon be leaving the city.⁷¹⁹²

2114. On 15 December 1992, the 4th session of the Serbian Hadžići Municipal Assembly adopted the “Statute of the Serbian municipality of Hadžići”, the “Rules of Procedure for the Serbian municipality of Hadžići”, and the “Decision on Law and Order”.⁷¹⁹³ At the same meeting, the Assembly issued the “Decision to Rescind Rights Obtained on the Basis of Tenancy Rights or Employment”, which stated that “all persons who were formerly resident on the territory of the Serbian Municipality of Hadžići” who had not returned to the municipality and had not provided an explanation for their absence would be labelled “displaced persons” and would not have the right to citizenship in the RS.⁷¹⁹⁴ However, the minutes of the session indicate that the decision did not receive sufficient votes to be adopted.⁷¹⁹⁵ Accordingly, the Chamber cannot conclude that the aforementioned decision was implemented in Hadžići.

2115. The Chamber recalls that, as described above, a group of male detainees was transferred to the Slaviša Vajner Čiča Barracks in Lukavica on approximately 22 June 1992,⁷¹⁹⁶ and that another group was transferred to Planjo’s house in Svrake on 23 October 1992.⁷¹⁹⁷ Defence witnesses testified that Bosnian Muslims left these areas of Hadžići of their own volition in order to move to

⁷¹⁸⁸ D1084 (Hadžići Crisis Staff Decision, 26 May 1992); D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 12 (stating that this task was delegated to him and that he took an inventory of all abandoned apartments and sealed them in order to prevent subsequent intrusion).

⁷¹⁸⁹ D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 12.

⁷¹⁹⁰ D1084 (Hadžići Crisis Staff Decision, 26 May 1992). Samouković testified that the language referring to “placing these apartments at the disposal of the municipality” was added in order to lend credence to the idea that the municipal authorities would not permit looting. Nevenko Samouković, T. 34610 (1 March 2013).

⁷¹⁹¹ Nevenko Samouković, T. 34610–34611 (1 March 2013) (suggesting that the Hadžići commission took action in this regard pursuant to Radić’s order and not the Accused’s order of 19 July 1992 [P739]). *But see* P6167 (Request of Hadžići Secretariat for Housing and Public Utilities, 27 July 1992) (ordering the commissioners to inventory all abandoned and vacant dwellings that could be lived in; bearing a signature for Samouković).

⁷¹⁹² P739 (RS Presidency request to various municipalities, 19 July 1992).

⁷¹⁹³ D1085 (Minutes of meeting of Hadžići Municipal Assembly, 15 December 1992), pp. 2–3, 5; P2306 (Report on the work of the Hadžići Municipal Assembly in 1992), p. 2.

⁷¹⁹⁴ D1083 (Decision of Hadžići Municipal Assembly, 15 December 1992). *See also* Adjudicated Fact 2571. In addition, the displaced persons would forfeit their property for the defence of the municipality and would no longer be entitled to any rights obtained on the basis of employment. Tihomir Glavaš, T. 12022–12023 (16 February 2011); D1083 (Decision of Hadžići Municipal Assembly, 15 December 1992).

⁷¹⁹⁵ D1085 (Minutes of meeting of Hadžići Municipal Assembly, 15 December 1992), pp. 4–5.

⁷¹⁹⁶ *See* para. 2106

⁷¹⁹⁷ *See* para. 2111.

areas with a Bosnian Muslim majority.⁷¹⁹⁸ As a result, a Bosnian Muslim commission based in Tarčin and a Bosnian Serb commission based in Hadžići were formed to visit Bosnian Muslims and Bosnian Serbs held in opposing territories and to interview them about their wishes to leave or stay.⁷¹⁹⁹ Defence witnesses also testified that “many” Bosnian Muslims remained in Hadžići until the end of the war.⁷²⁰⁰ Having considered this evidence, however, the Chamber observes that these assertions do not directly contradict the evidence indicating that the groups described above were transferred out of the municipality. The Chamber therefore finds that the two groups of male detainees held at the Hadžići Culture and Sport Centre were forced to leave and transferred out of the municipality on approximately 22 June 1992 and 23 October 1992, respectively.

ii. *Ilidža*

(A) Charges

2116. Under Count 3, the Prosecution alleges that persecution, a crime against humanity was committed in Ilidža as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁷²⁰¹ Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Ilidža include killings related to the KP Dom Butmir (Kula Prison) (hereinafter referred to as “Kula Prison”).⁷²⁰² The Prosecution also characterises these killings as extermination, a crime against humanity, under

⁷¹⁹⁸ D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 15 (stating that he heard this from their friends and neighbours, as he “was ill during this period”), 18; Mladen Tolj, T. 34648–34649 (1 March 2013); D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 85. *See also* Tihomir Glavaš, T. 11926–11929, 11933 (15 February 2011); D1064 (Map of Sarajevo marked by Tihomir Glavaš) (referring to Bosnian Muslims being evacuated from majority Bosnian Muslim villages—denoted in green— within the circle marked “1”). Vidomir Banduka referred to a decision of the Bosanski Hadžići War Presidency dated 23 October 1993 authorising an exchange of Serb civilians from Pazarić and Tarčin for “Muslim civilians who are currently in the area of Hadžići, on the principle of “all for all and on a voluntary basis”. D2920 (Decision of Bosanski Hadžići War Presidency, 23 October 1993). Banduka opined that this document showed that “people were moving by themselves to areas where their nation was the majority”. D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), paras. 80–81. However, the Chamber observes that this document only relates to the populations present in the respective territories at that time and as such, is not relevant to any movement of population that occurred in 1992.

⁷¹⁹⁹ D2915 (Witness statement of Vidomir Banduka dated 9 February 2013), para. 85. *See also* Vidomir Banduka, T. 33541–33542 (13 February 2013); Mladen Tolj, T. 34648 (1 March 2013).

⁷²⁰⁰ D3062 (Witness statement of Nevenko Samouković dated 26 February 1993), para. 15; Mladen Tolj, T. 34649 (1 March 2013); Vidomir Banduka, T. 33542 (13 February 2013). Radojka Pandurević stated that she heard that Bosnian Muslims who stayed in Hadžići eventually left because “they were afraid about a Serbian revenge”. D2490 (Witness statement of Radojka Pandurević dated 27 November 2012), para. 65; Radojka Pandurević, T. 30669 (29 November 2012). *See also* D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 12 (stating that Muslims left because of fear of reprisals for the abuses in the Silos camp).

⁷²⁰¹ Indictment, paras. 48–49.

⁷²⁰² Indictment, para. 60(a). *See* Scheduled Incidents B.13.1, B.13.3.

Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs or war, under Count 6.⁷²⁰³

2117. Other acts of persecution alleged to have been committed in Ilidža by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse, during and after the take-over as well as in Kula Prison as cruel or inhumane treatment;⁷²⁰⁴ (ii) rape and other acts of sexual violence during and after the take-over as well as in Kula Prison as cruel and inhumane treatment;⁷²⁰⁵ (iii) the establishment and perpetuation of inhumane living conditions in Kula Prison, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁷²⁰⁶ (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes within Ilidža;⁷²⁰⁷ (v) unlawful detention in Kula Prison;⁷²⁰⁸ (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁷²⁰⁹ (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention, and in the course of or following acts of deportation or forcible transfer;⁷²¹⁰ and (viii) the imposition and maintenance of restrictive and discriminatory measures.⁷²¹¹

2118. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁷²¹² In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Ilidža in which they had been lawfully present.⁷²¹³ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual

⁷²⁰³ Indictment, para. 63(a), 63(b).

⁷²⁰⁴ Indictment, para. 60(b). *See* Scheduled Detention Facility C.18.2

⁷²⁰⁵ Indictment, para. 60(c). *See* Scheduled Detention Facility C.18.2

⁷²⁰⁶ Indictment, para. 60(d). *See* Scheduled Detention Facility C.18.2.

⁷²⁰⁷ Indictment, para. 60(f).

⁷²⁰⁸ Indictment, para. 60(g). *See* Scheduled Detention Facility C.18.2.

⁷²⁰⁹ Indictment, para. 60(h).

⁷²¹⁰ Indictment, para. 60(i).

⁷²¹¹ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services. The Chamber notes that there are no cultural monuments and sacred sites with respect to Vlasenica in Schedule D of the Indictment. In addition the Prosecution does not allege criminal responsibility for wanton destruction of private property in Ilidža. Indictment, fn. 9.

⁷²¹² Indictment, paras. 68–75.

⁷²¹³ Indictment, paras. 69, 72.

violence, killing, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁷²¹⁴

(B) Background

2119. Ilidža is one of the ten constitutive municipalities of Sarajevo and is located to the west of Novo Sarajevo, southwest of Novi Grad, and to the northeast of Hadžići.⁷²¹⁵ According to the 1991 census, the population of Ilidža municipality was 43.2% Muslim, 36.8% Serb, 10.2% Croat, 7.6% Yugoslav, and 2.1% identified themselves as other.⁷²¹⁶ Prior to the conflict, the populations of the local communes of Hrasnica, Butmir, Stupsko Brdo, part of Donji Kotorac, and Sokolović Kolonija were predominantly Muslim and those of Otes, Bare, and Stup were predominantly Croat. The populations of the other local communes were predominantly Serb.⁷²¹⁷

2120. The territory of Ilidža municipality was strategically important because of its roads and railway that link Sarajevo town with eastern and central BiH and because the Sarajevo Airport is located there.⁷²¹⁸

2121. After the first multi-party elections held in November 1990, in which the SDA won the highest number of seats in the municipal assembly, there was an inter-party agreement on the division of power in Ilidža.⁷²¹⁹ Husein Mahmutović, of the SDA, became the President of the municipality and Radomir Kezunović, of the SDS, became the President of the Executive Board.⁷²²⁰ Momčilo Čeklić of the SDS became the Secretary of the Assembly.⁷²²¹ Neđeljko Prstojević became the Secretary for Communal Inspections and the SDS President for Ilidža municipality.⁷²²² Of a total of 13 official posts, Bosnian Serbs and Muslims each held six and one post was held by a Bosnian Croat.⁷²²³

⁷²¹⁴ Indictment, para. 71.

⁷²¹⁵ P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 8; Appendix B, Map 1; P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 17; Radomir Kezunović, T. 13908 (31 May 2011).

⁷²¹⁶ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), p. 2 of original and English versions. *See also* D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 6.

⁷²¹⁷ Radomir Kezunović, T. 13942–13943 (31 May 2011); Neđeljko Prstojević, T. 13264–13265 (11 March 2011), T. 13834 (21 March 2011); D1249 (Ethnic map of Sarajevo).

⁷²¹⁸ D1218 (Ilidža National Security Service report, 17 May 1992), p. 2; P2308 (SJB Ilidža report, 20 September 1993), p. 2. *See also* D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 8; Nikola Mijatović, T. 30701 (30 November 2012).

⁷²¹⁹ D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 6.

⁷²²⁰ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 14; D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 6.

⁷²²¹ D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 6.

⁷²²² P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 15.

⁷²²³ D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 6.

2122. Inter-ethnic tensions were rising in Iliđža from at least May 1991; however, Kezunović and Mahmutović made efforts to work together in the joint-Assembly.⁷²²⁴ Despite these efforts, each side created separate institutions. The SDA formed a crisis staff for the Muslim part of Iliđža in July or August 1991,⁷²²⁵ and starting that autumn, Muslim populations in majority Muslim settlements were arming themselves and organising military formations.⁷²²⁶

2123. In accordance with the Variant A/B Instructions, the SDS established a Crisis Staff in Iliđža on 2 January 1992,⁷²²⁷ and Radomir Kezunović declared the Assembly of the Serb Municipality of Iliđža (“Iliđža Serb Assembly”) the following day.⁷²²⁸ However, the joint Assembly of the Municipality of Iliđža made efforts to work together until the beginning of April 1992.⁷²²⁹

2124. On 3 January 1992, the Iliđža Serb Assembly made a proposal to the Bosnian Serb Assembly to regulate, *inter alia*, the status of members of TO units and military-aged men as well as to take measures for the protection of the interests of Serbs in the territory of the Iliđža municipality.⁷²³⁰ Starting around the beginning of March 1992, local Serbs organised themselves and held neighbourhood watches in front of their houses.⁷²³¹ In March and April 1992, Serb Forces distributed weapons seized from MUP storage units to Bosnian Serb civilians and

⁷²²⁴ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), paras. 42, 59, 61. See also Radomir Kezunović, T. 13936–13937, 13960–13963, 13989 (31 May 2011); D1252 (Supplemental Information Sheet for Radomir Kezunović, 29 May 2011), para. 14. See also Nedeljko Prstojević, T. 13591 (17 March 2011); D1178 (Minutes of meeting between SDA, SDS, and HDZ in Iliđža, 23 July 1991), pp 1–2.

⁷²²⁵ Nedeljko Prstojević, T. 13614 (17 March 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 13.

⁷²²⁶ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 39–40; D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 3–5; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 3.

⁷²²⁷ Nedeljko Prstojević, T. 12942–12943 (3 March 2011), T. 12952–12953 (8 March 2011), T. 13615 (17 March 2011); Momčilo Čeklić, T. 35210–35212 (12 March 2013); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 11; P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 3.

⁷²²⁸ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), paras. 41–44, 48; Radomir Kezunović, T. 13901, 13946 (31 May 2011); Momčilo Čeklić, T. 35210–35212 (12 March 2013); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 12; P2408 (Decision on proclaiming Serb Municipal Assembly of Iliđža, 3 January 1992), Nedeljko Prstojević, T. 12953–12954 (8 March 2011), T. 13628–13629 (17 March 2015), T. 13645 (18 March 2011); P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 4; P2531 (TANJUG news report, 11 January); D1184 (Article from Javnost entitled “Serbian Municipality Proclaimed,” 11 January 1992).

⁷²²⁹ Nedeljko Prstojević, T. 12957–12359 (8 March 2011), T. 13630 (17 March 2011), T. 13645 (18 March 2011); P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), paras. 14, 46, 49, 54, 66; Radomir Kezunović, T. 13946, 13965–13966 (31 May 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), paras. 11–12; Momčilo Čeklić, T. 35210 (12 March 2013).

⁷²³⁰ P2409 (Iliđža Municipal Assembly proposal of decision, 3 January 1992); Nedeljko Prstojević, T. 12956–12957 (8 March 2011).

⁷²³¹ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 4; D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), paras. 17–18.

members of the Serb TO.⁷²³² Bosnian Serbs in Ilidža were also armed with weapons from JNA warehouses.⁷²³³

2125. The Ilidža MUP was divided in March 1992, after Bosnian Muslim police officers were dismissed from the SJBs; the Bosnian Serbs stayed in the Ilidža police station.⁷²³⁴ Edin Mlivić, then Chief of the Ilidža SJB, and Tomislav Kovač, then Ilidža police commander,⁷²³⁵ agreed that the Bosnian Serb police would function in the parts of Ilidža that had a Serb majority and the Bosnian Muslim police would function in those parts with a Muslim majority.⁷²³⁶ Initially, they continued to share the same building.⁷²³⁷ On 6 April 1992, the Bosnian Muslims stationed their MUP in Stup, with Mlivić as its chief, and established their “War Presidency”.⁷²³⁸ Kovač was Chief of the Ilidža SJB from 1 April to 6 August 1992,⁷²³⁹ when Tihomir Glavaš succeeded him.⁷²⁴⁰

2126. On 5 April 1992, the Ilidža Serb Assembly declared the Serb Municipality of Ilidža, to include the territory of settlements with a majority Serbian population in Ilidža and parts of Novi Grad, Kiseljak, and Trnovo.⁷²⁴¹ The Serb Municipality of Ilidža excluded the communities where Muslims and Croats were a majority.⁷²⁴² After 6 April 1992, the Ilidža Serb Assembly became a War Presidency, pursuant to an instruction from the Bosnian Serb Assembly.⁷²⁴³ On 6 April 1992,

⁷²³² P2308 (SJB Ilidža report, 20 September 1993), p. 2; Momčilo Čeklić, T. 35214 (12 March 2013); D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 60. *See also* P2976 (Ilidža SJB proposal for decorations, 11 September 1993), p. 3.

⁷²³³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 8; Momčilo Čeklić, T. 35214 (12 March 2013). At the beginning of April 1992, the procedure for the distribution of weapons was through the SDS (P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 67).

⁷²³⁴ P2308 (SJB Ilidža report, 20 September 1993), p. 3; D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 49. *See also* Adjudicated Fact 2572; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4500; Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28935; P2977 (Report of Ilidža SJB), p. 1.

⁷²³⁵ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 4, 48; Radomir Kezunović, T. 13936–13937 (31 May 2011); Tihomir Glavaš, T. 11825 (14 February 2011).

⁷²³⁶ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 49; Tihomir Glavaš, T. 11825 (14 February 2011).

⁷²³⁷ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 62; D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 49.

⁷²³⁸ Nedeljko Prstojević, T. 13705 (18 March 2011); D1208 (SerBiH MUP Daily Report, 4 May 1992), p. 3.

⁷²³⁹ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 4.

⁷²⁴⁰ Tihomir Glavaš, T. 11804 (14 February 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 19.

⁷²⁴¹ D1190 (Ilidža Crisis Staff announcement, 11 April 1992); D1191 (SRNA news report, 11 April 1992); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 19. In addition, the Serbian Municipality of Ilidža incorporated part of Mojmila, Dobrinja, Nedžariće, and Vojničko Polje. *See also* P973 (Robert Donia’s expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995”, January 2010), p. 35; Robert Donia, T. 3134 (1 June 2010).

⁷²⁴² Nedeljko Prstojević, T. 13264–13265 (11 March 2011); Radomir Kezunović, T. 13989–13990 (31 May 2011).

⁷²⁴³ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 68.

the Ilidža Crisis Staff ordered general mobilisation.⁷²⁴⁴ A new Serb Crisis Staff was established by the Serbian Municipality of Ilidža and was publicly announced on 10 April 1992.⁷²⁴⁵ Prstojević became the commander of the Crisis Staff but Kezunović remained as its President for about 15 to 20 days until he passed over his responsibilities to Prstojević.⁷²⁴⁶

2127. Until 19 May 1992, when the VRS was formed, the Serb TO staff organised defence in Ilidža.⁷²⁴⁷ At that point, the TO defence units became part of the VRS, first as part of the Ilidža Brigade and then as part of the Igman Brigade.⁷²⁴⁸

(C) Armed conflict in Ilidža

2128. Around 3 or 4 April 1992, barricades were erected around Ilidža.⁷²⁴⁹ From April 1992, there was an escalation in combat activity,⁷²⁵⁰ and Ilidža was constantly under fire.⁷²⁵¹ The eastern and western parts of Ilidža were controlled by the Serbs but were divided by Muslim held territory in the middle.⁷²⁵² The eastern and western parts of Ilidža were shelled by Bosnian Muslim forces from Mt. Mojmilo and Mt. Igman, respectively.⁷²⁵³ By the end of April 1992,

⁷²⁴⁴ D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), paras. 19–20; Nedeljko Prstojević, T. 12968 (8 March 2011); D3113 (Ilidža Crisis Staff order, 6 April 1992), p. 1; P2410 (Ilidža Crisis Staff Order on implementation of general mobilisation, 6 April 1992); Nedeljko Prstojević, T. 12968 (8 March 2011).

⁷²⁴⁵ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), paras. 54, 56; Radomir Kezunović, T. 13901 (31 May 2011); D1193 (Ilidža Crisis Staff members, 10 April 1992).

⁷²⁴⁶ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), paras. 54, 57–58, 73; Radomir Kezunović, T. 13901 (31 May 2011); Nedeljko Prstojević, T. 12961 (8 March 2011); D1193 (Ilidža Crisis Staff members, 10 April 1992).

⁷²⁴⁷ Nedeljko Prstojević, T. 12970–12971 (8 March 2011), T. 13757 (21 March 2011). *See also* D1218 (Ilidža National Security Service report, 17 May 1992), p. 2.

⁷²⁴⁸ Nedeljko Prstojević, T. 12975 (8 March 2011), T. 13799 (21 March 2011); Milomir Šoja, P1633 (Transcript from *Prosecutor v. D. Milošević*), T. 5160, 5162; Milomir Šoja, T. 7206–7207 (30 September 2010). The Ilidža Brigade was established on 20 May 1992. Nedeljko Prstojević, T. 13799 (21 March 2011).

⁷²⁴⁹ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 66; Radomir Kezunović, T. 13965–13966 (31 May 2011).

⁷²⁵⁰ Nedeljko Prstojević, T. 13646–13647, 13665, 13683–13687, 13691–13692, 13699, 13703 (18 March 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), paras. 25–32; Momčilo Čeklić T. 35214–35220 (12 March 2013); P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 73; Radomir Kezunović, T. 13965–13966 (31 May 2011); D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 50–53; D1196 (Public announcement from Ilidža Crisis Staff Information Service, 13 April 1992); D1200 (Protocol from meeting between SDS and SDA in Ilidža, 23 April 1992); D1201 (Intercept of conversation between Čedo Klajić and Tomislav Kovač, 20 April 1992); D1203 (Radovan Karadžić's announcement, 22 April 1992); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 4; D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 28; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 61; P2025 (BBC news report re Ilidža, with transcript).

⁷²⁵¹ Nedeljko Prstojević, T. 13660 (18 March 2011); P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 66; Radomir Kezunović, T. 13965–13966 (31 May 2011).

⁷²⁵² Radomir Kezunović, T. 13915 (31 May 2011); Nedeljko Prstojević, T. 13760 (21 March 2011).

⁷²⁵³ Radomir Kezunović, T. 13982–13984 (31 May 2011); D1255 (Ilidža Wartime Commission Statement, 29 October 1992). *See also* D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 9–10; Nedeljko Prstojević, T. 13660 (18 March 2011); D1076 (MUP Administration for the Police Duties and Affairs report, 3 August 1992), p. 5.

Bosnian Serbs shelled various neighbourhoods in Sarajevo, including Butmir and Hrasnica in Ilidža municipality.⁷²⁵⁴

2129. In April 1992, Prstojević issued orders which resulted in various aspects of daily life being blocked. First, on 14 April, he ordered the suspension of activities of almost all enterprises in Ilidža.⁷²⁵⁵ Then, on 19 April, he ordered that all access to roads be blocked, with the exception of emergency medical assistance, local food supply, water control and electrical power enterprises.⁷²⁵⁶

2130. On 22 April 1992, the Bosnian Muslim forces attacked the western and central parts of Ilidža.⁷²⁵⁷ After this attack, a confrontation line was established. Bosnian Serb and Muslim forces established positions along the roads leading from Sarajevo.⁷²⁵⁸ Combat activity continued in May 1992.⁷²⁵⁹ By 8 May 1992, Serb Forces were in control of the territories composing the Serb Municipality of Ilidža and some areas of life could return to normal.⁷²⁶⁰

⁷²⁵⁴ See Adjudicated Fact 2573 (stating that the Serb SJB also took part in the attacks). See Section IV.B.1.a: Chronology of events in Sarajevo.

⁷²⁵⁵ Nedeljko Prstojević, T. 13666–13667, 13669 (18 March 2011); D1197 (Ilidža Crisis Staff order, 14 April 1992); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 21. See also D1206 (Ilidža Crisis Staff announcement, 1 May 1992).

⁷²⁵⁶ Nedeljko Prstojević, T. 13679–13680 (18 May 2011), T. 13796–13797 (21 March 2011); D1199 (Ilidža Crisis Staff decision, 19 April 1992); D1238 (Intercept of conversation between Ratko Mladić and Nedeljko Prstojević, 24 May 1992); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9003–9004; Momčilo Mandić, T. 4684–4689 (6 July 2010); Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 9484–9485; P1147 (Intercept of conversation between Momčilo Mandić and Tomislav Kovač, 20 April 1992), p. 1–2; P5712 (Intercept of conversation between Momčilo Mandić and Branko Đerić, 20 April 1992), p. 2.

⁷²⁵⁷ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 51–52; Tihomir Glavaš, T. 11947–11948, 12005–12006 (16 February 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 25; Momčilo Čeklić T. 35215 (12 March 2013); Nedeljko Prstojević, T. 13646–13647, 13683–136884, 13692 (18 March 2011); P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 73; Radomir Kezunović, T. 13965–13966 (31 May 2011); Martin Bell, T. 9818–9819 (14 December 2010); D918 (BBC news report re Sarajevo, with transcript). See also D2538 (Witness statement of Milan Pejić dated 2 December 2012), para. 15; P2308 (SJB Ilidža report, 20 September 1993, p. 4; Colm Doyle, T. 2775–2778 (26 May 2010); D221 (RS MUP report re attack on Ilidža, 28 April 1992), p. 2; D1200 (Protocol from meeting between SDS and SDA in Ilidža, 23 April 1992); D223 (SRNA news report, 23 April 1992); P5713 (Intercept of conversation between Rade Ristić and “Ilija”, 20 April 1992), pp. 1–2.

⁷²⁵⁸ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 55.

⁷²⁵⁹ Radomir Kezunović, T. 13967, 13968, 13970 (31 May 2011); Nedeljko Prstojević, T. 13677–13678, 13704, 13717, 13724–13728 (18 March 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 33; D1208 (SerBiH MUP Daily Report, 4 May 1992), D1211 (Ilidža Crisis Staff information, 13 May 1992); D1212 (Intercept of conversation between Nedeljko Prstojević and Milosav Gagović, 13 May 1992), D1213 (Intercept of conversation between Nedeljko Prstojević and Tadija, 14 May 1992);); D1214 (Ilidža Crisis Staff information, 14 May 1992); D1215 (Intercept of conversation between Đogo and Nedeljko Prstojević, and between Nedeljko Prstojević and Radivoje Grković, 14 May 1992), pp. 1–2; D1216 (Intercept of conversation between Đogo and Mandrić, 14 May 1992), p. 1; D1218 (Ilidža National Security Service report, 17 May 1992), p. 1; P5667 (Intercept of conversation between Milosav Gagović and Nedeljko Prstojević, 15 May 1992). See also D1210 (Intercept of conversation between Nedeljko Prstojević and Grandić, 12 May 1992); John Wilson, T. 3918 (21 June 2010); D1214 (Ilidža Crisis Staff information, 14 May 1992).

⁷²⁶⁰ D1209 (SerBiH MUP Daily Report, 8 May 1992), p. 2; Nedeljko Prstojević, T. 13706–13707 (18 March 2011); P2790 (SerBiH MUP daily report, 12 May 1992), p. 2. See Adjudicated Fact 2574. See also D2773 (Witness

2131. Several armed groups were present in Ilidža during 1992.⁷²⁶¹ Most notably, Brne Gavrilović and his group of Šešelj's men,⁷²⁶² arrived in Ilidža on 9 July 1992.⁷²⁶³ On several occasions in 1992 and 1993, members of Gavrilović's group looted and expelled Bosnian Muslims from their homes.⁷²⁶⁴ Other armed groups also engaged in looting.⁷²⁶⁵ When confronted by security forces, members of these groups sometimes issued threats.⁷²⁶⁶ However, at times, members of the MUP tolerated the looting and even participated themselves.⁷²⁶⁷

statement of Slavko Mijanović dated 19 January 2013), para. 5; D1248 (Intercept of conversation between unknown male person and Legija, 15 May 1992), p. 4; D1254 (Decision on the Formation of the Serbian Municipality of Ilidža, 8 May 1992), p. 1; P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mičo Stanišić, 5 May 1992), p. 9.

⁷²⁶¹ Nedeljko Prstojević, T. 12976–12980, 12983–12986, 12988 (8 March 2011), T. 13825–13826, 13829–13832 (21 March 2011); Radomir Kezunović, T. 13912–13913 (31 May 2011); P2229 (Intercept of conversation between Mičo Stanišić and Nedjelko Žugić, 15 May 1992); P2411 (Intercept of conversation between Nedeljko Prstojević and Milosav Gagović, 14 May 1992); D1248 (Intercept of conversation between Željko Ražnatović and Legija, 15 May 1992), pp. 4, 12–14; Tihomir Glavaš, T. 12041–12043 (16 February 2011); Ratomir Maksimović, D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 56; KDZ088, T. 6309–6310 (7 September 2010) (closed session); P1499 (SRK report to VRS Main Staff re Dobrinja, 19 June 1992), p. 1; D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 71, 73; P5690 (Intercept of conversation between Nedeljko Prstojević and "Đogo", 14 May 1992), p. 2; P133 (Witness statement of Matija Bošković dated 20 November 2003, paras. 35–36, 52; P1107 (SerBiH MUP report to the Minister of Interior re inspection of Romanija-Birač CSB and SJB, 10 August 1992), pp. 2–3; D541 (SRK combat report, 3 November 1992); P5691 (Intercept of conversation between Legija and Milosav Gagović, 14 May 1992).

⁷²⁶² D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 60; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 74; Nedeljko Prstojević, T. 12977–12979 (8 March 2011) (testifying that Šešelj visited the Serbian Municipality of Ilidža and was received by Prstojević at the Municipal Assembly Building on one occasion and that on another occasion, he toured Gavrilović's unit); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 58–61.

⁷²⁶³ Nedeljko Prstojević, T. 13853–13855 (21 March 2011); Radomir Kezunović, T. 13913–13914 (31 May 2011). *See also* P2228 (Intercept of conversation between Vojislav Šešelj and Branislav Gavrilović, April 1992), pp. 1–3. Prstojević gave Gavrilović permission to stay at a motel facility and deserted summer houses in Gladno Polje to conduct admission and training of volunteer units arriving to the area. *See* P2302 (Approval of the War Board of Commissioners of Ilidža Municipality, 9 July 1992). *See also* para. 234.

⁷²⁶⁴ Reports of incidents involving Gavrilović's men include D1080 (Ilidža SJB information, 4 June 1992), p. 3; P2303 (SRK combat report, 18 November 1992), p. 1; D1078 (Romanija-Birčani CSB report, 23 November 1992; P2304 (Report of the MUP, Sarajevo SNB, 9 January 1993); P2305 (Official note of the Ilidža War Department of the SNB, 12 February 1993); Nedeljko Prstojević, T. 13823–1384 (21 March 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 74; D1080 (Ilidža SJB information, 4 June 1992), p. 3. *See also* D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 60.

⁷²⁶⁵ P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 74; Radomir Kezunović, T. 13911–13912 (31 May 2011); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 45. *See also* P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 131–132 (under seal).

⁷²⁶⁶ Tihomir Glavaš, T. 11806 (14 February 2011); P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 74–75. One example of this occurred on 20 November 1992. The Ilidža SJB asked the military police for help to disarm paramilitary groups which had set up an illegal check-point. When the military police disarmed the group, around 20 armed men showed up and forced the retreat of the military police. D1081 (Ilidža SJB report, 21 November 1992). *See also* Momčilo Čeklić, T. 35231–35232 (12 March 2013); KDZ088, T. 6255–6256 (7 September 2010) (closed session).

⁷²⁶⁷ KDZ088, T. 6260–6262 (7 September 2010) (closed session); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 388; P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), p. 5. *See also* Nedeljko Prstojević, T. 13805 (21 March 2011).

2132. Prstojević introduced irregular forces into the municipality, and allowed some groups to loot behind the frontline and expel Bosnian Muslims from their homes.⁷²⁶⁸ In a conversation with Dragan Despotović regarding combat activity in Kasindolsko Polje on 14 June 1992, Prstojević asked: “What shall we do? Would it be good if we gave it a thought and if we organised people from aside/outside to expel them all. Nobody needs to be shot or killed. Everyone expelled”. Despotović responded: “That would be the right move.”⁷²⁶⁹ In June 1992, Tomislav Šipčić, the then SRK Commander, revoked Prstojević’s military command responsibilities; however Prstojević remained as President of the Crisis Staff and the SDS in Ilidža.⁷²⁷⁰ Prstojević subsequently met with the Accused in Pale and when he returned to Ilidža, “things started to go wrong again.”⁷²⁷¹

2133. From mid-April 1992, there was intense fighting around Dobrinja where the territories controlled by the Serbs were severed from Lukavica, Pale, and Kotorac on one side and Ilidža, Rajlovac, and Vogošća on the other.⁷²⁷² While the Bosnian Serbs tried to establish a corridor to connect these neighbourhoods, the Bosnian Muslims sought to link up the old centre of Sarajevo with neighbourhoods such as Hrasnica and Sokolović Kolonija.⁷²⁷³ In addition, there were rumours that the SRK wanted to take over Dobrinja because it was predominantly populated by Serbs.⁷²⁷⁴ On 21 May 1992, Prstojević had a telephone conversation with Colonel Gagović about Bosnian Muslims fleeing Dobrinja and Gagović advised him that he had ordered a press centre to release information that they were only allowing Muslims to leave Dobrinja as entire families because they did not want the men to be left behind.⁷²⁷⁵ Around 14 June 1992, the Serb Forces

⁷²⁶⁸ KDZ088, T. 6255 (7 September 2010) (closed session); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp 134–135, 137, 154–155 (under seal). See also para. 2159.

⁷²⁶⁹ P1492 (Intercept of conversation between (i) Nedeljko Prstojević and Radomir and (ii) Nedeljko Prstojević and Dragan, 14 June 1992), p. 3. The Chamber notes that Prstojević testified that he did not say that outside groups should be organised to expel people. Nedeljko Prstojević, T. 13295–13298 (11 March 2011), T. 13547–13550 (17 March 2011). However, in his interview with the Prosecution, Prstojević stated that by “outside” groups, he was referring to Arkan’s, Gavrilović’s, and Boban’s groups. P2512 (Excerpt from transcript and video of Nedeljko Prstojević’s interview), pp. 2–3. Having reviewed the video and transcript of Prstojević’s interview, the Chamber rejects Prstojević’s testimony that he was not referring to those groups in the intercepted conversation.

⁷²⁷⁰ [REDACTED]. See also P1516 (Intercept of conversation between Nedeljko Prstojević and Tomislav Šipčić, 27 May 1992).

⁷²⁷¹ [REDACTED].

⁷²⁷² D1196 (Public announcement from Ilidža Crisis Staff Information Service, 13 April 1992); Nedeljko Prstojević, T. 13665 (18 March 2011); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 32–33; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9377–9378; John Wilson, T. 3918, 3994 (21 June 2010); KDZ088, T. 6492 (10 September 2010) (closed session). See also D577 (SRK combat report, 6 June 1992); P998 (SRK instructions, 7 June 1992), p. 3; P2019 (BBC news report Dobrinja, with transcript).

⁷²⁷³ D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 32; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9377–9378.

⁷²⁷⁴ P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 142 (under seal); Svetozar Guzina, D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 32.

⁷²⁷⁵ D1236 (Intercept of conversation between Nedeljko Prstojević and Milosav Gagović, 21 May 1992), pp. 2–3.

took Dobrinja 1 and Dobrinja 4 under their control.⁷²⁷⁶ Prstojević had a meeting with the Accused, Mladić, and other members of the Bosnian Serb leadership on 15 June 1992, in which it was concluded that they would “clear the Serbian territory”, starting with Mojmiilo and Dobrinja.⁷²⁷⁷ Around 17 June 1992, SRK units took civilians out of Dobrinja to Lukavica barracks.⁷²⁷⁸ At Lukavica barracks, the MUP separated and classified them according to their ethnicities and the Bosnian Muslims were then sent to Kula Prison.⁷²⁷⁹

2134. On 25 June 1992, Prstojević spoke with Rade Ristić, a member of the Crisis Staff, and gave him permission to transfer Bosnian Muslim apartments in Dobrinja to Serbs who were involved in the fighting there and advised Ristić that he had printed the requisite forms for such transfer.⁷²⁸⁰ During this conversation, Prstojević learned that Serbs Forces were holding their ground in the Kasindol area and told Ristić: “All right. But have them hold on to it tightly and have them all killed there, please. [...] All that is Muslim to be killed, like Alija [...] I don’t want to see one military aged Muslim alive there”.⁷²⁸¹

2135. From September 1992, there was a confrontation line on the eastern side of Dobrinja, separating the SRK-controlled areas of Dobrinja 1 and 4 from ABiH-controlled areas of Dobrinja 2 and 3B.⁷²⁸² There was combat activity in Ilidža for the duration of the war.⁷²⁸³ Discussions continued among municipal leaders in Ilidža as to expanding control over a broader territory.⁷²⁸⁴

⁷²⁷⁶ Nedeljko Prstojević, T. 13561–13562 (17 March 2011).

⁷²⁷⁷ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), e-court pp 171–172.

⁷²⁷⁸ [REDACTED]; P991 (SRK combat report re Dobrinja, 17 June 1992), p. 2.

⁷²⁷⁹ [REDACTED]; P991 (SRK combat report re Dobrinja, 17 June 1992), p. 2. *See also* Slobodan Avlijaš, T. 35185–35186 (11 March 2013); P1126 (SJB Ilidža information re KPD Butmir, 20 May 1992), p. 1.

⁷²⁸⁰ P1515 (Intercept of conversation between Nedeljko Prstojević and Radomir Ristić, 25 June 1992), p. 2. *See also* Adjudicated Fact 2666.

⁷²⁸¹ P1515 (Intercept of conversation between Nedeljko Prstojević and Radomir Ristić, 25 June 1992), p. 2. *See also* Adjudicated Fact 2665.

⁷²⁸² *See* Adjudicated Fact 91.

⁷²⁸³ Nedeljko Prstojević, T. 13276–13277 (11 March 2011), T. 13562–13563, 13571–13572, 13578–13582 (17 March 2011), T. 13697, 13714 (18 March 2011), T. 13800–13801, T. 13820–13822, 13827 (21 March 2011); P5638 (Intercept of conversation between Nedeljko Prstojević and Radomir Ristić, 16 June 1995); P2518 (Intercept of conversation between Nedeljko Prstojević and Velibor Veselinović, 29 June 1995); D1240 (Ilidža SJB Daily Situation Report, 2–3 June 1992), p. 2; D1246 (Ilidža War Committee Decision, 4 August 1992), p. 1; Radomir Kezunović, T. 13983–13985 (31 May 2011); D1255 (Ilidža Wartime Commission Statement, 29 October 1992); D2819 (SRK combat report, 10 July 1993); D564 (SRK combat report, 23 July 1992); D599 (SRK combat report, 24 July 1992); D591 (SRK combat report, 25 July 1992); D597 (SRK combat report, 20 July 1992); P1107 (SerBiH MUP report to the Minister of Interior re inspection of Romanija-Birač CSB and SJB, 10 August 1992), p. 2; P1006 (SRK Order, 12 September 1992), p. 1; D1255 (Ilidža Wartime Commission Statement, 29 October 1992); D534 (Article from AFP entitled “Fierce Fighting Raging Around Sarajevo”, 3 December 1992); D536 (Article from AFP entitled “Serbs Cut Airport Road”, 8 December 1992); P1435 (UNMO report, 11 December 1992), paras. 13–30; D2452 (Report of Ilidža Brigade, 25 December 1992), p. 1; D3405 (SRK combat report, 15 March 1993), p. 1; D3406 (SRK combat report, 18 March 1993); D2820 (SRK combat report, 16 July 1993); D4631 (Letter from Manojlo Milovanović to UNPROFOR, 2 August 1993); D2821 (SRK combat report, 3 August 1993); D2822 (SRK combat report, 10 August 1993); D2827 (SRK combat report, 19 August 1993); P1017 (SRK combat report,

(D) Scheduled Detention Facility C.18.2

2136. The Indictment refers to the use of Kula Prison as a detention facility from May 1992 until at least 28 October 1994.⁷²⁸⁵

(1) Establishment and control

2137. Kula Prison was located close to the Sarajevo airport,⁷²⁸⁶ on a compound with other buildings, including a police station, the Ministry of Justice, and the military prosecutor's office.⁷²⁸⁷ The compound had a large warehouse for goods and food supplies.⁷²⁸⁸ It also had its own farming facilities.⁷²⁸⁹

2138. Prior to the war, Kula Prison served as a medium security prison for persons serving sentences of less than six months.⁷²⁹⁰ On 6 April 1992, all convicts were released on the orders of

27 September 1993); D4621 (SRK Report, 11 December 1993); P2667 (SRK combat report, 20 January 1994), pp. 1–2; D1515 (SRK combat report, 4 February 1994), p. 1; D838 (SRK combat report, 2 August 1994), pp. 1–2; D2823 (SRK combat report, 6 November 1994); P5132 (VRS Main Staff Report to Radovan Karadžić, 21 July 1995), p. 2.

⁷²⁸⁴ P1006 (SRK Order, 12 September 1992), p. 1 (ordering, following a meeting in Jahorina with municipal, military, and republican leaders, that it was necessary to “liberate and take control of important parts of the city, features close to it (Mojmilo, Stup junction) and estates (Donji Kotorac, Hrasnica, Butmir, and Sokolović Kolonija); Nedeljko Prstojević, T. 13267–13269, 13282 (11 March 2011); P2450 (Iliđa SDS Declaration for working in wartime, 6 February 1993, p. 2) (reporting that legal authority of the Serbian Municipality of Iliđa is to be established as soon as possible on, *inter alia*, Butmir, Hrasnica, and Sokolović Kolonija); P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 276–277 (stating that a meeting held on 17 August 1993, Velibor Veselinović, then president of the Iliđa Serb Assembly, said that their goal was to strike Hrasnica and Sokolović Kolonija when tensions have lowered).

⁷²⁸⁵ Indictment, Scheduled Detention Facility C.18.2, fn. 12. The Indictment originally included the KP Dom Butimir detention facility (hereinafter referred to as “Kula Prison”) as being located in Novo Sarajevo municipality; however it was subsequently corrected to include Kula Prison as falling within Iliđa municipality. See Indictment, Schedule C, fn. 11.

⁷²⁸⁶ KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1283. See also KDZ017, P3567 (Transcript from *Prosecutor v. Krnojelac*), T. 2916. Kula Prison was approximately 200 or 300 metres from the confrontation line between Gornji and Donji Kotorac and 500 or 600 metres from confrontation line in Dobrinja. KDZ601, T. 18617 (8 September 2011).

⁷²⁸⁷ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8730–8731, 8876; KDZ601, T. 18578–18579, 18616 (8 September 2011); KDZ017, P3567 (Transcript from *Prosecutor v. Krnojelac*), T. 2917; P3299 (Record of interview with KDZ601, 18 April 2005), p. 46 (under seal). See also P3300 (Sketch of KPD Kula prepared by KDZ601) (under seal); P3301 (Sketch of KPD Kula prepared by KDZ601) (under seal); D1076 (MUP Administration for the Police Duties and Affairs report, 3 August 1992), p. 5. The police station was the headquarters for the areas of Dobrinja, Lukavica, and Vojkovići. See P5698 (Intercept of conversation between Branko Đerić and Mićo Stanišić, 1 May 1992), pp. 3–4.

⁷²⁸⁸ P3299 (Record of interview with KDZ601, 18 April 2005), p. 46 (under seal); KDZ601, T. 18616 (8 September 2011).

⁷²⁸⁹ Soniboj Škiljević, T. 36783 (8 April 2013); D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 4; KDZ601, T. 18616 (8 September 2011). See also Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9106.

⁷²⁹⁰ KDZ601, T. 18614–18615 (8 September 2011). See also KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1283; P3299 (Record of interview with KDZ601, 18 April 2005), p. 8 (under seal); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8730–8732, 8876; Slobodan Avlijaš, D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), para. 7.

the then warden.⁷²⁹¹ Kula Prison was under the jurisdiction of the MUP from at least May 1992 until the beginning of August 1992, when it was taken over by the RS Ministry of Justice.⁷²⁹² Under the Ministry of Justice, it was converted into an investigating unit of the district court of Sarajevo.⁷²⁹³

2139. As of 1 August 1992, Radoje Lalović was appointed as the first warden of Kula Prison and Soniboj Škiljević served as the acting warden from 16 December 1992 until 1 January 1994.⁷²⁹⁴ The commander of the guards was Neđo Pandurević.⁷²⁹⁵ The police chief at Kula was Milenko Tepavčević and the police commander was Radenko Vujičić.⁷²⁹⁶

2140. After August 1992, Kula Prison continued to be secured by the MUP, with a police officer guarding the entrance to the premises.⁷²⁹⁷ The guards were responsible for the administration of the premises and were regulated by Tepavčević.⁷²⁹⁸ The JNA and later the VRS were present at Kula Prison, controlling, such matters as bringing and taking detainees, and the military commission for exchanges at the SRK.⁷²⁹⁹ The military prosecutor's office also had jurisdiction over the prisoners.⁷³⁰⁰

2141. Detainees began arriving at Kula Prison from May 1992 onwards.⁷³⁰¹ Many detainees were transported from other detention facilities,⁷³⁰² and others were transported directly from their

⁷²⁹¹ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 3.

⁷²⁹² D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 44; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 8; D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 5; Adjudicated Fact 2635. *See also* D3340 (Decision on the forming of KPD Butmir, 16 June 1992), pp. 8–9; D3333 (Rules on the internal organisation of Butmir KPD); P1089 (Ministry of Justice Report on the Ministry's Activities in May-October 1992 Period, 16 November 1992), p. 2.

⁷²⁹³ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8732, 8876. *See also* D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), paras. 3, 9.

⁷²⁹⁴ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 2, 5; D3341 (Decision on appointment of Soniboj Škiljević; 16 December 1992). *See also* P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 49.

⁷²⁹⁵ P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 49.

⁷²⁹⁶ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 5.

⁷²⁹⁷ Slobodan Avlijaš, T. 35182–35183 (11 March 2013); KDZ601, T. 18579 (8 September 2011).

⁷²⁹⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8733, 8749; D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), para. 16. *See also* D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 5–6; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 9; D3333 (Rules on the internal organisation of Butmir KPD).

⁷²⁹⁹ P3299 (Record of interview with KDZ601, 18 April 2005), p. 46 (under seal); KDZ601, T. 18616, 18579 (8 September 2011); D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), para. 16. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8749; D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 5, 7; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 9.

⁷³⁰⁰ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 7.

⁷³⁰¹ *See* D1243 (Kula's Police Station book of duty transfer, 1 May–29 July 1992), p. 2; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 9.

⁷³⁰² Approximately 233 detainees from Hadžići were transferred from Lukavica to Kula Prison on 23 June 1992. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 89, 92; Mehmed Musić, T. 12879

homes or conflict zones.⁷³⁰³ The detainees held at Kula Prison included civilians, persons who had not violated any law, and persons held without official detention orders.⁷³⁰⁴ Mentally ill persons⁷³⁰⁵ and several elderly persons were detained in Kula Prison.⁷³⁰⁶ Bosnian Muslims, Bosnian Croats, as well as Bosnian Serbs were detained there.⁷³⁰⁷

2142. Detainees were brought to Kula by soldiers, members of the police, paramilitary forces, as well as special purpose units of the JNA.⁷³⁰⁸ Members of paramilitary units, including the White Eagles, Arkan's men,⁷³⁰⁹ and Oljača's Chetniks ate their meals at Kula Prison.⁷³¹⁰

(3 March 2011); P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 81; D3063 (Witness statement of Mladen Tolj dated 25 February 2013), para. 10; Mladen Tolj, T. 34637–34638 (1 March 2013). *See also* Adjudicated Fact 2638; para. 2276. Approximately 34 detainees were transferred from the Pale Gym to Kula Prison on 11 July 1992. P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), paras. 24, 44. *See also* para. 2346. In mid-December 1992, 130 detainees were transferred to Kula Prison from the Manjača camp. D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 15. On 22 October 1992 the Ministry of Justice ordered that 90 Bosnian Muslims detained at the Sports Centre in Hadžići and 30 Bosnian Muslims detained at a school in Ilidža were to be transferred to Kula Prison. P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court pp. 6–7, 28; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9554. On 5 July 1993, KDZ239 was transferred from the KP Dom Foča to Kula Prison. KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1283. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1278 (testifying that detainees from camps in Batković and Rogatica were present at Kula Prison).

⁷³⁰³ P1126 (SJB Ilidža information re KPD Butmir, 20 May 1992), p. 1 (stating that between 12 and 20 May 1992, the following persons were present at Kula Prison: (i) 38 persons from the Kasindolska Street area, (ii) 47 persons from the Gornji Kotorac area, (iii) 31 persons from Dobrinja, and (iv) 40 persons from Nedžarići, Vrace, Lukavica, Vojkovići, and elsewhere in Ilidža); KDZ239, T. 18922–18924 (15 September 2011) (testifying that a group from Rogatica which was brought on two or three buses included elderly people, women and about five or six children); Dragomir Obradović, T. 36110–36111 (26 March 2013); P6235 (Statement of Avdija Katica, 3 January 1995), pp. 3–4; D3189 (Sokolac SJB dispatch, 31 October 1994) (stating that on 29 October 1994, 61 Bosnian Muslim civilians were moved out of the village of Vrhbarje, Sokolac municipality through the RS Commission for Exchange and transported to Kula Prison); D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 30; Momčilo Čeklić, T. 35219–35220 (12 March 2013). *See also* D2910 (SRK Order, 22 October 1992); Adjudicated Fact 2634.

⁷³⁰⁴ Mladen Tolj, T. 34637–34638 (1 March 2013); P5544 (Instructions on Detention of the RS Ministry of Justice and Administration, 23 February 1993). *See also* P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), paras. 18, 21, 44, 54; Hajrudin Karić, T. 15348, 15350–15353, 15365 (23 June 2011), T. 15376 (24 June 2011) (testifying that at the time of his arrest, he was a civilian); KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1188, 1283 (testifying that at the time of his arrest, he was a civilian); KDZ239, P3335 (Transcript from *Prosecutor v. Krnojelac*), T. 1195 (under seal); Vitomir Žepinić, T. 33609 (13 February 2013); P1152 (Intercept of conversation between Momčilo Mandić and Ninković, 18 June 1992), pp. 3–4.

⁷³⁰⁵ KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1284.

⁷³⁰⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 96. *See also* KDZ239, T. 18922–18924 (15 September 2011).

⁷³⁰⁷ *See* D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 22, 26; D3338 (List of detainees at KP Dom Butmir); D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), para. 75; Vitomir Žepinić, T. 33609 (13 February 2013); KDZ601, T. 18586–18588, 18619–18620 (8 September 2011); P3299 (Record of interview with KDZ601, 18 April 2005), p. 41 (under seal); P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 48.

⁷³⁰⁸ P3299 (Record of interview with KDZ601, 18 April 2005), pp. 13–14 (under seal); KDZ601, T. 18580–18581, 18585–18586 (8 September 2011); D2910 (SRK Order, 22 October 1992).

⁷³⁰⁹ In May 1992, two members of Arkan's group met with Tepavčević and advised him that they wanted to take over Kula Prison and the SJB. Tepavčević refused and sent them to speak with Tomislav Kovač which they did

2143. Interrogations were carried out in two small rooms by operatives from all levels of the MUP, as well as by JNA and VRS soldiers.⁷³¹¹

2144. During the war, the Kula Prison compound also housed civilians from the surrounding areas while they awaited transfer to Muslim held territory.⁷³¹² They stayed in a separate part of the prison from the detainees.⁷³¹³ At least 10,000 Bosnian Muslim civilians were accommodated at Kula Prison for periods ranging from a few days to several months.⁷³¹⁴

(2) Conditions of detention and treatment of detainees

2145. At various times, some rooms in Kula Prison were so crowded that there was barely enough room for detainees to sit or lie down, and toilet access was so limited that detainees defecated and urinated in the room; the stench was over-powering.⁷³¹⁵ The ground floor was damp; there was no heating and lice infestation was widespread.⁷³¹⁶ Other rooms provided slightly better accommodation with mattresses on the floor or beds; the detainees also had access to the toilet at least three times per day, and access to water.⁷³¹⁷

and subsequently did not return to Kula Prison. P3299 (Record of interview with KDZ601, 18 April 2005), p. 45 (under seal), KDZ601, T. 18593 (8 September 2011), T. 18650 (13 September 2011).

⁷³¹⁰ P3299 (Record of interview with KDZ601, 18 April 2005), p. 46 (under seal); KDZ601, T. 18616 (8 September 2011).

⁷³¹¹ P3299 (Record of interview with KDZ601, 18 April 2005), p. 14 (under seal); KDZ601, T. 18581–18582 (8 September 2011), T. 18651 (13 September 2011); P3300 (Sketch of KPD Kula prepared by KDZ601) (under seal). See also Mehmed Musić, P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 97.

⁷³¹² D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 19, 28; D3335 (Request of Butmir KPD to High Commissioner for Refugees and Humanitarian Aid, 5 September 1994); D3344 (Request of individual Croats to RS Government, 7 March 1994); D3343 (Report of RS Central Commission for Exchange, 28 October 1994); Soniboj Škiljević, T. 36782–36783, 36824–36826 (8 April 2013), T. 36932–36934 (10 April 2013); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 7; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 49; P1127 (Letter from Central Commission for Exchange of Detained Persons re KPD Butmir, 28 October 1994); KDZ601, T. 18649 (13 September 2011).

⁷³¹³ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 19; Soniboj Škiljević, T. 36783 (8 April 2013); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 47 (testifying that about 200 women and children from Hadžići were in two other rooms).

⁷³¹⁴ P1127 (Letter from Central Commission for Exchange of Detained Persons re KPD Butmir, 28 October 1994); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8741–8742; Momčilo Mandić, T. 4414–4415 (30 June 2010); P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 31. See also Adjudicated Fact 2633. The Prosecution submits that the 10,000 Bosnian Muslim civilians accommodated at Kula Prison were detained. Prosecution Final Brief, Appendix B, pp. 20–21. Having reviewed all the evidence, the Chamber finds that the evidence is insufficient to determine whether these civilians were deprived of freedom of movement such that they were detained, as opposed to being merely accommodated due to the combat activity in the area.

⁷³¹⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 94; P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3.

⁷³¹⁶ KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1284.

⁷³¹⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 98; P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 46.

2146. The food was insufficient.⁷³¹⁸ Several detainees were initially kept in crowded cells from which they were not permitted to leave; they were subsequently moved into more spacious cells and given access to the cafeteria.⁷³¹⁹ In the former scenario they were only given one meal per day, which was brought to that cell.⁷³²⁰ However, in the cafeteria, detainees were given two meals per day.⁷³²¹ On 20 May 1992, Tepavčević wrote to the MUP and Ministry of Justice advising of the inadequate conditions of accommodation, food, hygiene, and health of 156 detainees who had been present at Kula Prison since 12 May 1992.⁷³²²

2147. On 7 May 1992, at least five detainees were badly beaten while detained at Kula Prison.⁷³²³ The Chamber also recalls that it found that detainees from Hadžići were beaten on a bus in front of Kula when it stopped there on its way to the Lukavica Barracks.⁷³²⁴ Several detainees testified that they were not beaten or mistreated during their detention at Kula Prison,⁷³²⁵ however others were beaten.⁷³²⁶ In addition, local Serbs and armed groups frequently gathered around the prison compound attempting to gain access and on occasion made it through.⁷³²⁷

2148. Detainees at Kula Prison were detailed to perform work on the frontlines of the conflict, including de-mining, transporting material for barricades, digging trenches and retrieving the

⁷³¹⁸ See e.g. P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 10.

⁷³¹⁹ P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 98.

⁷³²⁰ P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3.

⁷³²¹ P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 46; P161 (Adem Balić's statement to BiH authorities, 7 February 1993), pp. 3–4; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 98; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 41; P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), para. 34. For example, Musić received tea and bread in the morning as well as "some cooked food", such as pea soup, in the afternoon. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 98. The Chamber notes that Defence witnesses testified that detainees received three meals per day, the food served at Kula Prison was normal for wartime conditions, and the accommodation provided was very good. D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 8; Slobodan Avlijaš, T. 35184 (11 March 2013), (testifying that before August 1992 when Kula Prison was under the jurisdiction of the police, prisoners were mostly given dry rations in their rooms but after the establishment of Kula Prison, daily meals were provided to prisoners in the dining room); D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), para. 17. Having considered all the evidence and taken into account the fact that these Defence witnesses had an incentive to distance themselves from the poor conditions at Kula Prison, and that the witnesses who were detained there were better placed to report on the conditions in which they were detained, the Chamber does not rely on the evidence of these Defence witnesses in this regard. [REDACTED].

⁷³²² P1126 (SJB Iliđža information re KPD Butmir, 20 May 1992), p. 2.

⁷³²³ P43 (Witness statements of Mirsad Smajš dated 18 December 1993 and 14 January 1998), e-court pp. 5, 10. See also para. 2154.

⁷³²⁴ See para. 2276.

⁷³²⁵ Mehmed Musić, T. 12880 (3 March 2011); P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 49; D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), para. 76.

⁷³²⁶ See Adjudicated Fact 2636.

⁷³²⁷ D3105 (Witness Statement of Slobodan Avlijaš, dated 9 March 2013), paras. 17–18; KDZ601, T. 18652–18653 (13 September 2011); KDZ601, T. 18654 (13 September 2011); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 142 (under seal). See also Momčilo Mandić, T. 5241 (15 July 2010).

bodies of fallen Serb combatants.⁷³²⁸ Several prisoners who were deployed to work were killed or injured by sniping or shells.⁷³²⁹ Detainees were also engaged in work, such as farm work, around the prison, close to the confrontation line.⁷³³⁰ Shells frequently landed on the plantation where detainees were made to work and a few detainees were killed.⁷³³¹

2149. The VRS decided which detainees would perform work outside of Kula Prison.⁷³³² Mandić was also involved in providing detainees to perform forced labour.⁷³³³ The detainees could not refuse to work,⁷³³⁴ however some were not forced to work if they were unwell.⁷³³⁵ Detainees in work platoons were provided additional food by the prison staff and were sometimes

⁷³²⁸ P3299 (Record of interview with KDZ601, 18 April 2005), pp. 37, 65 (under seal); KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1284–1285; Hajrudin Karić, T. 15307 (23 June 2011); P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 99–100; Mehmed Musić, T. 12879–12880 (3 March 2011); P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3; P1938 (Witness Statement of KDZ310 dated 28 November 2010), para. 46; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 49; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 15; Božo Tomić, T. 30200–30202 (13 November 2012); Dragan Maletić, T. 30866–30867 (4 December 2012); P5987 (Special report of the 2nd Infantry Battalion re the escape of two prisoners, 21 May 1993), p. 1; P6280 (Worksite list of Kula prison, 24 September 1992 to 2 January 1993); P6281 (Notebook re Kula Prison, 1993); Željko Bambarez, T. 31324–31328 (12 December 2012); P6042 (Statement of Željko Bambarez, undated); P804 (Sky news report re Kula prison, with transcript); P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 63; D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 51–52; D3351 (Request of SRK Military Post to Kula KPD, 1 February 1993); D3352 (Requests of SRK units to Kula KPD); D3362 (Tables re work assignment of POWs and convicted persons). *See also* Adjudicated Fact 2640; para. 2267.

⁷³²⁹ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46; KDZ239, T. 18922 (15 September 2011), 19004 (16 September 2011); P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3; D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013); paras. 55–57; Soniboj Škiljević, T. 36952–36953 (10 April 2013); D3363 (Reports of person on duty at Butmir KPD). *See also* Adjudicated Fact 2640; P804 (Sky news report re Kula prison, with transcript), p. 2; P6282 (RS Central Exchange Committee list of persons); P6281 (Notebook re Kula Prison, 1993), pp. 3–4. The Chamber notes that save for Scheduled Incident B.13.3, killings of detainees who were forced to work were not charged pursuant to Schedule A or B of the Indictment. *See* fn. 13.

⁷³³⁰ Hajrudin Karić, T. 15307 (23 June 2011); P3267 (Witness Statement of Šefik Hurko, dated 1 September 2011), para. 49; Šefik Hurko, T. 18245 (2 September 2011). *See also* D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 50; Soniboj Škiljević, T. 36805 (8 April 2013); D3362 (Tables re work assignment of POWs and convicted persons); D3363 (Reports of person on duty at Butmir KPD). Hurko described the farm work as “extremely hard” and exhausting. P3267 (Witness Statement of Šefik Hurko, dated 1 September 2011), para. 49).

⁷³³¹ P3299 (Record of interview with KDZ601, 18 April 2005) (under seal), pp. 46–47 (testifying that a couple of Bosnian Muslim detainees were sent to work at the plantation where “shells were landing”); KDZ239, T. 19004 (16 September 2011) (testifying that he witnessed the fall of one shell). *See also* D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013); paras. 53–54; D3405 (SRK combat report, 15 March 1993), p. 2 (documenting that shells from the Butmir and Igman directions fell on Kula Prison, killing one Serb detainee and wounding 14 others). The Chamber notes that save for Scheduled Incident B.13.3, killings of detainees who were forced to work were not charged pursuant to Schedule A or B of the Indictment. *See* fn. 13.

D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 5–7.

⁷³³³ P1140 (Order of Ministry of Justice of SerBiH re KPD Butmir, 22 September 1992); P1143 (Intercept of conversation between Momčilo Mandić and Radivoje Grković, 3 July 1992), pp. 2–5; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8979–8973, 8983.

⁷³³⁴ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9106. *See also* KDZ239, T. 19004–19005 (16 September 2011). *See also* P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), para. 34.

⁷³³⁵ Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10905; P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 39, 45.

given food or cigarettes by soldiers and locals in the locations where they worked.⁷³³⁶ However, they were not remunerated for their work.⁷³³⁷

2150. Detainees were registered with the ICRC.⁷³³⁸ Around 9 August 1992, Karadžić visited Kula prison with representatives of the media and the ICRC.⁷³³⁹ That day the food was better and only clean rooms were shown.⁷³⁴⁰

2151. On 3 October 1994, Bulajić, President of the State Commission was given permission to transfer all remaining detainees at Kula Prison to Bosnian Muslim held territory and until at least the end of October 1994, Kula Prison continued to be used to facilitate exchanges of civilians.⁷³⁴¹

(3) Conclusion in relation to conditions of detention and treatment of detainees

2152. Based on the foregoing, the Chamber finds that Serb Forces detained non-Serbs from Ilidža and neighbouring municipalities, including civilians, from May 1992 until at least 28 October 1994 in Kula Prison. The Chamber further finds that the detainees were held in poor conditions characterised by inadequate space, bedding, and sanitary facilities. The Chamber also finds that detainees were provided insufficient food. The Chamber further finds that male detainees were subjected to forced labour and beatings while detained at Kula Prison.

⁷³³⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 99–100; P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3; Hajrudin Karić, T. 15307 (23 June 2011); KDZ239, T. 19004–19005 (16 September 2011); D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 7; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 15. *See also* P6283 (Report on inspection and monitoring of Butmir KPD, April 1994), p. 4. The Accused argues that detainees requested to work voluntarily to receive cigarettes and pass the time. Defence Final Brief, para. 1675. In light of all the evidence, the Chamber finds that most detainees assigned to work while detained at Kula Prison, had no choice but to perform work.

⁷³³⁷ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9106.

⁷³³⁸ *See e.g.* KDZ239, T. 18992 (16 September 2011); P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 49; P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 42, 44–45; P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), paras. 32, 35. *See also* D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 20, 37. On 13 May 1993, Mladić issued an order allowing ICRC delegates to interview prisoners in the absence of prison officials on the written approval of the VRS Main Staff. D3345 (VRS Main Staff Order, 13 May 1993); D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), para. 30.

⁷³³⁹ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 13–14; Soniboje Škiljević, T. 36779–36780 (8 April 2013), T. 36932 (10 April 2013); P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 51. *See also* P2840 (Video footage of Radovan Karadžić's visit to Kula prison).

⁷³⁴⁰ P2839 (Witness statement of Hajrudin Karić dated 13 May 2011), para. 52; Hajrudin Karić, T. 15308 (23 June 2011).

⁷³⁴¹ P2684 (VRS order, 3 October 1994); P1127 (Letter from Central Commission for Exchange of Detained Persons re KPD Butmir, 28 October 1994); D3189 (Sokolac SJB dispatch, 31 October 1994).

(4) Scheduled Incident B.13.1

2153. The Indictment refers to the killing of at least two detainees in Kula Prison on or about 7 May 1992.

2154. On 7 May 1992, five detainees who had just arrived at Kula Prison from Grbavica were beaten so badly that one died immediately and another detainee, Zlatan Salčinović, died the next morning.⁷³⁴² Mirsad Smajš and at least one other detainee took the bodies of these individuals to a van after which they were transported elsewhere.⁷³⁴³ The Chamber received forensic evidence that the body of an individual identified as Zlatan “Salčin” was discovered in a grave in Sarajevo.⁷³⁴⁴

2155. The Trial Chamber therefore finds that on or about 7 May 1992 two detainees were beaten to death at Kula Prison by Serb Forces.

(5) Scheduled Incident B.13.3

2156. The Indictment refers to the killing of three detainees while performing forced labour at Kula Prison between 23 July and 24 November 1992.

2157. Adem Balić was detained at Kula Prison from 23 June to 24 November 1992.⁷³⁴⁵ After approximately a month in detention there, he was detailed to a work platoon and witnessed the death and wounding of detainees who were forced to work on or near the frontlines.⁷³⁴⁶ Vahid Gačanović was killed by incoming fire at Ozrenska Street; Ramic Smajić and Zido Nizić were killed by incoming fire in the Kula Prison agricultural complex.⁷³⁴⁷ The Chamber also received forensic evidence that the bodies of Gačanović and Smajić were found in a mass grave at Vranješ, which was a wartime cemetery located close to Kula Prison.⁷³⁴⁸

⁷³⁴² P43 (Witness statement of Mirsad Smajš dated 18 December 1993); P43 (Witness statement of Mirsad Smajš dated 14 January 1998), p. 3.

⁷³⁴³ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), p. 2.

⁷³⁴⁴ P4853 (Updated Table 2 to the Report of Amor Mašović), p. 89 (noting that the body of Zlatan “Salčin” was discovered in the Miljević III grave in Sarajevo).

⁷³⁴⁵ P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), pp. 3–4.

⁷³⁴⁶ P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 3. The Chamber notes that KDZ310 gave evidence that he saw detainees from Kula Prison working at Ozrenska street and knew of several cases of them being killed by snipers. P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46).

⁷³⁴⁷ P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 3. *See also* Adjudicated Fact 2640.

⁷³⁴⁸ P4853 (Updated Table 2 to the Report of Amor Mašović), p. 90; P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 7; P4886 (Sarajevo Cantonal Court records relating to Vranješ exhumation, 30 August 1999), p. 26

2158. Based on this evidence, the Chamber is satisfied that at least three detainees of Kula Prison were killed while performing forced labour between 23 July and 24 November 1992.

(E) Movement of the population from Ilidža

2159. There was much movement both into and out of Ilidža, with the most intense period being from April to June 1992,⁷³⁴⁹ when large numbers of Serb refugees arrived in Ilidža.⁷³⁵⁰ Bosnian Muslims left their homes in Ilidža.⁷³⁵¹ Prstojević participated in expelling Bosnian Muslim civilians from their homes with threats; people were terrified and had no choice but to leave.⁷³⁵² On 26 May 1992, Tomislav Kovač advised Mandić that he was unable to prevent people from driving Bosnian Muslims from Ilidža.⁷³⁵³ On 2 June 1992, Mandić told Prstojević that he was aware that Prstojević was issuing ultimatums to Bosnian Muslims and evicting them from settlements.⁷³⁵⁴ Prstojević did not deny this; rather he stated that he had not given such ultimatums in public.⁷³⁵⁵

⁷³⁴⁹ D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 6.

⁷³⁵⁰ D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 27; Radomir Kezunović, T. 13968 (31 May 2011); Nedeljko Prstojević, T. 13764–13767, 13815 (21 March 2011); D2852 (Witness statement of Srdan Šehovac dated 27 January 2013), para. 47; D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 6. *See also* D1226 (Intercept of conversation between Nedeljko Prstojević and Jovo Božić, 27 July 1992), pp. 4–5.

⁷³⁵¹ KDZ088, T. 6261–6262 (7 September 2010) (closed session). *See also* D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), pp. 59–60.

⁷³⁵² P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 137–140 (under seal); KDZ088, T. 6263 (7 September 2010) (closed session); P1086 (Intercept of conversations between (i) Nedeljko Prstojević and Milenko LNU and (ii) Nedeljko Prstojević and FNU Novaković, 14 May 1992), pp 2–3; P1492 (Intercept of conversation between (i) Nedeljko Prstojević and Radomir and (ii) Nedeljko Prstojević and Dragan, 14 June 1992), p. 3. *See also* fn. 7269, para. 2134; P1515 (Intercept of conversation between Nedeljko Prstojević and Radomir Ristić, 25 June 1992), pp 1–2; Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 9484. At the 17th session of the Bosnian Serb Assembly, Prstojević said that when the Accused “visited [them] in Ilidža and encouraged [them], the Serbs from Sarajevo retained control over the territory, and even extended their territory in some areas, driving the Muslims out of the territories where they had actually been majority.” D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 66. The Chamber notes that Prstojević objected to the translation of “driving the Muslims out” and said that he did not say that Muslims were expelled, but rather that they were “pushed back”. P2513 (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14664–14665; Nedeljko Prstojević, T. 13017–13021 (8 March 2011). The Chamber notes that the BCS version of the transcript of the 17th session of the Bosnian Serb Assembly uses the word *potjerali* which means “to chase away”. The Chamber considers this to be synonymous with “driving away”. P2513 (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14673. However, Prstojević also denied that he would have used the term “*potjerali*” and testified that he used a BCS word that means to push back (*potisnuli*). P2513 Nedeljko Prstojević, T. 13554 (17 March 2011); (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14674. Given the plain text of the BCS version of the 17th Session of the SerBiH Assembly, the Chamber rejects his evidence in this regard. The Chamber further notes that Prstojević stated that he did not mean that civilians were expelled, rather that combatants were pushed back after armed combat, however, he admitted that the majority of the civilian population left with the combatants gradually. P2513 (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14665–14666.

⁷³⁵³ D1239 (Intercept of conversation between Momčilo Mandić and Tomo Kovač, 26 May 1992), p. 2.

⁷³⁵⁴ P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), pp. 3–4. Prstojević testified that he had not been saying such things, that no ultimatums were issued, and that Mandić was incorrect. Nedeljko Prstojević, T. 13804, 13842 (21 March 2011). The Prosecution suggested that in the

2160. On or about 26 June 1992, approximately 400 Bosnian Muslim women and children from Dobrinja who were at Kula Prison were transferred to the border between Serb and Muslim controlled Sarajevo; Mandić assisted in the transfer.⁷³⁵⁶

2161. For the duration of the war, not only Bosnian Muslim and Bosnian Croat prisoners of war but also refugees and unlawfully detained civilians were transferred to non-Serb controlled territory from Kula Prison pursuant to agreements reached with UNHCR and the Central Commission for Exchange of Prisoners and Civilians or pursuant to private agreements.⁷³⁵⁷ Insofar as these exchanges related to refugees or unlawfully detained civilians, the Chamber finds that these individuals were forced to leave the municipality.

2162. On 5 June 1992, the Ilidža Crisis Staff received permission from the Bosnian Serb Government to assign abandoned houses to persons whose apartments had been destroyed.⁷³⁵⁸ On 19 July 1992, the Accused requested that Ilidža prepare an inventory of housing facilities vacated

intercepted conversation, Prstojević only denied that he issued such ultimatums in public. See Nedeljko Prstojević, T. 13839–13842 (21 March 2011). In his testimony in the *Krajišnik* proceedings, Prstojević testified that: “With the exception of Kotorac, we did not have a policy of expelling civilians in any of the areas except where the circumstances required the population to leave the area because of the combat activities or where the population wanted to leave on their own initiative.” P2513 (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14649. In light of this qualification pertaining to Kotorac, the Chamber is satisfied that there was some truth to Mandić’s comments in the intercepted conversation.

⁷³⁵⁵ P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), p. 4. The Chamber notes that Prstojević testified that he had not issued such ultimatums at all and that Mandić was incorrect. Nedeljko Prstojević, T. 13804, 13842 (21 March 2011). In his testimony in the *Krajišnik* proceedings, Prstojević said that he denied to Mandić that he issued such ultimatums at all and questioned where he said such things. P2513 (Excerpt from Nedeljko Prstojević’s transcript from *Prosecutor v. Krajišnik*), T. 14645–14646. However, the Chamber considers that a plain reading of the text of the intercepted conversation indicates that Prstojević merely denied giving such ultimatums in public. P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), p. 4.

⁷³⁵⁶ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8868–8870, 8886–8889; P1101 (Intercept of conversation between Momčilo Krajišnik and Momčilo Mandić, 26 June 1992), p. 3. Mandić and Avlijaš testified that civilians from Dobrinja left on their own accord to flee the fighting. Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8869–8870, 8886–8889; P1101 (Intercept of conversation between Momčilo Krajišnik and Momčilo Mandić, 26 June 1992), p. 3; Slobodan Avlijaš, T. 35193–35194 (11 March 2013). However, in light of the evidence, discussed at paragraph 2133 that the Serb Forces took measures to clear the area, discussed giving Muslim owned apartments to Serbs, and that once the SRK took custody of the civilians, they separated the Bosnian Muslim civilians from the Serbs and Croats, the Chamber finds that the Bosnian Muslim civilians had no choice but to leave Dobrinja.

⁷³⁵⁷ D3331 (Witness statement of Soniboj Škiljević dated 5 April 2013), paras. 12, 15, 18–19, 46–48; Soniboj Škiljević, T. 36782–36783, 36824–36826 36791 (8 April 2013); D3332 (Certificate of KP Dom Butmir, 4 January 1994); D3350 (Notifications of RS Central Commission for Exchange, May 1994–January 1995); D3349 (Notification of RS Central Commission for Exchange, 7 July 1994); D3358 (Notification of RS Central Commission for Exchange, 13 April 1993; List of persons exchanged from Tarčin on 20 February 1993); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8894–8900; Momčilo Mandić, T. 4604 (5 July 2010); P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 96; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 49–50; P1151 (Letter from SJB Novi Grad to the Ministry of Justice of SerBiH, 25 May 1992); P1102 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 1 July 1992); D3350 (Notifications of RS Central Commission for Exchange, May 1994–January 1995); P2684 (VRS order, 3 October 1994), p. 1; P1127 (Letter from Central Commission for Exchange of Detained Persons re KPD Butmir, 28 October 1994).

by Muslims for temporary use by Bosnian Serb refugees.⁷³⁵⁹ Also in July 1992, the Wartime Commission for the municipality founded a commission to implement the temporary distribution of flats.⁷³⁶⁰ The commission encountered difficulties in carrying out its work.⁷³⁶¹ By the summer of 1993, it made over 3,000 decisions to assign temporary flats.⁷³⁶² The Accused argues that after the war, everyone's tenancy rights were recognised and people were permitted to buy and sell the flats in accordance with the law.⁷³⁶³ However, having considered all the evidence before it, the Chamber finds that the main purpose of the regulation was to facilitate the use of the vacant property in question by Serbs who had just arrived in the municipality. In turn, this ensured that those non-Serbs who left Ilidža would not return. Furthermore, on 4 April 1993, Prstojević issued a decision forbidding the return of Bosnian Muslims and Croats to the Serb Municipality of Ilidža for purported security reasons, unless they had written authorisation from the proper authorities.⁷³⁶⁴

2163. According to Bosnian Muslim SDB Chief Nedžad Ugljen, by July 1995, the Serb-held territory in Ilidža was almost devoid of non-Serbs.⁷³⁶⁵

2164. According to several witnesses, there was no organised campaign for the expulsion of Bosnian Muslims in Ilidža by the local authorities.⁷³⁶⁶ In light of the accepted evidence that the Ilidža Crisis Staff led by Prstojević expelled Bosnian Muslim civilians from their homes and redistributed vacant Bosnian Muslim property to Bosnian Serbs, the Chamber rejects this evidence. The Chamber also notes that while several witnesses testified that (i) several Bosnian Muslims left voluntarily;⁷³⁶⁷ (ii) civilians of all ethnicities left Ilidža due to the conflict;⁷³⁶⁸ and (iii) Bosnian

⁷³⁵⁸ Nedeljko Prstojević, T. 13806–13807 (21 March 2011); D416 (Letter from Government of SerBiH to Ilidža Municipal Assembly, 5 June 1992). [REDACTED].

⁷³⁵⁹ P739 (RS Presidency request to various municipalities, 19 July 1992).

⁷³⁶⁰ D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), paras. 6–10.

⁷³⁶¹ D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 9.

⁷³⁶² D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para.10. *See e.g.* D1241 (Ilidža Crisis Staff ruling, 19 July 1992). In addition, the Chamber notes that on 25 June 1992, Prstojević gave Rade Ristić permission to give Muslim apartments in Dobrinja to Serbs and advised him that they had already reassigned 30 apartments in Nedžarići. P1515 (Intercept of conversation between Nedeljko Prstojević and Radomir Ristić, 25 June 1992), p. 2. *See also* Adjudicated Fact 2666.

⁷³⁶³ Defence Final Brief, para. 1666.

⁷³⁶⁴ D1244 (Ilidža War Commission Decision, 4 April 1993).

⁷³⁶⁵ D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 60.

⁷³⁶⁶ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 57–58; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8709; Momčilo Čeklić, D3112 (Witness statement of Momčilo Čeklić dated 8 March 2013), para. 27; Momčilo Čeklić, T. 35218 (12 March 2013); Radomir Kezunović, T. 13972 (31 May 2011); D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 6.

⁷³⁶⁷ Čeklić maintained that civilians left the eastern parts of Ilidža around 23 April 1992 on their own accord because weapons were found in their homes. Momčilo Čeklić, T. 35219–35226 (12 March 2013). According to Kovač, after the attack on Ilidža of 22 April 1992, civilians, including Serbs, left due to the proximity of their homes to the front. D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 58.

⁷³⁶⁸ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 57; Nedeljko Prstojević, T. 13784 (21 March 2011); D1232 (Program for the return of Serbs from SR Yugoslavia, 21 June 1992), p. 2; D3112

Muslims who wanted to stay could do so and that many Bosnian Muslims and Croats remained in Ilidža during the conflict,⁷³⁶⁹ this evidence bears limited weight in light of the accepted evidence that Serb Forces participated in the expulsion of Bosnian Muslim civilians in Serb held parts of Ilidža and prevented their return.

2165. In light of the foregoing, the Chamber finds that members of the non-Serb population from the Serb-controlled parts of Ilidža were forced to leave.

iii. *Novi Grad*

(A) Charges

2166. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Novi Grad as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁷³⁷⁰ Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Novi Grad include killings during the take-over of Novi Grad,⁷³⁷¹ killings related to a detention facility as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at this detention facility.⁷³⁷² The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁷³⁷³

2167. Other acts of persecution alleged to have been committed in Novi Grad by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse, during and after the take-over and in a detention facility, as cruel or inhumane treatment;⁷³⁷⁴ (ii) rape and other acts of sexual violence, during and after the take-over and in a detention facility, as cruel and inhumane treatment;⁷³⁷⁵ (iii) the establishment and perpetuation of inhumane living conditions in a detention facility in Novi Grad, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as

(Witness statement of Momčilo Čeklić dated 8 March 2013), para. 27; Momčilo Čeklić, T. 35218, 35226–35227 (12 March 2013); Radomir Kezunović, T. 13972 (31 May 2011) (testifying that he moved his family to Pale to stay in their holiday house during the war); D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 6.

⁷³⁶⁹ Momčilo Čeklić, T. 35220 (12 March 2013); Radomir Kezunović, T. 13973–13974 (31 May 2011); D2773 (Witness statement of Slavko Mijanović dated 19 January 2013), para. 6.

⁷³⁷⁰ Indictment, paras. 48–49.

⁷³⁷¹ Indictment, para. 60(a)(i). *See* Scheduled Incident A.9.1.

⁷³⁷² Indictment, para. 60(a)(ii). *See* Scheduled Incidents B.12.1, B.12.2.

⁷³⁷³ Indictment, para. 63(a), 63(b).

⁷³⁷⁴ Indictment, para. 60(b). *See* Scheduled Detention Facility C.17.1.

⁷³⁷⁵ Indictment, para. 60(c).

cruel or inhumane treatment;⁷³⁷⁶ (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁷³⁷⁷ (v) unlawful detention in a detention facility;⁷³⁷⁸ (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁷³⁷⁹ (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention, and in the course of or following acts of deportation or forcible transfer;⁷³⁸⁰ (viii) the wanton destruction of private property including homes, business premises, and public property including cultural monuments and sacred sites;⁷³⁸¹ and (ix) the imposition and maintenance of restrictive and discriminatory measures.⁷³⁸²

2168. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁷³⁸³ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Novi Grad in which they were lawfully present.⁷³⁸⁴ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁷³⁸⁵

(B) Lead-up

(1) The municipality of Novi Grad

2169. The municipality of Novi Grad, one of the ten constitutive municipalities of Sarajevo, is bordered in the south and in the west by Ilidža, in the north by Vogošća and Ilijaš, and in the east by Novo Sarajevo.⁷³⁸⁶ It was established in 1977, encompassing the areas which had hitherto

⁷³⁷⁶ Indictment, para. 60(d). *See* Scheduled Detention Facility C.17.1.

⁷³⁷⁷ Indictment, para. 60(f).

⁷³⁷⁸ Indictment, para. 60(g). *See* Scheduled Detention Facility C.17.1.

⁷³⁷⁹ Indictment, para. 60(h).

⁷³⁸⁰ Indictment, para. 60(i).

⁷³⁸¹ Indictment, para. 60(j). *See* Scheduled Incident D.15.

⁷³⁸² Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

⁷³⁸³ Indictment, paras. 68–75.

⁷³⁸⁴ Indictment, paras. 69, 72.

⁷³⁸⁵ Indictment, para. 71.

⁷³⁸⁶ P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 8; Appendix B, Map 1; P815 (Map of Sarajevo showing confrontation lines). *See also* Adjudicated Fact 2.

constituted the western parts of Novo Sarajevo.⁷³⁸⁷ These areas included, *inter alia*, the local commune of Dobroševići which was comprised of the villages of Ahatovići, Bojnik, Dobroševići, and Mihaljevići, the local commune of Rajlovac, and Dobrinja, a set of large, high-rise residential complexes which housed around 40.000 people before the war.⁷³⁸⁸ According to the 1991 census, Novi Grad's population was 136,616 of which 50.8% were Muslim, 27.5% were Serb, and 6.5% were Croat.⁷³⁸⁹ The village of Ahatovići was inhabited mainly by Bosnian Muslims, while those living in Rajlovac and Dobroševići were mostly Bosnian Serbs.⁷³⁹⁰ Inhabitants of Novi Grad municipality generally lived together peacefully until the beginning of 1992.⁷³⁹¹

2170. Novi Grad was host to a number of important commercial, industrial and military installations, including the Rajlovac Barracks, the Butile Barracks, and Orao (a military industrial factory dedicated to the overhaul of aircraft engines).⁷³⁹²

2171. Before the start of the conflict, the president of the Municipal Assembly of Novi Grad was Ismet Čengić, a Bosnian Muslim.⁷³⁹³ Momčilo Krajišnik, Nikola Stanišić, Jovan Tintor,⁷³⁹⁴ and

⁷³⁸⁷ Robert Donia, T. 3089 (31 May 2010); P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), pp. 9–10, 30.

⁷³⁸⁸ D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3; P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 16; P2343 (Information report of Ramiz Mujkić, 4 July 2004), pp. 1–3 (a number of photographs showing Ahatovići, Dobroševići, the Bojnik area and the Rajlovac area); Ramiz Mujkić, T. 12138–12139 (17 February 2011), 12425, 12440 (25 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 2 (under seal); D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 5; P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), pp. 33, 35–36; Robert Donia, T. 3134, 3141 (1 June 2010); P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 1; P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 8; Youssef Hajir, T. 8836–8837 (2 November 2010).

⁷³⁸⁹ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), e-court p. 2; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 60. *But see* P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 21, 30, 33, 36, 39 (indicating that in 1991, Novi Grad had 112,618 inhabitants of whom, approximately 49.5% were Bosnian Muslims, 28.3% were Bosnian Serbs and 7.1% Bosnian Croats). While the Chamber has found Tabeau's evidence to be generally reliable, for the purpose of determining the population of Novi Grad and the ethnic composition thereof in 1991, it relies on other evidence before it, such as the direct source document, P5964, which contains the raw data from the 1991 census in BiH.

⁷³⁹⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 2 (under seal); KDZ041, T. 12130 (17 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 16, 29; Ramiz Mujkić, T. 12139–12140 (17 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 7.

⁷³⁹¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 5 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 3; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 9.

⁷³⁹² Robert Donia, T. 3702 (10 June 2010); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 2; P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 4; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 61.

⁷³⁹³ P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 2; P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 34.

⁷³⁹⁴ Jovan Tintor was formally associated with the Vogošća municipality and was officially appointed to the post of the commander of the Vogošća TO Brigade on 22 May 1992. *See* P1505 (SRK Order, 22 May 1992), e-court p. 2; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992–1995)", e-court pp. 441–442).

Ranko Torbica were prominent SDS leaders in the area.⁷³⁹⁵ Bakir Alispahić, Hasan Čengić, and Jusuf Pušina were SDA leaders in the municipality.⁷³⁹⁶

(2) Establishment of Rajlovac municipality⁷³⁹⁷

2172. Near the end of 1991, members of the SDS municipal board from Novi Grad began contemplating the creation of the Serb municipality of Rajlovac on territory which belonged, in large parts, to the municipality of Novi Grad, in order to prevent Serbs being outvoted in the Novi Grad government and the Novi Grad Municipal Assembly.⁷³⁹⁸ On 26 December 1991, Krajišnik informed the Accused that he had been to a Novi Grad Municipal Assembly session in which voting had been blocked.⁷³⁹⁹ In addition, on 9 February 1992, Krajišnik informed the Accused of the meeting he had recently attended in Reljevo, a village in Novi Grad municipality, and the discussions he had had about forming the Rajlovac municipality.⁷⁴⁰⁰ A few days later, on 11 February, Jovan Tintor told a certain Prodanović that a new municipality called Rajlovac was being created.⁷⁴⁰¹

2173. On or about 23 February 1992, SDS leaders proclaimed the Serb municipality of Rajlovac on some of the territories which had hitherto belonged to the municipality of Novi Grad.⁷⁴⁰² On 26 March 1992, Dobrinja was incorporated into the Serb municipality of Ilidža, while remaining parts of Novi Grad were incorporated in the Serb municipality of Novo Sarajevo.⁷⁴⁰³ On 11 May

⁷³⁹⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 2–3 (under seal). Krajišnik was born and owned a family house in Zabrde, to the southeast of Ahatovići, near the Butile Barracks. Momčilo Krajišnik, T. 43153 (7 November 2013); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 60–61; P2327 (Map marked by Ramiz Mujkić), pp. 1–2; P2343 (Information report of Ramiz Mujkić, 4 July 2004), pp. 6–7; Robert Donia, T. 3132 (1 June 2010).

⁷³⁹⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 2 (under seal); D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 8.

⁷³⁹⁷ The Prosecution alleges that in furtherance of the First and Fifth Strategic Goals, the Accused and the Bosnian Serb Leadership established the Serb municipality of Rajlovac in certain areas of Novi Grad, which included the Muslim village of Ahatovići. Prosecution Final Brief, Appendix A (Novi Grad section), para. 1.

⁷³⁹⁸ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 20–22.

⁷³⁹⁹ P5785 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 26 December 1991), p. 1.

⁷⁴⁰⁰ P5753 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, February 1992), p. 1. Also, sometime in February 1992, Krajišnik informed Nikola Koljević about a meeting he was going to attend in Rajlovac “in connection with this one municipality.” P5758 (Intercept of conversation between Momčilo Krajišnik and Nikola Koljević, February 1992), p. 1.

⁷⁴⁰¹ P965 (Intercept of conversation between Jovan Tintor and FNU Prodanović, 11 February 1992), p. 5.

⁷⁴⁰² P973 (Robert Donia’s expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995”, January 2010), p. 32; Stojan Džino, T. 29871 (7 November 2012); P967 (Intercept of conversation between Radovan Karadžić and Ljubo Grković, 22 February 1992), pp. 1–2. See also Adjudicated Fact 2580. On 24 March 1992, the Bosnian Serb Assembly unanimously verified the decision to establish the municipality of Rajlovac along with 34 other Serb municipalities. P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24.

⁷⁴⁰³ P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 1; P973 (Robert Donia’s expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995”, January 2010), pp. 31, 35; Robert Donia, T. 3134 (1 June 2010); P966 (Map of Sarajevo marked by Robert Donia).

1992, the Bosnian Serb Assembly adopted a law according to which the municipality of Rajlovac included, *inter alia*, Ahatovići, Bojnik, Dobroševići, Rajlovac, Reljevo-Dvor, Zabrđe, and Žuč.⁷⁴⁰⁴ Jovo Božić assumed the role of the President of the Rajlovac municipality.⁷⁴⁰⁵ Sometime after the proclamation of Rajlovac as a new municipality, the Rajlovac municipality Crisis Staff was established and Jovo Božić was appointed as its President.⁷⁴⁰⁶

(3) The arming and mobilisation of Bosnian Serbs in Novi Grad

2174. By 14 October 1991, Tintor and Ratko Adžić, who later became the President of the Serb Municipality of Ilijaš,⁷⁴⁰⁷ had already discussed the issue of arming and mobilisation and noted the inadequate response to the call for mobilisation of Serbs in Novi Grad and surrounding municipalities. Adžić specifically complained that despite a meeting during which he had announced that there was a unique opportunity for Serbs to come and take firearms, nobody from Novi Grad had shown up to collect such weaponry.⁷⁴⁰⁸

2175. In February 1992, civilian trucks with Serbian and Montenegrin number plates removed equipment and supplies, including a number of guns, from the Butile Barracks and two of those trucks were driven to Pale.⁷⁴⁰⁹ In March or April 1992, a MP company, headed by Nikola Šuput, was relocated from Kiseljak municipality to Butile Barracks, bringing a number of APCs, anti-aircraft guns, and other weaponry.⁷⁴¹⁰ From March 1992 onwards, local Serbs came to the Butile and Rajlovac Barracks in order to be issued uniforms and weapons, including sniper rifles, and to undergo military training.⁷⁴¹¹ Two Bosnian Serbs employed at the Orao factory, Stevo Petričević and Mirko Mirković, established and maintained connections between local Serbs and the officers in the Rajlovac Barracks, and were involved in the distribution of arms to the local Serbs.⁷⁴¹² At the same time, reserve troops, including Serbs from surrounding areas started arriving at the Butile

⁷⁴⁰⁴ P2315 (Decree on promulgation of Law on Establishment of Rajlovac Municipality, 11 May 1992), p. 1; Stojan Džino, T. 29865, 29901 (7 November 2012). *See also* Adjudicated Fact 2580.

⁷⁴⁰⁵ D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 14.

⁷⁴⁰⁶ *See* P2329 (Rajlovac Crisis Staff Order, 9 April 1992); P2628 (Report of Rajlovac's Crisis Staff, 28 May 1992).

⁷⁴⁰⁷ P2623 (Ilijaš list of revenues and expenses, 11 May to 30 June 1992), p. 4.

⁷⁴⁰⁸ P5844 (Intercept of conversation between Jovan Tintor and Ratko Adžić, 14 October 1991), pp. 1–3.

⁷⁴⁰⁹ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 4.

⁷⁴¹⁰ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 6–7; D1103 (Supplemental witness statement of Ramiz Mujkić dated 28 April 2000), p. 1.

⁷⁴¹¹ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 8; P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 4 (photograph showing the Rajlovac Barracks); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 2; P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 4 (under seal).

⁷⁴¹² P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 12–13; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 2.

Barracks.⁷⁴¹³ They wore uniforms and were taught by Šuput's men how to operate mortars and other types of weapons.⁷⁴¹⁴ In addition, Orao accommodated a Serb "paramilitary unit" which consisted of SDS members from the surrounding villages.⁷⁴¹⁵ The insignias on the uniforms worn by this unit bore four Cyrillic "S" symbols and some of its members wore "kokarda" caps.⁷⁴¹⁶

2176. On 3 March 1992, a certain Gvozden informed the Accused that he had mobilised Serbs from Pale and would do the same in other municipalities, including Novi Grad.⁷⁴¹⁷ The Accused then demanded that efforts be made to show that Muslim mobilisation preceded Serb mobilisation by a number of hours.⁷⁴¹⁸

2177. By March 1992, Bosnian Serbs established a check-point on the bridge across the Bosna river in the Reljevo settlement and near the Butile Barracks, and gradually blocked the passage of Bosnian Muslims.⁷⁴¹⁹ On 9 April 1992, the Rajlovac municipality Crisis Staff ordered the "active observation" of the entire territory of Rajlovac municipality by means of controlling all vehicles and people moving in the direction of the "Distribution Centre".⁷⁴²⁰ The Rajlovac municipality Crisis Staff also ordered that one policeman and two TO members should be present at all times at the check-point towards the Distribution Centre.⁷⁴²¹

2178. By early May 1992, almost all non-Serb soldiers and officers of the JNA had abandoned their posts and left the Butile Barracks.⁷⁴²² However, pursuant to the instructions of Hasan Mujkić who was at the time the commander of the local Muslim TO, Ramiz Mujkić stayed in his post at the

⁷⁴¹³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 9.

⁷⁴¹⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 9; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 2.

⁷⁴¹⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 4 (under seal).

⁷⁴¹⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 4 (under seal).

⁷⁴¹⁷ P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992), p. 3.

⁷⁴¹⁸ P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992), pp. 2, 5.

⁷⁴¹⁹ Ramiz Mujkić, T. 12427, 12433–12434 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 17–18; P2327 (Map marked by Ramiz Mujkić); P2329 (Rajlovac Crisis Staff Order, 9 April 1992); KDZ041, T. 12083–12086 (17 February 2011); D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 12. Mujkić testified that the check-point was erected in January 1992. *See* Ramiz Mujkić, T. 12427, 12433 (25 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3. By contrast, Stojan Džino, testified that it was after the murder of the wedding guest in Sarajevo in March 1992 that Bosnian Serbs erected the first barricades. *See* D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 9, 70. KDZ041 could only recall that the Serb barricades were erected sometime by the end of February or the beginning of March 1992. *See* P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 4 (under seal). *But see* KDZ041, T. 12083 (17 February 2011) (indicating that the barricades were erected in the period of 20 to 25 May 1992). *See* paras. 3533–3539.

⁷⁴²⁰ P2329 (Rajlovac Crisis Staff Order, 9 April 1992).

⁷⁴²¹ P2329 (Rajlovac Crisis Staff Order, 9 April 1992).

⁷⁴²² P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 14.

Barracks in order to monitor the situation and report back to the TO command.⁷⁴²³ On or about 10 May 1992, the JNA handed over the Rajlovac Barracks and the Rajlovac airport to the Rajlovac TO.⁷⁴²⁴

2179. Sometime after 20 May 1992, Ramiz Mujkić met a group of Albanian JNA soldiers who were in charge of the security of the Butile Barracks and who told him that they would help the Bosnian Muslim TO take over the barracks.⁷⁴²⁵ Ramiz Mujkić subsequently informed Hasan Mujkić of this proposal but was shown a written message from Alija Delimustafić, the Minister of BiH MUP,⁷⁴²⁶ prohibiting any such take-over.⁷⁴²⁷ Three or four days later, Delimustafić reversed his position but the take-over of the Butile Barracks could not be carried out as a number of White Eagles had arrived there in the meantime.⁷⁴²⁸

2180. On 22 May 1992, the SRK commander, Tomislav Šipčić, ordered the formation of the Rajlovac TO Brigade, thus subordinating the Rajlovac TO to the SRK, and appointed the Rajlovac Crisis Staff president, who at that time was Jovo Božić, to the post of the commander of the Brigade.⁷⁴²⁹ On 28 May 1992, Božić reported to the Bosnian Serb government that the “Serbian Army of the Serbian Municipality of Rajlovac” included 1,280 conscripts.⁷⁴³⁰

2181. In May 1992, during talks between local SDA and SDS representatives in the village of Ahatovići, the Bosnian Serbs threatened to attack the village if the villagers did not leave.⁷⁴³¹ The

⁷⁴²³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 15; Ramiz Mujkić, T. 12413, 12431 (25 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 5.

⁷⁴²⁴ D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 10; P3033 (Reynaud Theunens’s expert report entitled “Radovan Karadžić and the SRBiH TO-VRS (1992-1995)”), e-court p. 441.

⁷⁴²⁵ Ramiz Mujkić, T. 12415–12416 (25 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 6.

⁷⁴²⁶ P1117 (Letter from SRBiH Minister of Interior to all MUP administrations, 31 March 1992), p. 2; P1121 (SRBiH Minister of Interior’s letter to all CSBs, SJBs, and SUP Sarajevo, 8 April 1992).

⁷⁴²⁷ Ramiz Mujkić, T. 12416 (25 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 6; Ramiz Mujkić, D1104 (Excerpts from transcript from *Prosecutor v. Krajišnik*), T. 9240.

⁷⁴²⁸ Ramiz Mujkić, T. 12416 (25 February 2011); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 6; D1104 (Excerpts from transcript from *Prosecutor v. Krajišnik*), T. 9240.

⁷⁴²⁹ P1505 (SRK Order, 22 May 1992), e-court pp. 1–2; P2628 (Report of Rajlovac’s Crisis Staff, 28 May 1992).

⁷⁴³⁰ P2628 (Report of Rajlovac’s Crisis Staff, 28 May 1992). Also, on 17 June 1992, during the 122nd Session of the BiH Presidency, Sefer Halilović reported that in the territory of Novi Grad, the enemy forces numbered 1,200 and had in their possession, *inter alia*, ten tanks, 26 APCs, 129 Mortars, 12 PEA guns, eight PEA machineguns, 22 hand-held rocket launchers, nine pieces of 82 mm mortar guns, four pieces of 82 mm recoilless guns, five cannons and several sniper nests. D192 (Transcript of 17th June 1992 session of the BiH Presidency), p. 4.

⁷⁴³¹ KDZ041, T. 12081–12083 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 5 (under seal). *See also* Adjudicated Fact 2607. The Chamber is cognisant of the fact that in his statement, Witness KDZ041 referred to the beginning of March 1992 as the period during which Serbs requested that the inhabitants of Ahatovići leave the area whereas during his testimony, he asserted that the request was in fact made at the end of May 1992, that is, after the outbreak of war in Sarajevo. The Chamber is also mindful that according to Adjudicated Fact 2607, this request was conveyed to the inhabitants of Ahatovići in March 1992. The Chamber considers, however, that the meeting in question took place around the end of May 1992 as stated by KDZ041 during his testimony. First, that period roughly coincides with the outbreak of hostilities in

Bosnian Muslims refused to comply with the demand and the local crisis staff of the Bosnian Muslims led by Hasan Mujkić set up barricades,⁷⁴³² organised village guards, and armed them with infantry weapons.⁷⁴³³ The Muslim TO numbered some 200 men.⁷⁴³⁴

2182. By mid-May 1992, all Serbs living in the villages of Dobroševići, Bojnik, Mihaljevići, and Brod left their houses for locations close to Rajlovac and Butile Barracks.⁷⁴³⁵ During the same period, the telephone and electricity lines to Ahatovići were disconnected.⁷⁴³⁶ By the end of May, Serbs had set up barricades on all the roads leading from Rajlovac and Bojnik to Sarajevo.⁷⁴³⁷ The individuals who manned these check-points stopped buses and vehicles and subjected the Bosnian Muslim passengers to searches, before refusing them passage to Sarajevo.⁷⁴³⁸

Sarajevo, as well as the alleged attack on the village of Ahatovići. Second, in his statement, Stojan Džino stated that the last meeting between Muslims from Ahatovići and Serbs took place on 27 May 1992. D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 12–13. The Chamber notes, however, that this inconsistency in the evidence of KDZ041 is not so grave that it would affect his overall credibility.

⁷⁴³² The Chamber notes that during his testimony before the Chamber, KDZ041 denied that there was a crisis staff in Ahatovići and instead referred to the existence of a group of village elders. See KDZ041, T. 12080, 12087–12089 (17 February 2011). The Chamber, however, does not accept this part of KDZ041's testimony since in his witness statement, he stated that a crisis staff headed by Hasan Mujkić was formed in Ahatovići, and then proceeded to list its members. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 10 (under seal). Moreover, Ramiz Mujkić also indirectly confirmed the existence of the said crisis staff. See P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 32. With respect to the existence of Muslim's barricades, the Chamber notes that in one of his written statements, Ramiz Mujkić stated that Muslims had set up barricades in Dobroševići and Ahatovići. See D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 5. However, during his testimony, he denied that there were such barricades. See Ramiz Mujkić, T. 12417–12420, 12432 (25 February 2011). In assessing this inconsistency, the Chamber considered the following: First, KDZ041 stated that after the Serbs had established barricades, the Muslims erected barricades of their own around Ahatovići. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 6 (under seal). Second, Ramiz Mujkić did in fact concede that the Muslim TO had a number of permanent positions, such as dugouts, around Ahatovići village. See P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 25. The Chamber therefore does not rely on Ramiz Mujkić's testimony that there were no Muslim barricades in Dobroševići and Ahatovići.

⁷⁴³³ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 10 (under seal); Ramiz Mujkić, T. 12417, 12432, 12436–12437 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 25, 32. See also Adjudicated Fact 2607.

⁷⁴³⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 25; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3.

⁷⁴³⁵ According to KDZ041, the Serbs were ordered to leave their houses so that the paramilitary units could establish their positions. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 8 (under seal); KDZ041, T. 12090 (17 February 2011).

⁷⁴³⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 13 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 33.

⁷⁴³⁷ KDZ041, T. 12083 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 6–7 (under seal). The Chamber is mindful that in his statement, KDZ041 stated that the barricades were erected in March whereas during his testimony he indicated that the barricades were erected sometime between 20 May 1992 and 25 May 1992. The Chamber considers that KDZ041's live testimony is more credible on this particular issue.

⁷⁴³⁸ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 7 (under seal); KDZ041, T. 12084–12085 (17 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 17; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3.

(C) Attack on Ahatovići

2183. On 25 May 1992, the inhabitants of the village of Ahatovići received an ultimatum from Serb Forces to surrender their men along with their weapons.⁷⁴³⁹ On 24 or 25 May 1992, women, children, and the elderly attempted to leave Ahatovići for the nearby municipality of Visoko, but were prevented from doing so by Bosnian Serbs who fired at them.⁷⁴⁴⁰

2184. On 27 May 1992, Serbs in both JNA and camouflage uniforms arrived on the hills around Ahatovići from the direction of Rajlovac with tanks and armoured vehicles.⁷⁴⁴¹ Using megaphones, they urged the villagers to surrender.⁷⁴⁴² They threatened: “Balijas, surrender, or we kill your children.”⁷⁴⁴³ When the villagers refused, at around 11 p.m. Serb Forces launched an attack, which was eventually repelled.⁷⁴⁴⁴ During this initial attack two Muslims were killed and ten were wounded.⁷⁴⁴⁵

2185. On 29 May 1992,⁷⁴⁴⁶ a final attack was launched on Ahatovići and Dobroševići, with heavy artillery.⁷⁴⁴⁷ The shells were fired from all directions, including the Butile and Rajlovac Barracks.⁷⁴⁴⁸ At this time, the women, children, and the elderly were moved to basements of

⁷⁴³⁹ KDZ041, T. 12091–12092 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 11 (under seal).

⁷⁴⁴⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 12, 19 (under seal). *See also* Adjudicated Fact 2608. Stojan Džino testified that Hasan Mujkić requested, on 29 May 1992, that Jovo Božić allow the evacuation of the convoy containing women and children from Ahatovići to Sarajevo but this was not allowed because the Serbs suspected the evacuation to be a preparatory step for an attack on Bosnian Serb settlements. *See* D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 14.

⁷⁴⁴¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 15 (under seal); KDZ041, T. 12092 (17 February 2011).

⁷⁴⁴² P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 15 (under seal). *See also* Adjudicated Fact 2609.

⁷⁴⁴³ Adjudicated Fact 2609.

⁷⁴⁴⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 15 (under seal). *See also* Adjudicated Fact 2609.

⁷⁴⁴⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 16 (under seal). The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment. *See* fn. 13.

⁷⁴⁴⁶ The Chamber notes that according to KDZ041, the shelling of Ahatovići commenced sometime between 7 a.m. and 8 a.m. whereas according to the statement of Ramiz Mujkić, it began at 3 p.m.. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 17 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 26. However, the Chamber finds that this discrepancy is not so serious that it would adversely affect the credibility and reliability of either witness.

⁷⁴⁴⁷ KDZ041, T. 12097 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 17–18 (under seal); Ramiz Mujkić, T. 12438, 12449–12452 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 26, 33; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court pp. 3, 6. KDZ601 testified that the attack took place in late May and early June 1992 and that forces participating in the attack included the members of the “Oljača group of Chetniks”, members of the Iliđa Battalion, and the members of the SJB Iliđa. KDZ601, T. 18588–18590 (8 September 2011). *See also* Adjudicated Fact 2610.

⁷⁴⁴⁸ KDZ041, T. 12097 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 17, 20 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 28; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court pp. 3, 6.

several houses in the centre of the village.⁷⁴⁴⁹ On 31 May, pursuant to the instructions of Fikret Mujkić, a member of the Ahatovići Crisis Staff, a group of villagers left for Bioča in order to meet two TO platoons from Visoko that were sent to facilitate the withdrawal of the villagers.⁷⁴⁵⁰ Ramiz Mujkić was chosen to be a part of this group but did not manage to meet up with them and instead returned to Ahatovići on 3 June.⁷⁴⁵¹ The shelling lasted until 1 or 2 June 1992, resulting in destruction of, and damage to, nearly 130 houses in Ahatovići and the death of 15 to 20 Bosnian Muslims.⁷⁴⁵²

2186. After the shelling stopped, Tintor as well as the local Serbs and members of paramilitary groups⁷⁴⁵³ mounted an infantry attack against Ahatovići.⁷⁴⁵⁴ During this infantry attack, about 20 Bosnian Muslim men were killed.⁷⁴⁵⁵ Subsequently, about 30 Bosnian Muslim villagers, including KDZ041, who had run out of ammunition decided to break through enemy lines and escape towards Visoko but were eventually hit by artillery fire.⁷⁴⁵⁶ In that instance, four Bosnian Muslim men were killed whereas a number of others, including KDZ041, were wounded.⁷⁴⁵⁷ Soon after, Tintor, the local Serbs, and paramilitaries entered Ahatovići with APCs and tanks.⁷⁴⁵⁸ Sometime during the shelling or the infantry attack, Ramiz Mujkić's younger sister and her daughter Elma

⁷⁴⁴⁹ KDZ041, T. 12095 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 12, 19 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 31; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3.

⁷⁴⁵⁰ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 32, 35; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court pp. 3, 6.

⁷⁴⁵¹ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 32, 35–36.

⁷⁴⁵² KDZ041, T. 12097 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 18–19 (under seal); Ramiz Mujkić, T. 12452 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 26. *See also* Adjudicated Fact 2660. The Chamber notes that these killings are not charged in Schedule A of the Indictment. *See* fn. 13.

⁷⁴⁵³ While KDZ041 testified that he saw men in JNA uniforms with white armbands and headbands and that those were members of the White Eagles, KDZ601 testified that the attack involved members of the "Oljača group of Chetniks" and that they were reinforced by VRS and MUP forces. *See* P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 23 (under seal); KDZ601, T. 18588–18589 (8 September 2011). The Chamber also notes that it has received other evidence showing the participation of paramilitaries in this attack. For example, on 5 August 1992, the head of Ilidža Serb SJB lamented that the commander of the Ilidža Brigade had excluded "militia" from joint meals even though those forces had partaken in many combat activities such as those in Hadžići, Rakovica, Ahatovići and Dobrinja. P6639 (SJB Ilidža information, 5 August 1992), p. 6. On the basis of the foregoing evidence, the Chamber finds that paramilitaries took part in the attack against Ahatovići.

⁷⁴⁵⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 19–20, 23 (under seal); KDZ041, T. 12066–12067, 12108 (17 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 26; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 3. *See also* Adjudicated Fact 2610.

⁷⁴⁵⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 18, 23 (under seal). *See also* Adjudicated Fact 2610; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 61

⁷⁴⁵⁶ KDZ041, T. 12065–12067 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 18–19, 20–21 (under seal).

⁷⁴⁵⁷ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 21 (under seal). The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment.

⁷⁴⁵⁸ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 19–20 (under seal).

Bešić who was only 15 years old at the time, were also killed.⁷⁴⁵⁹ Subsequently, houses belonging to Bosnian Muslims were looted and set ablaze.⁷⁴⁶⁰ The Serbs captured about 400 women and children and 80 men, in addition to the 150 women and children who had been captured in Dobroševići, Bojnik, and Mihaljevići prior to the attack on Ahatovići.⁷⁴⁶¹ Those captured in Ahatovići were subsequently taken in the direction of Rajlovac.⁷⁴⁶² The attack was completed and Ahatovići came under Bosnian Serb control by 3 June 1992.⁷⁴⁶³

2187. On 5 June 1992, Mijatović, from the Rajlovac Municipal Assembly, informed Nedeljko Prstojević, the president of the Ilidža Crisis Staff⁷⁴⁶⁴ that Ahatovići was no longer a threat.⁷⁴⁶⁵ Following a request signed by the Accused and dated 19 July 1992, houses that were not destroyed in Ahatovići were provided to the Serb refugees from the Muslim part of Sarajevo.⁷⁴⁶⁶

2188. In a 1993 report, Tihomir Glavaš, the Chief of the SJB Hadžići referred to the success of the 1 June 1992 military attack against Ahatovići launched by forces under his command and stated that as a result of the attack, the territories of Butile and Rajlovac had been unified.⁷⁴⁶⁷

(D) Scheduled Incident A.9.1

2189. The Indictment alleges that on or about 29 May 1992 at least 15 men were killed after they were captured while fleeing from the village of Ahatovići.

2190. After the 30 Bosnian Muslims, who tried to break through enemy lines and escape towards Visoko, were hit by artillery fire as described above,⁷⁴⁶⁸ The Bosnian Muslims surrendered to Serbs.⁷⁴⁶⁹ Among the Serbs were Stevo Petričević, Dragan Koprivica, and Bato Arnautović.⁷⁴⁷⁰ After their surrender, 15 of the Bosnian Muslim villagers, mainly those who were able to walk,

⁷⁴⁵⁹ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 48. The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment.

⁷⁴⁶⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 23, 63 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 39.

⁷⁴⁶¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 32 (under seal).

⁷⁴⁶² P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 33 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 89; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 62.

⁷⁴⁶³ P2333 (SerBiH MUP Report re Romanija–Birčani CSB, 3 June 1992), p. 1, reports that Ahatovići was “liberated” and placed under the “Serb Army control”.

⁷⁴⁶⁴ Nedeljko Prstojević, T. 12961 (8 March 2011).

⁷⁴⁶⁵ P2239 (Intercept of conversation between Mijatović and Nedeljko Prstojević, 5 June 1992), pp. 1, 3.

⁷⁴⁶⁶ P739 (RS Presidency request to various municipalities, 19 July 1992). *See also* P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 39.

⁷⁴⁶⁷ P2308 (SJB Ilidža report, 20 September 1993), p. 5.

⁷⁴⁶⁸ *See* para. 2186.

⁷⁴⁶⁹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 21.

⁷⁴⁷⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 22, 24 (under seal).

were taken to a nearby road and made to sit.⁷⁴⁷¹ Koprivica and Arnautović then proceeded to shoot the 15 remaining men who were unable to walk, killing them all.⁷⁴⁷² At that point, Tintor, armed with a pistol and an automatic rifle and wearing a JNA uniform, along with a number of paramilitaries, appeared on the scene.⁷⁴⁷³ Tintor then ordered that the men be lined up in pairs and taken to the Butile Barracks.⁷⁴⁷⁴

2191. Several days after the incident, Ramiz Mujkić, who was hiding in the forest above Ahatovići at the time, observed an excavator digging three holes in three different locations in the village and a number of Serb soldiers throwing bodies in these holes, which were then covered with soil.⁷⁴⁷⁵ In 1996, authorities from CSB Sarajevo exhumed the mortal remains of 25 Bosnian Muslim men and women from three different locations in Ahatovići.⁷⁴⁷⁶ KDZ041 identified four of these individuals as victims of the above-described execution.⁷⁴⁷⁷

⁷⁴⁷¹ KDZ041, T. 12065 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 21 (under seal).

⁷⁴⁷² KDZ041, T. 12065 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 22, 24 (under seal). *See also* Adjudicated Fact 2610. Those killed included Jusuf Suljić, Nihad Tokmo, Bećir Žiga, Meho Žiga, and a man who went by the name “Kriminalac”. P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 22, 24 (under seal). Contrary to this evidence, Džino stated that the 15 Bosnian Muslim men were combatants who were killed during combat. D2387 (Witness statement of Stojan Džino dated 4 November 2012). The Chamber, however, does not accept Džino’s evidence for the following reasons. First, KDZ041 gave reliable and detailed evidence of the executions of the 15 captured Bosnian Muslim men which he witnessed. Second, the Chamber found Džino’s evidence to be generally marked with contradictions.

⁷⁴⁷³ KDZ041, T. 12066, 12108 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 25 (under seal).

⁷⁴⁷⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 27 (under seal).

⁷⁴⁷⁵ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 83, 85; P2327 (Map marked by Ramiz Mujkić), pp. 1–2. *See also* D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004). On 3 June 1992, Ramiz Mujkić returned to Ahatovići and while moving through the village, was shot at. He escaped to the woods where he met Huso Gačanović and the two of them proceeded towards the forest known as Ptičija Glava, where they stayed until they were captured on 6 August 1992. P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 39–42, 44.

⁷⁴⁷⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 64 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 84–86; P2341 (CSB Sarajevo report re exhumations in Ahatovići, 15 October 1996), p. 1; D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004); P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 13–14. These 25 individuals are Elma Bešić (female, 1976), Razija Bešić (male, 1953), Džemail Bukalo (male, 1959), Mesud Burić (male, 1965), Admir Čaušević (male, 1972), Osman Čaušević (male, 1948), Elvedin Đedović (male, 1975), Hamid Divolić (male, 1950), Osman Evendić (male, 1954), Avdo Gačanović (male, 1944), Hamid Gačanović (male, 1952), Šerifa Hrustanović (female, 1942), Ramiz Hrvaić (male, 1950), Vahid Ligata (male, 1966), Nihad Mešanović (male, 1970), Samir Mujkić (male, 1966), Ajša Novalija (female, 1951), Šaban Peljto (male, 1969), Meho Rizvanović (male, 1966), Jusuf Suljić (male, 1961), Nijaz Šehović (male, 1962), Nihad Tokmo (male, 1970), Ahmo Uhota (male, 1951), Bećir Žiga (male, 1953) and Meho Žiga (male, 1930). In P4853, the name Šerifa Hrustanović appears twice, once as the daughter of Meho with 1942 as the year of birth and once as son of Jusuf with 1950 as the year of birth. However, in P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), p. 18, it is stated that Ramiz Hrvaić was born in 1950 and that his father’s first name was Jusuf. Having had regard to the name of father and the year of birth, the Chamber is satisfied that the second entry in P4853 was intended for Ramiz Hrvaić and not Šerifa Hrustanović. What is more, in P4883, the first name of Nijaz Šehović (male, 1962) is recorded as Nihaz. Nevertheless, the Chamber finds that this discrepancy is so minor that it does not have a bearing on the Chamber’s finding with respect to Scheduled Incident A.9.1. Also, in P4883 Džemail Bukalo’s first name is recorded as Džemal. However, the Chamber finds that this

2192. The Prosecution submits, based on Amor Mašović's evidence, that in addition to the above four individuals identified by KDZ041, a number of other individuals out of the 25 exhumed as well as three individuals whose remains were exhumed on 9 December 1994 by UNPROFOR from a separate place in Ahatovići are also victims of Scheduled Incident A.9.1.⁷⁴⁷⁸ However, the Chamber, based on the evidence before it, cannot conclude whether or not each of these additional individuals is a victim of Scheduled Incident A.9.1.

2193. In light of the foregoing, the Chamber finds that, following the attack on Ahatovići, on or about 1 June 1992, the Serb Forces executed 15 Bosnian Muslim men who had surrendered.

(E) Scheduled Incident D.15

2194. The Indictment refers to the destruction of the Ahatovići mosque on or about 4 June 1992.⁷⁴⁷⁹

2195. The Chamber received evidence that a detonation destroyed the Ahatovići mosque, leaving only the stump of its minaret standing.⁷⁴⁸⁰ Stojan Džino testified that it happened on 4 June 1992, during the combat activities related to the attack on Ahatovići village, and that he observed the explosion from a distance.⁷⁴⁸¹ Džino heard rumours that the ammunitions and the explosives that had been stored in the mosque by Bosnian Muslims had been hit by a heavy-calibre weapon, thus causing a significant explosion which destroyed the entire mosque.⁷⁴⁸² Ramiz Mujkić denied that explosives were stored in the mosque.⁷⁴⁸³ Mujkić, moreover, testified that he returned to Ahatovići in the morning of 3 June 1992.⁷⁴⁸⁴ According to Mujkić, at that time, the Muslim houses were

discrepancy is very minor. In P4883 Mesud Burić's first name appears as Mensud. The Chamber finds that this inconsistency is also very minor.

⁷⁴⁷⁷ The individuals identified by KDZ041 as victims of Scheduled Incident A.9.1 are Jusuf Suljić, Nihad Tokmo, Bećir Žiga and Meho Žiga. P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 13, 26.

⁷⁴⁷⁸ These three individuals are Ešref Mujkić (male, 1938), Amir Novalija (male, 1965) and Vejsil Novalija (male, 1936). P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 13–14; Prosecution Final Brief, Appendix G (Schedule A.9.1 section).

⁷⁴⁷⁹ Indictment, Scheduled Incident D.15.

⁷⁴⁸⁰ Ramiz Mujkić, T. 12458–12459 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 45; P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 63 (under seal); Andrés J. Riedlmayer, T. 22532–22533 (8 December 2011); P4069 (Cultural destruction database), record 332; P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), e-court pp. 201–204; Stojan Džino, T. 29866–29867, 29888 (7 November 2012). *See also* Adjudicated Fact 2662.

⁷⁴⁸¹ Stojan Džino, T. 29866–29867 (7 November 2012). However, contrary to Džino's assertion that there were combat activities in Ahatovići on 4 June 1992, the Chamber has received reliable documentary and testimonial evidence that on 3 June 1992, Serb Forces were in control of Ahatovići. *See* fn. 7484–7486.

⁷⁴⁸² Stojan Džino, T. 29866–29867 (7 November 2012) (referred to in the Defence Final Brief, para. 1712, in support of the Accused's submission that if the mosque had been used for military purposes, it lost the protection given to it by Article 3(d) of the Statute).

⁷⁴⁸³ Ramiz Mujkić, T. 12458–12459 (25 February 2011).

⁷⁴⁸⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 39.

being guarded by local Serbs and that for this reason he had to travel through the village via Serb houses.⁷⁴⁸⁵ The Chamber also notes that contrary to Džino's assertion that combat activities were still ongoing on 4 June 1992, a SerBiH MUP Report indicates that by 3 June 1992, Serb Forces had assumed control of Ahatovići.⁷⁴⁸⁶

2196. On the basis of the foregoing, the Chamber finds that the mosque in Ahatovići was destroyed due to a detonation on 4 June 1992 and that Serb Forces were responsible for causing the detonation which destroyed the mosque.

(F) Scheduled Detention Facility C.17.1 and Scheduled Incident B.12.1

2197. The Indictment alleges that cisterns near the Rajlovac Army Barracks were used as a detention facility in June 1992,⁷⁴⁸⁷ and that "a number" of men detained there were killed between 1 June 1992 and 14 June 1992.⁷⁴⁸⁸

2198. As noted above,⁷⁴⁸⁹ Bosnian Muslim men were captured following the attack on Ahatovići, after which Tintor ordered that they be transferred to the Butile Barracks. On the way to the Barracks, the men were subjected to threats as well as physical and verbal abuse.⁷⁴⁹⁰ When they reached a supermarket, some 200 metres from the Butile Barracks, they encountered about 100 well-armed White Eagles mistreating a number of villagers who had been captured from Dobroševići and other neighbouring villages.⁷⁴⁹¹ The White Eagles and some local Serbs then beat the detained men with iron bars, rifle butts, and wooden batons.⁷⁴⁹² At one point, one of the men was told that Arkan's men would soon take custody of the detainees.⁷⁴⁹³ Soon afterwards, the Bosnian Muslim detainees were forced to run the gauntlet and board a military bus.⁷⁴⁹⁴ On the bus, they were forced to sing "Chetnik songs"⁷⁴⁹⁵ and, the Serbs cursed Alija Izetbegović and the detainees' "balija mothers".⁷⁴⁹⁶ The bus travelled to the "army fuel depot" in Rajlovac.⁷⁴⁹⁷ Once

⁷⁴⁸⁵ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 40.

⁷⁴⁸⁶ P2333 (SerBiH MUP Report re Romanija-Birčani CSB, 3 June 1992), p. 1.

⁷⁴⁸⁷ Indictment, Scheduled Detention Facility C.17.1.

⁷⁴⁸⁸ Indictment, Scheduled Incident B.12.1.

⁷⁴⁸⁹ See para. 2190.

⁷⁴⁹⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 27 (under seal).

⁷⁴⁹¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 27 (under seal).

⁷⁴⁹² P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 27–30 (under seal).

⁷⁴⁹³ KDZ041, T. 12104 (17 February 2011).

⁷⁴⁹⁴ KDZ041, T. 12083 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal). A SerBiH MUP report indicates that after the attack on Ahatovići, some 50 Green Berets and HOS members were captured and sent for interrogation to the Rajlovac Barracks. P5425 (Report of RS MUP, 3 June 1992). See also Adjudicated Fact 2626.

⁷⁴⁹⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal).

⁷⁴⁹⁶ See Adjudicated Fact 2626.

there, the detainees were ordered to lie down on the grass where they were beaten with sticks and had a pair of dogs unleashed on them.⁷⁴⁹⁸ Some detainees were then put on a truck and taken to Orao where their wounds were bandaged.⁷⁴⁹⁹ Afterwards, they were taken back to Rajlovac Barracks and placed in a cistern or reservoir, which by that time housed approximately 90 detainees.⁷⁵⁰⁰ Adjoining this cistern was a bigger cistern, which housed approximately 130 Bosnian Muslims and Bosnian Croats from Dobroševići, Mihaljevići, Bojnik, Kobiljska, and Bioča.⁷⁵⁰¹

2199. The two cisterns formerly belonged to “Energopetrol Company” and had not been used since 1985.⁷⁵⁰² They housed the male detainees.⁷⁵⁰³ Near the cisterns were two buildings which were the premises of “Tehnogas Company” and the Distribution Centre.⁷⁵⁰⁴

2200. On the morning of 2 June 1992, Mile Stojanović arrived and introduced himself as the commander of the “camp”.⁷⁵⁰⁵ He wore a blue uniform which, although very similar to the police uniform, did not have any insignia.⁷⁵⁰⁶ On that occasion, Stojanović was accompanied by an individual named Šok and four others.⁷⁵⁰⁷ Šok wore the same blue uniform and also had a Yugoslav flag sewn onto his shirt.⁷⁵⁰⁸ Stojanović then asked the detainees for their identification cards and made a list of their names,⁷⁵⁰⁹ while Šok asked them about the weapons they had used

⁷⁴⁹⁷ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31; KDZ041, T. 12083 (17 February 2011).

⁷⁴⁹⁸ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal).

⁷⁴⁹⁹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal); Ramiz Mujkić, T. 12428 (25 February 2011).

⁷⁵⁰⁰ KDZ041, T. 12068 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal).

⁷⁵⁰¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal).

⁷⁵⁰² KDZ041, T. 12067–12069 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 31, 48 (under seal); P2311 (Photograph of cisterns); P2327 (Map marked by Ramiz Mujkić), pp. 1–2; P2343 (Information report of Ramiz Mujkić, 4 July 2004), pp. 8–10.

⁷⁵⁰³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 49; D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004).

⁷⁵⁰⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 33 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 46–47; P2327 (Map marked by Ramiz Mujkić), pp. 1–2; P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 5.

⁷⁵⁰⁵ KDZ041, T. 12081 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 34–35 (under seal); D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court p. 5. *See also* Adjudicated Fact 2627.

⁷⁵⁰⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal). There is evidence that Mile Stojanović held the rank of Sergeant Major in the MP. *See* P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 53–54, 67–68; D1101 (Excerpts from witness statements of Ramiz Mujkić, undated), e-court pp. 4, 7; D1103 (Supplemental witness statement of Ramiz Mujkić dated 28 April 2000), p. 2; P2325 (Medical certificate re Ramiz Mujkić, 22 August 1992), p. 1; Ramiz Mujkić, T. 12382 (24 February 2011).

⁷⁵⁰⁷ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal).

⁷⁵⁰⁸ KDZ041, T. 12105, 12108–12109 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal).

⁷⁵⁰⁹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal).

and the nature of their duties.⁷⁵¹⁰ Šok also inquired whether Hasan Mujkić, Husein Mujkić, and Meho Novalija, who were SDA political leaders, had been present during the attack on Ahatovići.⁷⁵¹¹ After the prisoners were registered, Šok and his four men took two Bosnian Muslim men out of the cistern and beat them while questioning them about the weapons they used.⁷⁵¹² When Stojanović returned on the same day, he saw the bruises on the men and promised that it would not happen again.⁷⁵¹³ Stojanović then indicated that there would be two prisoner exchanges, one involving women and children and the other at Kobilja Glava, involving the prisoners from the smaller cistern.⁷⁵¹⁴ Despite Stojanović's pledge, however, on a nearly daily basis Šok took two or three prisoners in front of the cisterns and subjected them to beatings.⁷⁵¹⁵ On one occasion, he and his men took out two men, beat them and broke the latter's arms.⁷⁵¹⁶

2201. Due to the deposit of rainwater in the cisterns, the detainees were forced to stand for the entire duration of their detention.⁷⁵¹⁷ They received no food or water during the first three days of their detention and afterwards received very little food and water.⁷⁵¹⁸ On or about 3 June 1992, Šok forced a number of prisoners who did not have visible signs of injury to appear before a Serb television crew and state that they were being treated well.⁷⁵¹⁹

2202. During the first week of June 1992, three new prisoners, namely Hajro Delić, his son, and Džemail Sačić were brought to the smaller cistern.⁷⁵²⁰ A few days into his detention, Delić was taken away and brought back the following day, severely injured.⁷⁵²¹ He told the other prisoners that he had been severely beaten and abused by Šok on orders from Nikola Stanišić and that during

⁷⁵¹⁰ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal).

⁷⁵¹¹ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 34 (under seal).

⁷⁵¹² P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 36 (under seal).

⁷⁵¹³ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 36 (under seal).

⁷⁵¹⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 36 (under seal); KDZ041, T. 12122 (17 February 2011).

⁷⁵¹⁵ KDZ041, T. 12105 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 37 (under seal).

⁷⁵¹⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 37 (under seal).

⁷⁵¹⁷ KDZ041, T. 12069 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 31 (under seal).

⁷⁵¹⁸ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 38 (under seal). *See also* Adjudicated Fact 2628.

⁷⁵¹⁹ KDZ041, T. 12100 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 39 (under seal).

⁷⁵²⁰ KDZ041, T. 12069 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 40 (under seal).

⁷⁵²¹ KDZ041, T. 12069 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 40 (under seal).

the questioning, Stanišić had asked for one million German Marks as the price for releasing him.⁷⁵²² Soon after that, Delić succumbed to his injuries and died.⁷⁵²³

2203. On two occasions, a man by the name of Žuti who was rumoured to be Tintor's chauffeur and a former "member of the Special Forces of Dragan Vikić" came to the smaller cistern, called out the names of a number of prisoners, indicating that they were to be taken for exchange in Ilidža.⁷⁵²⁴ None of these individuals have since been seen alive and KDZ041 heard that the remains of some of them were found at the Vlakovo city cemetery.⁷⁵²⁵

2204. On one occasion, Žuti approached one of the cisterns and threw in a gas grenade.⁷⁵²⁶ Immediately after Žuti had left, one of the guards opened the door to the cistern so that the prisoners could come out for fresh air.⁷⁵²⁷

2205. Between 1 and 14 June 1992, Stojanović, Šok, and other members of the special unit accompanied a man to one of the cisterns; this man then pointed out Enver Čelik, alleging that Čelik had abused his sister.⁷⁵²⁸ Šok and the other men took Čelik behind the cisterns, hanged him by his arms and killed him by hitting him twice in the back with iron bars.⁷⁵²⁹

2206. On 12 June 1992, the prisoners from the smaller cistern were told that they would be taken to Kobilja Glava, in order to be exchanged.⁷⁵³⁰ The next day, Stojanović called the names of 56 individuals and instructed them to board two trucks.⁷⁵³¹ The two trucks travelled to a police station in Sokolac, then to the Koran Barracks, on to Rogatica, and finally to Pale, where they stopped near

⁷⁵²² KDZ041, T. 12069–12070, 12106 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 40 (under seal). KDZ041 testified that Stanišić and Delić had an argument even before the war. KDZ041, T. 12069–12070, 12106 (17 February 2011).

⁷⁵²³ After Delić's death, his son and an individual by the name of Edin were transferred to the other reservoir in order to be exchanged. KDZ041, T. 12070, 12129 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 40 (under seal).

⁷⁵²⁴ According to KDZ041, these individuals included Edin Brajlović, Zajko Brajlović, Zijo Brajlović, another person with the last name Brajlović, two persons with the last name Salkić, a man called Amir who was from Dobroševići, Rusmir Pašić and Kadrija Ramadani. KDZ041, T. 12070–12071, 12124–12125 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 41–44 (under seal).

⁷⁵²⁵ KDZ041, T. 12071 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 42–44 (under seal).

⁷⁵²⁶ KDZ041, T. 12106–12107 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 41, 43 (under seal).

⁷⁵²⁷ KDZ041, T. 12106–12107 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 41 (under seal).

⁷⁵²⁸ KDZ041, T. 12070, 12128–12129 (17 February 2011).

⁷⁵²⁹ KDZ041, T. 12070, 12128–12129 (17 February 2011). When cross-examined as to why he never mentioned this incident before, KDZ041 testified that he did mention it but that it was never recorded for some reason.

⁷⁵³⁰ KDZ041, T. 12122 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 45 (under seal).

⁷⁵³¹ KDZ041, T. 12122 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 45 (under seal).

the Panorama Hotel.⁷⁵³² At about 6 p.m., the trucks returned to Rajlovac.⁷⁵³³ At that point, the larger cistern was empty as the people detained there had been exchanged on that day so the 56 detainees were placed there.⁷⁵³⁴ On 14 June 1992, Hamo Karić, whose injuries had become infected, was taken out of the cistern in order to be exchanged.⁷⁵³⁵

2207. During the course of their respective cross-examinations, Stojan Džino and Mihajlo Vujasin both conceded that the civilians from Ahatovići had been taken to the Rajlovac Barracks and detained.⁷⁵³⁶ Vujasin even admitted that a few of the Bosnian Muslims were subjected to beatings there and that he had risked his life when ensuring that the detainees were not harmed by “certain individuals”.⁷⁵³⁷

2208. Between 9 and 18 June 1997, the remains of nine Bosnian Muslim men were exhumed from the Vlakovo cemetery in Ilidža municipality.⁷⁵³⁸ Out of those, six were identified by KDZ041 as having been killed during their detention in the cisterns.⁷⁵³⁹ According to Amor Mašović, with the exception of Edin Brajlović who was recorded as last seen alive on 17 June 1992 in Ahatovići, all these individuals were last seen alive on 1 or 2 June 1992 in Ahatovići.⁷⁵⁴⁰ The forensic evidence establishes the cause of death of seven of the nine victims as either gunshot to the head, gunshot to

⁷⁵³² KDZ041, T. 12122 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 46 (under seal).

⁷⁵³³ KDZ041, T. 12122 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 47 (under seal).

⁷⁵³⁴ KDZ041, T. 12122–12123 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 47 (under seal).

⁷⁵³⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 49 (under seal).

⁷⁵³⁶ Stojan Džino, T. 29857–29858 (6 November 2012), 29872–29873 (7 November 2012); Mihajlo Vujasin, T. 31805 (20 December 2012).

⁷⁵³⁷ Mihajlo Vujasin, T. 31805–31806 (20 December 2012).

⁷⁵³⁸ These nine individuals are Imer Bajramović (male, 1950), Edin Brajlović (male, 1963), Zajko Brajlović (male, 1939), Zijad Brajlović (male, 1962), Refik Džaferović (male, 1955), Džemal Efendić (male, 1958), Amir Habibović (male, 1955), Rusmir Pašić (male, 1969) and Kadrija Ramadani (male, 1933). P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 86–87; P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), p. 45; P4884 (Sarajevo Cantonal Court records relating to the Vlakovo Exhumation, 17 June 1997), pp. 8–9, 19–20, 41–42; P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 5–7; P4885 (Sarajevo Cantonal Court record of post-mortem examination of victims exhumed at Vlakovo, 25 August 1997), pp. 33–39. As regards the death of Edin Brajlović whose date of disappearance is indicated as 17 June 1992 in P4853, the Chamber has given consideration to the following facts. First, Edin Brajlović’s cause of death was established as gunshot wound to the head. Second, according to evidence, Žuti removed him and a number of individuals from the cisterns and none of these individuals ever returned. Third, the body of Edin Brajlović was discovered at the same location where the remains of the eight individuals killed by Serb Forces were found, that is, in the mass grave in Vlakovo cemetery in Ilidža municipality. Based on these considerations, the Chamber finds that the reference in P4853 to 17 June 1992 as the day Edin Brajlović was last seen alive must be erroneous.

⁷⁵³⁹ These six individuals are Edin Brajlović, Zajko Brajlović, Zijo Brajlović, Amir Habibović, Rusmir Pašić and Kadrija Ramadani. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 44 (under seal).

⁷⁵⁴⁰ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 86–87.

the chest cavity or injury to the head.⁷⁵⁴¹ In light of the foregoing evidence, the Chamber finds that all of these nine individuals were killed, while detained in two cisterns near the Rajlovac Army Barracks some time during the first half of June 1992.

2209. Based on the foregoing, the Chamber finds that two reservoirs or cisterns near the Rajlovac Barracks had been turned into makeshift prisons for the male detainees and that the men detained there were given very little food and water and were forced to stand for the duration of their captivity. Further, the Chamber finds that the guards at this makeshift detention facility routinely subjected the male detainees to interrogations and beatings. The Chamber notes that some of the men, including KDZ041, were combatants prior to their detention.⁷⁵⁴²

2210. The Chamber also finds that sometime during the first week of June 1992, Serb Forces killed two Bosnian Muslim detainees in or near the cisterns⁷⁵⁴³ and that sometime during the first half of June 1992, Serb Forces removed nine Bosnian Muslim men from the cisterns in the Rajlovac Barracks and subsequently killed them.⁷⁵⁴⁴

(G) Scheduled Incident B.12.2

2211. The Indictment alleges that at least 47 men were taken from the cisterns and killed near Srednje in Ilijaš municipality on or about 14 June 1992.

2212. On 14 June 1992, at about 7 p.m., heavily armed men dressed in black and white camouflage uniforms, black balaclavas, and red berets whom KDZ041 thought were “Special Police Forces”, arrived at the cisterns and ordered the detainees, including KDZ041, to form a single line and board a civilian bus as they were to be exchanged in Kobilja Glava.⁷⁵⁴⁵ Upon entering the bus, a guard hit the prisoners and ordered them to lie down on the floor, face down with their hands behind their heads.⁷⁵⁴⁶ As they were many, they had to lie on top of one another in

⁷⁵⁴¹ P4885 (Sarajevo Cantonal Court record of post-mortem examination of victims exhumed at Vlakovo, 25 August 1997), pp. 33–39. The forensic documentation does not indicate the cause of death of the remaining victim, namely Zajko Brajlović. In relation to Imer Bajramović, the Chamber notes that the cause of death was determined to be penetration of the body by harpoon. See P4885 (Sarajevo Cantonal Court record of post-mortem examination of victims exhumed at Vlakovo, 25 August 1997), pp. 29–30.

⁷⁵⁴² See paras. 2190, 2193.

⁷⁵⁴³ These two individuals are Hajro Delić and Enver Čelik. See paras. 2202, 2205.

⁷⁵⁴⁴ These individuals are Imer Bajramović, Edin Brajlović, Zajko Brajlović, Zijad Brajlović, Refik Džaferović, Džemal Efendić, Amir Habibović, Rusmir Pašić and Kadrija Ramadani. See paras. 2203, 2208.

⁷⁵⁴⁵ KDZ041, T. 12071–12073, 12109–12110 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 50–51 (under seal). See also Adjudicated Fact 2629.

⁷⁵⁴⁶ KDZ041, T. 12071, 12109–12110 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 51 (under seal).

order to fit into the bus.⁷⁵⁴⁷ Žuti drove the bus while two guards watched the detainees.⁷⁵⁴⁸ Four cars containing members of what KDZ041 referred to as “Special Police Forces” were escorting the bus, two in the front, and two behind the bus.⁷⁵⁴⁹ The bus then drove to a barricade near Srednje where Žuti asked for directions to the village of Sokolina.⁷⁵⁵⁰ By this time, the two cars which had been travelling behind the bus had disappeared.⁷⁵⁵¹ Žuti proceeded to drive the bus for another ten minutes before stopping near the separation line.⁷⁵⁵²

2213. At that point, Žuti informed the detainees that the radiator had overheated and that he needed to cool it down, while one of the guards told the detainees not to stand up.⁷⁵⁵³ About 10 to 15 seconds after Žuti and the guards had left the bus, KDZ041 heard a loud explosion, following which the bus was fired upon by automatic rifles, machineguns, and *Zoljas* from all directions for about 15 minutes, while hand grenades were thrown underneath it.⁷⁵⁵⁴ Some of the prisoners attempted to escape but were shot and killed.⁷⁵⁵⁵ Shortly after the shooting stopped, KDZ041 heard the cars in the escort start their engines and drive off.⁷⁵⁵⁶ After this, two vehicles pulled over alongside the bus, and KDZ041 heard two men discussing whether to check for survivors, but they did not do so.⁷⁵⁵⁷ Afterwards, six of the Bosnian Muslims who had survived the attack, including KDZ041, managed to get out and walk towards a nearby forest.⁷⁵⁵⁸ However, due to the serious

⁷⁵⁴⁷ KDZ041, T. 12071, 12109 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 51 (under seal).

⁷⁵⁴⁸ KDZ041, T. 12071–12072, 12110 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 51–52 (under seal).

⁷⁵⁴⁹ KDZ041, T. 12072, 12111–12112 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 51 (under seal).

⁷⁵⁵⁰ KDZ041, T. 12110–12111 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 52 (under seal).

⁷⁵⁵¹ KDZ041, T. 12111–12112, 12131 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 52 (under seal).

⁷⁵⁵² KDZ041, T. 12073, 12113, 12115 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 53 (under seal); P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 13 (photograph showing both sides of the road). *See also* Adjudicated Fact 2629.

⁷⁵⁵³ KDZ041, T. 12073 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 53 (under seal).

⁷⁵⁵⁴ KDZ041, T. 12074–12075, 12112, 12120–12121, 12131–12132 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 53, 57 (under seal); P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 15. *See also* Adjudicated Fact 2629.

⁷⁵⁵⁵ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 53 (under seal).

⁷⁵⁵⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 53 (under seal).

⁷⁵⁵⁷ KDZ041, T. 12074, 12131 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 54 (under seal).

⁷⁵⁵⁸ KDZ041, T. 12075 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 55 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 49.

injuries which they had sustained, two of the survivors, namely Nedžib Gačanović and Safet Rizvanović, died shortly after.⁷⁵⁵⁹

2214. The four remaining survivors walked all night and eventually made their way to Vukašovići, a village under the control of Bosnian Muslim TO.⁷⁵⁶⁰ The residents of Vukašovići, along with the Bosnian Muslim TO, then went to the scene in order to pull the dead bodies from the bus and, while at the scene, discovered another two survivors.⁷⁵⁶¹ In addition, two more survivors were later found in the village of Palanka.⁷⁵⁶²

2215. The dead bodies were eventually removed from the bus, while the burned and damaged bus was filmed by a certain Ibrahim.⁷⁵⁶³ Towards the end of the removal, a number of VRS members, headed by Dragan Ikanović, who was from Srednje and who was allegedly a commander of Serb police,⁷⁵⁶⁴ appeared at the scene accompanied by two trucks in order to tow the bus.⁷⁵⁶⁵ Ikanović and his men were told to leave.⁷⁵⁶⁶ Members of the Bosnian Muslim TO then used tractors to take the bodies to the village of Ravne, in Ilijaš municipality, and buried them in a mass grave near that village.⁷⁵⁶⁷ Before the burial, the survivors of the attack managed to identify 40 out of the 47

⁷⁵⁵⁹ KDZ041, T. 12074–12075, 12114 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 55 (under seal).

⁷⁵⁶⁰ KDZ041, T. 12075, 12112, 12115–12116 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 55 (under seal).

⁷⁵⁶¹ KDZ041, T. 12114–12115 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 55–56 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 49.

⁷⁵⁶² P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 56 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 49.

⁷⁵⁶³ KDZ041, T. 12076–12077, 12116, 12118 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 60 (under seal); P2312 (Video footage of burned bus); P2343 (Information report of Ramiz Mujkić, 4 July 2004), pp. 12–14.

⁷⁵⁶⁴ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 50 (under seal); P3629 (Report on the work of the VRS Military Prosecutor's Office for 1992), p. 9.

⁷⁵⁶⁵ KDZ041, T. 12116, 12118 (17 February 2011). The Chamber is mindful that in his witness statement, KDZ041 stated that “[w]hen the villagers of [Vukašovići] reached the spot where the massacre had occurred, they found a Chetnik patrol there with two trucks”. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 55 (under seal). The Chamber however, does not find that this discrepancy is so acute that it would undermine the overall credibility of KDZ041’s evidence with respect to Scheduled Incident B.12.2.

⁷⁵⁶⁶ P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 55 (under seal).

⁷⁵⁶⁷ KDZ041, T. 12075, 12077–12078, 12117–12118 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 58 (under seal); P2313 (Video footage of burial); P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 16.

individuals who had been killed on the bus.⁷⁵⁶⁸ A few days later, Ikanović and his men came back and set the bus on fire.⁷⁵⁶⁹

2216. The remains of 47 Bosnian Muslim men were exhumed from a mass grave in the village of Ravne on 24–26 June 1996.⁷⁵⁷⁰ According to Amor Mašović, each of these 47 individuals was recorded as last seen in either Ahatovići or Dobroševići on 1 June 1992.⁷⁵⁷¹

⁷⁵⁶⁸ KDZ041, T. 12078 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 58–59 (under seal). According to Ramiz Mujkić, his sister's husband and her son who was almost 21 years old were both killed during the attack on the bus on or about 14 June 1992. Ramiz Mujkić stated, moreover, that 13 individuals with the last name Mujkić were killed in the incident. Mujkić added that Zaim Rizvanović who was the fifth son in his family survived the bus incident whereas his four brothers died. P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 49.

⁷⁵⁶⁹ KDZ041, T. 12116 (17 February 2011).

⁷⁵⁷⁰ These 47 individuals are Hamid Adilović (male, 1951), Meho Bašić (male, 1944), Salem Bečić (male, 1945), Ahmilo Bečković (male, 1967), Fadil Bečković (male, 1968), Nusret Bečković (male, 1972), Edin Bešić (male, 1971), Šućrija Bešić (male, 1949), Ibrahim Boloban (male, 1929), Amir Duraković (male, 1960), Jusuf Džuho (male 1949), Alija Gačanović (male, 1949), Čazim Gačanović (male, 1955), Mufid Gačanović (male 1968), Mujo Gačanović (male, 1929), Mustafa Gačanović (male, 1959), Nedžib Gačanović (male, 1952), Samir Hrustanović (male, 1966), Ejub Kalkan (male, 1935), Ale Mehmedović (male, 1956), Nedžad Mešanović (male, 1970), Midhat Muharemović (male 1958), Armin Mujkić (male, 1968), Eldin Mujkić (male, 1974), Emir Mujkić (male, 1973), Fikret Mujkić (male, 1956), Hemed Mujkić (male, 1936), Mirsad Mujkić (male, 1958), Muhamed Mujkić (male, 1949), Refik Mujkić (male, 1952), Salem Mujkić (male, 1952), Šaćir Mujkić (male, 1963), Uzeir Mujkić (male, 1935), Zijad Mujkić (male, 1973), Ramiz Novalija (male, 1946), Ramiz Peljto (male, 1968), Ismet Rizvanović (male, 1958), Izet Rizvanović (male, 1960), Mehmed Rizvanović (male, 1961), Nedžad Rizvanović (male, 1972), Sulejman Rizvanović (male, 1945), Enes Suljić (male, 1950), Enver Suljić (male, 1952), Muhamed Suljić (male, 1936), Salih Suljić (male, 1934), Suad Suljić (male, 1972), and Ramiz Ušto (male, 1972). P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 87–89; P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), pp. 32–34. In P4853 (Updated Table 2 to the Report of Amor Mašović), p. 88, reference is made to Midhat Muharemović, born on 1958 and son of Murat. However, in P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), p. 32, reference is made to Fikret Muharemović, born in 1958 and son of Murat. Having had regard to the name of father and the year of birth, as well as the fact that KDZ041 mentions the name Midhat Muharemović, the Chamber is satisfied that the correct first name of the victim in question is in fact Midhat and not Fikret. P2310 (Witness statement of KDZ041 dated 14 February 2011), p. 59 (under seal).

⁷⁵⁷¹ P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 87–89. The Chamber notes that there are some discrepancies between the forensic evidence and the evidence of KDZ041 as regards the names of some of the victims of Scheduled Incident B.12.2. More specifically, KDZ041's witness statement contains references to Meho Pašić, Salem Bešić, Ahmed Bečković, Šućro Bečić, Samir Hrustenmović, Almir Mujkić, Edmir Mujkić, Mehmed Mujkić, Šaćir Mujić, Ismet Rizvan, Nedžad Rizvan, and Sulejman Rizvan. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 59 (under seal). By contrast, in the forensic reports of BiH authorities dealing with exhumation and identification of victims, the names of these individuals are recorded as Meho Bašić, Salem Bečić, Ahmilo Bečković, Šućrija Bešić, Samir Hrustemović, Armin Mujkić, Emir Mujkić, Hemed Mujkić, Šaćir Mujkić, Ismet Rizvanović, Nedžad Rizvanović and Sulejman Rizvanović. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 88–89; P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), pp. 32–34. However, the Chamber considers these inconsistencies to be minor and accordingly concludes that these are in fact the same individuals. Further, KDZ041's witness statement contains references to four persons who are not listed in the above-mentioned forensic reports, *i.e.*, Nazif Mujkić, Safet Rizvan, Vahid Rizvan, and Nijaz Tiro. P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 59 (under seal). Similarly, the forensic reports refer to 11 individuals who are not mentioned in the witness statement of KDZ041, *i.e.*, Hamid Adilović, Fadil Bečković, Nusret Bečković, Ibrahim Boloban, Jusuf Džuho, Ale Mehmedović, Nedžad Mešanović, Ramiz Peljto, Izet Rizvanović, Mehmed Rizvanović, and Ramiz Ušto. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 88–89; P4883 (Data on exhumations in the Sarajevo region in the period of 1996–1998), pp. 32–34. Having considered these inconsistencies, the Chamber does not consider them to be of significance, as it is satisfied, as will be seen below, that 47 men indeed died in this incident.

2217. The Accused contends that due to conflicting evidence it is impossible to properly ascertain the identity of the perpetrators who carried out the attack on the bus.⁷⁵⁷² He submits that there is evidence that tends to show, on the one hand, that Boro Radić—a man who frequently acted without orders and who was psychologically unstable—had organised the attack, and on the other hand, that the attack had been carried out by Brne's group—a paramilitary unit led by Branislav Gavrilović, which the Bosnian Serb authorities tried to disband or even liquidate because of their criminal activities and substance abuse.⁷⁵⁷³ Finally, the Accused argues that there is also evidence which indicates that the attack on the bus was carried out by Bosnian Muslims who erroneously thought that the bus was filled with Serbs.⁷⁵⁷⁴

2218. The Chamber will now identify and analyse the relevant evidence which implicates Bosnian Serb forces in the attack on the bus and examine whether there are inconsistencies in such evidence: (i) KDZ041 testified that he heard that the “main organisers” of the attack on the bus were Boro Radić, Dragan Ikanović, and Ratko Adžić;⁷⁵⁷⁵ (ii) Eset Muračević, a Bosnian Muslim who was detained in Vogošća municipality in the second half of 1992, stated that he had heard from a fellow detainee that a Serb prison guard by the name Predrag Žarković, alias Božur, was “[a]mong the group of Chetniks” who carried out the attack on the bus;⁷⁵⁷⁶ and (iii) KDZ601 testified that [REDACTED], he heard [REDACTED] that Branislav Gavrilović from Vučija Luka and his unit had “hit” the bus with *Zoljas*.⁷⁵⁷⁷

2219. The Chamber, Judge Morrison dissenting, does not consider that the evidence of KDZ041 contradicts the evidence of Muračević on this issue because Muračević simply stated that Žarković was among the group of Chetniks who carried out the attack on the bus; he did not claim that Žarković was a main organiser of the attack. The Chamber, Judge Morrison dissenting, is also satisfied that the evidence of KDZ601 is not in conflict with the evidence of KDZ041 on this question because KDZ601 did not testify that Gavrilović and his men were the main organisers of

⁷⁵⁷² Defence Final Brief, para. 1710.

⁷⁵⁷³ Defence Final Brief, paras. 1707–1708.

⁷⁵⁷⁴ Defence Final Brief, para. 1709.

⁷⁵⁷⁵ KDZ041, T. 12075 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 50, 61 (under seal). According to KDZ020, Boro Radić was a common criminal from Vogošća who had the support of the SDS and eventually was integrated into the VRS and given the rank of colonel. KDZ020, T. 12524 (28 February 2011) (private session).

⁷⁵⁷⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 20, 60. On Eset Muračević's detention, see Scheduled Detention Facilities C.26.1, C.26.3.

⁷⁵⁷⁷ P3299 (Record of interview with KDZ601, 18 April 2005), pp. 38–42 (under seal); KDZ601, T. 18590–18592 (8 September 2011). The Chamber received evidence that Branislav Gavrilović was known and referred to by the municipal authorities of Ilidža as the commander of all SAO Romanija volunteer units. P2302 (Approval of the War Board of Commissioners of Ilidža Municipality, 9 July 1992); Nedeljko Prstojević, T. 12988 (8 March 2011). Witness Velimir Dunjić stated that the unit of Branislav Gavrilović was in the zone of responsibility of

the attack. Similarly, the Chamber, Judge Morrison dissenting, is of opinion that the evidence of KDZ601 does not contradict the evidence of Eset Muračević because Muračević merely spoke of one of the participants in the attack. In light of the foregoing, the Chamber, Judge Morrison dissenting, is of the view that there is no conflict in the evidence of these witnesses on the question of the identity of the perpetrators of the bus attack.

2220. The Chamber will now assess the evidence in light of the Accused's argument that the bus was attacked by Bosnian Muslims who mistakenly thought that it was filled with Serbs.⁷⁵⁷⁸ There is indeed evidence that Mirko Krajišnik informed Momčilo Krajišnik that Muslims had intercepted a bus carrying detained Muslims and, mistaking the occupants of the bus for Serbs, had opened fire on the bus, killing all the detainees and heavily wounding two Serb guards.⁷⁵⁷⁹

2221. However, there is also evidence that Momčilo Krajišnik gave instructions to the Bosnian Serbs in Rajlovac that nothing should happen to the Bosnian Muslim men detained there. More specifically, on 8 June 1992, Momčilo Krajišnik informed a certain Mijatović in Rajlovac that his brother Mirko had told him "about problems with these captured men", and stated that nothing should be done which would be wrong or outside of the rules.⁷⁵⁸⁰ He also told Mijatović that he was ready to help find a solution.⁷⁵⁸¹ Krajišnik reiterated his position to another interlocutor in the same conversation, emphasising that nothing should be done to the men.⁷⁵⁸²

2222. In this regard, the Chamber notes that Mirko Krajišnik himself was involved in dealing with the detainees at the Rajlovac Barracks. This was brought out by Ramiz Mujkić, who testified that, on the morning of 7 August 1992 while he was detained at the Rajlovac Barracks, Mirko Krajišnik and others visited him in his cell, and enquired about the whereabouts of Hasan Mujkić and his brother Husein, the witness's son Elvir Mujkić, and a person named Junuz Mujkić.⁷⁵⁸³ Ramiz

the Igman Brigade and that, after a while, it put itself under the command of the Igman Brigade. D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 13.

⁷⁵⁷⁸ See Defence Final Brief, para. 1709.

⁷⁵⁷⁹ D1088 (Intercept of conversation between Momčilo Krajišnik and Mirko Krajišnik, 15 June 1992), pp. 1, 5–6.

⁷⁵⁸⁰ P2334 (Intercept of conversation between Momčilo Krajišnik, Mijatović and Ljubiša Vladušić, 8 June 1992), pp. 1–2.

⁷⁵⁸¹ P2334 (Intercept of conversation between Momčilo Krajišnik, Mijatović and Ljubiša Vladušić, 8 June 1992), p. 1.

⁷⁵⁸² P2334 (Intercept of conversation between Momčilo Krajišnik, Mijatović and Ljubiša Vladušić, 8 June 1992), p. 4.

⁷⁵⁸³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 59; Ramiz Mujkić, T. 12400–12409 (25 February 2011); D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004). The Chamber does not accept the Accused's assertion that since witness Ramiz Mujkić had failed to mention the visit by Vlasto Apostolski, Nikola Poplašen, and Mirko Krajišnik in his previous statements, his evidence on the same should necessarily be ignored by this Chamber. The Chamber has received evidence which corroborates Mujkić's account of the visit by Mirko Krajišnik. On 20 August 1992, during an intercepted telephone conversation, Bakir Alispahić informed Mirko Krajišnik that a person by the name Nikola had paid a visit to Ramiz Mujkić and asked whether Krajišnik could arrange for Mujkić's release. Although Krajišnik did not

Mujkić further testified that on 22 August 1992, Stojanović and two other members of the MP took him from the Žica Hospital in Blažuj to Planjo's House in Svrake.⁷⁵⁸⁴ According to Ramiz Mujkić, Mirko Krajišnik subsequently intervened in order to have him exchanged.⁷⁵⁸⁵

2223. The Chamber also notes that on 20 June 1992 in an intercepted conversation, Mirko Krajišnik informed two individuals with the names Ćamil and Šemso that 284 prisoners from the cisterns near the Rajlovac Barracks had been exchanged whereas 50 additional prisoners had been sent home.⁷⁵⁸⁶ During the same conversation, Mirko Krajišnik, referring to the group of 50 prisoners, told Šemso that there were people with the last name Gačanović amongst them and added "[y]ou heard that there were some casualties among them."⁷⁵⁸⁷

2224. An engaging feature about this conversation, in which Mirko Krajišnik told Šemso, a Bosnian Muslim, that 50 detainees were sent home and that there were some casualties amongst them, was that at no stage did Mirko Krajišnik mention that Muslims were to blame for the casualties. The Chamber, Judge Morrison dissenting, is of the view that had Bosnian Muslims in fact been responsible for the attack on the bus, Mirko Krajišnik would have raised the matter with Šemso in that conversation which occurred less than a week after the bus attack.

2225. The evidence described in the foregoing paragraphs, when taken together, leads the Chamber, Judge Morrison dissenting, to conclude that Mirko Krajišnik deliberately provided Momčilo Krajišnik with misinformation on what had become of those Muslim detainees in respect of whose safety Momčilo Krajišnik had previously articulated his apprehensions.

2226. In addition, further analysis of evidence lead the Chamber, Judge Morrison dissenting, to be convinced that the above attack on the bus was carried out by the Serb Forces.

2227. First, KDZ041 stated that just before the attack, the two escort cars behind the bus left the scene; thereafter, Žuti claimed that the engine of the bus had overheated, and along with the guards left the bus. Merely 10 to 15 seconds after Žuti and the guards had left the bus, the attack on the

expressly acknowledge having seen Mujkić, he implied that he knew that Mujkić had been injured and subsequently told Alispahić that "[w]e agreed for some kind of exchange for him". P2337 (Intercept of conversation between Mirko Krajišnik and Bakir Alispahić, 20 August 1992), p. 3.

⁷⁵⁸⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 67–68. On Mujkić's detention at Planjo's House, see Scheduled Detention Facility C.26.1.

⁷⁵⁸⁵ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 58; D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004).

⁷⁵⁸⁶ D1089 (Intercept of conversation between Ćamil and Mirko Krajišnik, 20 June 1992), pp. 1–2.

⁷⁵⁸⁷ D1089 (Intercept of conversation between Ćamil and Mirko Krajišnik, 20 June 1992), p. 2. The Chamber notes that the forensic documentation concerning Scheduled Incident B.12.2 refers to six people with the last name Gačanović. See fn. 7570.

bus commenced.⁷⁵⁸⁸ The Chamber, Judge Morrison dissenting, is of the view that had the attack been carried out by Bosnian Muslims, it would have been stretching coincidence past breaking point for them to have anticipated the precise time that the engine of the bus would have overheated and to have been in the right place at that exact time so that they could have sprung their ambush.⁷⁵⁸⁹

2228. Further, the evidence of KDZ041 is that he was face down in the bus and bodies were on top of him; he was therefore unable to see anything. KDZ041 testified that shortly after the shooting had stopped, he heard the engines of the escort cars start up and the cars drive off. He then heard two vehicles pull alongside the bus and two men discuss whether they should check for survivors. According to KDZ041, these two men did not enter the bus and instead got into their vehicles and left the scene.⁷⁵⁹⁰ It is clear to the Chamber, Judge Morrison dissenting, that notwithstanding his inability to see during and immediately after the attack, KDZ041 heard what was happening around him. The Chamber assessed KDZ041 to be a credible and reliable witness and accordingly, found no good reason to reject his evidence about the things he said he heard.

2229. The Chamber also heard from KDZ041 that the residents of the Muslim village of Vukašovići and the Bosnian Muslim TO went to the scene and removed the bodies from the bus; that towards the end of the removal process, a number of VRS soldiers headed by Dragan Ikanović appeared on the scene with two trucks in order to tow the bus away; and that they were told to leave. The Chamber also heard from KDZ041 that a few days later, Ikanović and his men returned and set the bus on fire.⁷⁵⁹¹ The Chamber, Judge Morrison dissenting, cannot comprehend the inordinate interest displayed by Ikanović and the VRS members in that bus, although allegedly it had been attacked by Muslims, to the extent they were bent on towing it away; and after that attempt failed, they returned and destroyed it a few days later. The actions of Ikanović and the VRS members impel the Chamber, Judge Morrison dissenting, to the conclusion that they manifestly sought to destroy the important evidence of the large killing incident. Their actions would have made no sense if the attack had been carried out by the Bosnian Muslim forces.

2230. Finally, the Chamber must also address the evidence of KDZ601. In the opinion of the Chamber, KDZ601, [REDACTED], evinced pronounced bias in favour of the Accused during cross

⁷⁵⁸⁸ See paras. 2212–2213.

⁷⁵⁸⁹ For this reason, the Chamber finds that Žuti and the guards were involved in the attack on the bus, although it is possible that they were not the main organisers of the attack as they could have found easier ways to kill the Bosnian Muslim men.

⁷⁵⁹⁰ See paras. 2212–2213.

⁷⁵⁹¹ See para. 2215.

examination.⁷⁵⁹² In the throes of this bias, however, he implicated Serb paramilitaries in the attack, leaving the Chamber, Judge Morrison dissenting, with the abiding impression that he was being forthright with the Chamber in this respect.

2231. In conclusion, having found (i) that there is no inconsistency in the evidence of witnesses on the question of the identity of the perpetrators of the bus attack; (ii) that the evidence of KDZ041 is reliable; (iii) that the initial attempt by Ikanović and the VRS members to tow the bus away and then their ultimate destruction of the bus is indicative of a determination on their part to destroy the evidence of the killing; (iv) that Mirko Krajišnik deliberately misinformed Momčilo Krajišnik; and (v) that KDZ061 testified with forthrightness when he described the involvement of Serb paramilitaries in the attack on the bus, the Chamber, Judge Morrison dissenting is satisfied beyond reasonable doubt that on 14 June 1992, Serb Forces, including Žuti, other guards, and paramilitaries, attacked a bus filled with Bosnian Muslim male detainees with grenades and automatic weapons, and killed 47 Bosnian Muslim men.

(H) Movement of the population from Novi Grad

2232. Bosnian Muslims and Croats left the Novi Grad municipality *en masse* during the conflict. During a conversation that took place on 21 May 1992 between Colonel Milosav Gagović, Acting Commander of the JNA 4th Corps Sarajevo,⁷⁵⁹³ and Nedeljko Prstojević, the former informed the latter that Muslims were fleeing Dobrinja and that he had taken measures to ensure that they knew that only entire families would be allowed to leave the area.⁷⁵⁹⁴

2233. According to KDZ041 and Ramiz Mujkić, during the period 1 to 14 June 1992, about 400 women and children from Ahatovići and the surrounding villages, including Ramiz Mujkić's mother, wife, and sister, were detained at the adjoining premises of Tehnogas Company and the Distribution Centre.⁷⁵⁹⁵ The VRS also temporarily placed the Muslim women and children in the Gavriilo Princip primary school after the attack on Ahatovići.⁷⁵⁹⁶ Further, a memorandum from the Rajlovac municipality Executive Board, dated 2 June 1992, referring to "captives from Ahatovići,

⁷⁵⁹² See e.g. KDZ601, T. 18597, 18603–18604, 18615–18616, 18634–18635 (8 September 2011).

⁷⁵⁹³ D2738 (Witness statement of Milosav Gagović dated 7 March 2014), para. 2.

⁷⁵⁹⁴ D1236 (Intercept of conversation between Nedeljko Prstojević and Milosav Gagović, 21 May 1992), pp. 2–3; Robert Donia, T. 3140–3141 (31 May–3 June, 7–10 June 2010).

⁷⁵⁹⁵ On 13 June 1992, the women, including Ramiz Mujkić's wife, sister, and mother, as well as the children who were detained in the Tehnogas Company premises and the Distribution Centre were exchanged. Ramiz Mujkić, T. 12455 (25 February 2011); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 47–48, 89; D1105 (Supplemental information sheet for Ramiz Mujkić, 1 November 2004); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 32, 47 (under seal).

⁷⁵⁹⁶ P5425 (Report of RS MUP, 3 June 1992).

the women and children”, reveals an intention on the part of the Executive Board to confine them in the new part of the Tehnogas-Kiskana building.⁷⁵⁹⁷

2234. Moreover, following the attack against Ahatovići, all the surviving Muslims in the village were either arrested or expelled, together with Serbs and Croats who were married to Muslims.⁷⁵⁹⁸ In a telephone conversation conducted on 25 June 1992, Petko Budiša who was the chief of Ilidža SJB from August to 20 September 1992 and who later became Chief of the CSB in Bijeljina,⁷⁵⁹⁹ informed Slavko Lazendić from the Rajlovac SJB that he should not allow the entry or exit of any Bosnian Muslims to and from the area via the Bojnik bridge.⁷⁶⁰⁰ During the same conversation, Lazendić claimed that the area had been “liberated” and that it was “ethnically clean”.⁷⁶⁰¹

2235. According to another report compiled by the Red Cross in Rajlovac, dated 1 October 1993, there were no Bosnian Muslims present in the Serb municipality of Rajlovac.⁷⁶⁰²

2236. The Accused claims that after the take-over of Ahatovići, a number of Bosnian Muslim and Bosnian Croat families wished to be taken to Sarajevo whereas some individuals remained throughout the entire war and even joined the VRS on a voluntary basis.⁷⁶⁰³ The Accused brought Stojan Džino and Mihajlo Vujasin, the deputy commander of the Rajlovac Brigade, to testify that the movement of population was voluntary.⁷⁶⁰⁴ However, the Chamber found both witnesses to be evasive, biased and partisan. The Chamber notes, as it did earlier,⁷⁶⁰⁵ that despite their evasiveness, both Stojan Džino and Mihajlo Vujasin conceded that civilians from Ahatovići had been taken to the Rajlovac Barracks and kept there against their will. The Chamber also recalls the evidence of Vujasin about the beatings of the civilians from Ahatovići and the surrounding areas and the dangers that they were exposed to.⁷⁶⁰⁶ The Chamber, further, notes the evidence concerning lootings and destruction of property.⁷⁶⁰⁷ The Chamber also recalls its earlier findings regarding the

⁷⁵⁹⁷ P5484 (Memorandum of the Rajlovac Municipality Executive Board, 2 June 1992), p. 1.

⁷⁵⁹⁸ See Adjudicated Fact 2667.

⁷⁵⁹⁹ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 9; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 101.

⁷⁶⁰⁰ P2335 (Intercepts of conversations between (i) Miodrag Stupar and Petko Budiša and (ii) Slavko Lazendić and Petko Budiša, 25 June 1992), pp. 4–7.

⁷⁶⁰¹ P2335 (Intercepts of conversations between (i) Miodrag Stupar and Petko Budiša and (ii) Slavko Lazendić and Petko Budiša, 25 June 1992), p. 5.

⁷⁶⁰² P2340 (Rajlovac Red Cross report, 1 October 1993), p. 1. See also D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 63.

⁷⁶⁰³ Defence Final Brief, para. 1698.

⁷⁶⁰⁴ Stojan Džino, T. 29854–29856 (6 November 2012); Mihajlo Vujasin, T. 31804 (20 December 2012).

⁷⁶⁰⁵ See para. 2207.

⁷⁶⁰⁶ See para. 2207.

⁷⁶⁰⁷ See paras. 2185–2187.

destruction of the mosque in Ahatovići,⁷⁶⁰⁸ the existence of detention facilities in Novi Grad municipality and the involuntary confinement of women, children and men therein⁷⁶⁰⁹ as well the evidence which indicates that some civilians detained in such facilities were eventually exchanged for Serbs.⁷⁶¹⁰

2237. Consequently, the Chamber finds that Serb Forces forced the non-Serb population out of the Serb-controlled parts of Novi Grad.

iv. *Novo Sarajevo*

(A) Charges

2238. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Novo Sarajevo as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁷⁶¹¹

2239. Acts of persecution alleged to have been committed in Novo Sarajevo by Serb Forces and Bosnian Serb Political and Governmental Organs include: (i) torture, beatings, and physical and psychological abuse, during and after the take-over as well as in the Slaviša Vajner Čiča Barracks in Lukavica, as cruel or inhumane treatment,⁷⁶¹² (ii) rape and other acts of sexual violence during and after the take-over as cruel and inhumane treatment,⁷⁶¹³ (iii) the establishment and perpetuation of inhumane living conditions in the Slaviša Vajner Čiča Barracks, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁷⁶¹⁴ (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁷⁶¹⁵ (v) unlawful detention in the Slaviša Vajner Čiča Barracks;⁷⁶¹⁶ (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;⁷⁶¹⁷ (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention, and in the course of or following acts of deportation or forcible transfer,⁷⁶¹⁸ (viii) the wanton destruction of private property, including homes and business

⁷⁶⁰⁸ See para. 2196.

⁷⁶⁰⁹ See paras. 2209, 2234.

⁷⁶¹⁰ See para. 2206.

⁷⁶¹¹ Indictment, paras. 48–49.

⁷⁶¹² Indictment, para. 60(b). See Scheduled Detention Facility C.18.1.

⁷⁶¹³ Indictment, para. 60(c). The Prosecution does not allege criminal responsibility for rape and other acts of sexual violence at Scheduled Detention Facility C.18.1. Indictment, fn. 5.

⁷⁶¹⁴ Indictment, para. 60(d). See Scheduled Detention Facility C.18.1.

⁷⁶¹⁵ Indictment, para. 60(f).

⁷⁶¹⁶ Indictment, para. 60(g). See Scheduled Detention Facility C.18.1.

⁷⁶¹⁷ Indictment, para. 60(h).

premises, and public property;⁷⁶¹⁹ and (ix) the imposition and maintenance of restrictive and discriminatory measures.⁷⁶²⁰

2240. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁷⁶²¹ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Novo Sarajevo in which they had been lawfully present.⁷⁶²² It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁷⁶²³

(B) Lead-up

2241. Novo Sarajevo, one of the ten Sarajevo municipalities, is located in the eastern part of Sarajevo city between Novi Grad and Ilidža on one side and Centar, Stari Grad, and Pale on the other.⁷⁶²⁴ According to the 1991 census, the population of Novo Sarajevo comprised 95,089 people, among whom 35.7% were Bosnian Muslims, 34.6% were Bosnian Serbs, 15.9% were “Yugoslavs”, 9.3% were Bosnian Croats, and 4.6% were “others and unknown”.⁷⁶²⁵ The municipality included, *inter alia*, Grbavica, located south of the Miljacka River; Vraca, located 600 to 800 metres to the southwest of Grbavica; Pofalići in the north part of the municipality; and Lukavica in the southwest part of the municipality.⁷⁶²⁶

⁷⁶¹⁸ Indictment, para. 60(i).

⁷⁶¹⁹ Indictment, para. 60(j). The Chamber notes that there are no cultural monuments and sacred sites with respect to Novo Sarajevo in Schedule D.

⁷⁶²⁰ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

⁷⁶²¹ Indictment, paras. 68–75.

⁷⁶²² Indictment, paras. 69, 72.

⁷⁶²³ Indictment, para. 71.

⁷⁶²⁴ P815 (Map of Sarajevo showing confrontation lines); P973 (Robert Donia’s expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990-1995”, January 2010), p. 8; Appendix B, Map 1. *See also* Adjudicated Fact 2.

⁷⁶²⁵ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), p. 2; P973 (Robert Donia’s expert report entitled “Bosnian Serb Leadership and the Siege of Sarajevo, 1990-1995”, January 2010), p. 9. *See also* Adjudicated Fact 5; P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 2; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16662–16663, 16676.

⁷⁶²⁶ KDZ310, T. 9214, 9222, 9227–9229 (29 November 2010); D883 (Map of Sarajevo marked by KDZ310); P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 92. *See also* Adjudicated Facts 65, 67, 68.

2242. After the formation of the SDS, SDA, and HDZ, a Novo Sarajevo SDS Steering Committee was appointed to establish local boards in the local communes and an SDS Municipal Board of Novo Sarajevo.⁷⁶²⁷

2243. As a result of the 1990 multi-party elections, the SDS won 24 assembly seats in Novo Sarajevo, the communist SDP won 23, the Reformist Party won 22, the SDA won 21, the HDZ won 7, and the Muslim Bosniak Organisation won 2.⁷⁶²⁸ Žarko Đurović, from the SDS, was appointed as president of the Executive Board.⁷⁶²⁹ Kasim Demirović, from the SDA, was appointed as president of the municipality.⁷⁶³⁰ The post of vice president of the municipal assembly went to the HDZ.⁷⁶³¹

2244. As in other parts of BiH, already growing tensions between Bosnian Serbs, Muslims, and Croats further increased with the war in Croatia.⁷⁶³² The Serbs demanded and established their own TV channel.⁷⁶³³

(1) Creation of separate municipal institutions

2245. The Novo Sarajevo Crisis Staff was created in December 1991 in accordance with the Variant A/B Instructions, and Đurović was its president.⁷⁶³⁴ According to Nešković, it was mandatory for those who received the Variant A/B Instructions to implement the document, and the

⁷⁶²⁷ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 2. According to Šalipur, who was a member of the Steering Committee and the Municipal Board, Novo Sarajevo had about 16 local communes with local SDS boards but only half the boards, those of communes with a Serb majority, were active. D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 2. Milivoje Prijić was the president of the SDS Municipal Board. P2576 (Minutes of 13th session of Novo Sarajevo's SDS Municipal Board, 28 February 1992), p. 2; Branko Radan, T. 31092 (6 December 2012).

⁷⁶²⁸ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 3 (further stating that 50% of the Reformists and SDP were Serbs). See also Branko Radan, T. 31090 (6 December 2012).

⁷⁶²⁹ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641; Radomir Nešković, T. 14276 (6 June 2011).

⁷⁶³⁰ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 3. Nešković referred to Đurović as, alternatively, "president of the municipal government in Novo Sarajevo", president of the Executive Board, and "president of the municipal authorities". Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16640–16641, 16652, 16673.

⁷⁶³¹ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 3.

⁷⁶³² P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 3. See also D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 4; Božo Tomić, T. 30154–30157 (13 November 2012).

⁷⁶³³ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 3.

⁷⁶³⁴ Radomir Nešković, T. 14275–14276 (6 June 2011), T. 14352–14354 (7 June 2011); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16660–16662, 16684; P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991). See also P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991); P6055 (Minutes of the Crisis Staff meeting, 25 December 1991); P6066 (Minutes from meeting of SDS Grbavica Local Board, 27 January 1992), p. 1; P2583 (Minutes of Lukavica's Crisis Staff meeting, 29 January 1992); Zdravko Šalipur, T. 31627–31640, 31655 (18 December 2012); D2674 (List of Secretariat of Novo Sarajevo SDS Municipal Board, undated). Nešković attended the meeting of the SDS Main and Executive Boards on 20 December 1991 where the Variant A/B Instructions were

recipients were Serb municipal presidents and representatives as well as possibly SDS municipal board officials.⁷⁶³⁵ The Crisis Staff included SDS members of the municipal assembly of Novo Sarajevo.⁷⁶³⁶

2246. Around February 1992 the Accused and Krajišnik were involved in resolving an internal conflict in Novo Sarajevo.⁷⁶³⁷ The Accused and Krajišnik attended at least one meeting of the Novo Sarajevo SDS Municipal Board.⁷⁶³⁸ The record of the 28 February 1992 meeting of the Novo Sarajevo SDS Municipal Board also indicates that the Accused and Krajišnik were to be notified of the decision taken at the meeting to designate the vice president of the Board to carry out the work of the president of the Board, from which Prijić had been relieved, until a new president was elected.⁷⁶³⁹

2247. On 26 March 1992, SDS deputies of Novo Sarajevo, the presidents of SDS town boards, and deputies of the Sarajevo SDS passed a decision to establish the Serb Municipal Assembly of

distributed. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16646–16653. See para. 133.

⁷⁶³⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16655–16660. In the case of Novo Sarajevo, the document would have gone to Žarko Đurović as the president of the executive board. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16652–16653. As to whether Novo Sarajevo fell under Variant A or Variant B, Nešković initially thought that Variant B applied to Novo Sarajevo but later stated, based on the tasks assigned in P2575, that Variant A was implemented in the municipality. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16662–16666; Radomir Nešković, T. 14352–14354 (7 June 2011). See P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 2–5 (outlining tasks numbered between 1 and 11 under Variant A's first phase); P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991). Some Defence witnesses from Novo Sarajevo stated that they were not familiar with the Variant A/B Instructions. D2651 (Witness statement of Milorad Katić dated 10 December 2012), para. 2; Branko Radan, T. 31104–31105, 31135–31136 (6 December 2012); Dragan Šojić, T. 31754 (19 December 2012); D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 5; Zdravko Šalipur, T. 31628–31633 (18 December 2012) (nonetheless testifying that the Novo Sarajevo SDS Municipal Board received extracts of the Variant A/B Instructions). Considering other reliable evidence to the contrary, including Šalipur's admission above, as well as the witnesses' evasiveness and lack of forthrightness with respect to the existence and implementation of the Variant A/B Instructions in Novo Sarajevo, the Chamber does not find their evidence on this point to be reliable. Nešković testified that no one from the Government came to or contacted Novo Sarajevo to monitor the implementation of the Variant A/B Instructions in the municipality. Radomir Nešković, T. 14272–14273 (6 June 2011). While the Chamber considers Nešković's evidence generally with regard to the Variant A/B Instructions to be reliable, the Chamber does not consider this testimony to contradict his or other evidence that the Variant A/B Instructions were carried out in Novo Sarajevo.

⁷⁶³⁶ P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991); P2583 (Minutes of Lukavica's Crisis Staff meeting, 29 January 1992); Momir Garić, T. 29653 (5 November 2012).

⁷⁶³⁷ There was a debate about the role of the SDS Municipal Board versus other municipal institutions, and a conflict emerged between Prijić, the president of the Municipal Board, and Đurović, the president of the Executive Board. D1276 (Minutes of meeting of Novo Sarajevo SDS local boards, 3 February 1992), pp. 1–3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16672–16679. The Accused and Krajišnik used their authority to defuse the conflict and Đurović held onto his position as “president of the municipal authorities”. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16673. See also Zdravko Šalipur, T. 31640 (18 December 2012).

⁷⁶³⁸ P2576 (Minutes of 13th session of Novo Sarajevo's SDS Municipal Board, 28 February 1992), p. 3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16675; Zdravko Šalipur, T. 31640, 31657 (18 December 2012); Branko Radan, T. 31092–31093 (6 December 2012).

⁷⁶³⁹ P2576 (Minutes of 13th session of Novo Sarajevo's SDS Municipal Board, 28 February 1992), p. 6.

the Novo Sarajevo Municipality “as the highest representative and legislative body of the Serbian people of Novo Sarajevo municipality”.⁷⁶⁴⁰ The Serb Municipality of Novo Sarajevo was established as part of SAO Romanija around this time.⁷⁶⁴¹

2248. Around 10 April 1992, Radomir Nešković and Mirko Šarović set up a new Crisis Staff.⁷⁶⁴² The Crisis Staff had an executive organ to carry out its decisions.⁷⁶⁴³ Nešković was president of this new Crisis Staff until 5 June 1992.⁷⁶⁴⁴ This Crisis Staff included representatives of the TO.⁷⁶⁴⁵ A 5 June 1992 letter reporting on the activities of the Novo Sarajevo Crisis Staff, addressed to the President of the Bosnian Serb Presidency and signed by Nešković, stated: “The Crisis Staff has performed the function of Municipal Assembly in war conditions.”⁷⁶⁴⁶ The letter also indicated that the Crisis Staff co-ordinated and organised a variety of municipal services, including accommodation for “all refugees from the occupied territory and people who were left homeless”, mobilisation, and accommodation of fighters from other areas.⁷⁶⁴⁷ The letter stated that the Crisis Staff has not dealt with and does not intend to deal with police or military command-related matters

⁷⁶⁴⁰ D2675 (Decision on establishment of the Assembly of Serbian Novo Sarajevo Municipality, 26 March 1992).

⁷⁶⁴¹ P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 1. See also Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16679–16680; D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 7; D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 7; Dragan Šojić, T. 31736 (19 December 2012). The local communities that were to comprise the municipality were Tilava, Miljevići, Lukavica, Vraca, Gornji and Donji Kovačići, Bane Surbat, Rava Janković, Slobodan Princip Seljo, Ivan Krndelj, Pero Kosorić, Blagoje Parović, Danilo Djokić, Hrasno Brdo, Nikola Tesla, Avdo Hodžić, Omer Maslić, Bratstvo Jedinstvo, Donji and Gornji Pofalići, and the parts of the local communities Gornji and Donji Velešići inhabited by Serbs, as well as parts of Novi Grad municipality, namely Otoka, Staro Hrasno, Petar Dokić, a part of Ivo Lola Ribar, and Odžakovići. P2577 (Press release of Novo Sarajevo municipality, 1 April 1992), p. 1. Nešković stated that although the founding assembly took place toward the end of March 1992, the Serb Municipality of Novo Sarajevo was set up only by 10 June 1992. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16680).

⁷⁶⁴² Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16683–16685, 16706; Radomir Nešković, T. 14282–14283 (6 June 2011); D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), pp. 31–33. See also D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1, 4. Nešković drafted this letter and submitted it to the Accused in response to his invitation in June 1992 to the representatives of “Crisis Staffs Jahorina” to report on their work, largely in oral presentations. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16685). The 5 June 1992 letter reported that a Crisis Staff had been set up and included, among others, representatives of the local communes of Petrovići, Miljevići, Gornji Kovačići, Grbavica, Vraca, Hrasno Brdo, Lukavica, and Tilava; army and police representatives; and the “Chairman of the Executive Board”. D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 1.

⁷⁶⁴³ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 1.

⁷⁶⁴⁴ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16707).

⁷⁶⁴⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, T. 16707).

⁷⁶⁴⁶ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1, 4. Nešković testified that the police and TO and later the VRS were responsible for protecting the territory and defending the population. Radomir Nešković, T. 14277–14278 (6 June 2011).

⁷⁶⁴⁷ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1–3. See also Radomir Nešković, T. 14288–14290 (6 June 2011).

and therefore had no report on those subjects.⁷⁶⁴⁸ The Crisis Staff ceased to exist on 10 June 1992.⁷⁶⁴⁹

2249. In July 1992, Branko Radan became the president of the Executive Board of the municipality, and he was succeeded in March 1993 by Budimir Obradović.⁷⁶⁵⁰ In March 1993, Milorad Katić, a former member of the SDS Municipal Board in Novo Sarajevo, became the president of the Novo Sarajevo Serb Assembly and the president of the municipality.⁷⁶⁵¹

2250. With respect to police structures, after the outbreak of armed conflict in Sarajevo in April 1992,⁷⁶⁵² Sarajevo's ten SJBs were divided between Bosnian Serbs and Bosnian Muslims.⁷⁶⁵³ The station in Novo Sarajevo was among the four that remained under the control of Bosnian Muslims.⁷⁶⁵⁴ From around 4 April 1992, the MUP special forces operated at the premises of the BiH MUP school in Vraca.⁷⁶⁵⁵ On 6 April 1992, Serb Forces seized the police station in Novo Sarajevo.⁷⁶⁵⁶ Simo Sipčić was the head of the MP in Novo Sarajevo.⁷⁶⁵⁷ Milenko Jovanović was the head of the Novo Sarajevo SJB.⁷⁶⁵⁸

2251. On 21 July 1992, the Accused as President of the Presidency confirmed the appointment of the members of the War Commission for the Serb Municipality of Novo Sarajevo.⁷⁶⁵⁹ Dragan

⁷⁶⁴⁸ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 2. The Chamber notes that the Crisis Staff did, however, order and engage in mobilisation. *See* paras. 2259–2260.

⁷⁶⁴⁹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16809.

⁷⁶⁵⁰ D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 10; Branko Radan, T. 31097, 31100, 31103 (6 December 2012).

⁷⁶⁵¹ D2651 (Witness statement of Milorad Katić dated 10 December 2012), paras. 2, 6, 17–18. The minutes of a session of the Council of the Serb City of Sarajevo indicate Katić was also president of the Executive Board of the Serb Municipality of Novo Sarajevo. D2652 (Excerpt from minutes of RS City Council of Sarajevo meeting, 10 July 1993), p. 1.

⁷⁶⁵² *See* para. 3541.

⁷⁶⁵³ Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4499–4500; Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28934–28935; P27 (Witness statement of Mirsad Kučanin dated 4 September 2000), p. 2.

⁷⁶⁵⁴ Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4500; Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28934–28935; P27 (Witness statement of Mirsad Kučanin dated 4 September 2000), p. 2. *See also* P2308 (SJB Ilidža report, 20 September 1993), pp. 1–2.

⁷⁶⁵⁵ D3749 (Witness statement of Milenko Karišik dated 23 June 2013), paras. 19, 23; Branko Radan, T. 31112 (6 December 2012); Božo Tomić, T. 30158 (13 November 2012); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16714.

⁷⁶⁵⁶ P5743 (Intercept of conversation between Jovan Tintor and Danilo Veselinović, 6 April 1992), p. 3. *See also* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16714.

⁷⁶⁵⁷ KDZ310, T. 9273 (29 November 2010).

⁷⁶⁵⁸ *See* Adjudicated Fact 2560; P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16668–16669.

⁷⁶⁵⁹ P5543 (Decision of Radovan Karadžić appointing a War Commission in Novo Sarajevo, 21 July 1992); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16592–16593. Nešković stated that he does not know to this day what the purpose of the War Commission was and that at the time it was set up, "legally elected municipal bodies", *i.e.*, the municipal assembly and municipal executive board, were in existence. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16593.

Dokanović, as the Republican Commissioner, was to serve as Chairman of the War Commission, whose members included Nešković, Milorad Katić, Danilo Škrba, and Milorad Šanjević.⁷⁶⁶⁰

(2) Militarisation of Novo Sarajevo

2252. The distribution of weapons started as the JNA withdrew from Slovenia and parts of Croatia in September 1991; weapons and ammunition were transported into BiH and delivered to places under SDS control, including former JNA barracks.⁷⁶⁶¹

2253. On 1 or 2 March 1992, Serbs began to set up barricades at strategic points in Sarajevo and surrounding municipalities.⁷⁶⁶² Those involved in organising the barricades included Serb employees of the BiH MUP such as then-assistant Minister of Interior Momčilo Mandić, Milenko Jovanović, and SDS officials such as Rajko Dukić, Jovan Tintor, and Ratko Adžić.⁷⁶⁶³ In the area of Grbavica, there were barricades at the Vrbanja Bridge and Bratstvo-Jedinstvo Bridge.⁷⁶⁶⁴ Men wearing black masks were manning the barricades, and vehicles without license plates arrived every half hour with armed men inside.⁷⁶⁶⁵

2254. Around the end of March and the beginning of April 1992, an increased number of armed individuals were present in Vraca and Grbavica; tanks were placed below the MUP school, mines were laid, and soldiers fired at people who went outside.⁷⁶⁶⁶ From 6 April to mid-May 1992, on

⁷⁶⁶⁰ P5543 (Decision of Radovan Karadžić appointing a War Commission in Novo Sarajevo, 21 July 1992); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16592–16593.

⁷⁶⁶¹ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 10; KDZ310, T. 9201–9202 (29 November 2010). See also P5977 (BiH MUP daily bulletin, 16 October 1991), pp. 1–4; Predrag Trapara, T. 29915–29918 (7 November 2012).

⁷⁶⁶² D3803 (List of SRBiH MUP employees, 13 March 1992), pp. 1, 2; P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 6, 8, 66; P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 4 (under seal). See also Adjudicated Fact 2560. KDZ310 stated that the barricades were everywhere in Grbavica, so that people were not able to go to work that morning. P1937 (Witness statement of KDZ310 dated 28 November 2010), paras. 6–7 (under seal).

⁷⁶⁶³ D3803 (List of SRBiH MUP employees, 13 March 1992), pp. 2–3; P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 6, 8. See also Adjudicated Fact 2560.

⁷⁶⁶⁴ P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 6 (under seal).

⁷⁶⁶⁵ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 6–8. KDZ310 saw that Mandić, then Deputy Minister of Interior, was able to walk through the barricade at Vrbanja Bridge and cross the river. P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 8.

⁷⁶⁶⁶ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 4; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 9; P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 11, 13; P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 18 (under seal). Mirsad Smajš identified them as Serb soldiers, some wearing “the former Police uniform” and others “the camouflage uniforms”. P43 (Witness statement of Mirsad Smajš 14 January 1998), e-court p. 9 (further stating that they called themselves the “White Eagles” and that there was no insignia on the uniforms but there were white ribbons on the sleeves). Witness KDZ354 stated that military trucks with JNA registration plates and reservists arrived in Grbavica in April 1992 and that there were armoured cars on patrol and soldiers wearing uniforms of the former JNA. P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 18 (under seal) (further stating that the men on the trucks had longer hair and beards and carried weapons, including rifles, and that some wore helmets). The vehicles were usually heading toward or coming from the direction of Vrace. P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 18–19 (under seal).

several occasions “JNA units” and armed SDS members would go to Grbavica during the night, stay for a while at the buildings, and return to their original positions before dawn.⁷⁶⁶⁷

2255. At the beginning of April 1992, TO staffs in the Sarajevo municipalities where Serbs lived were mobilised as the JNA was already “falling apart”.⁷⁶⁶⁸ A unit of the Serb members of the Novo Sarajevo TO staff, previously of mixed composition, was organised.⁷⁶⁶⁹ The Serb TO set up a line of defence that ran in front of areas with a mainly Serb population.⁷⁶⁷⁰ Momir, a.k.a. “Momo”,⁷⁶⁷¹ Garić was the commander of the Serb TO in Grbavica.⁷⁶⁷² Armed units—including Gavrilović and Aleksić’s groups of Šešelj’s men—were operating in the Sarajevo area in April 1992.⁷⁶⁷³

2256. Members of the Serb TO, amongst whom were Obradović and Garić, organised local Serbs and gave them weapons around the time the conflict began in Sarajevo in early April 1992.⁷⁶⁷⁴ A 20 March 1992 report of the Command of the 2nd Military District of the JNA indicates that by

⁷⁶⁶⁷ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 11, 13.

⁷⁶⁶⁸ D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 12.

⁷⁶⁶⁹ D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 13; Momir Garić, T. 29656–29658 (5 November 2012). According to Garić, the neighbourhoods of Novo Sarajevo where Serbs were organised were Tilava, Lukavica, Vraca, Gornji Kovačići, Miljevići, and Petrovići, and these areas were considered to be inhabited by Serbs only. Momir Garić, T. 29656–29657, 29659–29660 (5 November 2012); D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 13, 22.

⁷⁶⁷⁰ D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 13 (stating that the area of responsibility of this unit extended from the Slaviša Vajner Čiča Barracks in Lukavica “below Mojnilo hill and Ozrenska street in Vraca and the Sarajevo bypass to the Jewish cemetery and then towards Zlatište and the road to Trebević”).

⁷⁶⁷¹ Božo Tomić confirmed that “Momo” was a nickname for Momir Garić. Božo Tomić, T. 30163 (13 November 2012).

⁷⁶⁷² Nedeljko Prstojević, T. 13689 (18 March 2011). See also P5958 (Intercept of conversation between Rade Milinković and Momo Garić, 21 April 1992), p. 1; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 28, 31. Garić, however, did not describe himself as the commander of the TO. According to Garić, he was merely a member of the TO and later the VRS, which he left in September 1992 to work at the RS Ministry of Defence in Pale. D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 12–14, 30; Momir Garić, T. 29644–29645 (5 November 2012).

⁷⁶⁷³ See P2228 (Intercept of conversation between Vojislav Šešelj and Branislav Gavrilović, April 1992); P2523 (Intercept of conversation between Kaća Dučić and Branislav Gavrilović, 21 April 1992); Nedeljko Prstojević, T. 13853–13855 (21 March 2011); P5707 (Intercept of conversation between Kaća Dučić and Radomir Ninković, 21 April 1992); P1148 (Intercept of conversation between Momčilo Mandić and Igor, 21 April 1992); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9025–9029; Momčilo Mandić, T. 4644–4645 (5 July 2010); D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 29. Witness KDZ354 saw Šešelj in Grbavica standing among “a large group of soldiers in camouflage uniforms” and accompanied by Aleksić. P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 1, 101 (under seal); KDZ354, T. 13197–13198 (10 March 2011). Aleksić was a member of the SDS Municipal Board of Novo Sarajevo. Zdravko Šalipur, T. 31641–31642, 31644 (18 December 2012). He was a member of the Serbian Chetnik Movement and a “Chetnik” vojvoda, or military leader, as commander of the Novo Sarajevo Chetnik Detachment. P5035 (Order of Vojislav Šešelj, 13 May 1993), p. 1. See also P6057 (Ilidža SJB receipt for goods, 15 January 1994).

⁷⁶⁷⁴ D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 7–8, 12; Božo Tomić, T. 30159–30164, 30170–30171 (13 November 2012); D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 12–14, 26; Momir Garić, T. 29661 (5 November 2012). Tomić testified that he and his neighbours in Vrace were given weapons for protecting all of the local population but that he does not know if any Bosnian Muslims went to the Serb TO to be armed. Božo Tomić, T. 30159–30160 (13 November 2012). The TO would

then, 2,800 “volunteer” men not from the JNA or the Serb TO had been recruited in Novo Sarajevo.⁷⁶⁷⁵

2257. Bosnian Muslims also armed themselves and organised militarily in Novo Sarajevo.⁷⁶⁷⁶ They started forming units in the first half of 1991.⁷⁶⁷⁷

2258. On 4 April 1992, there were clashes between Serb and Muslim police forces at the BiH MUP school in Vraca.⁷⁶⁷⁸ After several hours of fighting Serb Forces placed the school under their control.⁷⁶⁷⁹ A few hours after the clashes, in Miljevići village in Vraca, a vehicle arrived from the military barracks in Lukavica⁷⁶⁸⁰ with automatic and semi-automatic weapons, which were distributed to local members of the TO and other people from the surrounding area.⁷⁶⁸¹ Weapons were also supplied from Pale.⁷⁶⁸²

2259. On 22 April 1992, on the basis of an SNB order, the Novo Sarajevo Crisis Staff ordered all able-bodied men between the ages of 18 and 60 residing in the area of the Serb Municipality of Novo Sarajevo to report for mobilisation within 24 hours at Lukavica.⁷⁶⁸³ The Crisis Staff’s order

gather in local communes and discuss matters; one meeting location was the Pajaco facility across the road from the police station and school in Vrace. Momir Garić, T. 29661 (5 November 2012).

⁷⁶⁷⁵ P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), pp. 6, 11.

⁷⁶⁷⁶ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 11; D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 12; D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 6; Branko Radan, T. 31103 (6 December 2012).

⁷⁶⁷⁷ D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 5; D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 6; Branko Radan, T. 31103, 31107 (6 December 2012); D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), paras. 11, 13.

⁷⁶⁷⁸ See Milorad Katić, T. 31400–31401 (13 December 2012); D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 6; Božo Tomić, T. 30158 (13 November 2012). According to Karišik and Dobrislav Planojević, pursuant to an agreement to divide the BiH MUP, the BiH MUP school in Vraca was to go to the Serbs. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 19; D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 15.

⁷⁶⁷⁹ D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 9.

⁷⁶⁸⁰ See para. 2275.

⁷⁶⁸¹ Milorad Katić, T. 31400–31403 (13 December 2012). Tomić and his neighbours in Vraca were organised around the same time. See para. 2256, fn. 7674.

⁷⁶⁸² Milorad Katić, T. 31403–31404 (13 December 2012).

⁷⁶⁸³ D888 (Order of Novo Sarajevo Crisis Staff, 22 April 1992). *But see* KDZ310, T. 9271–9272 (29 November 2010) (testifying that he did not believe the 22 April 1992 order to be genuine or that it was ever implemented). According to KDZ310, in May 1992, a mobilisation of males from ages 18 up to 60 was carried out, which applied only to males of Serb ethnic origin, and men from other ethnic groups were not mobilised. P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 16–17. KDZ310 stated that this period was the only time that he knows of “when Mladić was present in Grbavica for an inspection of the troops”. P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 17. See also P1145 (Intercept of conversation between Momčilo Krajišnik and Ratko Mladić, 24 May 1992), p. 5 (indicating that Mladić was located “by Miljacka” at that time). KDZ310 heard that Mladić confirmed that the mobilisation applied only to Serbs “for the time being”. P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 17 (under seal).

also stated that those who did not report for mobilisation, in violation of the order, would be subject to the Law on Military Obligation and Military Court and their property would be confiscated.⁷⁶⁸⁴

2260. In a report of 5 June 1992, the Novo Sarajevo Crisis Staff informed the President of the Bosnian Serb Presidency that it had mobilised about 900 people over the previous two months, including about 700 in the Lukavica and Tilava area and about 200 in Grbavica.⁷⁶⁸⁵

2261. Pursuant to an order of the SRK Command on 22 May 1992, the Novo Sarajevo TO comprising locals of Grbavica, Hrasno, Vrace, and Kovačići was organised into the SRK.⁷⁶⁸⁶

(C) Take-over

2262. Combat activity increased in late April 1992.⁷⁶⁸⁷ The Serb TO was engaged in Grbavica on 21 April 1992.⁷⁶⁸⁸ Garić requested additional men, and Prstojević, from Ilidža, prepared a platoon from Kasindol to assist.⁷⁶⁸⁹ JNA forces shelled Novo Sarajevo at the end of April 1992.⁷⁶⁹⁰ Fighting also took place in May 1992.⁷⁶⁹¹

⁷⁶⁸⁴ D888 (Order of Novo Sarajevo Crisis Staff, 22 April 1992).

⁷⁶⁸⁵ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 3 (indicating that “mobilisation was carried out in various ways (personally and directly, through SDS [...] local boards and local communes, with the help of police, etc.)”).

⁷⁶⁸⁶ P1505 (SRK Order, 22 May 1992), p. 1; Božo Tomić, T. 30163–30164 (13 November 2012). *See also* D2351 (Witness statement of Stevan Veljović dated 19 October 2012), paras. 12–13. The TO had earlier been incorporated into the JNA. D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 14, 22; Momir Garić, T. 29663–29667 (5 November 2012).

⁷⁶⁸⁷ P5703 (Intercept of conversation between Momo Garić and “Velibor”, 21 April 1992); P5705 (Intercept of conversation between Nedeljko Prstojević and unidentified male, 21 April 1992); P5706 (Intercept of conversation between Milenko Karišik and Slobodan Škipina, 21 April 1992); P5708 (Intercept of conversation between Momčilo Krajišnik and unidentified male, 21 April 1992); P5709 (Intercept of conversation between Radomir Ninković, Milenko Karišik, Nikola Koljević, and Momčilo Krajišnik, 21 April 1992); P5710 (Intercept of conversation between Nedeljko Prstojević and Krstović, 21 April 1992); D1202 (Intercept of conversation between Momo Garić and Nedeljko Prstojević, 21 April 1992); P5959 (Intercept of conversation between “Ranko” and Momo Garić, 21 April 1992); D920 (Intercept of conversation between Radovan Karadžić and Radovan Pejić, 23 April 1992).

⁷⁶⁸⁸ P5705 (Intercept of conversation between Nedeljko Prstojević and unidentified male, 21 April 1992), pp. 1–2; P5709 (Intercept of conversation between Radomir Ninković, Milenko Karišik, Nikola Koljević, and Momčilo Krajišnik, 21 April 1992), p. 2.

⁷⁶⁸⁹ P5703 (Intercept of conversation between Momo Garić and “Velibor”, 21 April 1992); D1202 (Intercept of conversation between Momo Garić and Nedeljko Prstojević, 21 April 1992), p. 3; P5959 (Intercept of conversation between “Ranko” and Momo Garić, 21 April 1992), p. 1; P5705 (Intercept of conversation between Nedeljko Prstojević and unidentified male, 21 April 1992), p. 1; Nedeljko Prstojević, T. 13687–13690 (18 March 2011). *See also* P5710 (Intercept of conversation between Nedeljko Prstojević and Krstović, 21 April 1992), pp. 1–2.

⁷⁶⁹⁰ *See* Adjudicated Fact 2582. *See also* P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 12–13 (under seal).

⁷⁶⁹¹ P2240 (Intercept of conversation between Momčilo Krajišnik, Branko Đerić, and Milenko Karišik, 7 May 1992), pp. 1–2; P2332 (Intercept of conversation between Čedo and Radovan Karadžić, 30 May 1992), pp. 5–6; D2379 (Witness statement of Momir Garić dated 2 November 2012), paras. 21, 23; D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 7; Momir Garić, T. 29734–29735 (5 November 2012); Zdravko Šalipur, T. 31642 (18 December 2012). Defence witnesses stated that Muslim forces fired on Grbavica and Lukavica. D2651 (Witness statement of Milorad Katić dated 10 December 2012), para. 5; D2379 (Witness

2263. By mid-May, Grbavica was occupied by the Serbs, after an initiative by Serb Forces to move the confrontation line.⁷⁶⁹² The line was established on the bank of the Miljacka River, including by the Bratstvo-Jedinstvo Bridge and Vrbanja Bridge, extending west toward Hrasno and east toward Skenderija.⁷⁶⁹³ Serb Forces took Grbavica with little fighting.⁷⁶⁹⁴ After the Serb take-over of Grbavica, it became no longer possible to cross over the Miljacka River.⁷⁶⁹⁵

(1) Searches of Bosnian Muslim and Bosnian Croat houses

2264. During the take-over, members of the Serb Forces, including the VRS, the police, and Šešelj's men, searched Bosnian Muslim and Croat houses in Grbavica for weapons.⁷⁶⁹⁶ In one such instance, on 7 May 1992, a group of seven or eight armed soldiers came to the house of Smajš, a Bosnian Muslim, in Vrace to search for weapons.⁷⁶⁹⁷ Although they did not find any, they ordered Smajš to go with them.⁷⁶⁹⁸ Outside, a soldier ordered him to walk, with his head down, toward the Golf Café, in front of which a group of ten soldiers stood.⁷⁶⁹⁹ He was ordered to strip to the waist

statement of Momir Garić dated 2 November 2012), paras. 14, 17, 20; D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 9–10, 19; Božo Tomić, T. 30179–30182, 30227 (13 November 2012); D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 20, 32, 39.

⁷⁶⁹² P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 11, 13–15; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 16. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8708–8709. KDZ310 identified JNA and VRS forces as taking Grbavica. P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 11, 13–14; KDZ310, T. 9228 (29 November 2010). *See also* P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 99; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 16; Adjudicated Facts 66, 68.

⁷⁶⁹³ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 11, 13, 15; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 16. *See para.* 3557.

⁷⁶⁹⁴ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 14; Witness KDZ310, T. 9213–9214, 9228 (29 November 2010); D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 16; Momir Garić, T. 29718–29720 (5 November 2012); P5695 (Intercept of conversation between Branko Đerić and Milenko Karišik, 7 May 1992), p. 3. In an intercepted conversation on 5 May 1992, Mandić said to Branko Kvesić: “We came down and cleaned Grbavica”. P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mičo Stanišić, 5 May 1992), p. 4. Later in the conversation, Mandić said to Bruno Stojić: “We očistiti /cleansed or mopped up/ Novo Sarajevo.” P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mičo Stanišić, 5 May 1992), p. 9. Mandić testified that the participants in the conversation knew that it was being intercepted and that these statements were jokes and did not reflect the actual situation on the ground. Momčilo Mandić, T. 4609–4611 (5 July 2010). Considering Mandić's interest in minimising the significance of his statements in the intercepted conversation as well as his evasiveness and partiality on this point, the Chamber does not find Mandić's evidence to be reliable in this regard.

⁷⁶⁹⁵ KDZ310, T. 9255 (29 November 2010).

⁷⁶⁹⁶ *See* Adjudicated Fact 2584; P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 24 (under seal); P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 4–5; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 9.

⁷⁶⁹⁷ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 4; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 8–9. Smajš described the armed men who came to his home as wearing camouflage uniforms and stated that outside his house, there were also men “in the Police uniforms” and men not wearing any uniforms. P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 4; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 8–9.

⁷⁶⁹⁸ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 4.

⁷⁶⁹⁹ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 4; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 8–9.

and was then beaten with rifle butts, punched, and kicked all over for about 15 to 20 minutes.⁷⁷⁰⁰ He was then transported, along with his neighbour Mirsad Dedić, in a military vehicle to the MUP school at Vrace.⁷⁷⁰¹ During the ride they were both beaten and one of the soldiers fired his unloaded automatic rifle three times into his temple; they were beaten again at the MUP school.⁷⁷⁰² Smajš, blindfolded and with his hands tied behind his back, was then transported, along with Dedić, to “Kula prison”.⁷⁷⁰³

2265. Other Bosnian Muslims in Grbavica were frequently subjected to house searches by members of Serb Forces.⁷⁷⁰⁴ All Muslims had been asked to voluntarily surrender their weapons and a Commander Major Petković had told those who did so that the VRS would not search their flats.⁷⁷⁰⁵

2266. The 5 June 1992 report of the Novo Sarajevo Crisis Staff stated, in the section entitled “[t]reatment of Muslims and Croats”:

Citizens of all nationalities assemble frequently, especially in Grbavica, and our public attitude is very correct, we appoint a head of every building who is responsible for the situation in his building and for all the information about the occupants. Secretly, the police apply the usual procedure to people who were engaged in military activities against us. We informed the Muslims that they would be safe if they were militarily neutral to us, and so far the situation has been good.⁷⁷⁰⁶

⁷⁷⁰⁰ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 4; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 8–9. With respect to the men who beat him, Smajš said that based on their accents they were not from Grbavica and were probably from somewhere in Serbia. P43 (Witness statements of Mirsad Smajš dated 18 December 1993), e-court p. 5; P43 (Witness statements of Mirsad Smajš dated 18 December 1993 and 14 January 1998), e-court p. 9.

⁷⁷⁰¹ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 4–5; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 9.

⁷⁷⁰² P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 5; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 9.

⁷⁷⁰³ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 5; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 8–9. See Scheduled Detention Facility C.18.2.

⁷⁷⁰⁴ P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 1, 24, 39–46 (under seal); KDZ354, T. 13215–13216, 13221 (11 March 2011). One of the men who came to KDZ354’s building asked if there were any “balijas” there. Some wore JNA uniforms and others wore “military uniforms” with a white belt as she had seen military policemen wear. P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 24, 39, 41 (under seal).

⁷⁷⁰⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16715. See also Radomir Nešković, T. 14292–14293 (6 June 2011).

⁷⁷⁰⁶ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 3–4. According to Nešković, who signed the report, if “any inhabitants” noticed, in their building, Muslims who did not surrender their weapons and acted against the VRS, they were required to report the fact to the civilian police and “then further police procedures would be implemented”, including arrest of the individual concerned. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16715–16716. See also Radomir Nešković, T. 14288, 14292–14293 (6 June 2011). The Chamber accepts Nešković’s evidence with respect to his statement that Muslims were arrested. However, considering Nešković’s interest in casting the report and the actions of the Crisis Staff in a favourable light, the Chamber does not consider that Nešković was entirely forthright in his explanation of “the usual procedure”, applied “[s]ecretly”, to which the report refers. The Chamber will therefore not rely on this portion of Nešković’s evidence.

(2) Other acts

2267. Bosnian Muslims and Croats were forced to perform labour under the responsibility of VRS platoon or company commanders in Novo Sarajevo.⁷⁷⁰⁷ There were prisoners from Kula Prison in Ozrenka; there they had to dig trenches between the confrontation lines.⁷⁷⁰⁸ Several men were killed by sniper fire while performing these work duties.⁷⁷⁰⁹ Before the winter of 1992, detainees from Kula Prison were no longer brought to Ozrenka and they were replaced by “people from Grbavica”.⁷⁷¹⁰

2268. Bosnian Muslims and Croats were beaten during the course of searches for weapons.⁷⁷¹¹ They were sexually assaulted and raped by soldiers wearing former JNA uniforms.⁷⁷¹² Bosnian Muslims and Croats were also killed.⁷⁷¹³ Members of the VRS, including the MP, and of the civilian police engaged in mass looting from the point the VRS entered Grbavica.⁷⁷¹⁴ While the looting did not take place pursuant to an order, it went unchecked without the perpetrators being

⁷⁷⁰⁷ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46; P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 18 (under seal). *See also* P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 81 (under seal).

⁷⁷⁰⁸ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46; P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 3. *See para.* 2157. KDZ310 stated that he knew they were prisoners from Kula Prison because he asked them. P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46. *See also* D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 15; Božo Tomić, T. 30200–30204 (13 November 2012) (stating that a “work detail” composed of Muslim detainees from Kula Prison was engaged to help fortify the confrontation line at Sanač by digging trenches and covering the trenches). Tomić testified that coming to the area was not safe for members of the VRS but denied that the work detail was in danger in carrying out the tasks of digging and covering trenches at the line. Božo Tomić, T. 30201–30205, 30208–30209 (13 November 2012). *But see* P5987 (Special report of the 2nd Infantry Battalion, 21 May 1993), pp. 1–2 (reporting to the Kula Prison Administration the escape of two Muslim detainees who had been building bunkers with nine other detainees and stating that the area where they were working was constantly under enemy fire). Tomić stated that the area referred to in the report was about 1,500 metres from his position. Božo Tomić, T. 30205–30207 (13 November 2012).

⁷⁷⁰⁹ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46; P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 3. The Chamber has already discussed these killings in the Iliđa Section of this Judgement. *See para.* 2157.

⁷⁷¹⁰ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 46.

⁷⁷¹¹ P43 (Witness statement of Mirsad Smajš dated 18 December 1993 and 14 January 1998), e-court pp. 4–5, 9; P1937 (Witness statement of KDZ310 dated 28 November 2010), paras. 18–19, 23 (under seal); P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 50, 52–54 (under seal); KDZ354, T. 13223 (11 March 2011).

⁷⁷¹² P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 39–40, 47–60, 74 (under seal); KDZ354, T. 13192–13193 (10 March 2011); P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 18 (under seal).

⁷⁷¹³ P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 20 (under seal); KDZ310, 9274–9275 (29 November 2010); P43 (Witness statement of Mirsad Smajš dated 18 December 1993 and 14 January 1998), e-court p. 5. The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment.

⁷⁷¹⁴ KDZ310, T. 9249–9250 (29 November 2010). *See also* D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 3 (reporting that robberies, especially car thefts, had been rife); P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 7–8 (under seal) (describing car thefts in Grbavica in April 1992).

brought to account.⁷⁷¹⁵ Non-Serbs experienced psychological pressure as they feared being taken away or beaten.⁷⁷¹⁶

2269. Veselin Vlahović, known as Batko, committed numerous crimes in Novo Sarajevo.⁷⁷¹⁷ He looted in June to July 1992.⁷⁷¹⁸ He targeted Muslims and Croats and “was involved in all sorts of violence”.⁷⁷¹⁹ He killed a number of non-Serbs.⁷⁷²⁰ Batko raped Bosnian Muslim women during house searches for weapons in June to September 1992.⁷⁷²¹ Other non-local Serbs, including Zoka, mistreated Bosnian Muslims and Croats in the area of Grbavica.⁷⁷²²

2270. Municipal authorities were aware of the crimes committed by Batko and others over a period of months. A note of the Novo Sarajevo SJB and Vraca Reserve Police Station dated 31 May 1992 identified “Veselin Vlaović” as among members of the MP formed as part of the Novo Sarajevo Battalion who were “undertaking certain operations on their own without any authority”, including carrying out searches of apartments and vehicles and taking “private and socially-owned property, securities and gold coins”.⁷⁷²³ From around July 1992, municipal authorities discussed the problems caused by these men, did not support them, and, around

⁷⁷¹⁵ KDZ310, T. 9250, 9254, 9265, 9274 (29 November 2010).

⁷⁷¹⁶ P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 23 (under seal).

⁷⁷¹⁷ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16699–16705; Branko Radan, T. 31095–31096 (6 December 2012); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 19. KDZ354 said that she saw Batko wearing “an olive-drab uniform” and carrying a rifle and, at a later time, a camouflage uniform with an insignia on his sleeve saying “The Army of Republika Srpska” and showing a flag. KDZ354, T. 13194 (10 March 2011), T. 13225 (11 March 2011); P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 65 (under seal) (stating that Batko himself said that he was a Montenegrin). *See also* D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), pp. 40–41. Radan testified that Batko wore an army uniform but that he was not connected to the army. Branko Radan, T. 31097, 31109 (6 December 2012). *But see* D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 26 (stating that “Batko was supposedly a member of the army”).

⁷⁷¹⁸ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16701–16702, 16704 (stating that Batko would enter people’s flats at night, steal property, and commit “other misdeeds” and that there were rumours that he committed murders); D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), p. 41; P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 61–62 (under seal); KDZ354, T. 13239–13240 (11 March 2011). *See also* Adjudicated Fact 2586.

⁷⁷¹⁹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16704. *See also* D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 26.

⁷⁷²⁰ KDZ310, T. 9274–9275 (29 November 2010). The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment.

⁷⁷²¹ *See* Adjudicated Fact 2585. Radomir Nešković stated that Batko committed rapes in Grbavica. D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), p. 41.

⁷⁷²² D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 13; Branko Radan, T. 31095–31096, 31107–31110 (6 December 2012). Vladimir Lukić stated that there was “chaos” in Grbavica with the outbreak of conflict owing to “self-appointed individuals” like “Batak” mistreating individuals, regardless of their ethnicity. D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 7. In light of other evidence and considering the witness’s lack of candour on this point, the Chamber does not consider as reliable Lukić’s statement in relation thereto.

⁷⁷²³ P6017 (Official note of Novo Sarajevo SJB, 31 May 1992), p. 2 (further stating that they were armed and in uniform). *See also* P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 63.

September 1992, tried to remove Batko and the others from the municipality.⁷⁷²⁴ Radan testified that “something could have been done earlier” to stop Batko’s crimes, before he was eventually removed from the municipality.⁷⁷²⁵ Nešković stated that he informed Šipčić about Batko and that Batko was arrested by Šipčić on several occasions but “somebody would always release him”.⁷⁷²⁶ Batko “terrorise[d]” the population for a period of months; the MP could have arrested him at any time and the prosecutor’s office could have tried him.⁷⁷²⁷ KDZ310 stated that no action was taken against Batko and that at some point he “disappeared” from Grbavica.⁷⁷²⁸ KDZ354 testified that she reported crimes committed by Batko to the Bosnian Serb MP in July 1992 but was not approached at any time by Bosnian Serb authorities regarding any investigation into the incident she reported.⁷⁷²⁹

2271. Republic-level leaders were also aware of the ongoing crimes by Batko and others. Vladimir Lukić stated that he spoke about the situation in Grbavica, though not about “Batak” specifically, with Koljević.⁷⁷³⁰ Nešković also stated that “the top leadership at Pale was told about Batko by Biljana Plavsić and it never yielded any results [...]”.⁷⁷³¹ Dobrislav Planojević, who worked in the MUP from 20 April 1992, stated that he heard about what Batko was doing and the absence of any reporting or investigation due to fear and that he informed Mićo Stanišić about this.⁷⁷³² He also informed Prime Minister Đerić in 1992 about problems with crime in the area and with Batko.⁷⁷³³

⁷⁷²⁴ D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 13; Branko Radan, T. 31095–31096, 31109–31111 (6 December 2012).

⁷⁷²⁵ Branko Radan, T. 31112–31113 (6 December 2012).

⁷⁷²⁶ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16709–16710; Radomir Nešković, T. 14318–14319 (7 June 2011); D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), p. 41. Nešković’s report of 5 June 1992 discussed ongoing looting but did not refer specifically to Batko or other perpetrators. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16712; D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 3.

⁷⁷²⁷ Radomir Nešković, T. 14309, 14316–14318 (7 June 2011).

⁷⁷²⁸ KDZ310, T. 9275 (29 November 2010). *See also* D2651 (Witness statement of Milorad Katić dated 10 December 2012), para. 3. Planojević stated that Batko disappeared from Grbavica for about ten days but that on his return the army arrested and detained him. D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 27.

⁷⁷²⁹ KDZ354, T. 13192–13193 (10 March 2011).

⁷⁷³⁰ D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), paras. 7–8 (stating that he was appointed commissioner of Novo Sarajevo municipality around this time by a decision of the Accused as President).

⁷⁷³¹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16710.

⁷⁷³² D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), paras. 2, 17, 26 (stating that he was chief of the Crime Prevention and Detection Administration until mid-July 1992, became a National Security Service inspector in September 1992, and was chief of the State Security Centre Sarajevo from July 1994 to June 1995).

⁷⁷³³ D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 27. *See also* P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 14 (stating that he had received information through “private channels” about problems with a man in Grbavica named “Batica” and issues with detaining him).

2272. On 20 October 1992, Defence Minister Bogdan Subotić proposed to the Accused the introduction of military rule in parts of the territory of RS, including the municipality of Novo Sarajevo.⁷⁷³⁴ Subotić set out as the causes for introduction of military rule “the fact that the political and security situation in some [RS] municipalities has become more tense due to the increasingly active paramilitary formations, quasi-state organs and institutions”, that legal state organs were not performing their duties in accordance with the Constitution and laws and with adopted defence goals, and that decisions by the Government and other state organs were not being respected.⁷⁷³⁵

2273. On 15 November 1992, at a meeting of the SRK Command where then-President of Novo Sarajevo Municipality, Milivoje Prijić, was present, it was noted that among the flaws of the operations was “genocide on other nations”.⁷⁷³⁶ The meeting also noted: “[t]he understanding and practice of individuals and groups that they are masters of life and death to every individual of different ethnicity, resulting in cases of unnecessary mistreatment and killing of members of other ethnicities, especially Muslims. Such people see the Geneva and other conventions as obsolete and unnecessary in this war.”⁷⁷³⁷ Prijić gave a speech about the situation in Novo Sarajevo in which he stated: “A great portion of soldiers is exercising unruly behaviour. Mass removals of property from the municipality, rape, expulsions from flats are going unpunished, affecting morale. Military police are consolidating but are still not strong enough.”⁷⁷³⁸

(D) Scheduled Detention Facility C.18.1

2274. The Indictment refers to the use of the Slaviša Vajner Čiča Barracks in Lukavica as a detention facility from 22 June 1992 until September 1992.⁷⁷³⁹

2275. Lukavica, about three kilometres from Kula, was an area held by the SRK.⁷⁷⁴⁰ The Slaviša Vajner Čiča Barracks in Lukavica served as the Forward Command Post of the SRK.⁷⁷⁴¹

⁷⁷³⁴ D458 (RS Ministry of Defence letter to Radovan Karadžić, 20 October 1992).

⁷⁷³⁵ D458 (RS Ministry of Defence letter to Radovan Karadžić, 20 October 1992).

⁷⁷³⁶ P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), pp. 1–2, 4.

⁷⁷³⁷ P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), p. 9. *See also* Branko Radan, T. 31124 (6 December 2012).

⁷⁷³⁸ P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), p. 12. According to Radan, municipal leaders wanted to stop the crimes by VRS soldiers but lacked the capacity to do so and that they would have required co-operation from the army and the civilian and military police. Branko Radan, T. 31127 (6 December 2012). The Chamber notes Radan’s interest in distancing himself from responsibility for addressing the crimes and does not consider his evidence reliable in this regard. The Chamber also considered its broader assessment of the testimony that the witness was withholding information from the Chamber on certain points.

⁷⁷³⁹ Indictment, Scheduled Detention Facility C.18.1. However, the Prosecution in its Final Brief refers only to detention around 22 June 1992. Prosecution Final Brief, Appendix B, p. 29.

2276. On 22 June 1992, around 9 p.m., approximately 280 men who had previously been detained in the garage of the Hadžići Municipal Assembly Building⁷⁷⁴² and in the Hadžići Culture and Sport centre⁷⁷⁴³ were placed on four buses and transferred to the Slaviša Vajner Čiča Barracks in Lukavica.⁷⁷⁴⁴ The driver of one of the buses was Milan Ačimović.⁷⁷⁴⁵ The buses first went to Kula prison, in front of which two Serb individuals in camouflage uniforms got on the buses and started beating the detainees badly; these beatings resulted in head injuries.⁷⁷⁴⁶ One of the soldiers extinguished a cigarette butt on the face of one of the Bosnian Muslims.⁷⁷⁴⁷ The soldiers threw bullets among the detainees and said, “[h]ey, baliija, you have ammunition!”; they then used that as “a pretext” to beat the detainees.⁷⁷⁴⁸ The detainees were then taken to the Slaviša Vajner Čiča Barracks in Lukavica.⁷⁷⁴⁹

2277. Upon arrival at the Slaviša Vajner Čiča Barracks, the detainees exited the buses and were beaten by Serbs in uniforms as they made their way to the barracks.⁷⁷⁵⁰ Inside, the detainees were beaten with rifles, batons, and various objects when they went to the toilet or to get a drink of water.⁷⁷⁵¹ Some people chose not to go to the toilet because they did not want to be beaten on the way.⁷⁷⁵² All 280 of them were put in two empty rooms; as a result the rooms were very crowded.⁷⁷⁵³ During the first hours of detention, individual detainees were called out and

⁷⁷⁴⁰ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8879. See also Adjudicated Fact 2630.

⁷⁷⁴¹ KDZ088, T. 6277–6278 (7 September 2010) (closed session); P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 11, 17; Desimir Šarenac, T. 34922 (6 March 2013). See also John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6115–6116; Hussein Ali Abdel-Razek, T. 5501 (19 July 2010).

⁷⁷⁴² See Scheduled Detention Facility C.11.1.

⁷⁷⁴³ See Scheduled Detention Facility C.11.2.

⁷⁷⁴⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 51, 64–72; Mehmed Musić, T. 12868–12869 (3 March 2011); see Adjudicated Facts 2617, 2630. See also P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2 (stating that people were taken from the Sport centre to Lukavica on the night of 20 June 1992). See paras. 2099, 2106.

⁷⁷⁴⁵ P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

⁷⁷⁴⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 67–69 (referring to the men as “Chetniks”); P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

⁷⁷⁴⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 69; Mehmed Musić, T. 12870 (3 March 2011). See also P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

⁷⁷⁴⁸ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 69; Mehmed Musić, T. 12870 (3 March 2011).

⁷⁷⁴⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 69–72; P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

⁷⁷⁵⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 72.

⁷⁷⁵¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 75–76; P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2. See also Adjudicated Fact 2631.

⁷⁷⁵² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 76. The detainees were also given only a few minutes to go to the toilet or get water. P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

⁷⁷⁵³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 72; Mehmed Musić, T. 12872 (3 March 2011); P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 2.

beaten.⁷⁷⁵⁴ All 280 detainees were then taken to one room in another part of the barracks.⁷⁷⁵⁵ Subsequently, a man in uniform called out a list of 48 men.⁷⁷⁵⁶ Each of these men had to walk through a corridor with guards lined up on both sides and was beaten with various objects and kicked.⁷⁷⁵⁷ The guards swore at the detainees' "balija" mothers.⁷⁷⁵⁸ One of the detainees, Mehmed Musić, saw his brother, covered in blood, lying on the ground and was told to carry him.⁷⁷⁵⁹ Musić carried his brother into the room at the end of the gauntlet as instructed and saw the other detainees who had been called out, lined up against three walls, and three officers at a desk in the middle of the room.⁷⁷⁶⁰ They asked Musić his name, his father's name, and where he worked and "swore on [his] balija mother", and one of them kicked him.⁷⁷⁶¹ One of the officers hit him and told him to get out, and as he went through the hallway, he was hit again.⁷⁷⁶² Musić returned to the previous room and has not seen any member of the group of 47 since.⁷⁷⁶³ Soldiers later came twice to beat the detainees.⁷⁷⁶⁴ They also made the detainees make the sign of the cross and sing Serb songs.⁷⁷⁶⁵

⁷⁷⁵⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 73–74 (stating that he saw black and blue marks on the individuals when they returned); P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 2. According to Musić, one of the men called out during this time, Kardaš Alija, was taken out of the room, those in the room heard him screaming and a shot, and he was not brought back to the room. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 73. The Chamber notes that there is no killing charged in relation to this detention facility pursuant to either Schedule B or C of the Indictment. See fn. 13; Indictment, para. 60(a)(ii), fn. 4.

⁷⁷⁵⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 77.

⁷⁷⁵⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 78–79; P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 2. Musić later learned that the man was Vujo Vukotić. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 78; Mehmed Musić, T. 12873 (3 March 2011).

⁷⁷⁵⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 80. See also P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 2. According to Musić, the men in the corridor who beat him all wore red berets and camouflage uniforms and, based on their speech, seemed to be from Serbia. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 81–82; Mehmed Musić, T. 12873–12875 (3 March 2011). See also KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3395 (under seal) (stating that there were "Serbian soldiers" at the barracks in Lukavica, where he stayed for about a month). Musić stated that members of the police were present and described them as Serb, "SDS police", as distinct from "the ordinary, regular police" and from "the military police who wore white waist belts". P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 83.

⁷⁷⁵⁸ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 80.

⁷⁷⁵⁹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 84.

⁷⁷⁶⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 84. Musić said he knew that they were officers because they all wore uniforms with ranks. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 84.

⁷⁷⁶¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 84–85 (also stating that one of the officers wore a cap with the coat of arms from Lika, Serbia and another "spoke like he was a Montenegrin").

⁷⁷⁶² P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 85.

⁷⁷⁶³ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 89. The Chamber notes that there is no killing charged in relation to this detention facility pursuant to either Schedule B or C of the Indictment. See Indictment, para. 60(a)(ii), fn. 4.

⁷⁷⁶⁴ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 85–86; Mehmed Musić, T. 12879 (3 March 2011); P161 (Adem Balić's statement to BiH authorities, 7 February 1993), p. 3. These men carried large knives and wore the same gloves as those who beat Musić and others in the Sport centre; some wore black uniforms while others wore camouflage uniforms. P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 86; Mehmed Musić, T. 12870 (3 March 2011).

Later “regular JNA soldiers” came in and told the detainees to stop singing, said no one would touch them anymore, and brought them some food.⁷⁷⁶⁶

2278. The next day, the remaining approximately 233 men went back to the buses and were taken to Kula Prison.⁷⁷⁶⁷

2279. The Chamber took judicial notice of the fact that at the Lukavica barracks, detainees were forced to perform manual labour such as digging trenches and graves.⁷⁷⁶⁸ However, the Prosecution, for the period charged, did not provide evidence on forced labour at this detention facility or on detention other than in relation to the 280 non-Serb men for a few days in June 1992 discussed above.⁷⁷⁶⁹ The Chamber notes that the Prosecution itself limited its discussion of Scheduled Incident C.18.1 in the Final Brief to the detention and beatings of men from 22 June 1992.⁷⁷⁷⁰ The Chamber concludes that it does not have sufficient evidence on which to make a finding that detainees were forced to perform labour at the Slaviša Vajner Čiča Barracks.

2280. Based on the above, the Chamber finds that individuals were detained at the Slaviša Vajner Čiča Barracks in Lukavica for a few days in June 1992. The Chamber further finds that detainees were beaten and that 48 detainees were forced to run through a gauntlet. The Chamber finds that the detainees were held in poor conditions, including a lack of adequate space and access to sanitation facilities and water.

(E) Movement of the population from Novo Sarajevo and appropriation of property

2281. During 1992 Bosnian Muslims and Croats, including nuns, were expelled from their homes, which were then looted.⁷⁷⁷¹ From the time Grbavica was taken over by Serb Forces, Bosnian

⁷⁷⁶⁵ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 86; Mehmed Musić, T. 12879 (3 March 2011).

⁷⁷⁶⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 87–88; Mehmed Musić, T. 12870–12871 (3 March 2011).

⁷⁷⁶⁷ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 89, 92; Mehmed Musić, T. 12879 (3 March 2011); P161 (Adem Balić’s statement to BiH authorities, 7 February 1993), p. 3. *See also* Adjudicated Fact 2638. *See* para. 2141.

⁷⁷⁶⁸ *See* Adjudicated Fact 2632.

⁷⁷⁶⁹ The Chamber notes P6282, which identifies a number of detainees who were forced to carry out labour at frontlines, including digging trenches, and were held in the Lukavica Barracks in 1993. *See* P6282 (RS Central Exchange Committee list of persons). However, as these events fall outside of the temporal scope for the Lukavica Barracks charged in the Indictment, the Chamber will not make a finding of forced labour at the Lukavica Barracks based thereon.

⁷⁷⁷⁰ Prosecution Final Brief, Appendix B, p. 29.

⁷⁷⁷¹ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 45, 64; P1937 (Witness statement of KDZ310 dated 28 November 2010), para. 18 (under seal); KDZ310, T. 9179, 9248–9249, 9255–9259 (29 November 2010); P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 82–91 (under seal); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16698–16701; Radomir Nešković,

Muslims and Croats were expelled and forced to the other side of the Miljacka River.⁷⁷⁷² KDZ310 testified that he could see from the expressions of the people moving that they were not going of their own free will; people were crying and did not want to leave their property behind to be looted.⁷⁷⁷³ Serb soldiers were kicking and hitting the Bosnian Croats and Muslims.⁷⁷⁷⁴ Both soldiers and the civilian and MP took part in the expulsion of non-Serbs from Grbavica.⁷⁷⁷⁵

2282. Intimidation and threats were employed to impel people to leave.⁷⁷⁷⁶ KDZ079 stated that in early 1992 Serb soldiers would come, sometimes several times in one day, to the apartment where she lived with her husband and children, which made her and her family fear for their lives.⁷⁷⁷⁷ After her husband left to obtain food, Serb soldiers repeatedly came to the apartment asking for him and a photograph of him and his identity card.⁷⁷⁷⁸ The soldiers said they would take the witness and her daughter if her husband did not return.⁷⁷⁷⁹ Because Bosnian Croats and Muslims could not get bread and Serb soldiers were breaking into apartments and taking private possessions, on 26 May 1992 the witness, with her children, left the apartment and all their belongings.⁷⁷⁸⁰

2283. Soldiers entered buildings and made statements such as, “[i]n 10 minutes all Ustašas and Balijas out!”⁷⁷⁸¹ In one instance where civilians were being expelled from Grbavica, KDZ310 talked to a platoon member who agreed to go to the MP headquarters to ask for an explanation for the expulsions but the member did not receive an answer.⁷⁷⁸²

T. 14294–14295 (6 June 2011); P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 7. See also P2922 (Witness statements of KDZ079 dated 17 May 2006 and 12 March 1995), e-court pp. 5, 14.

⁷⁷⁷² KDZ310, T. 9179, 9255–9256 (29 November 2010); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16699–16701.

⁷⁷⁷³ KDZ310, T. 9255–9257 (29 November 2010).

⁷⁷⁷⁴ KDZ310, T. 9257 (29 November 2010).

⁷⁷⁷⁵ KDZ310, T. 9179 (29 November 2010); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 64.

⁷⁷⁷⁶ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 64.

⁷⁷⁷⁷ P2922 (Witness statements of KDZ079 dated 17 May 2006 and 12 March 1995), e-court pp. 5, 14.

⁷⁷⁷⁸ P2922 (Witness statements of KDZ079 dated 17 May 2006 and 12 March 1995), e-court pp. 5, 14.

⁷⁷⁷⁹ P2922 (Witness statements of KDZ079 dated 17 May 2006 and 12 March 1995), e-court pp. 5, 14.

⁷⁷⁸⁰ P2922 (Witness statements of KDZ079 dated 17 May 2006 and 12 March 1995), e-court pp. 5, 14.

⁷⁷⁸¹ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 64.

⁷⁷⁸² P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 65. KDZ310 also went to the military police to seek protection for a Muslim civilian who lived in his building, but the military policeman on duty he found dismissed the request, waving his hand aside. P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 65; KDZ310, T. 9265 (29 November 2010).

2284. The 5 June 1992 report of the Novo Sarajevo Crisis Staff to the Bosnian Serb Presidency stated that it had provided as accommodation “empty and deserted Croatian and Muslim flats” to fighters from other areas who had joined regular units.⁷⁷⁸³

2285. On 19 July 1992, the Accused sent a memorandum to several municipalities, including Novo Sarajevo, requesting an inventory of all housing facilities “that are vacant following the voluntary departure of Muslims”, explaining that vacant homes would be used to temporarily house Bosnian Serbs from the Muslim part of Sarajevo.⁷⁷⁸⁴

2286. A UN report from 30 September 1992 reported as confirmed that approximately 300 Bosnian Muslim civilians were expelled by Serbs that day from the area of Grbavica and had travelled on foot using one of two bridges, Vrbanja Bridge and a bridge behind the Bristol Hotel.⁷⁷⁸⁵ People were seen carrying bags and bundles, and armed soldiers, with rifles pointed in the air, were standing beside them.⁷⁷⁸⁶ On 1 October 1992, UNPROFOR Acting Commander, Morillon, conveyed in a letter to the Accused that he had received news of “[the Accused’s] forces hav[ing] proceeded with the forced expulsion of nearly three hundred persons from Grbavica”.⁷⁷⁸⁷ The 30 September UN report was brought up by the UNPROFOR Sarajevo sector commander, Hussein Ali Abdel-Razek, during multiple meetings with Plavšić.⁷⁷⁸⁸

⁷⁷⁸³ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16716–16717 (explaining that this was a way to protect these flats from looting or damage and to provide temporary housing to the fighters). However, KDZ310 testified that permission to use flats was given to fighters but that they looted the apartments they were issued. KDZ310, T. 9251–9252 (29 November 2010). Considering this testimony, which the Chamber finds credible, and considering Nešković’s interest in casting the report and the activities of the Crisis Staff in a favourable light, the Chamber does not accept Nešković’s explanation that the flats of Croats and Muslims were provided to prevent looting or damage.

⁷⁷⁸⁴ P739 (RS Presidency request to various municipalities, 19 July 1992).

⁷⁷⁸⁵ P1266 (UN report re expulsion of civilians from Grbavica, 30 September 1992). See also Hussein Ali Abdel-Razek, T. 5521 (20 July 2010); KDZ310, T. 9286–9287 (29 November 2010); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 64; P1951 (TV Belgrade news report re UNPROFOR conference); P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 82–88 (under seal); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16700–16701 (stating that expulsions increased from around August 1992).

⁷⁷⁸⁶ P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 83–84 (under seal). Branko Radan testified that he heard, though did not personally observe, that on 30 September 1992, an estimated 300 Muslim citizens crossed over to Muslim-controlled territory over the Vrbanja Bridge. Branko Radan, T. 31098–31099, 31127–31128, 31131–31135 (6 December 2012). According to Radan, “no pressure was exerted” on the people and they “decided to cross over to the other side” in an “organised” and “satisfactory” move, in order to be safer. Branko Radan, T. 31098–31099, 31132 (6 December 2012). He testified that there was daily shooting, fighting, and shelling in the area of the frontlines in Jevrejsko Groblje, Gornja Kovačići, and Donji Kovačići. Branko Radan, T. 31098 (6 December 2012). Having considered the totality of the evidence in record, the Chamber rejects Radan’s testimony that the movement of the 300 Muslims on 30 September 1992 was voluntary.

⁷⁷⁸⁷ P5419 (UNPROFOR letter to Radovan Karadžić, 1 October 1992), p. 1.

⁷⁷⁸⁸ Hussein Ali Abdel-Razek, T. 5521 (20 July 2010); P1267 (UNPROFOR report re meeting with Biljana Plavšić, 2 October 1992), p. 2.

2287. In relation to the movement of population, Defence witnesses testified that: (i) with the outbreak of war in BiH, some Serbs and non-Serbs moved to where they thought they were safer;⁷⁷⁸⁹ (ii) Serb and non-Serb civilians alike lacked complete freedom of movement, particularly in Grbavica and Vraca, due to almost continual sniping and shelling from high-rise buildings and other facilities under the control of Muslim forces;⁷⁷⁹⁰ (iii) a significant number of non-Serbs remained in Novo Sarajevo throughout the war;⁷⁷⁹¹ and (iv) some Bosnian Muslims requested to leave.⁷⁷⁹²

2288. Having considered the totality of the evidence, however, the Chamber finds that many Bosnian Muslims and Croats were forced to leave the municipality. The Chamber notes that in some instances people requested to leave; however, the Chamber finds that this was still involuntary considering the surrounding circumstances in which the departures occurred. Consequently, the Chamber is satisfied that Bosnian Muslims and Croats were forced to leave the Serb-controlled parts of Novo Sarajevo municipality.

⁷⁷⁸⁹ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 30; D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 26; D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 13–14; Božo Tomić, T. 30193–30194 (13 November 2012); D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 8.

⁷⁷⁹⁰ D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 30; D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 26.

⁷⁷⁹¹ Radomir Nešković, T. 14336 (7 June 2011); D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 30 (stating that more than 1,200 Muslims and Croats stayed in Novo Sarajevo throughout the war); D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 26; Branko Radan, T. 31099–31100 (6 December 2012) (testifying that, by some estimates, between 1,350 and 1,500 Muslims remained in Grbavica throughout the war); D2651 (Witness statement of Milorad Katić dated 10 December 2012), para. 13 (stating that 1,500 non-Serbs remained in Grbavica throughout the war); P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), p. 190 (wherein the President of Novo Sarajevo reported that out of the 30,000 people in the municipality, there were 1,500 Bosnian Muslims and 200 Croats on 2 June 1993). *See also* D2424 (Report of Protection Officer's visit to Grbavica, 11 March 1993) (stating that there were approximately 1,200 Muslims still in Grbavica and indicating that Muslim males of a certain age were required to perform work and that the officer had not been able to meet with Muslims who wanted to leave or were displaced within Grbavica, pending clearance by the army headquarters in Lukavica for such a visit). Radan testified that the Muslims who stayed "enjoyed all the same rights in terms of humanitarian aid, medical assistance and security" as Serbs and Croats. Branko Radan, T. 31099–31100 (6 December 2012). *See also* D2673 (Witness statement of Zdravko Šalipur dated 16 December 2012), para. 30; D2683 (Witness statement of Dragan Šojić dated 15 December 2012), para. 26. Considering Radan's interest in distancing himself from the mistreatment that occurred as well as the lack of candour on this point of all three witnesses, the Chamber rejects the evidence that Muslims who stayed were provided for and protected equally as Serbs and Croats.

⁷⁷⁹² Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16700–16701 (stating that before August 1992, there were expulsions of Muslims but that some Muslims requested to cross over to the other side because they did not feel safe and that "secret exchanges" of Muslims and Serbs also took place). *See also* Branko Radan, T. 31101–31102 (6 December 2012) (testifying that non-Serbs from Grbavica seeking reunion with their families and better living conditions made efforts to cross to the other side with the assistance of "freelancers"). However, Radan recognised the possibility that non-Serbs sought to leave because they were being subjected to harassment. Branko Radan, T. 31126 (6 December 2012).

v. *Pale*

(A) Charges

2289. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Pale as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁷⁷⁹³ Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Pale include killings related to the “Former Culture Centre/Dom Culture in Pale (also referred to as a Gym)”,⁷⁷⁹⁴ as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at that facility.⁷⁷⁹⁵ The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁷⁷⁹⁶

2290. Other acts of persecution alleged to have been committed in Pale by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse during and after the take-over and in Pale Gym as cruel or inhumane treatment;⁷⁷⁹⁷ (ii) the establishment and perpetuation of inhumane living conditions in Pale Gym, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁷⁷⁹⁸ (iii) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes within Pale;⁷⁷⁹⁹ (iv) unlawful detention in Pale Gym;⁷⁸⁰⁰ (v) the wanton destruction of public property, including cultural monuments and sacred sites;⁷⁸⁰¹ and (vi) the imposition and maintenance of restrictive and discriminatory measures.⁷⁸⁰²

⁷⁷⁹³ Indictment, paras. 48–49.

⁷⁷⁹⁴ The Chamber notes that in the Indictment and in the evidence, this detention facility has been referred to by various names. *See e.g.* Indictment, Scheduled Incident B.14.1, Scheduled Detention Facility C.19.2 (referring to “Former Culture Centre”, “Dom Culture”, and “a Gym”); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 18 (referring to “Pale sports centre” and “old Cultural Centre”); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 55 (referring to “sport complex”). For the sake of clarity, the Chamber will use the term “Pale Gym” to refer to this alleged detention facility throughout this Judgement.

⁷⁷⁹⁵ Indictment, para. 60(a)(ii). *See* Scheduled Incident B.14.1; Scheduled Detention Facility C.19.2.

⁷⁷⁹⁶ Indictment, para. 63(b).

⁷⁷⁹⁷ Indictment, para. 60(b). *See* Scheduled Detention Facility C.19.2.

⁷⁷⁹⁸ Indictment, paras. 60(d). *See* Scheduled Detention Facility C.19.2.

⁷⁷⁹⁹ Indictment, para. 60(f).

⁷⁸⁰⁰ Indictment, para. 60(g). *See* Scheduled Detention Facility C.19.2.

⁷⁸⁰¹ Indictment, para. 60(j). *See* Scheduled Incident D.16.

⁷⁸⁰² Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services. The Prosecution does not allege criminal responsibility for rape and other acts of sexual violence;

2291. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁷⁸⁰³ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Pale in which they had been lawfully present.⁷⁸⁰⁴ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, killing, destruction of cultural monuments and sacred sites, as well as the threat of further such acts caused some Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁷⁸⁰⁵

(B) Background

2292. Pale, one of the ten constitutive municipalities of Sarajevo, is located to the east of Novo Sarajevo and Stari Grad and to the west of Rogatica.⁷⁸⁰⁶ The municipality of Pale includes, *inter alia*, the Muslim settlements of Bare, Donja Vinča, Prača, Podgrab and Renovica, and the largely Serb inhabited settlements of Krivodoli, Lapišnica, Mokro, and Vrhprača.⁷⁸⁰⁷ According to the 1991 census, Pale municipality had 16,119 inhabitants, of whom about 27% were Bosnian Muslims and 69% were Bosnian Serbs.⁷⁸⁰⁸

2293. There were a number of military installations in Pale, including an army barracks located in the centre of Renovica, an army depot in Krivodoli, a depot in Jahorinski Potok and a radar

forced labour on the frontlines; the appropriation or plunder of property or the wanton destruction of private property in Pale. Indictment, fn. 5, 7, 8, 9.

⁷⁸⁰³ Indictment, paras. 68–75.

⁷⁸⁰⁴ Indictment, paras. 69, 72.

⁷⁸⁰⁵ Indictment, para. 71.

⁷⁸⁰⁶ P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 8; Appendix B, Map 1; Sulejman Crnčalo, T. 1209 (15 April 2010). *See also* Adjudicated Fact 2.

⁷⁸⁰⁷ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 19; Sulejman Crnčalo, T. 1197, 1223 (15 April 2010); D15 (SRNA news report, 22 June 1992); D29 (Article from Glas Current Affairs entitled "Agreement with the Muslims in Pale", 17 April 1992); Hajrudin Karić, T. 15335 (23 June 2011); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 16; Zdravko Čvoro, T. 30962 (5 December 2012); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 39; *see* Adjudicated Fact 2591.

⁷⁸⁰⁸ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), e-court p. 2 of BCS version. *See also* Adjudicated Fact 3. *But see* P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 30, 33, 36, 39, 73, 75, 77, 79 (indicating that Pale municipality had 12,433 inhabitants, of whom 21.4% were Bosnian Muslims, 74% were Bosnian Serbs, and 0.9% were Bosnian Croats); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 56 (indicating that in 1991, Pale municipality had 15,482 inhabitants of whom, 25.4% were Bosnian Muslims, 68% were Bosnian Serbs and 0.6% were Bosnian Croats). While the Chamber finds P4994 and D4002 to be generally reliable, for the purpose of determining the population of Pale and the ethnic composition thereof in 1991, it relies on P5964, which is a direct source document and which contains the raw data from the 1991 census in BiH.

installation at Mt. Jahorina.⁷⁸⁰⁹ In late March or April 1992, the Republic Communications Centre was established in Pale and began providing secure communication links in the territory of SerBiH.⁷⁸¹⁰

2294. The founding assembly of the SDA Municipal Board was held in July 1990 in Renovica.⁷⁸¹¹ In August or September 1990, the SDS Municipal Board in Pale, headed by Svetislav Lučić, was founded.⁷⁸¹² In April 1991, Jovan Šarac became the President of the Pale SDS Municipal Board.⁷⁸¹³

2295. From April 1992 onwards, Pale served as the seat of the government of the SerBiH and later of the RS.⁷⁸¹⁴ Between 1992 and 1995, the Accused used the following three locations in Pale as his office: the Kikinda building, the Mali Dom building, situated in the Panorama Hotel complex, and the administrative building of the Famos factory.⁷⁸¹⁵ From April 1992 onwards, the Accused and his family resided at a number of locations in Pale.⁷⁸¹⁶ Momčilo Krajišnik and Biljana Plavšić stayed in the Panorama Hotel complex.⁷⁸¹⁷

(C) Lead-up

2296. In the multi-party elections, the SDS and SDA respectively obtained 65% and 20% of the votes for the Pale Municipal Assembly; subsequently, the SDS and SDA formed a coalition and divided the positions of authority in the municipality between themselves.⁷⁸¹⁸ Slobodan Kovačević became the president of the Municipal Assembly and Malko Koroman was appointed the Chief of

⁷⁸⁰⁹ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 16; Jovan Šarac, T. 47151 (14 February 2014); P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 20.

⁷⁸¹⁰ P2560 (Letter from Radovan Karadžić to presidents of municipalities, 23 March 1992), p. 1; P2794 (Witness statement of Ranko Vuković dated 24 May 2011), para. 2; *see* Adjudicated Fact 2063.

⁷⁸¹¹ D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 30.

⁷⁸¹² D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 7; Tomislav Hršum, T. 32917 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 30.

⁷⁸¹³ Jovan Šarac, T. 47141 (14 February 2014).

⁷⁸¹⁴ Nedeljko Prstojević, T. 12965 (8 March 2011); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 21; P820 (Witness statement of David Harland dated 4 September 2009), paras. 50–51; David Harland, T. 2064–2067 (7 May 2010); P5742 (Intercept of conversation between Radovan Karadžić and an unidentified male, 6 April 1992), p. 2; D3583 (RTV news report, 14 August 1993); Nebojša Ristić, T. 15388–15389 (24 June 2011); Momčilo Mandić, T. 5099–5100 (14 July 2010). *See also* Adjudicated Fact 2052.

⁷⁸¹⁵ Nebojša Ristić, T. 15380, 15384–15387, 15389–5392 (24 June 2011); P2841 (Photographs and sketches marked by Nebojša Ristić), e-court pp. 1–3, 7; P2842 (Map of Pale marked by Nebojša Ristić); P2794 (Witness statement of Ranko Vuković dated 24 May 2011), para. 14; Momčilo Mandić, T. 4648 (5 July 2010), T. 5011 (13 July 2010); Patrick Rechner, T. 11081 (2 February 2011).

⁷⁸¹⁶ Nebojša Ristić, T. 15380, 15383 (24 June 2011); P2841 (Photographs and sketches marked by Nebojša Ristić), e-court pp. 8–9.

⁷⁸¹⁷ Nebojša Ristić, T. 15382 (24 June 2011).

⁷⁸¹⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 12; D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 7; Zdravko Čvoro, T. 30937 (4 December 2012); D4002 (Letter

the Pale SJB.⁷⁸¹⁹ Idriz Efendić, a Bosnian Muslim, was appointed as the Commander of the Pale SJB.⁷⁸²⁰ Hamed Palo, a Bosnian Muslim, was named as Kovačević's deputy.⁷⁸²¹ Kovačević was later replaced by Radislav Starčević.⁷⁸²² In January 1992, Zdravko Čvoro was appointed as President of the Executive Board in Pale.⁷⁸²³

2297. In the beginning of 1991, Bosnian Serbs in Pale organised large public rallies at which they waved Serb flags and shouted nationalist slogans.⁷⁸²⁴ In response to the increasing national sentiments amongst Serbs, the Bosnian Muslims in Pale organised night watches in order to guard their families and homes.⁷⁸²⁵ Bosnian Muslims in Pale owned hunting rifles and pistols.⁷⁸²⁶

2298. On 8 May 1991, at the initiative of the SDS Regional Board, the municipalities of Pale, Han Pijesak and Sokolac declared that they would join together in order to create the SAO Romanija.⁷⁸²⁷

2299. In November 1991, Serbs from several army installations began secretly distributing arms to the local Serb population at night.⁷⁸²⁸ Stjepan Koroman, a relative of the police chief, was in

from BiH MUP to Vasvija Vidović, 4 July 1995), p. 56; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 33.

⁷⁸¹⁹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 12; Sulejman Crnčalo, T. 1252 (15 April 2010); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 19, 41; Hajrudin Karić, T. 15347 (23 June 2011); P6089 (BiH MUP report, 24 March 1992), p. 2; P6090 (Pale SJB record, 8 February 1993), p. 1; P6093 (List of employees of Pale CJB), p. 1; Tomislav Hršum, T. 32938 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 44; Jovan Šarac, T. 47143 (14 February 2014); P963 (Interview with Malko Koroman in RS MUP magazine "Policeman", November 1994), p. 1.

⁷⁸²⁰ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 6; Tomislav Hršum, T. 32921 (30 January 2013).

⁷⁸²¹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 12; Sulejman Crnčalo, T. 1194 (15 April 2010).

⁷⁸²² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 12, 35; D31 (14th session of Pale Municipal Assembly, 18 June 1992), e-court p. 1; D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 6.

⁷⁸²³ D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 1.

⁷⁸²⁴ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 10; Sulejman Crnčalo, T. 1189–1191 (15 April 2010).

⁷⁸²⁵ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 13–14.

⁷⁸²⁶ Sulejman Crnčalo, T. 1208–1209 (15 April 2010). In 1991, some JNA sergeants and Bosnian Muslims stole weapons, mines, and explosives from the Renovica Barracks. D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 36.

⁷⁸²⁷ D1267 (Article from Javnost entitled "Municipalities join together into a community of municipalities", 11 May 1991), e-court p. 1; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 12; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 56.

⁷⁸²⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 19–20. *See also* P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), pp. 6, 11 (indicating that by 20 March 1992, in Pale municipality, 2,000 men who were not part of the JNA or the TO had been armed by either the JNA or the SDS).

charge of distributing weapons to the inhabitants of Vrhpraća and Podgrab.⁷⁸²⁹ From this point on, there was an increase in Serbs firing their weapons.⁷⁸³⁰

2300. In early 1992, the Bosnian Serb police officers who had been disarmed and expelled from the Stari Grad SJB, joined the Pale SJB to work on security tasks.⁷⁸³¹ In January 1992, the Bosnian Serb population in Pale was mobilised by means of written call-ups that were issued to them.⁷⁸³²

2301. During this period, paramilitary groups, including a formation commanded by Radomir Kojić, a special unit commanded by Rajko Kušić as well as Šešelj's men began operating in Pale.⁷⁸³³ In late April or early May 1992, members of Arkan's men, led by a man nicknamed "Čarli", also entered Pale and moved into the Panorama Hotel complex.⁷⁸³⁴ During May and June 1992, a large amount of military equipment and many military personnel arrived in Pale.⁷⁸³⁵ In the same period, an additional number of paramilitaries arrived in Pale.⁷⁸³⁶ They were mainly young Serbs; they had red ribbons on their arms and heads, and carried automatic rifles and knives.⁷⁸³⁷ They often drove around in Pale and confiscated the cars and trucks that belonged to non-Serbs.⁷⁸³⁸

2302. In March 1992, subsequent to talks between the Chiefs of Pale and Stari Grad SJBs, police check-points were created by both sides at Lapišnica.⁷⁸³⁹ Bosnian Muslims and Bosnian Serbs also established check-points on various roads leading in and out of Pale.⁷⁸⁴⁰

⁷⁸²⁹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 19.

⁷⁸³⁰ Sulejman Crnčalo, T. 1196 (15 April 2010); P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 17.

⁷⁸³¹ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 11; Tomislav Hršum, T. 32952–32953, 32955 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 50.

⁷⁸³² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 21–22, 46, 58.

⁷⁸³³ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 16; Hajrudin Karić, T. 15343 (23 June 2011); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 57. The Chamber notes that the individual by the name of Rajko Kušić who is referred to in this section of the Judgement on Pale is not the same individual as the man also named Rajko Kušić who is referred to in the Rogatica section of this Judgement. See Hajrudin Karić, T. 15343 (23 June 2011).

⁷⁸³⁴ D1076 (MUP Administration for the Police Duties and Affairs report, 3 August 1992), p. 3; P1107 (SerBiH MUP report to the Minister of Interior re inspection of Romanija-Birač CSB and SJB, 10 August 1992), p. 3. According to Hršum and Šarac, this group engaged in criminal acts against private and public property and for this reason, it was eventually disarmed by the Pale SJB and escorted back towards Serbia in June 1992. D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 25; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 45; Jovan Šarac, T. 47158–47159 (14 February 2014).

⁷⁸³⁵ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 52. See also Adjudicated Fact 2590.

⁷⁸³⁶ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 52, 54.

⁷⁸³⁷ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 52, 54; Sulejman Crnčalo, T. 1159 (14 April 2010), T. 1255 (15 April 2010).

⁷⁸³⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 52–53, 55; Sulejman Crnčalo, T. 1255 (15 April 2010).

⁷⁸³⁹ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 14; Tomislav Hršum, T. 32948 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 39.

2303. The Crisis Staff in Pale was established in March or April 1992; its headquarters was located in Pale SJB.⁷⁸⁴¹ Zdravko Čvoro, the President of the Executive Board, was appointed as the President of the Crisis Staff.⁷⁸⁴² The Crisis Staff, which included Šarac and other SDS members in Pale municipality such as Koroman, and Slobodan Ninković, controlled all municipal activities.⁷⁸⁴³ According to Šarac, the Pale Crisis Staff was in essence an expanded version of the Executive Board.⁷⁸⁴⁴

2304. The SDS enjoyed “absolute power” in the municipality and the Pale municipal authorities allocated funds to it.⁷⁸⁴⁵ They also allocated premises and material resources and contributed financially to the Bosnian Serb Press Agency, the SRNA.⁷⁸⁴⁶

2305. In early March 1992, the Bosnian Serb municipal authorities called on non-Serbs to hand in their personal weapons.⁷⁸⁴⁷ Subsequently, in local communes outside of Pale town, authorities designated special locations for the non-Serb population to bring in their weapons; the weapons

⁷⁸⁴⁰ D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 52; D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 14; P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 43; Sulejman Crnčalo, T. 1215–1216 (15 April 2010); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 7; Hajrudin Karić, T. 15316–15318 (23 June 2011). *See also* Adjudicated Fact 2589.

⁷⁸⁴¹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 42; P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 9; D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), paras. 2, 11. *See also* P6089 (BiH MUP report, 24 March 1992), p. 2 (indicating that the Pale Crisis Staff was functional as of March 1992 and that it ordered the Bosnian Muslim policemen in Pale SJB to hand in their weapons). On 6 April 1992, the 2nd Military District Reserve Command Post reported that it maintained constant contact and co-ordinated its operations with the Pale Crisis Staff. P5426 (Report of 2nd Military District RKM, 6 April 1992).

⁷⁸⁴² D4368 (Witness statement of Jovan Šarac dated 10 February 2014), paras. 38, 46; Zdravko Čvoro, T. 30929, 30933, 30936, 30938 (4 December 2012).

⁷⁸⁴³ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 42; Jovan Šarac, T. 47141 (14 February 2014). In April 1992, the Crisis Staff began receiving the daily dividends generated by the various companies that were based in Pale, including the Pale branch of Centrotans. The Pale Crisis Staff also took decisions about companies and determined the salaries of their staff. In the same period, the Pale Crisis Staff adopted a number of regulations concerning the purchase and sale of basic commodities and banned the sale of alcohol. P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 10–13; Hajrudin Karić, T. 15336 (23 June 2011); D21 (SRNA news report, 24 April 1992); D22 (SRNA news report, 2 May 1992); D26 (SRNA news report, 25 May 1992).

⁷⁸⁴⁴ D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 38; Jovan Šarac, T. 47171 (14 February 2014).

⁷⁸⁴⁵ P6029 (Decision of Pale Executive Board, 25 May 1992), p. 3; Zdravko Čvoro, T. 30937 (4 December 2012).

⁷⁸⁴⁶ Zdravko Čvoro, T. 30960 (5 December 2012).

⁷⁸⁴⁷ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 28. According to Hršum, the reasons for disarming were threefold: (i) in the area of Renovica, there were armed persons in hitherto unseen military uniforms moving about; (ii) there were constant incursions into and attacks against Renovica Barracks; and (iii) two individuals who had been linked with an alleged murder dating back to before the start of the war had hidden in the Renovica area. Tomislav Hršum, T. 32955–32957 (30 January 2013). The Chamber rejects Hršum’s evidence on this point in light of reliable documentary evidence originating from the chief of Pale SJB’s Criminal Investigation Service which indicates that in mid-March, Pale SJB confiscated weapons that were in the possession of Bosnian Muslims, “irrespective of whether they had permits for them or not.” *See* P6090 (Pale SJB record, 8 February 1993), p. 1.

collected in such locations were then brought to the SJB building in Pale town.⁷⁸⁴⁸ At the same time, men in camouflage uniforms who were not from the JNA conducted searches of Bosnian Muslim houses for weapons.⁷⁸⁴⁹

2306. During the night of 3 March 1992, three Bosnian Serb reservists in dark police uniforms arrested Sulejman Crnčalo and his neighbour and took them both to the SJB in Pale; at the time of his arrest, Crnčalo was guarding his house with a hunting rifle.⁷⁸⁵⁰ At a certain point, Koroman arrived at the SJB and while questioning Crnčalo, stated that if any of his “policemen or soldiers” were wounded in Crnčalo’s neighbourhood, he would completely destroy that neighbourhood.⁷⁸⁵¹ Koroman added that “[a]s long as there is no Serb policeman in Stari Grad, there is not going to be one Muslim policeman in Pale.”⁷⁸⁵² In the early morning hours, Koroman indicated that he was going to escort Crnčalo and his neighbour back to their respective homes.⁷⁸⁵³ When exiting the SJB, Crnčalo noticed at least a hundred reserve policemen outside.⁷⁸⁵⁴ Near his home, Crnčalo saw many heavily-armed soldiers and policemen facing the Bosnian Muslim inhabited parts of Pale.⁷⁸⁵⁵

2307. On 23 March 1992, about 35 Bosnian Muslim active-duty and reserve policemen from Pale SJB met with Koroman at the Prača reserve SJB.⁷⁸⁵⁶ At the meeting, Koroman stated that Bosnian Muslim policemen were required to hand in their weapons and equipment.⁷⁸⁵⁷ Koroman added that this was a countermeasure against the move made by Stari Grad SJB and that the reinstatement of Muslim policemen depended on Serb policemen returning to their jobs in the Stari Grad SJB.⁷⁸⁵⁸ The Bosnian Muslim policemen complied and handed in their weapons.⁷⁸⁵⁹ Later that day, Bosnian Muslim reserve policemen in the Pale SJB were disarmed in a similar fashion.⁷⁸⁶⁰ From this point on, Pale SJB stayed under Bosnian Serb control.⁷⁸⁶¹

⁷⁸⁴⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 29.

⁷⁸⁴⁹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 31.

⁷⁸⁵⁰ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 23–24; Sulejman Crnčalo, T. 1199 (15 April 2010).

⁷⁸⁵¹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 24.

⁷⁸⁵² Sulejman Crnčalo, T. 1252 (15 April 2010); P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 25.

⁷⁸⁵³ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 26; Sulejman Crnčalo, T. 1199 (15 April 2010).

⁷⁸⁵⁴ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 26.

⁷⁸⁵⁵ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 26.

⁷⁸⁵⁶ P6089 (BiH MUP report, 24 March 1992), p. 2.

⁷⁸⁵⁷ P6089 (BiH MUP report, 24 March 1992), p. 2.

⁷⁸⁵⁸ P6089 (BiH MUP report, 24 March 1992), p. 2; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 50.

⁷⁸⁵⁹ P6089 (BiH MUP report, 24 March 1992), p. 2.

⁷⁸⁶⁰ P6089 (BiH MUP report, 24 March 1992), p. 2. On 8 February 1993, the Pale SJB reported that due to “security reasons”, during mid-March 1992 it had “disarmed the non-Serb police employees and removed them from

2308. Ethnic tensions increased further in April 1992, when a large number of Bosnian Serb refugees from Sarajevo began to pour into Pale.⁷⁸⁶² On 4 April 1992, on the Pale-Sarajevo road, two Bosnian Serb bus drivers and some of the Bosnian Serb passengers who were travelling with them were beaten by Bosnian Muslims.⁷⁸⁶³ In the village of Lapišnica, a Serb was wounded by Muslim gunfire.⁷⁸⁶⁴ Around the same period, certain shops refused to sell products to non-Serbs.⁷⁸⁶⁵ Eventually, most shops in Pale closed down.⁷⁸⁶⁶ By April 1992, many Bosnian Muslims had been suspended from their jobs.⁷⁸⁶⁷

2309. On 11 April 1992, the Pale Crisis Staff promised to provide full security to all residents of Pale regardless of their ethnicity, decided that supplies shall be provided equally to all parts of the municipality, and proposed to hold discussions with SDA officials about supply and security issues.⁷⁸⁶⁸ On or about 16 April, the Bosnian Muslims in the villages of Bare, Renovica, Prača and Podgrab recognised the “legal police” in the municipality and received guarantees of personal and material security as well as normal supplies and regular bus transport.⁷⁸⁶⁹

2310. During late April 1992, paramilitary forces dressed in camouflage uniforms and led by Zoran Škobo arrested a number of Bosnian Muslim men aged between 20 and 30.⁷⁸⁷⁰ These men

service”. See P6090 (Pale SJB record, 8 February 1993), p. 1. See also Adjudicated Fact 2587. But see Hršum’s testimony that on 17 March 1992, all Bosnian Muslim policemen of the Pale SJB and most Bosnian Muslim policemen at the Prača SJB branch indicated that they wanted to temporarily stop coming to work because of problems that had arisen in Sarajevo, and accordingly, handed in their weapons and official badges. Tomislav Hršum, T. 32923–32926 (30 January 2013). In light of its inconsistency with the reliable documentary evidence contained in P6089 and P6090, the Chamber rejects Hršum’s assertion.

⁷⁸⁶¹ Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4500. See also P963 (Interview with Malko Koroman in RS MUP magazine “Policeman”, November 1994), p. 2.

⁷⁸⁶² Sulejman Crnčalo, T. 1198, 1201–1202 (15 April 2010); D8 (SRNA news report, 10 April 1992); D9 (SRNA news report, 19 May 1992); D11 (SRNA news report, 17 April 1992); Hajrudin Karić, T. 15337–15338 (23 June 2011); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 15; D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 3. In the latter half of May 1992, the number of Bosnian Serb refugees in Pale reached 15,000, which was nearly as much as Pale’s original population. D10 (SRNA news report, 20 May 1992); D12 (SRNA news report, 21 May 1992); Sulejman Crnčalo, T. 1257 (15 April 2010).

⁷⁸⁶³ D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 39; Hajrudin Karić, T. 15319–15321 (23 June 2011).

⁷⁸⁶⁴ D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 39.

⁷⁸⁶⁵ Sulejman Crnčalo, T. 1230 (15 April 2010).

⁷⁸⁶⁶ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 15; Hajrudin Karić, T. 15338–15339 (23 June 2011).

⁷⁸⁶⁷ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 46; P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 8–9; Hajrudin Karić, T. 15324–15327 (23 June 2011).

⁷⁸⁶⁸ D28 (Conclusions of the Crisis Staff of Pale Municipal Assembly, 11 April 1992).

⁷⁸⁶⁹ D29 (Article from Glas Current Affairs entitled “Agreement with the Muslims in Pale”, 17 April 1992).

⁷⁸⁷⁰ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 49.

were kept in the SJB for a few hours and then released.⁷⁸⁷¹ In May 1992, more Bosnian Muslims were randomly arrested.⁷⁸⁷²

2311. In the beginning of May 1992, pursuant to an order issued by the Pale Crisis Staff, the Post Office in Pale disconnected the telephone lines of Bosnian Muslims.⁷⁸⁷³ From this point onwards, Bosnian Muslims went to the Post Office in order to make calls or asked their Serb neighbours to allow them access to their telephones.⁷⁸⁷⁴

(D) Attack against Renovica and other villages

2312. On 22 May 1992, the Bosnian Muslims in Prača, Bogovići, Gornja Vinča, and Podgrab handed over their weapons to Bosnian Serb Forces.⁷⁸⁷⁵ Residents of Renovica, however, refused.⁷⁸⁷⁶

2313. On the same day, members of the Pale MUP and the VRS conducted a military operation against Renovica.⁷⁸⁷⁷ Policemen from Pale SJB detained approximately 30 Bosnian Muslims and took them to the Pale Gym.⁷⁸⁷⁸ On that day, Serb Forces also attacked and shelled the predominantly Muslim village of Donja Vinča, setting houses on fire and forcing the villagers to leave.⁷⁸⁷⁹ SRNA reported on the operation against Renovica, stating that seven MUP members had

⁷⁸⁷¹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 49.

⁷⁸⁷² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 49. *But see* Tomislav Hršum, T. 32968 (30 January 2013) (testifying that members of Pale SJB never considered ethnicity as a basis for remanding individuals in custody). The Chamber does not accept this evidence given that Hršum was himself a policeman in Pale and therefore has an interest in denying that employees of Pale SJB arrested individuals on the basis of their ethnicity.

⁷⁸⁷³ P734 (Order of Pale Crisis Staff, 7 May 1992); P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 50–51. Zdravko Čvoro testified that private resources and services were taken over or withheld to defend the territory, that many Serbs and even public institutions also had their telephone lines cut as there was a shortage of telephone lines, and that the lines which were cut belonged to Bosnian Muslims who had already departed. *See* D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 13; Zdravko Čvoro, T. 30929–30931 (4 December 2012). The Chamber rejects Čvoro's evidence on this point given his lack of candour and evasiveness in his explanation of P734, a document which bears his name (although signed by someone else) and which orders that the telephone lines of 15 Bosnian Muslims be cut.

⁷⁸⁷⁴ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 50.

⁷⁸⁷⁵ D15 (SRNA news report, 22 May 1992); Hajrudin Karić, T. 15353 (23 June 2011), T. 15376 (24 June 2011); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19.

⁷⁸⁷⁶ Hajrudin Karić, T. 15353 (23 June 2011); D15 (SRNA news report, 22 May 1992).

⁷⁸⁷⁷ Sulejman Crnčalo, T. 1217, 1220, 1222, 1225 (15 April 2010); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 17–19; Hajrudin Karić, T. 15342, 15346, 15348, 15350–15351 (23 June 2011), T. 15376 (24 June 2011); D19 (Letter from Serbian villagers of Renovica to Pale Municipal Assembly, 26 June 1992); D31 (14th session of Pale Municipal Assembly, 18 June 1992), e-court p. 3; D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19; Tomislav Hršum, T. 32925, 32956–32957 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 43; Jovan Šarac, T. 47149 (14 February 2014); D16 (SRNA news report, 22 May 1992).

⁷⁸⁷⁸ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 17–19, 24; Hajrudin Karić, T. 15312, 15351, 15364–15365 (23 June 2011) T. 15376 (24 June 2011); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19; Sulejman Crnčalo, T. 1227 (15 April 2010).

⁷⁸⁷⁹ *See* Adjudicated Fact 2591.

been killed or wounded.⁷⁸⁸⁰ SRNA also reported that although the casualty figure in relation to the Bosnian Muslims had not been established yet, it was estimated to be “substantially greater”.⁷⁸⁸¹ Furthermore, SRNA quoted the Pale MUP’s instruction to Muslims in Pale to hand over their weapons peacefully in order to prevent more bloodshed.⁷⁸⁸² Around the same period, the Pale SJB also took control of villages that were situated in the direction of Renovica and Goražde.⁷⁸⁸³

2314. On 23 May 1992, Koroman appeared on television and after announcing that war had finally come to Pale, issued an ultimatum to all non-Serbs to surrender their weapons to the SJB.⁷⁸⁸⁴ During the days that followed, Bosnian Muslims handed over hundreds of additional pieces of weaponry to the Pale SJB.⁷⁸⁸⁵ Koroman subsequently informed the Pale Crisis Staff of the attack against Renovica and was advised to transfer the Bosnian Muslims who had been detained there and who were “guilty” to Kula Prison, in Ilidža municipality, and to release the ones that were “not guilty”.⁷⁸⁸⁶

2315. Pale SJB’s chief of Criminal Investigation Service reported that, amongst other things, forcible entry into weekend houses was widespread and that SJB operatives, instead of suppressing such acts, participated and continued to participate in their commission.⁷⁸⁸⁷

(E) Movement of the population from Pale and appropriation of property

2316. On or about 13 March 1992, policemen and paramilitaries started advising non-Serbs to leave Pale municipality.⁷⁸⁸⁸ For instance, Jovan Škobo and Novica Stanar, who were both

⁷⁸⁸⁰ D15 (SRNA news report, 22 May 1992).

⁷⁸⁸¹ D15 (SRNA news report, 22 May 1992). The Chamber notes that killings during the course of the attack on Renovica are not charged in the Indictment.

⁷⁸⁸² D15 (SRNA news report, 22 May 1992).

⁷⁸⁸³ P963 (Interview with Malko Koroman in RS MUP magazine “Policeman”, November 1994), p. 2.

⁷⁸⁸⁴ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 28; Sulejman Crnčalo, T. 1209, 1216–1217, 1220, 1258 (15 April 2010); D16 (SRNA news report, 22 May 1992); D17 (SRNA news report, 23 May 1992); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19; Tomislav Hršum, T. 32955–32956 (30 January 2013); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 43.

⁷⁸⁸⁵ Sulejman Crnčalo, T. 1258 (15 April 2010); D17 (SRNA news report, 23 May 1992); D18 (SRNA news report, 24 May 1992); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 43.

⁷⁸⁸⁶ Jovan Šarac, T. 47153 (14 February 2014).

⁷⁸⁸⁷ P6091 (Report of Pale SJB, 31 December 1992), p. 2; P6092 (Report of Pale SJB, 12 May 1993), e-court p. 1.

⁷⁸⁸⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 33–34; Sulejman Crnčalo, T. 1247–1248, 1250 (15 April 2010). *But see* Čvoro’s claim that Serb authorities went to Bosnian Muslim villages and neighbourhoods in Pale in order to persuade the population there to stay. D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 6; Zdravko Čvoro, T. 30939 (4 December 2012). The Chamber rejects Čvoro’s evidence on this point because of his evasiveness and his lack of candour as a witness. For example, Čvoro insisted that he had no knowledge about the Pale SJB’s involvement in the expulsion of Bosnian Muslims from Pale despite being showing documentary evidence to that effect which bore his signature. *See* Zdravko Čvoro, T. 30963–30967 (5 December 2012); P6034 (Report of Pale Executive Board, 7 July 1992).

policemen, as well as Kojić, a paramilitary, visited Crnčalo's village and during this visit, Škobo told the residents that it was better for them to voluntarily go to an area where the Muslims were a majority now rather than being "chase[d] through the woods" later.⁷⁸⁸⁹ In response, Crnčalo, his brother and a number of neighbours went to see Starčević who assured them that if they had not done anything wrong, they had nothing to worry about.⁷⁸⁹⁰

2317. In May 1992, Crnčalo and his neighbours requested that Koroman organise a meeting at the SJB building and invite a high-ranking government official so that Bosnian Muslims in the Pale municipality could be given guarantees about their safety.⁷⁸⁹¹ Shortly after the start of the meeting, Nikola Koljević arrived and when asked by Bosnian Muslims to give guarantees that they could stay in Pale, he replied that "Serbs don't want to continue living with you here."⁷⁸⁹² During the same meeting and in the presence of Koljević, Koroman told the Muslim delegates that he could no longer guarantee their safety because he was unable to hold back the Red Berets who had come from Knin.⁷⁸⁹³

2318. On 12 June 1992, Starčević asked the secretary of the Pale SDS to urgently call a meeting of the Pale SDS Main Board so that the SDS could adopt a general position on the departure of non-Serbs from the municipality.⁷⁸⁹⁴ On 18 June 1992, during a Pale Municipal Assembly session, the President of the Assembly, Starčević, and the President of the Executive Board, Čvoro, complained that the Pale SJB had taken measures to move the Bosnian Muslim population out of the municipality.⁷⁸⁹⁵ On 19 June 1992, Pale Municipal Assembly adopted a decision which required non-Serbs who wished to leave the municipality to obtain permission from the SJB.⁷⁸⁹⁶ Pursuant to the same decision, the Pale SJB, in co-ordination with municipal commissions, was to

⁷⁸⁸⁹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 34. *See also* Adjudicated Fact 2588. *But see* Šarac's evidence that the SJB never applied pressure to Bosnian Muslims of Pale to leave the municipality. D4368 (Witness statement of Jovan Šarac dated 10 February 2014); paras. 44, 51.

⁷⁸⁹⁰ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 35.

⁷⁸⁹¹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 36–37; Sulejman Crnčalo, T. 1164–1165 (14 April 2010), 1260–1261 (15 April 2010).

⁷⁸⁹² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 38; Sulejman Crnčalo, T. 1164 (14 April 2010), T. 1247 (15 April 2010).

⁷⁸⁹³ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 39–40; Sulejman Crnčalo, T. 1164 (14 April 2010). On 2 July 1992, Crnčalo saw two soldiers who were wearing red berets near the Panorama Hotel, behind a privately owned house. P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 71.

⁷⁸⁹⁴ D30 (Letter from Pale Municipal Assembly to Pale SDS President, 12 June 1992); Zdravko Čvoro, T. 30936 (4 December 2012).

⁷⁸⁹⁵ D31 (14th session of Pale Municipal Assembly, 18 June 1992), e-court p. 4.

⁷⁸⁹⁶ P5090 (Decision of the Pale Assembly, 19 June 1992); Tomislav Hršum, T. 32961 (30 January 2013); D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 6; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 48; Jovan Šarac, T. 47178 (14 February 2014).

compile a list of all property owned by non-Serbs who were leaving the municipality.⁷⁸⁹⁷ The Pale Municipal Assembly also entrusted the Pale SJB with the task of organising the departure of non-Serbs and making sure that they crossed the separation line safely.⁷⁸⁹⁸

2319. In late June and early July 1992, Bosnian Serb authorities in Pale gave Bosnian Muslim property-owners contract forms which already contained their data.⁷⁸⁹⁹ By virtue of these contracts, which the Muslims had to sign before they could depart from Pale, Muslim property in Pale became Serb property in exchange for Serb-owned property in Sarajevo.⁷⁹⁰⁰ Those who refused to sign such contracts were forced to surrender the keys to their houses to the Pale SJB.⁷⁹⁰¹

2320. During the same period, Serb authorities in Pale organised a number of convoys for the transportation of non-Serbs out of the area.⁷⁹⁰² Prior to this, written notices were put up, informing the non-Serb population of the location and time at which they could board the buses.⁷⁹⁰³ Those boarding the buses were allowed to take only what they could carry.⁷⁹⁰⁴ The first convoy left Pale on or about 28 June 1992.⁷⁹⁰⁵ On 2 July 1992, SerBiH MUP ordered the Pale SJB to grant permission to Bosnian Muslims and Bosnian Croats living in Pale centre to move out of the Pale municipality “of their own free will” and instructed “police and military patrols to enable the

⁷⁸⁹⁷ D32 (Decision of Pale Municipal Assembly, 18 June 1992); Zdravko Čvoro, T. 30951–30952 (4 December 2012).

⁷⁸⁹⁸ D32 (Decision of Pale Municipal Assembly, 18 June 1992); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 22; Tomislav Hršum, T. 32928 (30 January 2013).

⁷⁸⁹⁹ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 61; P735 (List of contracts for exchange of houses).

⁷⁹⁰⁰ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 61–62; P735 (List of contracts for exchange of houses); Sulejman Crnčalo, T. 1267 (15 April 2010); P5429 (Request for relocation to Pale Municipal Assembly, 22 June 1992); P5524 (Request of Muslim Citizens to Relocate from Pale to Sarajevo, 22 June 1992); D33 (Contract regarding a house exchange in Pale, 2 July 1992). *But see* Čvoro’s assertion that many Muslims “protected their property by entering into various agreements” with their Serb neighbours, including agreements that left Muslim property in Serb hands for the purposes of “safe-keeping”. D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 6; Zdravko Čvoro, T. 30949–30950 (4 December 2012). However, the Chamber notes that during the war, Čvoro himself had lived in property that belonged to a Bosnian Muslim. *See* Zdravko Čvoro, T. 30982–30983 (5 December 2012). This leads the Chamber to conclude that there was an obvious underlying self-interest on the part of Čvoro for advancing the claim that Muslims placed their property in Serb hands for safe-keeping.

⁷⁹⁰¹ Sulejman Crnčalo, T. 1268 (15 April 2010).

⁷⁹⁰² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 64, 71; P736 (Decision of Pale SJB, 2 July 1992); P737 (Decision of Pale SJB, 6 July 1992); D35 (SJB Pale report on change of residence of Croats and Muslims from Pale, 6 July 1992); Hajrudin Karić, T. 15365–15366 (23 June 2011); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 48. *See also* Adjudicated Fact 2671–2672.

⁷⁹⁰³ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 65. *See also* Adjudicated Fact 2671.

⁷⁹⁰⁴ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 71; Sulejman Crnčalo, T. 1262 (15 April 2010). *See also* Adjudicated Fact 2672. *But see* Čvoro’s and Šarac’s assertions that Muslims were able to take their private cars as well as all their belongings and documents with them. D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 6; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 60.

⁷⁹⁰⁵ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 66; D35 (SJB Pale report on change of residence of Croats and Muslims from Pale, 6 July 1992).

unobstructed passage of three buses transporting Muslim civilians”.⁷⁹⁰⁶ The third convoy left Pale on 2 July 1992 for Hreša, a small hamlet near Sarajevo.⁷⁹⁰⁷ From Hreša, non-Serbs from Pale went to a reception centre for refugees in Vratnik, which was operated by Bosnian Muslim authorities.⁷⁹⁰⁸

2321. On 6 July 1992, the Bosnian Serb MUP issued a decision, granting the request by non-Serbs living in the inner parts of Pale to move out of the Pale municipality “of their own free will” and “under the escort of police officers” of the Pale SJB, and instructed “police and military patrols” to enable the unobstructed passage of 420 civilians aboard eight buses bound for Stari Grad municipality.⁷⁹⁰⁹

2322. On the same day, pursuant to the instructions of the SerBiH government, the Executive Board decided that non-Serb individuals or families must not be allowed to leave the territory of the municipality until “a list of their property is made and the property is taken over in accordance with the regulations in force.”⁷⁹¹⁰ The Executive Board also requested that the Pale SJB take immediate measures to protect the property left behind by the non-Serbs until such time that this property was taken over by an authorised municipal commission.⁷⁹¹¹

2323. Also on 6 July 1992, the Pale SJB reported that between 30 June and 3 July 1992, it had “organised change of the place of residence from the territory of Pale municipality to the territory of Stari Grad Sarajevo municipality” of 1,042 non-Serbs.⁷⁹¹² The SJB continued to organise the movement of Bosnian Muslims out of Pale municipality for another one or two months.⁷⁹¹³

2324. In a letter dated 7 July 1992, the Executive Board informed Plavšić that despite the Assembly’s decision of 19 June 1992,⁷⁹¹⁴ there had been “forced and wilful” efforts to move Bosnian Muslims out of the municipality, resulting in a large number of criminal acts.⁷⁹¹⁵

⁷⁹⁰⁶ P736 (Decision of Pale SJB, 2 July 1992).

⁷⁹⁰⁷ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 9, 66, 77; Sulejman Crnčalo, T. 1238 (15 April 2010); D35 (SJB Pale report on change of residence of Croats and Muslims from Pale, 6 July 1992).

⁷⁹⁰⁸ P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 77.

⁷⁹⁰⁹ P737 (Decision of Pale MUP, 6 July 1992).

⁷⁹¹⁰ P738 (Conclusions of Pale Executive Board, 6 July 1992); P6031 (SerBiH Decree published in SerBiH's Official Gazette, 8 June 1992); Zdravko Čvoro, T. 30953–30954 (4 December 2012).

⁷⁹¹¹ P738 (Conclusions of Pale Executive Board, 6 July 1992); D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 7; Zdravko Čvoro, T. 30951 (4 December 2012).

⁷⁹¹² P5428 (Report of Pale SJB, 6 July 1992); D35 (SJB Pale report on change of residence of Croats and Muslims from Pale, 6 July 1992).

⁷⁹¹³ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 22.

⁷⁹¹⁴ See para. 2318.

⁷⁹¹⁵ P6034 (Report of Pale Executive Board, 7 July 1992).

2325. On 14 July 1992, the Executive Board noted the theft and unlawful use of abandoned property in Pale which in its opinion was attributable to the failure of the commissions established earlier for the purpose of making an inventory of abandoned non-Serb property. The Executive Board then established a new audit commission to re-examine the situation and file a written report.⁷⁹¹⁶

2326. On 19 July 1992, the Accused requested that Pale municipal authorities make an inventory of all housing facilities that were vacant "following the voluntary departure of Muslims."⁷⁹¹⁷ On 10 August 1992, the Municipal Assembly signed over non-Serb housing property to Serb refugees for "temporary use".⁷⁹¹⁸ The municipal authorities also concentrated the movable property left behind by Muslims in the premises of various military and non-military institutions.⁷⁹¹⁹

2327. On or about 24 July 1992, the Accused informed the Bosnian Serb Assembly that the Bosnian Serb government was giving assurances to Bosnian Muslims in Pale that "they have nothing to fear."⁷⁹²⁰

2328. On 20 October 1992, the Executive Board decided to seize all movable property belonging to persons who had been outside of Pale municipality for more than 30 days.⁷⁹²¹ The Executive Board then noted that temporary allocation of such property to Serb refugees in Pale may take place on the condition that such allocation is authorised and recorded by a competent municipal commission.⁷⁹²²

2329. Only a small number of Bosnian Muslims remained in Pale municipality during the war.⁷⁹²³

2330. The Accused argues that (i) through their elected representatives or by filing individual applications, Bosnian Muslims of Pale requested permission to leave the municipality;⁷⁹²⁴ (ii) the

⁷⁹¹⁶ D34 (Conclusion by Pale Executive Board, 14 July 1992); D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 8; Zdravko Čvoro, T. 30952, 30955 (4 December 2012).

⁷⁹¹⁷ P739 (RS Presidency request to various municipalities, 19 July 1992).

⁷⁹¹⁸ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 22; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 48; D4369 (Decision of Pale Municipal Assembly, 10 August 1992).

⁷⁹¹⁹ Zdravko Čvoro, T. 30952 (4 December 2012).

⁷⁹²⁰ D27 (Radovan Karadžić's speech from 17th session of RS Assembly, 24-26 July 1992), e-court p. 3.

⁷⁹²¹ D4737 (Conclusion of Pale Executive Board, 21 October 1992).

⁷⁹²² D4737 (Conclusion of Pale Executive Board, 21 October 1992).

⁷⁹²³ D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 22; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 57; P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 21, 30.

⁷⁹²⁴ Defence Final Brief, para. 1720. Witnesses testified that through their elected representatives and by signing individual requests, the Bosnian Muslims in Pale sought permission from the municipal authorities to leave the municipality. They testified further that despite the assurances repeatedly given by the municipal and RS authorities, including those given by Biljana Plavšić in Prača, the Bosnian Muslim population of Pale insisted on

Bosnian Muslims of Pale asked to leave because the Bosnian Muslim authorities in Sarajevo had demanded such departure as part of their preparations for a planned military take-over of Pale;⁷⁹²⁵ and (iii) in order to prevent the departure of Bosnian Muslims, Serb authorities guaranteed the civil rights of all people regardless of any ethnic or religious affiliation.⁷⁹²⁶

2331. Having considered the totality of the evidence and assessed the circumstances in which the departures occurred, the Chamber finds that Bosnian Muslims were forced to leave. The Chamber notes that in some instances, Bosnian Muslims requested to leave the municipality; however, the Chamber finds that even when the Bosnian Muslims did request to leave Pale, they were driven by the fear caused by all of the surrounding circumstances. Consequently, the Chamber is satisfied that Bosnian Muslims were forced to leave the Serb-controlled parts of Pale municipality.

(F) Scheduled Detention Facility C.19.2 and Scheduled Incident B.14.1

2332. The Indictment refers to the use of Pale Gym as a detention facility at least between May and August 1992, and alleges that between June and July 1992, a number of men died as a result of beatings which they sustained in there.

(1) Establishment and control

2333. Pale Gym was a large sports hall situated near the Pale SJB, in Pale Culture Centre.⁷⁹²⁷ There were windows only on one side of Pale Gym.⁷⁹²⁸

2334. On 10 May 1992, Mirsad Smajš and eight other detainees from the Sarajevo area were transferred from Kula Prison to Pale Gym; at that point Pale Gym already held approximately 100 detainees, including some Serbs and Croats, and was guarded by SJB members in blue uniforms with the Serb flag emblazoned on the shoulder.⁷⁹²⁹ Upon arrival, each detainee was given a sandwich and a bottle of water.⁷⁹³⁰

their demand to leave. See D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 22; Tomislav Hršum, T. 32960–32962 (30 January 2013); D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), paras. 5–6; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 47; Jovan Šarac, T. 47178–47179 (14 February 2014); D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 41.

⁷⁹²⁵ Defence Final Brief, para. 1720.

⁷⁹²⁶ Defence Final Brief, para. 1721. See also D2530 (Witness statement of Zdravko Čvoro dated 1 December 2012), para. 5; Jovan Šarac, T. 47173–47175, 47177–47179 (14 February 2014).

⁷⁹²⁷ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 24; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 115 (under seal). P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 10.

⁷⁹²⁸ P43 (Witness statements of Mirsad Smajš dated 14 January 1998), e-court p. 10.

⁷⁹²⁹ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 5–6; P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 9–11; P3205 (Witness statement of KDZ605 dated 22

2335. A few days later, a group of about 400 badly beaten Bosnian Muslim men who had previously been detained at Vuk Karadžić School in Bratunac, were brought to Pale Gym in several trucks.⁷⁹³¹ One by one, the detainees were taken off the trucks, registered and placed in the gym.⁷⁹³²

2336. As was mentioned earlier, on 22 May, after conducting a military operation in Renovica, Serb Forces detained about 30 Bosnian Muslim men and took them to Pale Gym.⁷⁹³³

2337. During the last week of May 1992, Hajrudin Karić was arrested by two policemen, who then took him to Pale Gym.⁷⁹³⁴ At the time of Karić's arrival, Pale Gym was guarded by a number of policemen, including Predrag Štrbac, a man with the last name Čvoro, and Nedelko Kovačević.⁷⁹³⁵ Upon entering Pale Gym, Karić saw that it was full of Bosnian Muslims, including a woman.⁷⁹³⁶

August 2011) (under seal), paras. 116–117. *See also* Adjudicated Fact 2641. *See* Scheduled Detention Facility C.18.2. The Chamber notes that Jovan Šarac denied that anyone other than the prisoners from Bratunac was detained at Pale Gym. D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 55. The Chamber notes it received reliable evidence to the contrary, that detainees from the Sarajevo area and from within Pale municipality were in fact brought to Pale Gym. *See* paras. 2334, 2337.

⁷⁹³⁰ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 6.

⁷⁹³¹ KDZ605, T. 17923 (25 August 2011); P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 108–109, 115, 122 (under seal); P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 6; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 10–11; P3208 (List of men taken from Bratunac to Pale); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 17; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 41; Jovan Šarac, T. 47148–47149 (14 February 2014). *See also* Adjudicated Fact 2642. Some of the detainees from Bratunac had serious injuries. P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court pp. 10–11; P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 56; P3206 (Video footage re people from Bratunac in Visoko sports hall, with transcript); Zdravko Čvoro, T. 30945–30946 (4 December 2012). The Chamber notes that Jovan Šarac qualified his assertion that the men from Bratunac bore “no visible injuries” by stating that he had not spent much time in Pale Gym. Jovan Šarac, T. 47149 (14 February 2014). *See also* D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 17 (stating that there was “no record or information” that these citizens were mistreated during their stay in Pale); Tomislav Hršum, T. 32939–32941 (30 January 2013) (asserting that the Pale SJB did not investigate whether the detainees from Bratunac had been mistreated prior to their arrival and that they had not been mistreated while in Pale).

⁷⁹³² P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 113 (under seal). Approximately 100 Serb civilians had gathered near the trucks while the detainees disembarked, and “a few” soldiers wearing camouflage uniforms were also present nearby. P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 115 (under seal). [REDACTED]. *See* Scheduled Detention Facility C.6.2 and Scheduled Incident B.4.1.

⁷⁹³³ *See* para. 2313.

⁷⁹³⁴ Karić did not know the identities of the two officers, but noted that they were wearing regular police uniforms. Karić was later told that he had been detained because his brother-in-law had participated in fighting in Bukvice village. P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 21–23; Hajrudin Karić, T. 15354–15356, 15358–15361, 15363 (23 June 2011).

⁷⁹³⁵ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 26–27.

⁷⁹³⁶ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 24; Hajrudin Karić, T. 15366–15367 (23 June 2011).

2338. On 4 June 1992, Azem Omerović and three other men were taken to Pale Gym by Serbs in camouflage uniforms using police cars.⁷⁹³⁷

(2) Conditions of detention and treatment of detainees

2339. The detainees were given sufficient water to drink but insufficient food, only receiving sandwiches with a little bologna once a day; they became weak from hunger and often fainted.⁷⁹³⁸ They slept on the floor and they could only use the toilet after having received permission from the guards.⁷⁹³⁹

2340. The detainees in Pale Gym were constantly subjected to maltreatment.⁷⁹⁴⁰ The guards told them that they would be killed unless they were exchanged.⁷⁹⁴¹ The guards also warned them not to attempt to escape and indicated that guards had been posted near each window.⁷⁹⁴² The detainees were severely beaten with whatever the guards could have put their hands on and had to run the gauntlet when they asked to go to the toilet.⁷⁹⁴³ Smajš observed a man in a police uniform use a curved knife to cut off the detainees' hair.⁷⁹⁴⁴

2341. At one point, a fair-haired man, approximately 40 years old and wearing a police uniform, entered Pale Gym and introduced himself as a police commander from Pale.⁷⁹⁴⁵ He then proceeded

⁷⁹³⁷ See Adjudicated Fact 2643. *But see* P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 25 (asserting that while he was detained in Pale Gym—that is, between 30 May and 11 July 1992—no more prisoners were brought to the gym). *See also* D4368 (Witness statement of Jovan Šarac dated 10 February 2014), paras. 41, 58 (stating that no additional “POWs” were brought to Pale Gym after the departure of the Bratunac detainees).

⁷⁹³⁸ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 121 (under seal); P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 25; Hajrudin Karić, T. 15307–15308 (23 June 2011). *See also* Adjudicated Fact 2644.

⁷⁹³⁹ P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 10. *See also* Adjudicated Fact 2644.

⁷⁹⁴⁰ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 6. *See also* Adjudicated Fact 2645. Jovan Šarac stated that he had not received any information about the beatings of the detainees held in Pale Gym. Jovan Šarac, T. 47154–47158 (14 February 2014); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 57. The Chamber notes that even if accepted as reliable, Šarac's testimony does not necessarily suggest that maltreatment and beatings did not occur at Pale Gym. Hršum stopped short of asserting that no Bosnian Muslims had ever been beaten while in the custody of the Pale SJB, and accepted that the police guards might have allowed entry to the gym by “certain individuals”. Hršum, however, insisted that the police guards did not undertake any “repressive measures” themselves. Tomislav Hršum, T. 32942 (30 January 2013). The Chamber found that Hršum worked for SJB Pale and that SJB Pale was involved in the detention of Bosnian Muslims in Pale Gym. D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), paras. 1, 16; Tomislav Hršum, T. 32939–32942 (30 January 2013). These facts, in addition to Hršum's general evasiveness and lack of candour as a witness, lead the Chamber to conclude that Hršum had an incentive to distance himself from the events at the Pale Gym. Accordingly, the Chamber places no weight on Hršum's assertion that the members of the Pale SJB were never involved in beatings of detainees in Pale Gym.

⁷⁹⁴¹ P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 117–118 (under seal).

⁷⁹⁴² P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 118 (under seal).

⁷⁹⁴³ P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 116, 119 (under seal); KDZ605, T. 17924 (25 August 2011); P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 10.

⁷⁹⁴⁴ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court p. 6.

⁷⁹⁴⁵ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 120 (under seal).

to beat the detainees.⁷⁹⁴⁶ At the same time, a soldier entered Pale Gym and announced that everyone would be killed unless the soldier's brother, who had been captured by Bosnian Muslims, was released.⁷⁹⁴⁷

2342. Sometime after the Bosnian Muslim men from Bratunac had arrived, the guards had a disagreement with "army troops" who were at the door and wanted to enter the gym to beat the detainees.⁷⁹⁴⁸ The guards installed bars on the windows as well as an iron door in order to prevent them from entering the gym.⁷⁹⁴⁹ However, later, during Karić's detention, the police guards allowed paramilitary members, including members of Rajko Kušić's and Srđan Knežević's units, to access Pale Gym multiple times each day and beat the detainees severely with sticks and rifle butts.⁷⁹⁵⁰ Members of these paramilitary groups also took detainees out of Pale Gym to be beaten and some of those detainees never returned to the gym.⁷⁹⁵¹

2343. On 15 May 1992, Branko Đerić ordered Sokolac Crisis Staff to provide "three tow trucks with canvas cover" for transportation of detainees from Pale to Visoko; Nedeljko Lakić requested that the Ilijaš Crisis Staff approve and provide passage through Ilijaš municipality for a group of detainees who were at Pale and who were going to be transported to Visoko under the escort of Pale Crisis Staff. Lakić also requested that the approval be destroyed the moment the detainees left Ilijaš.⁷⁹⁵² On the morning of 16 or 17 May, the guards told the detainees from Bratunac that they were going to be exchanged, took them out of the gym in groups of ten, tied them together, and forced them to sing Serb songs before loading them onto trucks.⁷⁹⁵³ The detainees were then transferred under VRS escort to Visoko where they were exchanged.⁷⁹⁵⁴

⁷⁹⁴⁶ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 120 (under seal).

⁷⁹⁴⁷ P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 120, 123 (under seal).

⁷⁹⁴⁸ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 117 (under seal).

⁷⁹⁴⁹ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 117 (under seal); KDZ605, T. 17924 (25 August 2011).

⁷⁹⁵⁰ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 28–29, 31. On 6 July 1992, a soldier ordered Karić to help another prisoner, Fahrudin Sipović, who had been beaten and lay on the ground with a broken arm and covered in blood, to stand up. As Sipović attempted to stand, the soldier beat him with a piece of wood. P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), para. 36.

⁷⁹⁵¹ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 29–30, 42–43. On 28 June 1992, Karić was called out of the main gymnasium by two relations of Rajko Kušić, who swore at Karić and beat him with a wooden stick until he fainted. After approximately 10 minutes, another Bosnian Serb, Milomir Tepeš, arrived and said "it's not him". The paramilitaries then threw Karić back in the main gym while badly injured. P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 32–33; Hajrudin Karić, T. 15304–15305, 15367–15368 (23 June 2011), T. 15372 (24 June 2011).

⁷⁹⁵² P1604 (Letter from Nedeljko Lakić to Ilijaš Crisis Staff, 15 May 1992); P2619 (SerBiH order, 15 May 1992). Lakić also requested that the approval be destroyed the moment the detainees left Ilijaš.

⁷⁹⁵³ P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 122 (under seal); KDZ605, T. 17925 (25 August 2011); P43 (Witness statements of Mirsad Smajš dated 18 December 1993 and 14 January 1998), e-court pp. 6, 11.

⁷⁹⁵⁴ P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 126–127 (under seal).

2344. On 18 May, Smajš and 64 other detainees were also called out of Pale Gym.⁷⁹⁵⁵ This group was placed on a military cargo truck and transported to Hreša to be exchanged.⁷⁹⁵⁶

2345. On 6 July 1992, approximately five men belonging to Kušić's unit entered the gym and beat three Bosnian Muslim detainees with wooden sticks and brass knuckles until they were unconscious.⁷⁹⁵⁷ Two of the detainees died about thirty minutes after the end of the beatings, and the third died two days later, without having received any medical care.⁷⁹⁵⁸

2346. On 11 July 1992, Hajrudin Karić and 34 other detainees were transferred, under the escort of reserve police, to Kula Prison.⁷⁹⁵⁹

(3) Conclusion

2347. Based on the above, the Chamber finds that Serb Forces brought to and detained non-Serbs, including at least one woman, at Pale Gym from approximately 10 May to 11 July 1992. The Chamber further finds that the detainees were held in poor conditions. These included lack of food and adequate medical care. The Chamber also finds that detainees were regularly subjected to beatings by Serb Forces at Pale Gym and that at least three detainees died as a result of such beatings.

(G) Scheduled Incident D.16

2348. The Indictment refers to the destruction of three mosques, namely the mosques at Prača, Podvitez, and Bogovići, between July and September 1992.⁷⁹⁶⁰

2349. There were at least three mosques in Pale municipality.⁷⁹⁶¹ Crnčalo heard that all three mosques were destroyed between 2 July and September 1992.⁷⁹⁶²

⁷⁹⁵⁵ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 6–7; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 11.

⁷⁹⁵⁶ P43 (Witness statement of Mirsad Smajš dated 18 December 1993), e-court pp. 6–7; P43 (Witness statement of Mirsad Smajš dated 14 January 1998), e-court p. 11. *See also* Adjudicated Fact 2641.

⁷⁹⁵⁷ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 37–38.

⁷⁹⁵⁸ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 39–41; Hajrudin Karić, T. 15305 (23 June 2011); Sulejman Crnčalo, T. 1227 (15 April 2010); P4416 (Death certificate for Selim Pandžić). *See also* Adjudicated Fact 2647.

⁷⁹⁵⁹ P2839 (Witness statement of Hajrudin Karić, dated 13 May 2011), paras. 30, 44–45; D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 19 (stating that the persons taken into custody after the operation in Renovica were ultimately transported to Kula Prison). *See also* Adjudicated Fact 2646. *See* Scheduled Detention Facility C.18.2.

⁷⁹⁶⁰ Indictment, Scheduled Incident D.16. In its Final Brief, the Prosecution notes that evidence showed that the Prača Mosque was destroyed in October 1992. *See* Prosecution Final Brief, Appendix B, p. 31, fn. 447.

⁷⁹⁶¹ Zdravko Čvoro, T. 30958 (5 December 2012).

⁷⁹⁶² P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 79.

2350. According to Riedlmayer, the Podvitez mosque and the Bogovići mosque were “completely destroyed” in “the first year of the war”,⁷⁹⁶³ and the Prača mosque was “completely destroyed” by mining on 10 October 1992.⁷⁹⁶⁴

2351. While the Chamber relies on Riedlmayer for the purposes of finding that the mosques in question were destroyed, and determining the nature and extent of the damage to those sites, it does not rely on his evidence in order to determine who was responsible for the destruction as such matters fall outside Riedlmayer’s expertise and are based on statements which he received from, amongst others, the Islamic Community of BiH and informants.

2352. Having received no other evidence concerning Scheduled Incident D.16, the Chamber is not satisfied, beyond reasonable doubt, that Serb Forces destroyed the Prača, Podvitez, and Bogovići mosques, between July and September 1992.

vi. *Vogošća*

(A) Charges

2353. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Vogošća as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.⁷⁹⁶⁵ Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Vogošća include killings related to detention facilities, as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at these detention facilities.⁷⁹⁶⁶ The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.⁷⁹⁶⁷

2354. Other acts of persecution alleged to have been committed in Vogošća by Serb Forces and Bosnian Serb Political and Governmental Organs include: (i) torture, beatings, and physical and psychological abuse during and after the take-over and in scheduled detention facilities as cruel or inhumane treatment;⁷⁹⁶⁸ (ii) rape and other acts of sexual violence, during and after the take-over

⁷⁹⁶³ P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), e-court pp. 208–210. *See also* P4069 (Cultural destruction database), records 209, 211.

⁷⁹⁶⁴ P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), e-court pp. 205–207. *See also* P4069 (Cultural destruction database), record 212.

⁷⁹⁶⁵ Indictment, paras. 48–49.

⁷⁹⁶⁶ Indictment, para. 60(a)(ii). *See* Scheduled Incident B.19.1; Scheduled Detention Facilities C.26.1, C.26.3.

⁷⁹⁶⁷ Indictment, para. 63(b).

⁷⁹⁶⁸ Indictment, para. 60(b). *See* Scheduled Detention Facilities C.26.1, C.26.3.

and in scheduled detention facilities, as cruel and inhumane treatment;⁷⁹⁶⁹ (iii) the establishment and perpetuation of inhumane living conditions in scheduled detention facilities, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;⁷⁹⁷⁰ (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;⁷⁹⁷¹ (v) unlawful detention in scheduled detention facilities;⁷⁹⁷² (vi) forced labour at frontlines and the use of Bosnian Muslims and Bosnian Croats as human shields;⁷⁹⁷³ (vii) the wanton destruction of private property, including homes and business premises, and public property, including cultural monuments and sacred sites;⁷⁹⁷⁴ and (viii) the imposition and maintenance of restrictive and discriminatory measures.⁷⁹⁷⁵

2355. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.⁷⁹⁷⁶ In this regard, the Prosecution alleges that by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Vogošća in which they were lawfully present.⁷⁹⁷⁷ It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments, and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear, while others were physically driven out.⁷⁹⁷⁸

(B) Lead-up

2356. Vogošća, one of the ten municipalities making up Sarajevo, is located to the north of the city of Sarajevo, between the municipalities of Novi Grad and Ilijaš.⁷⁹⁷⁹ It includes, *inter alia*, the largely Muslim inhabited villages or settlements of Barice, Kiše, Tihovići, Svrake, Hotonj, Kobilja

⁷⁹⁶⁹ Indictment, para. 60(c). See Scheduled Detention Facility C.26.3. The Prosecution does not allege criminal responsibility for rape and other acts of sexual violence at Scheduled Detention Facility C.26.1. Indictment, fn. 5.

⁷⁹⁷⁰ Indictment, para. 60(d). See Scheduled Detention Facilities C.26.1, C.26.3.

⁷⁹⁷¹ Indictment, para. 60(f).

⁷⁹⁷² Indictment, para. 60(g). See Scheduled Detention Facilities C.26.1, C.26.3.

⁷⁹⁷³ Indictment, para. 60(h).

⁷⁹⁷⁴ Indictment, para. 60(j). See Schedule D.21.

⁷⁹⁷⁵ Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

⁷⁹⁷⁶ Indictment, para. 68–75.

⁷⁹⁷⁷ Indictment, paras. 69, 72.

⁷⁹⁷⁸ Indictment, para. 71.

⁷⁹⁷⁹ P966 (Map of Sarajevo marked by Robert Donia); P2362 (Map of Vogošća municipality with photographs); P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 8; Appendix B, Map 1; Robert Donia, T. 3130 (1 June 2010); P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 3. See also Adjudicated Fact 2.

Glava and Ugorsko as well as the mainly Serb inhabited villages of Krivoglavci, Kotorovići, Blagovac, Paljevo Brdo and Semizovac.⁷⁹⁸⁰ According to the 1991 census, Vogošća municipality had approximately 24,700 inhabitants, of whom 51% were Bosnian Muslims, 36% were Bosnian Serbs, and 4% were Bosnian Croats.⁷⁹⁸¹

2357. Vogošća was one of the most industrialised municipalities in the territory of SFRY, hosting several large factories, including the Pretis factory which manufactured artillery and ammunition.⁷⁹⁸² There was also a JNA installation called the Semizovac Barracks, which was used to store weaponry and equipment of the JNA, the Vogošća TO as well as the Ilijaš TO.⁷⁹⁸³

2358. During the 1990 elections, the SDA won 18 seats in the Municipal Assembly, the SDS 15 seats, and other parties secured 18 seats.⁷⁹⁸⁴ Subsequently, the SDA and SDS formed a coalition and divided the positions of authority in Vogošća amongst themselves.⁷⁹⁸⁵ Thus, Bilal Hasanović from the SDA became the President of the Vogošća Municipal Assembly, and Rajko Koprivica, who was the President of the SDS in the municipality, became the President of the Executive Board.⁷⁹⁸⁶ Vehid Hodžić, a Bosnian Muslim, became the Chief of the Vogošća SJB.⁷⁹⁸⁷

⁷⁹⁸⁰ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 34, 61; KDZ020, T. 12608, 12618 (1 March 2011); D4028 (Article from Naš Glas entitled “Vogošća has a future”, 13 June 1992), p. 1; P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 3–4, 99; Eset Muračević, T. 12650, 12672–12673, (1 March 2011); P2402 (Table prepared by Eset Muračević), e-court pp. 1–4; Svetozar Stanić, T. 31678–31679 (18 December 2012); Miladin Trifunović, T. 30393 (15 November 2012); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 55.

⁷⁹⁸¹ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), e-court p. 2; P2402 (Table prepared by Eset Muračević), e-court p. 5; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 55; P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 6; Svetozar Stanić, T. 31678–31679 (18 December 2012). *But see* P4994 (Addendum to Ewa Tabeau’s expert report entitled “Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997”, 3 February 2009), pp. 21, 31, 34, 40, 74, 76, 80 (indicating that in 1991 Vogošća had 19,970 inhabitants of whom, approximately 49% were Bosnian Muslims, 37% were Bosnian Serbs and 4% Bosnian Croats). While the Chamber has found Tabeau’s evidence to be generally reliable, for the purpose of determining the population of Vogošća and the ethnic composition thereof in 1991, it relies on other evidence before it, such as the direct source document, P5964, which contains the raw data from the 1991 census in BiH.

⁷⁹⁸² P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 5, 34, 43; Svetozar Stanić, T. 31679 (18 December 2012); P2621 (Order of SerBiH Government, 17 June 1992), p. 1.

⁷⁹⁸³ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 34, 39, 44; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 9; Eset Muračević, T. 12735 (2 March 2011).

⁷⁹⁸⁴ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 6; KDZ020, T. 12470–12471 (25 February 2011).

⁷⁹⁸⁵ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 7.

⁷⁹⁸⁶ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 7–8, 51; KDZ020, T. 12473 (25 February 2011); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 10; Eset Muračević, T. 12697–12698 (1 March 2011).

⁷⁹⁸⁷ Eset Muračević, T. 12697 (1 March 2011).

2359. At times, Koprivica and Jovan Tintor, a high-ranking SDS official in Vogošća,⁷⁹⁸⁸ met with Momčilo Krajišnik in Hotonj.⁷⁹⁸⁹ Before the war, the Accused also visited Vogošća municipality on one or two occasions.⁷⁹⁹⁰

(1) Creation of separate Bosnian Serb institutions

2360. Discussions at the municipal level for the creation of a Serb SJB started in September 1991.⁷⁹⁹¹ In September or October 1991, there were changes in the personnel structure of the Vogošća SJB; Borislav Maksimović, a Serb, was appointed as Commander, and two high-ranking Serb officials were replaced by a Bosnian Croat and a Bosnian Muslim.⁷⁹⁹² Neither Bosnian Muslims nor Bosnian Serbs in Vogošća welcomed these changes.⁷⁹⁹³ Hodžić was warned that the staffing situation could result in demonstrations.⁷⁹⁹⁴ As a result, the Vogošća SJB organised reinforcements at the Pretis gate and the Semizovac flyover.⁷⁹⁹⁵

2361. In early 1992, a Serb Crisis Staff was established and Tintor was appointed as its President.⁷⁹⁹⁶

⁷⁹⁸⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 10; Eset Muračević, T. 12750–12751 (2 March 2011). *See also* Adjudicated Fact 2593.

⁷⁹⁸⁹ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 83.

⁷⁹⁹⁰ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 83.

⁷⁹⁹¹ In an intercepted conversation dated 7 September 1991, Tintor told Milan Plakalović that they no longer had a single man in SUP and that a Serb SUP was therefore going to be established. P2347 (Intercept of conversation between Jovan Tintor and Milan Plakalović, 7 September 1991), p. 8.

⁷⁹⁹² P2344 (Witness statement of KDZ020 dated 17 February 2011), paras. 23–24 (under seal); KDZ020, T. 12537, 12542 (28 February 2011) (private session).

⁷⁹⁹³ P2344 (Witness statement of KDZ020 dated 17 February 2011), paras. 25, 27–28, 30–31 (under seal); KDZ020, T. 12539 (28 February 2011) (private session). In an intercepted conversation with Milan Plakalović, Tintor warned that as a result of the dismissals, Vogošća will “flare up [...] on Monday” and that “[a]ll the people will go out here, all of them, ten thousand people, to block all the roads!” P2347 (Intercept of conversation between Jovan Tintor and Milan Plakalović, 7 September 1991), p. 6. On 11 September 1991, during a telephone conversation, Rajko Koprivica and Tintor discussed the outcome of a meeting Koprivica had with Hodžić, Kemo Šabović, the head of the CSB, and Mićo Stanišić with respect to the reinstatement of Serb officers. In the same conversation, Koprivica implied that he was unable to proceed further without consulting with Momčilo Krajišnik first whereas Tintor replied by saying “[w]e will not go forward until we get a Martić in each municipality.” P2348 (Intercept of conversation between Jovan Tintor and Rajko, 11 September 1991), pp. 2–3. On 12 September 1991, Tintor and Mićo Stanišić discussed the staffing changes that had taken place in Vogošća SJB and Tintor told Mićo Stanišić that the refusal to reinstate Serbs could entail “bloodshed” in Vogošća and that he would raise 10,000 people against “this injustice”. P2219 (Intercept of conversation between Jovan Tintor and Mićo Stanišić, 12 September 1991), p. 4.

⁷⁹⁹⁴ P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 33 (under seal); D1107 (Witness statement of KDZ020 dated 16 August 2007), para. 51 (under seal).

⁷⁹⁹⁵ P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 33 (under seal); D1107 (Witness statement of KDZ020 dated 16 August 2007), para. 51 (under seal).

⁷⁹⁹⁶ KDZ020, T. 12473 (25 February 2011) (private session); Eset Muračević, T. 12750–12751 (2 March 2011); D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 8; Svetozar Stanić, T. 31672, 31676 (18 December 2012). *See also* Adjudicated Fact 2593. *But see* KDZ020, T. 12491–12492, 12497, 12510, (28 February 2011), 12634–12635 (1 March 2011); P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 45, 92. Later, in June 1992, the Vogošća Crisis Staff was disbanded and replaced by the Vogošća War Presidency, which in turn was superseded by the Vogošća War Commission. D2678 (Witness

2362. In March 1992, the SDS delegates in the Municipal Assembly, led by Koprivica, announced at an assembly session that they were going to organise the Serb Municipality of Vogošća and threatened that those Bosnian Muslims who did not pledge loyalty to this new municipality would be expelled.⁷⁹⁹⁷ Koprivica then stated that “Muslims were simply going to disappear”.⁷⁹⁹⁸ After making this announcement, the SDS delegates walked out of the assembly session.⁷⁹⁹⁹ On 24 March 1992, the Bosnian Serb Assembly unanimously verified the decision to establish the Serb municipality of Vogošća along with 34 other Serb municipalities.⁸⁰⁰⁰ The Serb municipality of Vogošća was proclaimed in March or April 1992.⁸⁰⁰¹ Svetozar Stanić was appointed as its President and he stayed in that position until November 1992.⁸⁰⁰² Koprivica was appointed as the President of the Serb Municipal Assembly.⁸⁰⁰³

2363. However, in February 1992, even before the adoption of the above decision, there had already been discussions amongst Serb leaders as to the lay-out of the Serb municipality of Vogošća. For instance, during a telephone conversation with a certain Prodanović, Tintor stated that it “will include everything all the way to Krš” but not Barica or Kobilja Glava.⁸⁰⁰⁴ On 22 February 1992, the Accused asked Ljubo Grković, Chef de Cabinet of the SDS Executive Board,⁸⁰⁰⁵ whether the planned Serb municipality of Rajlovac would include the territory of the Serb municipality of Vogošća and was told that Vogošća would be a separate unit.⁸⁰⁰⁶

2364. On 31 March 1992, non-Serb members of the police were invited by Mandić to join the newly established the Bosnian Serb MUP but were warned that before any such engagement, they

statement of Svetozar Stanić dated 16 December 2012), para. 10; D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 7; Nikola Poplašen, T. 43583 (15 November 2013). See Section II.B.7: Regional and municipal bodies.

⁷⁹⁹⁷ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 59, 63. See also Adjudicated Fact 2592.

⁷⁹⁹⁸ P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 59 (under seal).

⁷⁹⁹⁹ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 59, 61, 63. See also Adjudicated Fact 2592.

⁸⁰⁰⁰ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24.

⁸⁰⁰¹ D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 5; D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 4; P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 61.

⁸⁰⁰² D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), paras. 5, 11; P2373 (Vogošća Executive Board request to SerBiH Ministry of Finance, 15 July 1992); Svetozar Stanić, T. 31711 (18 December 2012).

⁸⁰⁰³ Svetozar Stanić, T. 31677 (18 December 2012); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 12; Slobodan Avlijaš, T. 35159 (11 March 2013).

⁸⁰⁰⁴ P965 (Intercept of conversation between Jovan Tintor and FNU Prodanović, 11 February 1992), p. 5.

⁸⁰⁰⁵ P2579 (Minutes of 7th session of SDS Executive Board, 30 December 1991), p. 1.

⁸⁰⁰⁶ P967 (Intercept of conversation between Radovan Karadžić and Ljubo Grković, 22 February 1992). On the creation of the Serb municipality of Rajlovac, see paras. 2172–2173.

had to declare their loyalty to SerBiH in writing.⁸⁰⁰⁷ In the Vogošća SJB, all Serb police officers agreed with Mandić's demand but non-Serbs did not.⁸⁰⁰⁸ Subsequently, a meeting was held and the police officers agreed that until further notice Serbs, Muslims, and Croats would stay at the station and work together "in order to prevent bloodshed".⁸⁰⁰⁹ Despite this agreement, in the Semizovac station, Serb and non-Serb policemen carried out their duties separately, though they did coalesce for joint patrols or when there were anti-crime assignments.⁸⁰¹⁰

2365. In April 1992, a number of meetings between SDS and SDA representatives were held in Vogošća.⁸⁰¹¹ During the meetings, Tintor advanced the thesis that Vogošća was Serb land and therefore had to be governed by Serb authority.⁸⁰¹² Tintor, Koprivica, Slavko Jovanović, Svetozar Stanić and other local SDS leaders then insisted on dividing Vogošća along ethnic lines.⁸⁰¹³ The division, as envisaged by them, would have left the Serbs with the town centre, all the industry and all the villages and communes except for Gornje, Donje Ugorsko, Kobilja Glava, and Hotonj.⁸⁰¹⁴ The Bosnian Muslims refused this proposal.⁸⁰¹⁵

(2) Militarisation

2366. From 1991 to spring 1992, both Bosnian Serbs and Bosnian Muslims engaged in the process of arming and organising themselves in Vogošća.⁸⁰¹⁶

2367. On or about 5 January 1992, there was unusual movement around the Semizovac Barracks; trucks driven by Serbs in military uniforms towed artillery pieces from there towards Mt. Paljevo, a

⁸⁰⁰⁷ P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992); P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 62; KDZ020, T. 12575–12576 (28 February 2011).

⁸⁰⁰⁸ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 62, 64.

⁸⁰⁰⁹ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 64; KDZ020, T. 12472 (25 February 2011).

⁸⁰¹⁰ KDZ020, T. 12472 (25 February 2011), T. 12573 (28 February 2011).

⁸⁰¹¹ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 61, 63; D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 21.

⁸⁰¹² P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 63.

⁸⁰¹³ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 61, 63. *See also* Adjudicated Fact 2593.

⁸⁰¹⁴ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 61, 63; KDZ020, T. 12580 (28 February 2011). *See also* Adjudicated Fact 2593.

⁸⁰¹⁵ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 61. Svetozar Stanić testified that during these meetings, the Bosnian Serbs proposed to share power with the Bosnian Muslims and that no agreement was reached because the Muslims insisted on their demand for absolute power over the entire territory of Vogošća. *See* D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 21. The Chamber, however, does not consider his evidence to be reliable in this regard. In reaching this conclusion, the Chamber noted this his evidence was marked by indicators of bias and lack of candour.

⁸⁰¹⁶ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 35; P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 9, 11; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 5; D2540 (Witness statement of Goran Sikiraš dated 2 December 2012), paras. 6, 9; P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), pp. 6, 11 (indicating that by

location above Krivoglavci, which overlooked the residences of Tintor and Koprivica.⁸⁰¹⁷ On 7 January 1992, heavy artillery fire was opened from Mt. Paljevo.⁸⁰¹⁸

2368. In early March 1992, both Bosnian Muslims and Bosnian Serbs erected barricades in areas where they formed a majority.⁸⁰¹⁹ After the erection of barricades around Svrake, the JNA began distributing to local Serbs large quantities of weapons, which belonged to the Vogošća TO and had been stored in the Semizovac Barracks.⁸⁰²⁰ The JNA also trained local Serbs to use the weapons.⁸⁰²¹ All the weapons from the Pretis Factory were also brought to the Semizovac Barracks.⁸⁰²² On 14 May 1992, the Semizovac Barracks were placed under the command of Vogošća Crisis Staff.⁸⁰²³

2369. During the spring of 1992, in the predominantly Muslim village of Svrake, the villagers carried out night watches.⁸⁰²⁴

(3) Increase in inter-ethnic tensions

2370. From September 1991 onwards, inter-ethnic tensions and criminal acts increased dramatically.⁸⁰²⁵ The situation was exacerbated by the arrival of a large group of JNA reservists at the Semizovac Barracks and their involvement in looting and firing of weapons.⁸⁰²⁶ Given the dire security situation and the inability of the police forces to maintain order, Bosnian Muslim municipal representatives led discussions for the mobilisation of the Vogošća TO but the Bosnian

20 March 1992, in Vogošća municipality, 1,500 men who were not part of the JNA or the TO had been armed by either the JNA or the SDS).

⁸⁰¹⁷ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 35, 38.

⁸⁰¹⁸ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 38.

⁸⁰¹⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 5, 9; Eset Muračević, T. 12689–12690, 12693, 12695, 12703–12705 (1 March 2011); P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 53–54, 84; Berko Zečević, T. 12156–15157 (22 February 2011); D2540 (Witness statement of Goran Sikiraš dated 2 December 2012), para. 6.

⁸⁰²⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 9; Eset Muračević, T. 12690 (1 March 2011), T. 12731 (2 March 2011); P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 35, 48, 54. On 3 March 1992, a certain Gvozden told the Accused that the Serbs in Vogošća had mobilised themselves. See P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992), p. 3. On 30 March 1992, Tintor and a certain Aco discussed the delivery of light weaponry and ammunition. See P5735 (Intercept of conversation between Aco LNU and Jovan Tintor, 30 March 1992), p. 1. On the same day, Tintor indicated that Serbs had obtained a number of artillery pieces. See P5735 (Intercept of conversation between Aco LNU and Jovan Tintor, 30 March 1992), p. 3.

⁸⁰²¹ Eset Muračević, T. 12732 (2 March 2011).

⁸⁰²² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 9.

⁸⁰²³ P2364 (Vogošća Crisis Staff Order, 14 May 1992); P2635 (Conclusions of Vogošća's Crisis Staff, 16 May 1992).

⁸⁰²⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 12.

⁸⁰²⁵ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 47–49; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), paras. 2–4; D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), paras. 2–3.

⁸⁰²⁶ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 47.

Serbs opposed any such mobilisation.⁸⁰²⁷ On 23 September 1991, Koprivica discussed the issue with the Accused who made it clear that he fully supported Koprivica's opposition to the mobilisation of the TO.⁸⁰²⁸

2371. Sometime between 29 February and 1 March 1992, a Bosnian Muslim family was attacked in the predominantly Serb populated village of Krivoglavci.⁸⁰²⁹ On that same day, intense automatic weapon fire was directed at Svrake.⁸⁰³⁰

2372. In early March 1992, there were further acts of violence, including the destruction of Bosnian Muslim and Bosnian Croat property situated in predominantly Serb villages.⁸⁰³¹ During the same period, Tintor, on behalf of the Vogošća Crisis Staff, sent a dispatch to the Vogošća SJB and Kemo Šabović, prohibiting the SJB from conducting any investigations in Serb villages in connection with the alleged killing of a young Bosnian Muslim by a Serb.⁸⁰³²

(C) Take-over

(1) Take-over of Vogošća town

2373. On 3 April 1992, a group of armed Serbs led by Boro Radić attacked the police station in Vogošća, disarmed the Bosnian Muslim officers, and took away all the weapons there.⁸⁰³³ Radić and his men then forced everybody out and sprayed the inside of the station with automatic gunfire.⁸⁰³⁴

2374. On the day of the attack against the Vogošća SJB, Tintor ordered the deployment of “[a]ll available manpower” at the check-points in Vogošća.⁸⁰³⁵ On the same day, Tintor instructed a certain Pero Radović not to react until “an agreement is reached” and to open fire “if anybody

⁸⁰²⁷ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 48, 51; KDZ020, T. 12549 (28 February 2011), T. 12639 (1 March 2011) (private session).

⁸⁰²⁸ P2360 (Intercept of conversation between Radovan Karadžić and Rajko Koprivica, 23 September 1991), pp. 1–2; P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 51.

⁸⁰²⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 6.

⁸⁰³⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 6.

⁸⁰³¹ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 55, 57; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 8.

⁸⁰³² P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 55, 57–58. The Chamber notes that there are no killings charged in Schedule A of the Indictment in relation to Vogošća.

⁸⁰³³ P2344 (Witness statement of KDZ020 dated 17 February 2011), paras. 68–69 (under seal); KDZ020, T. 12471 (25 February 2011), T. 12524 (private session), 12576–12577 (28 February 2011); D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), paras. 15, 18.

⁸⁰³⁴ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 68; KDZ020, T. 12524 (28 February 2011) (private session).

⁸⁰³⁵ P5737 (Intercept of conversation between Jovan Tintor, Mlado LNU and Pero Radović, 3 April 1992), p. 1.

enters the police station uninvited”.⁸⁰³⁶ Also on 3 April 1992, Momčilo Krajišnik instructed Tintor not to start a war.⁸⁰³⁷

2375. On 4 April 1992, Tintor informed Momčilo Krajišnik that Bosnian Muslims from Kobilja Glava were on their way towards Graovište and Žuč.⁸⁰³⁸ On the same day, Koprivica told General Đurđevac that hundreds of Muslim reservists who had fled Ilijaš and the police reserve force had mobilised in order to take over the Vogošća SJB; he then requested intervention by the JNA.⁸⁰³⁹ However, Đurđevac rejected Koprivica’s request and advised him to “[a]ct according to the instructions on operation in the crisis situation, you have those instructions work”.⁸⁰⁴⁰

2376. Between 4 and 17 April 1992, Serb Forces took over major parts of Vogošća municipality.⁸⁰⁴¹ The Municipality building was surrounded by members of the TO and Tintor raised the Serb flag on top of it.⁸⁰⁴²

2377. On or about 18 April 1992, a special unit of the BiH MUP under the command of Dragan Vikić entered a military plant in the Pretis factory and took possession of vehicles and military equipment, including a truckload of shells, and headed to Sarajevo.⁸⁰⁴³ The following day at around noon, Safet Hadžić and other members of the Novi Grad TO also went to the Pretis factory to take weapons but were intercepted by members of the Vogošća TO and the JNA.⁸⁰⁴⁴ During the ensuing gunfight, Hadžić and four other members of the Novi Grad TO were killed and others were

⁸⁰³⁶ P5737 (Intercept of conversation between Jovan Tintor, Mlado LNU and Pero Radović, 3 April 1992), p. 2.

⁸⁰³⁷ P5736 (Intercept of conversation between Jovan Tintor and Momčilo Krajišnik, 3 April 1992), p. 3. A few days later, Tintor reported that the Accused had tried to contact him. See P5743 (Intercept of conversation between Jovan Tintor and Danilo Veselinović, 6 April 1992), p. 4.

⁸⁰³⁸ P2359 (Intercept of conversation between Jovan Tintor and Momčilo Krajišnik, 4 April 1992), p. 1.

⁸⁰³⁹ D1109 (Intercept of conversation between Rajko Koprivica and Đurđevac, 3 April 1992), p. 2.

⁸⁰⁴⁰ D1109 (Intercept of conversation between Rajko Koprivica and Đurđevac, 3 April 1992), p. 2.

⁸⁰⁴¹ P5512 (Report of RS MUP regarding Vogošća SJB, 12 November 1992), p. 1.

⁸⁰⁴² P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 66. In an interview with journalists from Naš Glas and Serbian Radio, published on 13 July 1992, Koprivica boasted that “we set up a crisis staff and one morning, stormed the Assembly building and took control of it”. See D4028 (Article from Naš Glas entitled “Vogošća has a future”, 13 June 1992), p. 1.

⁸⁰⁴³ KDZ020, T. 12613–12614, 12621 (1 March 2011); D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), paras. 7, 22; Svetozar Stanić, T. 31708, 31714 (18 December 2012); D2681 (Report of Vogošća Municipal Secretariat for National Defence, 18 April 1992); P5720 (Intercept of conversation between Milutin Kukanjac and Radovan Karadžić, 18 April 1992); D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 10; D3068 (Letter from Milutin Kukanjac to Alija Izetbegović, 19 April 1992), e-court p. 1; D3069 (JNA 2nd Military District report, 20 April 1992), p. 1; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 187; P5721 (Intercept of conversation between Rajko Koprivica and Momčilo Mandić, 18 April 1992); P5718 (Intercept of conversation between Milutin Kukanjac and Momčilo Mandić, 18 April 1992), p. 2; P2226 (Intercept of conversation between Momčilo Mandić and Vukota Vuković, 18 April 1992).

⁸⁰⁴⁴ KDZ020, T. 12640–12641 (1 March 2011); D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 10.

wounded.⁸⁰⁴⁵ In response to the Pretis attacks, Tintor ordered the mobilisation of the Vogošća TO.⁸⁰⁴⁶

2378. On 18 April 1992, the JNA deployed heavy weapons and tanks inside and around Vogošća town as well as on the main roads.⁸⁰⁴⁷

2379. Two or three weeks after the take-over of Vogošća, non-Serb policemen moved out and set up separate offices in Donji Hotonj and in Ugorsko, while all Serb reserve staff left the Hotonj station with their weapons and joined the Serb reserve station in Blagovac.⁸⁰⁴⁸ From this point onwards, the Vogošća SJB remained under the control of Bosnian Serb authorities.⁸⁰⁴⁹

(2) Take-over of Svrake

2380. In the evening of 2 May 1992, military formations organised by the SDS, in co-ordination with the JNA, launched an attack against Svrake from their positions in Krivoglavci, Paljevo, Nebočaj, and the Semizovac Barracks.⁸⁰⁵⁰ During this attack, which lasted two days, one villager was killed, four were wounded, and 36 houses were destroyed.⁸⁰⁵¹

2381. On 4 May 1992, using a loudspeaker, local Serbs called on the villagers, announcing that nothing would happen to them if they left.⁸⁰⁵² In accordance with an agreement subsequently reached between local Bosnian Serb and Muslim representatives, most of the Muslim population which numbered about 1,000 left Svrake in order to go to Breza and the surrounding areas via

⁸⁰⁴⁵ KDZ020, T. 12621–12622, 12641 (1 March 2011); D3069 (JNA 2nd Military District report, 20 April 1992), p. 1; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 187; P5714 (Intercept of conversation between Milenko Karišik and unidentified male, 19 April 1992). The Chamber notes that these killings are not charged in either Schedule A or B of the Indictment. *See* fn. 13.

⁸⁰⁴⁶ D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 6; P1505 (SRK Order, 22 May 1992), p. 2; P2624 (Vogošća Crisis Staff Announcement, 11 May 1992), p. 1.

⁸⁰⁴⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 10.

⁸⁰⁴⁸ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 62, 65; KDZ020, T. 12473 (25 February 2011). However, Eset Muračević, the Bosnian Muslim Secretary of the local commune of Svrake until May 1992, testified that it was after an attack on a police patrol in Krivoglavci in early March 1992, that the employees of the Vogošća SJB effectively split on an ethnic basis, with Muslim and Croat policemen setting up a station in Svrake as well as a police check-point on the Sarajevo-Zenica main road. *See* P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 1, 8; Eset Muračević, T. 12649, 12669, 12705 (1 March 2011). The Chamber finds that the evidence of KDZ020, a police officer in Vogošća at the material time, as to the timing of the event carries more weight.

⁸⁰⁴⁹ Mirsad Kučanin, P15 (Transcript from *Prosecutor v. Galić*), T. 4499–4500 (under seal); Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28934–28935.

⁸⁰⁵⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 11, 13; Eset Muračević, T. 12687, 12702 (1 March 2011), T. 12736 (2 March 2011). *See also* Adjudicated Fact 2601.

⁸⁰⁵¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 13; Eset Muračević, T. 12740–12741 (2 March 2011). The Chamber notes that this killing is not charged in Schedule A of the Indictment.

⁸⁰⁵² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 15; Eset Muračević, T. 12746 (2 March 2011).

Semizovac.⁸⁰⁵³ Despite the agreement, however, one part of the convoy, which consisted of 430 Bosnian Muslims, was stopped in Semizovac by a number of local Serbs in former JNA and camouflage uniforms and eventually taken to the Semizovac Barracks.⁸⁰⁵⁴

(D) Developments in Vogošća after the take-over of the municipality

2382. After the take-over of Svrake, Serbs Forces continued to expel non-Serbs from their homes throughout the municipality, in particular in Svrake and Bioča.⁸⁰⁵⁵ Non-Serb workers at the Vogošća Medical Centre were suspended from their jobs.⁸⁰⁵⁶ Several Serb paramilitary and volunteer groups, including Šešelj's men headed by Vaske Vidović, a paramilitary group led by Boro Radić,⁸⁰⁵⁷ and the Šoša Detachment under the command of Major Jovo Ostojić⁸⁰⁵⁸ took part in combat activities in Vogošća alongside the Bosnian Serb authorities.⁸⁰⁵⁹ Vogošća municipal authorities allocated resources to paramilitary formations, such as Radić's group, and even remunerated them for their services.⁸⁰⁶⁰

2383. In May 1992, Šešelj's men attacked the village of Tihovići and killed about 20 people, including a number of Bosnian Muslim reserve policemen.⁸⁰⁶¹

2384. On 16 May 1992, the Vogošća Crisis Staff concluded that mopping up operations should be conducted in Semizovac and indicated that similar operations were already underway in Svrake.⁸⁰⁶²

⁸⁰⁵³ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 15; Eset Muračević, T. 12714–12715 (1 March 2011), T. 12747 (2 March 2011).

⁸⁰⁵⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 15–16; Eset Muračević, T. 12714–12716, 12722–12723 (1 March 2011), T. 12746–12748 (2 March 2011). *See also* Adjudicated Fact 2601.

⁸⁰⁵⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 14.

⁸⁰⁵⁶ P2635 (Conclusions of Vogošća's Crisis Staff, 16 May 1992).

⁸⁰⁵⁷ Radić had the support of the SDS and he eventually was integrated into the VRS and given a rank. *See* KDZ020, T. 12524 (28 February 2011) (private session); P2366 (List of members of special detachment, 25 May 1992).

⁸⁰⁵⁸ The Šoša Detachment which consisted of individuals from Sombor, Serbia, arrived in late May or early June 1992, and was immediately placed under the command of VRS. *See* D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 14.

⁸⁰⁵⁹ P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 72 (under seal); KDZ020, T. 12625–12626 (1 March 2011); P6003 (Article from *Naš Glas* entitled "Elevation 681 has fallen", 12 August 1992), p. 1.

⁸⁰⁶⁰ P6001 (Request of Vogošća Municipality War Commission, 27 June 1992); P2373 (Vogošća Executive Board request to SerBiH Ministry of Finance, 15 July 1992); P2377 (Vogošća Wartime Commission conclusions, 30 July 1992). *See also* Adjudicated Fact 2597. *But see* Miladin Trifunović, T. 30444 (27 November 2012) (testifying that there were many paramilitary units in Vogošća and that they acted independently); D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 12 (testifying that paramilitary formations refused to be placed under any military command, that they acted independently, and that Vogošća municipal authorities took the necessary measures with a view to removing them from the territory of Vogošća). The Chamber finds that the evidence of Trifunović and Poplašen in this regard to be unreliable and that it was marked by clear indicators of bias and partiality.

⁸⁰⁶¹ P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 72 (under seal). These killings are not charged in either Schedule A or B of the Indictment.

⁸⁰⁶² P2635 (Conclusions of Vogošća's Crisis Staff, 16 May 1992).

2385. Between mid-April and November 1992, police officers engaged in combat operations and many of them also participated in criminal activities.⁸⁰⁶³

2386. On 14 November 1992, Momčilo Krajišnik attended the Vogošća Serb Assembly session during which it was stated that the take-over of the municipality had been a success but that the area up to the predominantly Muslim village Kobilja Glava still had to be cleaned up.⁸⁰⁶⁴

(E) Scheduled Incident D.21

2387. The Indictment refers to the destruction of the Ugorsko mosque as well as the Semizovac Catholic church between April and September 1992.⁸⁰⁶⁵

2388. According to Riedlmayer, the Ugorsko mosque in the southern part of Vogošća was “heavily damaged” by Serb shelling on 1 September 1992, and the Catholic church in Semizovac was “completely destroyed” by Serb forces after they took control of the area at the beginning of May 1992.⁸⁰⁶⁶ While the Chamber relies on Riedlmayer for the purposes of finding that the mosque and the church in question were destroyed, and determining the nature and extent of the damage to those sites, it does not rely on his evidence in order to determine who was responsible for the destruction as such matters fall outside Riedlmayer’s expertise and are based on statements which he received from informants.⁸⁰⁶⁷

2389. Having received no other evidence concerning Scheduled Incident D.21, the Chamber is not satisfied, beyond reasonable doubt, that Serb Forces heavily damaged and completely destroyed the Ugorsko mosque and the Catholic church in Semizovac between April and September 1992.

⁸⁰⁶³ P5512 (Report of RS MUP regarding Vogošća SJB, 12 November 1992), pp. 2–5. *See also* Adjudicated Facts 2598, 2599, 2600.

⁸⁰⁶⁴ P5511 (Minutes of the 3rd meeting of the Vogošća Municipal Assembly, 14 November 1992), pp. 2, 9.

⁸⁰⁶⁵ Indictment, Scheduled Incident D.21. The Indictment initially also referred to the Karauka-Donja mosque under Scheduled Incident D.21. Subsequently, however, the Prosecution indicated that the Karauka-Donja mosque should refer to the Karaula mekteb which was located in Ilijaš Municipality. *See* Indictment, Scheduled Incident D.21, fn. 21. In its Final Brief, the Prosecution confirmed the exclusion of the Karauka-Donja mosque from the scope of Scheduled Incident D.21. *See* Prosecution Final Brief, Appendix B, p. 60, fn. 874.

⁸⁰⁶⁶ P4070 (Attachment to the expert report of Andrés J. Riedlmayer, entitled “Destruction of Cultural Heritage in BiH” prepared for the Karadžić case, formatted records), e-court pp. 323–327; P4071 (Slide images of damaged religious sites in BiH), e-court p. 2; Andrés J. Riedlmayer, T. 22531 (8 December 2011). *See also* P4069 (Cultural destruction database), records 328–329; P2362 (Map of Vogošća municipality with photographs).

⁸⁰⁶⁷ The Chamber notes that it received evidence as to the destruction of the mosque in Svrače. *See* P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 58; Eset Muračević, T. 12652 (1 March 2011), T. 12737, 12739 (2 March 2011); P4069 (Cultural destruction database), record 331. However, this evidence is not relevant to Scheduled Incident D.21.

(F) Detention facilities in Vogošća

2390. There were several detention facilities in Vogošća, including a World War II era bunker known as “the Bunker” and “Planjo’s House”.⁸⁰⁶⁸

2391. All detention facilities in Vogošća were run by one reserve police unit under the command of Branko Vlačo.⁸⁰⁶⁹ Vlačo answered to the Crisis Staff and determined who entered or exited the Bunker and Planjo’s House.⁸⁰⁷⁰ Nebojša Špirić was Vlačo’s deputy and was formally appointed as commander of the guards for the Vogošća detention facilities.⁸⁰⁷¹ Špirić later replaced Vlačo and became the warden of all detention facilities in Vogošća.⁸⁰⁷²

(1) Scheduled Detention Facility C.26.3

2392. The Indictment refers to the use of the Bunker in Vogošća as a detention facility at least between May and July 1992.

(a) Establishment and control

2393. The Bunker was a concrete structure of about 36 square metres that had been built during World War II.⁸⁰⁷³ It had concrete floors, one door and a small window with metal bars.⁸⁰⁷⁴ It was situated in close proximity to a river and a local restaurant and motel called “Kon Tiki”, also known as “Kod Sonja”.⁸⁰⁷⁵ Kod Sonja served as the headquarters of the Vogošća Crisis Staff.⁸⁰⁷⁶

⁸⁰⁶⁸ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 73; P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 17, 19, 21; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8973–8974; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 12; Slobodan Avlijaš, T. 35141–35142 (11 March 2013); P2362 (Map of Vogošća municipality with photographs).

⁸⁰⁶⁹ P2345 (Witness statement of KDZ020 dated 17 February 2011), paras. 73, 76; P2372 (Vogošća municipality list of prisoners, 5 July 1992); P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 19, 47, 73; Eset Muračević, T. 12653 (1 March 2011); P2374 (SerBiH Ministry of Justice decision, 21 July 1992); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 74; Ramiz Mujkić, T. 12384 (24 February 2011); Slobodan Avlijaš, T. 35165 (11 March 2013); P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 24; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court pp. 6–7.

⁸⁰⁷⁰ Slobodan Avlijaš, T. 35198 (11 March 2013); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 19, Eset Muračević, T. 12653 (1 March 2011).

⁸⁰⁷¹ P2375 (SerBiH Ministry of Justice decision, 21 July 1992); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 74; Ramiz Mujkić, T. 12384 (24 February 2011); Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10932.

⁸⁰⁷² P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 43, 73; P2393 (List of prisoners in KP Dom Butmir, 19 December 1992), p. 3; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 7.

⁸⁰⁷³ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 73; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 21; P2362 (Map of Vogošća municipality with photographs); Eset Muračević, T. 12650 (1 March 2011).

⁸⁰⁷⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 21.

⁸⁰⁷⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 21, 38; Eset Muračević, T. 12650 (1 March 2011); P2353 (Photograph of house); P2354 (Aerial photograph marked by KDZ020); P2344 (Witness

2394. On 2 May 1992, Slavko Jovanović, acting on behalf of Tintor, ordered Željka Beganović, the son of the owner of Kod Sonja, to provide suitable premises to the Vogošća SJB and TO for the purpose of questioning detained persons.⁸⁰⁷⁷ Individuals captured during combat in Vogošća, Svrake and Semizovac were transferred to the Bunker.⁸⁰⁷⁸

2395. There were on average 30 to 70 persons detained in the Bunker.⁸⁰⁷⁹ Initially, four women were held in the Bunker and the adjoining buildings.⁸⁰⁸⁰ Later on, more women were also brought to Kod Sonja.⁸⁰⁸¹ Individuals in the Bunker were detained upon the orders of the Vogošća Crisis Staff and the VRS.⁸⁰⁸² Vlačo gave specific instructions to Radić to arrest people and bring them in for questioning.⁸⁰⁸³

2396. A guard patrolled at the top of the Bunker and approximately ten guards secured its surroundings.⁸⁰⁸⁴ Some guards at the Bunker and Kod Sonja wore old JNA uniforms,⁸⁰⁸⁵ while soldiers there were seen usually wearing camouflage uniforms and cockades.⁸⁰⁸⁶ Some of them boasted that they were from Serbia or that they were Šešelj's men.⁸⁰⁸⁷

2397. As found above, on 4 May 1992, after the take-over of Svrake, a large group of Bosnian Muslim villagers was apprehended by Serb Forces and taken to the Semizovac Barracks.⁸⁰⁸⁸ There, the Bosnian Muslim men, women and children were placed in a hangar which had been previously

statement of KDZ020 dated 17 February 2011), para. 73 (under seal); P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 68; P2327 (Map marked by Ramiz Mujkić); D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 13; Svetozar Stanić, T. 31687, 31721–31722 (18 December 2012); Slobodan Avlijaš, T. 35161 (11 March 2013). The Bunker itself was sometimes called Kon Tiki. *See* P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 21.

⁸⁰⁷⁶ Svetozar Stanić, T. 31686 (18 December 2012).

⁸⁰⁷⁷ P2398 (Vogošća Municipal Assembly order, 2 May 1992); Eset Muračević, T. 12800 (2 March 2011); Svetozar Stanić, T. 31686, 31721–31722 (18 December 2012). Svetozar Stanić testified that after its requisition, Kod Sonja served as a place where “prisoners of war” were temporarily detained until they could be transferred to Kula for further processing. *See* D2678 (Witness statement of Svetozar Stanić dated 16 December 2012), para. 13; Svetozar Stanić, T. 31686, 31690, 31723 (18 December 2012).

⁸⁰⁷⁸ D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 12.

⁸⁰⁷⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 23; P2372 (Vogošća municipality list of prisoners, 5 July 1992); P2376 (Vogošća municipality list of prisoners, 26 July 1992).

⁸⁰⁸⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 23, 29.

⁸⁰⁸¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 29.

⁸⁰⁸² Slobodan Avlijaš, T. 35161–35162 (11 March 2013).

⁸⁰⁸³ Many detainees told Muračević that they had been arrested by Radić's unit. *See* P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 47.

⁸⁰⁸⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 21; Eset Muračević, T. 12766 (2 March 2011).

⁸⁰⁸⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 43.

⁸⁰⁸⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 44; Eset Muračević, T. 12767 (2 March 2011).

⁸⁰⁸⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 44.

⁸⁰⁸⁸ *See* para. 2381.

used for storing tanks.⁸⁰⁸⁹ After two days, the women and children were separated from the men and taken back to Svrače.⁸⁰⁹⁰ Approximately 150 able-bodied men were taken to a place called “Naka’s Garage” whereas a few individuals, including Muračević, were taken to the Bunker by Predrag Žarković and Nebojša Lazić, a paramilitary from Serbia.⁸⁰⁹¹

(b) Conditions of detention and treatment of detainees

2398. The roof of the Bunker had holes through which rainwater entered.⁸⁰⁹² Inside the Bunker, it was very dark, cold and, wet.⁸⁰⁹³ Detainees slept on a dirty concrete floor.⁸⁰⁹⁴ On or about 16 May 1992, the guards brought gym mats but these mats became soaked with rainwater.⁸⁰⁹⁵ All the garbage and leftovers from Kod Sonja were thrown downhill and accumulated around the Bunker.⁸⁰⁹⁶

2399. Little food was provided to the detainees and the guards decided who received food and who did not.⁸⁰⁹⁷ At times, the food which was intended for the detainees was given to dogs.⁸⁰⁹⁸ The guards sometimes used the same bowls they had used to feed the dogs to distribute food to the detainees.⁸⁰⁹⁹

2400. During the initial period at the Bunker, the guards took the detainees outside so that they could use the toilet.⁸¹⁰⁰ As the number of detainees increased later on, however, the guards placed a bucket inside and at times, this bucket was not emptied for days.⁸¹⁰¹ The Bunker did not have a water tap and Eset Muračević only managed to wash his face for the first time during his detention in early August.⁸¹⁰² Slobodan Avlijaš who became a member of the SerBiH Commission for the Inspection of Collection Centres in August 1992,⁸¹⁰³ testified that during an official visit to the

⁸⁰⁸⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 15.

⁸⁰⁹⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 17; Eset Muračević, T. 12723–12724 (1 March 2011), T. 12748 (2 March 2011). *See also* Adjudicated Fact 2601.

⁸⁰⁹¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 17, 20; Eset Muračević, T. 12652 (1 March 2011), T. 12748 (2 March 2011); P2363 (Photograph of garage).

⁸⁰⁹² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 38.

⁸⁰⁹³ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 38.

⁸⁰⁹⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 38; Eset Muračević, T. 12753 (2 March 2011).

⁸⁰⁹⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 38.

⁸⁰⁹⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 38.

⁸⁰⁹⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 39.

⁸⁰⁹⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 39.

⁸⁰⁹⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 39.

⁸¹⁰⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 40.

⁸¹⁰¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 40.

⁸¹⁰² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 41.

⁸¹⁰³ D466 (Decision of Government of SerBiH on establishment of Commission for Inspection of Collection Centres and other facilities for prisoners, 9 August 1992), p. 2.

Bunker, he observed the detainees' conditions and found them to be so inhumane that he was left "feeling horror".⁸¹⁰⁴

2401. The women detained at the Bunker were subjected to sexual abuse at the Bunker, at its surrounding buildings, and at Serb frontline positions.⁸¹⁰⁵

2402. During his first day in the Bunker, Muračević was forced to run the gauntlet.⁸¹⁰⁶ Later that same day, he was taken, blindfolded, to a bridge where he was interrogated, threatened, and beaten by Predrag Jovanović, Lazić, and Žarković.⁸¹⁰⁷

2403. In early May 1992, detainees at the Bunker were taken out on a daily basis for interrogation, during the course of which beatings occurred.⁸¹⁰⁸ Later, interrogations continued but they were not always accompanied by beatings.⁸¹⁰⁹ Those involved in the interrogations and beatings were guards and two inspectors by the names of Mile Renovica and Slaviša Mišić, as well as Vlačo and Živko Lazarević, a former inspector at the Vogošća SJB.⁸¹¹⁰

2404. From the Bunker, detainees were also brought to the Vogošća SJB for questioning.⁸¹¹¹ Detainees were also taken out of the Bunker to work on trenches and perform other forms of labour.⁸¹¹²

2405. The guards threatened the detainees, stole from them, or brought people from the outside to mistreat them in the absence of Vlačo.⁸¹¹³ The guards as well as members of Šešelj's men threw smoke grenades, tear gas grenades and stink bombs into the Bunker in the presence of Vlačo.⁸¹¹⁴

2406. On one occasion, six members of Šešelj's men, in the presence of Vlačo and other guards, took Ahmet Hido and Hasan Abaz, kicked them, and hit them with their fists and rifle butts.⁸¹¹⁵

⁸¹⁰⁴ Slobodan Avlijaš, T. 35158–35161 (11 March 2013).

⁸¹⁰⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 29–30; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 56.

⁸¹⁰⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 25.

⁸¹⁰⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 25.

⁸¹⁰⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 26–27 (also testifying that during the interrogations, the detainees were accused of organising the resistance in Svrake and of harbouring the intention to create an Islamic state).

⁸¹⁰⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 28.

⁸¹¹⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 26–27.

⁸¹¹¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 28; P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 74 (under seal); P2355 (Aerial photograph marked by KDZ020).

⁸¹¹² P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 34, 49, 54–57.

⁸¹¹³ Eset Muračević, T. 12767–12770 (2 March 2011); P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 33, 44.

⁸¹¹⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 46; Eset Muračević, T. 12767–12768 (2 March 2011).

Afterwards, they forced the two Bosnian Muslim men to have oral sex and sexual intercourse.⁸¹¹⁶ The Šešelj's men then forced Hasan Abaz to jump off a three metre high wall with his bare chest first several times.⁸¹¹⁷ Abaz sustained severe injuries from these jumps and subsequently vomited blood.⁸¹¹⁸ Similarly, Nijaz Salkić and Taib Kodžaga were forced to jump off the upper level of the Bunker.⁸¹¹⁹

2407. On 26 May 1992, the detainees were informed that UNPROFOR would visit the Bunker the following day. They were ordered to wash themselves with a hose beside Kod Sonja.⁸¹²⁰ Muračević and four other detainees were selected as spokespersons in case UNPROFOR asked any questions.⁸¹²¹ The detainees were threatened with severe punishment in the event they complained.⁸¹²² The next day, UNPROFOR personnel came but did not enter the Bunker.⁸¹²³

2408. Around the end of May 1992, Muračević was told that he would be sent back to Svrake in order to be killed there by Muslims.⁸¹²⁴ He was then blindfolded and taken to Naka's Garage for one night where he saw 150 individuals, many of them from Svrake.⁸¹²⁵

2409. On 25 May 1992, the Serb municipality of Vogošća Department for Judiciary, Administration and Regulations proposed the exchange of 15 "citizens of Muslim ethnicity" captured in the residential area of Svrake for a number of Serbs who had been detained in Visoko.⁸¹²⁶ Pursuant to a decision made by the Head of the Department for Judiciary, on 25 May 1992, with the approval of the Vogošća Crisis Staff, 21 "[c]itizens of Muslim nationality who were captured in fights in Svrake" were to be exchanged in Lješevo for three Serbs who were detained in prisons in Visoko municipality.⁸¹²⁷

⁸¹¹⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 45.

⁸¹¹⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 45; Eset Muračević, T. 12787 (2 March 2011).

⁸¹¹⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 45; Eset Muračević, T. 12787 (2 March 2011).

⁸¹¹⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 45.

⁸¹¹⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 45.

⁸¹²⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 31.

⁸¹²¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 32.

⁸¹²² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 32.

⁸¹²³ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 33; Eset Muračević, T. 12755–12757 (2 March 2011).

⁸¹²⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 36.

⁸¹²⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 35–36; Eset Muračević, T. 12748–12749 (2 March 2011). The Chamber notes that Naka's Garage is not a scheduled detention facility in the Indictment.

⁸¹²⁶ P2367 (Decision of Vogošća Department for Judiciary, 25 May 1992), p. 1.

⁸¹²⁷ P2356 (Vogošća municipality department for judiciary decision to release prisoners, 25 May 1992).

(c) Conclusion

2410. Based on the foregoing, the Chamber finds that Serb Forces detained non-Serbs from Vogošća and surrounding areas, including civilian males and females, at the Bunker. The Chamber further finds that the detainees were held in poor conditions. These included a lack of adequate food, sanitary facilities and general hygiene. The Chamber also finds that the male detainees were subjected to beatings and forced labour and that both male and female detainees were subjected to acts of sexual violence.

(2) Scheduled Detention Facility C.26.1

2411. The Prosecution refers to the use of Planjo's House in Svrake as a detention facility from early July 1992 until at least February 1993.⁸¹²⁸

(a) Establishment and control

2412. Planjo's House was situated between Svrake and Semizovac, some 200 metres from the Sarajevo-Zenica road.⁸¹²⁹ It had a garage, an attic, and three spacious floors.⁸¹³⁰ Planjo's House was originally a private property owned by two Muslims, Almas Planjo and Miralem Planjo.⁸¹³¹

2413. In early July 1992, Avlijaš advised the authorities of the Serb municipality of Vogošća that Planjo's House should replace the Bunker as a detention facility.⁸¹³² According to Avlijaš, Planjo's House was chosen for two reasons: (i) it was further away from the frontlines and could therefore not be shelled by Muslim forces; (ii) it was more suitable to serve as a detention facility and conformed with the Accused's instructions concerning the treatment of captured persons.⁸¹³³ On

⁸¹²⁸ Indictment, Scheduled Detention Facility C.26.1. The Indictment originally referred to the period between August 1992 until December 1992. However, by virtue of the Prosecution Rule 73 *bis* Submission, Appendix B, p. 92, this period was extended to be from early July 1992 until at least February 1993.

⁸¹²⁹ P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 73; P2352 (Aerial photograph marked by KDZ020); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 35; P2327 (Map marked by Ramiz Mujkić); P2362 (Map of Vogošća municipality with photographs); P2328 (Photograph of Planjo's house); P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 124–125.

⁸¹³⁰ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 124–125; P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 70, 72; P2328 (Photograph of Planjo's house); P2343 (Information report of Ramiz Mujkić, 4 July 2004), p. 16; Ramiz Mujkić, T. 12462–12463 (25 February 2011); P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 22.

⁸¹³¹ P1605 (Decision of Vogošća Municipal Secretariat, 8 July 1992); P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 4; P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 70; Ramiz Mujkić, T. 12383 (24 February 2011).

⁸¹³² D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 13; Slobodan Avlijaš, T. 35142, 35198–35199 (11 March 2013).

⁸¹³³ D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 13; Slobodan Avlijaš, T. 35198 (11 March 2013); P1134 (SerBiH Ministry of Defence Instructions on the Treatment of Captured Persons, 13 June 1992).

8 July 1992, the Municipal Secretariat for Town Planning temporarily turned Planjo's House over to the Ministry of Justice, for the needs of the Prison Department of Vogošća.⁸¹³⁴

2414. From August 1992, mainly non-Serbs,⁸¹³⁵ including women and children, were detained in Planjo's House.⁸¹³⁶ On 11 August 1992, Vlačo and a few guards transferred Muračević and about 30 of the 40 or so detainees who were left in the Bunker to Planjo's House which was at the time empty.⁸¹³⁷ The detainees were placed in the cellar.⁸¹³⁸ On 17 August 1992, the Ilijaš SJB brought 91 Bosnian Muslims who had been detained in Ilijaš.⁸¹³⁹ On 22 August 1992, Ramiz Mujkić who had been detained in the Rajlovac Barracks, in Novi Grad municipality, was also transferred to Planjo's House.⁸¹⁴⁰ In late September or October 1992, about 70 Bosnian Muslim men who had been detained in the Hadžići Culture and Sport Centre were transferred to Planjo's house.⁸¹⁴¹ Apart from these instances, detainees were brought from other places around the municipality of Vogošća, such as Visoko, Sokolac, Hadžići, Bioča, Doglodi, and Nahorevo.⁸¹⁴² In December 1992, four girls between the ages of 16 and 22 were brought to Planjo's House.⁸¹⁴³

⁸¹³⁴ P1605 (Decision of Vogošća Municipal Secretariat, 8 July 1992). *See also* Adjudicated Fact 2650. However, according to Avlijaš, the RS Ministry of Justice was only responsible for the security and well-being of the prisoners whereas the army was in charge of all other matters, including prisoner exchanges and prisoner labour. Slobodan Avlijaš, T. 35165–35166 (11 March 2013).

⁸¹³⁵ One of the male detainees in Planjo's House was a Bosnian Serb but he was promptly transferred to Kula. A Bosnian Serb woman who had been married to a Muslim, and her young son were also detained in Planjo's House. *See* P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 73; Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10927. *See also* Adjudicated Fact 2652.

⁸¹³⁶ Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10924, 10926–10927; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 9; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 81. *See also* Adjudicated Fact 2652.

⁸¹³⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 63–64.

⁸¹³⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 64.

⁸¹³⁹ P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 4; P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 20–22; P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), para. 23; P2379 (Vogošća prison bulletin, 17 August 1992); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 64. *See also* Adjudicated Facts 2648, 2649, 2651.

⁸¹⁴⁰ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 68–69; P2326 (Vogošća municipality prison report re Ramiz Mujkić, 22 August 1992).

⁸¹⁴¹ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 123; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6; P125 (Zijad Okić's statement to BiH authorities, 3 February 1993), p. 2; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 81; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 32; P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), e-court p. 28. During a visit to Hadžići Culture and Sport Centre, Avlijaš recommended the transfer of the detainees to Planjo's House because he was afraid that relatives of Bosnian Serbs held by the Muslim side in Tarčin would exact revenge on those detainees. *See* D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 32; Slobodan Avlijaš, T. 35143–35144 (11 March 2013).

⁸¹⁴² P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 81, 84.

⁸¹⁴³ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 9.

2415. From 22 August 1992 until mid October 1992, Planjo's House alone housed between 100 and 150 detainees.⁸¹⁴⁴ This number later increased to 200.⁸¹⁴⁵ Women and children were held in separate quarters.⁸¹⁴⁶

2416. Armed soldiers and policemen who were dressed in camouflage uniforms guarded Planjo's House at all times.⁸¹⁴⁷

2417. Around mid August 1992, Momčilo Mandić and a Serb journalist visited Planjo's House.⁸¹⁴⁸ When queried by one of the detainees about possible exchanges, Mandić replied that there was no need for any exchanges as the detainees were at their "homes".⁸¹⁴⁹

2418. At some point, those detained in Naka's Garage were allowed to return to Svrače under the condition that they (i) report on a daily basis to the Serb authorities in order to be assigned and carry out work and (ii) go back to Planjo's House every night in order to spend the night there.⁸¹⁵⁰ However, eventually, these individuals were confined to Planjo's House during day-time as well.⁸¹⁵¹

2419. On 23 October 1992, ICRC representatives came to Planjo's House, registered the individuals held there. Some of the detainees were exchanged a few days later.⁸¹⁵²

(b) Conditions of detention and treatment of detainees

2420. The food served in Planjo's House was of poor quality.⁸¹⁵³ Some detainees slept in the beds that were available, others slept on the floor, and a number slept on the stairs.⁸¹⁵⁴ Blankets were provided.⁸¹⁵⁵ Detainees were allowed to use the bathroom, situated in the basement.⁸¹⁵⁶

⁸¹⁴⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 72–73; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 23; P2357 (List of prisoners in Vogošća prison, 30 August 1992); P2339 (List of prisoners in Vogošća prison, 3 September 1992). *See also* Adjudicated Fact 2653.

⁸¹⁴⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 81; P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 72.

⁸¹⁴⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 81; Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10924; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 23; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 9. *See also* Adjudicated Fact 2652.

⁸¹⁴⁷ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 24; Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10928. *See also* Adjudicated Fact 2652.

⁸¹⁴⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 62.

⁸¹⁴⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 62.

⁸¹⁵⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 35, 37; Eset Muračević, T. 12723–12724 (1 March 2011), T. 12748 (2 March 2011); P2368 (Vogošća Crisis Staff Order, 26 May 1992).

⁸¹⁵¹ Eset Muračević, T. 12724 (1 March 2011); T. 12748 (2 March 2011).

⁸¹⁵² P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 82.

⁸¹⁵³ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 25.

2421. Muračević stated that although the conditions were slightly better in Planjo's House, the treatment was the same as that in the Bunker, if not worse.⁸¹⁵⁷

2422. In Planjo's House, some detainees were placed in a small isolation room.⁸¹⁵⁸ Siniša Đurđić and Nikola Jovanović, Tintor's personal driver, beat and abused the detainees and brought their friends to watch.⁸¹⁵⁹ After one such beating as a result of which one of the detainees was left unconscious, one of Đurđić's friends drew out his gun and placed it in the mouths of several detainees, threatening to kill everybody.⁸¹⁶⁰

2423. One of the guards, Dragan Damjanović, often forced detainees to beat one another with batons.⁸¹⁶¹ He also accompanied them to their work duties and physically abused them there.⁸¹⁶² On one occasion, Damjanović forced Bego Selimović and another man to carry the body of someone who had been killed in the battlefield.⁸¹⁶³ While Selimović and the man were carrying the body, Damjanović repeatedly hit them with a piece of wood, to a point that Selimović's back turned black.⁸¹⁶⁴

⁸¹⁵⁴ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 25; P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 124.

⁸¹⁵⁵ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 25.

⁸¹⁵⁶ P2403 (Witness statement of Mehmed Musić dated 28 February 2011), para. 126; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 25. Trifunović who was the commander of the Vogošća Brigade at the time, testified that the conditions at Planjo's House were generally good, in particular, that the rooms had large windows with good light and heating, and that there were toilets, showers, and a kitchen available to the detainees. D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 1; Miladin Trifunović, T. 30373–20374 (15 November 2012). However, the Chamber rejects Trifunović's assertions in light of his lack of forthrightness as a witness and because of the consistent and reliable evidence which indicates that contrary to Trifunović's claim, the conditions at Planjo's House were poor.

⁸¹⁵⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 65.

⁸¹⁵⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 66.

⁸¹⁵⁹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 66, 68. Mujkić testified that the guards did not abuse the detainees. Ramiz Mujkić, T. 12386 (24 February 2011). The Chamber, however, does not find this part of Mujkić's testimony to be reliable and notes that Mujkić contradicted himself on this point on two occasions. In his statement, Mujkić stated that a mentally disabled individual was beaten unconscious by the guards and that a professor by the name of Zahid Baručija was mistreated by a guard who claimed to have been Baručija's former student. See P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 75.

⁸¹⁶⁰ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 66.

⁸¹⁶¹ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 87; Damjanović sometimes wore a black uniform and other times he wore a camouflage uniform. He sometimes wore a black hat with a cockade. Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10931.

⁸¹⁶² P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 87; Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10930–10931.

⁸¹⁶³ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 28.

⁸¹⁶⁴ P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 28.

2424. On 20 August 1992, Muračević and a group of approximately 50 prisoners were taken to Ravne Hill in order to clear a small forest which had been burnt during fighting the day before.⁸¹⁶⁵ The prisoners spent the entire day working without any food or water. Some fell from exhaustion and were beaten with rifle butts.⁸¹⁶⁶ On that same day, Muračević injured his hand while working.⁸¹⁶⁷ Due to lack of adequate medical care, the injury eventually became infected.⁸¹⁶⁸

2425. One day, a mentally disabled detainee by the name of Pinjo cursed the Serb guards who then beat him unconscious.⁸¹⁶⁹ That same afternoon, Vlačo came to Planjo's House and after hearing from the guards about what Pinjo had said, hit him with his pistol, causing him to fall.⁸¹⁷⁰

2426. Sometimes during the weekends, intoxicated volunteers from Serbia came to Planjo's House to beat and mistreat the detainees.⁸¹⁷¹ These individuals were called "weekend Chetniks" by the prison guards.⁸¹⁷² On one occasion, one of these "weekend Chetniks" entered Planjo's House and ordered Mirsad Šehić to eat cigarette butts.⁸¹⁷³ Šehić proceeded to chew the cigarette butts but when he proved unable to swallow them, he was ordered to perform oral sex with another man in front of his own father.⁸¹⁷⁴ According to Mujkić, in another instance, another "weekend Chetnik" forced a young detainee in Planjo's House to climb up a fence from the balcony and dive onto the ground, head first.⁸¹⁷⁵

2427. On 18 June 1992, a compulsory work obligation was introduced for all citizens in Vogošća.⁸¹⁷⁶ On 7 August 1992, Poplašen requested the approval of the SerBiH Ministry of Justice

⁸¹⁶⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 71–72 ; Eset Muračević, T. 12764 (2 March 2011).

⁸¹⁶⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 71; Eset Muračević, T. 12764 (2 March 2011).

⁸¹⁶⁷ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 71; Eset Muračević, T. 12764–12765 (2 March 2011).

⁸¹⁶⁸ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 71; Eset Muračević, T. 12765 (2 March 2011).

⁸¹⁶⁹ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 75; Ramiz Mujkić, T. 12384–12385 (24 February 2011).

⁸¹⁷⁰ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 75; Ramiz Mujkić, T. 12385 (24 February 2011).

⁸¹⁷¹ Ramiz Mujkić, T. 12385 (24 February 2011). *See also* Adjudicated Fact 2654.

⁸¹⁷² P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 80; Ramiz Mujkić, T. 12385 (24 February 2011).

⁸¹⁷³ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 80.

⁸¹⁷⁴ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 80. *See also* Adjudicated Fact 2654.

⁸¹⁷⁵ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 81; Ramiz Mujkić, T. 12411–12412 (25 February 2011).

⁸¹⁷⁶ D4031 (Decision of Vogošća War Commission, 18 June 1992), p. 1; D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 24. According to a decision adopted by the Vogošća War Commission on 23 June 1992, individuals who carried out their compulsory work obligation were to be remunerated. *See* P2370 (Vogošća Wartime Commissariat Decision, 23 June 1992).

for “occasional use of detainees for construction and other work”.⁸¹⁷⁷ Three days, later, Mandić gave Poplašen approval.⁸¹⁷⁸

2428. From late August until late January 1993, Serb Forces took non-Serb detainees from Planjo’s House to the frontlines and forced them to construct bunkers for Serb soldiers, dig trenches, carry ammunition, cut wood, search for land mines, carry dead bodies, dig graves, or serve as human shields.⁸¹⁷⁹ The detainees who worked received more food and cigarettes from the guards.⁸¹⁸⁰ Dušan Arnaut and a man with the last name Milošević, who were both soldiers, drove the detainees at Planjo’s House to work and guarded them while they worked.⁸¹⁸¹ At times, Damjanović also took the detainees to work.⁸¹⁸²

2429. On 16 July 1992, the War Commission of the Serb municipality of Vogošća ordered the exchange of a Bosnian Muslim “prisoner of war” for a member of the Koševo Brigade held by the

⁸¹⁷⁷ P1606 (Request from Vogošća Municipality to Ministry of Justice of SerBiH, 6 August 1992).

⁸¹⁷⁸ P1142 (Letter from Ministry of Justice of SerBiH to Vogošća War Presidency, 10 August 1992).

⁸¹⁷⁹ P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court pp. 6–7; P125 (Zijad Okić’s statement to BiH authorities, 3 February 1993), p. 3; P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 69, 71–72, 74–75, 77, 79, 87; Eset Muračević, T. 12763–12765 (2 March 2011); P2403 (Witness statement of Mehmed Musić dated 28 February 2011), paras. 127, 129; P45 (Vogošća prison report, 29 August 1992); P5999 (Order of Vogošća Brigade, 18 October 1992); P6000 (Order of Vogošća Brigade, 22 September 1992); P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), pp. 4–6; Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10929–10931; P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 25–30, 34–35, 37–38; P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), para. 24; P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), paras. 76–79; P2381 (Vogošća prison report, 26 August 1992); P2382 (Vogošća prison report, 1 September 1992); P2338 (Request of Rajlovac 1st Infantry Brigade, 24 August 1992); P2395 (Request of Rajlovac Light Infantry Brigade re prisoners, 26 December 1992); P2392 (Semizovac Battalion request re prisoners, 25 November 1992); P2386 (Ilijaš police station request re prisoners, 11 September 1992); P2384 (Vogošća SJB request re prisoners, 1 September 1992); P2383 (Semizovac Battalion request re prisoners, 12 September 1992); P2345 (Witness statement of KDZ020 dated 17 February 2011), para. 77; P2390 (Vogošća War Commission order, 6 November 1992); P2397 (List of people arrested in Vogošća during 1992–1995), p. 3. See also Adjudicated Fact 2655. But see Trifunović who testified that the detainees in Planjo’s House were not used as human shields or trench diggers at the frontlines and that their task was merely to “fortify the lines”. Trifunović also asserted that the detainees who were taken on compulsory work assignments were in no danger because VRS was always there with them. Miladin Trifunović, T. 30398, 30400, 30405–30407, 30412 (15 November 2012). The Chamber, however, does not find this evidence to be reliable for the following reasons. First, the Chamber found that Trifunović’s testimony to be marked by indicators of lack of forthrightness. Second, the Chamber is not convinced that the presence of the VRS alongside the detainees at the frontlines would have assured the latter’s safety. On the contrary, the Chamber is of the view that such presence would have further exacerbated the extremely precarious situation in which the detainees were already forced into by Serb Forces. Third, the Chamber received and found to be reliable the detailed evidence of a number of former detainees who personally experienced being forced to serve as human shields and who observed others get injured or killed while doing the same thing.

⁸¹⁸⁰ Eset Muračević, T. 12763–12764 (2 March 2011); P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 4.

⁸¹⁸¹ Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10930; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 26; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 6.

⁸¹⁸² Bego Selimović, P44 (Transcript from *Prosecutor v. Krajišnik*), T. 10930–10931; P46 (Witness statement of Bego Selimović dated 21 June 1997), para. 26; P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 8.

Muslim side.⁸¹⁸³ On 29 July 1992, the War Commission ordered the release of two Muslim “prisoners of war”.⁸¹⁸⁴ In mid-August 1992, Mirko Krajišnik and a Bosnian Muslim negotiated the exchange of several other individuals.⁸¹⁸⁵ On 25 October 1992, 53 detainees, including Ramiz Mujkić and Mustafa Fazlić, were exchanged and later crossed into BiH-controlled territory.⁸¹⁸⁶ On 6 November 1992, the War Presidency of the Serb municipality of Vogošća ordered that 14 Bosnian Muslims be exchanged with 14 Serbs.⁸¹⁸⁷ On 25 December 1992, Špirić handed over 18 Bosnian Muslims from the detention facilities in Vogošća to Hadžići SJB officials so that they could be exchanged.⁸¹⁸⁸

(c) Conclusion

2430. Based on the foregoing, the Chamber finds that Serb Forces used Planjo’s House as a detention facility at least from August 1992 until at least February 1993. The Chamber further finds that the detainees were held in poor conditions. These included a lack of adequate food, sanitary facilities, general hygiene and medical care. The Chamber also finds that non-Serbs, including women and children, were detained in Planjo’s House and that the guards there routinely subjected the male detainees to beatings and maltreatment, including acts of a sexual nature. Furthermore, the Chamber finds that Serb Forces routinely took non-Serb males who were detained in Planjo’s House in Svrake to the frontlines and forced them to carry out labour or to serve as human shields.

(d) Scheduled Incident B.19.1

2431. The indictment alleges the killing of “a number of detainees” who were taken out from Planjo’s House in Svrake between August and September 1992 in order to carry out forced labour and to serve as human shields.⁸¹⁸⁹

2432. On 29 August 1992, Vlačo reported that eight detainees were taken to work at Žuč and that one of them was “wounded by an enemy sniper while working”.⁸¹⁹⁰ In the second half of September 1992, pursuant to an order issued by Trifunović, 50 detainees, including Mustafa Fazlić

⁸¹⁸³ P6058 (Order of Vogošća War Staff, 16 July 1992).

⁸¹⁸⁴ P6059 (Order of Vogošća War Commission, 29 July 1992).

⁸¹⁸⁵ P5652 (Intercept of conversation between Stojko and Mirko Krajišnik, 12 August 1992).

⁸¹⁸⁶ P2314 (Witness statement of Ramiz Mujkić dated 4 February 2011), para. 82; P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 6.

⁸¹⁸⁷ P2391 (Vogošća War Presidency order, 6 November 1992).

⁸¹⁸⁸ P2394 (List of prisoners in KP Dom Butmir to be exchanged, 25 December 1992).

⁸¹⁸⁹ Indictment, Scheduled Incident B.19.1. The Indictment originally referred to the period between 30 May and December 1992 as the time frame for Scheduled Incident B.19.1. However, as per the Prosecution Rule 73 bis Submission, Appendix B, p. 92, this time frame was reduced to August and September 1992.

and Bego Selimović, were selected by Vlačo, divided in groups, and taken to Žuč in order to look for mines, dig trenches and serve as human shields.⁸¹⁹¹ Trifunović ordered that on 26 September 1992, 30 detainees be transported to Žuč by military vehicles in order to carry out construction work and be given food by the Vogošća Brigade Command.⁸¹⁹² Near the end of September, detainees were again taken to Žuč and at one point ordered to walk close by a Serb tank that was, together with a number Serb infantry troops, engaged in combat activities. As a result, a number of detainees were seriously wounded.⁸¹⁹³ At one point, the tank lost control and slipped down a hill near the Bosnian Muslim positions.⁸¹⁹⁴ Some of the remaining detainees were made to retrieve the ammunition from the tank.⁸¹⁹⁵ During this operation, several detainees were killed by Muslim fire.⁸¹⁹⁶

2433. At least 16 non-Serbs were killed at Žuč and other locations while carrying out work or serving as human shields during August and September 1992.⁸¹⁹⁷

⁸¹⁹⁰ P45 (Vogošća prison report, 29 August 1992).

⁸¹⁹¹ P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), pp. 4–5; P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 28–29; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 74–75; P2385 (Vogošća Brigade request re prisoners, 17 September 1992); P1144 (Vogošća municipality prison department bulletin re use of prisoners for manual labour, 19 September 1992).

⁸¹⁹² P6000 (Order of Vogošća Brigade, 22 September 1992).

⁸¹⁹³ P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 5.

⁸¹⁹⁴ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 67; P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), pp. 5–6.

⁸¹⁹⁵ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 67; P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 6.

⁸¹⁹⁶ P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 67.

⁸¹⁹⁷ P1144 (Vogošća municipality prison department bulletin re use of prisoners for manual labour, 19 September 1992); P2387 (Vogošća prison bulletin, 21 September 1992), P2388 (Vogošća prison bulletin, 24 September 1992), P47 (Statement of Bego Selimović to Ilijaš Municipality Commission for Crime Investigation, 5 April 1993), paras. 24–27; P42 (Witness statement of Mustafa Fazlić dated 22 June 1997), p. 5; P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 67, 74–75. *See also* Miladin Trifunović, T. 30404 (15 November 2012). The Chamber heard additional evidence on incidents which occurred after September 1992 and which involved the use of human shields as well as forced labour and resulted in casualties. *See* P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 7, P46 (Witness statement of Bego Selimović dated 21 June 1997), paras. 34–35, 38, P124 (Witness statement of Zijad Okić dated 24 June 1997), e-court p. 9. The Chamber notes, however, that these incidents are not charged in the Indictment. The list of the killed and missing civilians in Vogošća, prepared by Muračević, refers to 10 individuals who died while performing forced labour or serving as human shields during September 1992. These individuals are Enver Činara, Azem Durmić, Nail Durmić, Bajro Holujić, Bajro Hujnić, Safet Kruezi, Hamid Rizvo, Hasan Rizvo, Nermin Skando and Avdo Tirić. P2397 (List of people arrested in Vogošća during 1992-1995), pp. 5–6, 10, 14, 21, 23, 25. By contrast, Amor Mašović refers to 16 individuals, namely Azim Čović, Bajram Salkić, Avdo Tirić, Azem Durmić, Bajro Hujnić, Džmail Šehić, Enver Činara, Ferid Šehić, Hamid Rizvo, Mehmed Šehić, Nail Durmić, Nermin Skando, Nusret Selimović, Ramiz Handžić, Rasim Avdukić and Safet Kruezi, as victims of Scheduled Incident B19.1. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 97–98. Having considered these inconsistencies, the Chamber does not consider them to be of relevance, as it is satisfied, that a number of men indeed died in Scheduled Incident B.19.1. Furthermore, the Chamber notes that there are some discrepancies in evidence as regards the names of some of the victims of Scheduled Incident B.19.1, but it considers these inconsistencies to be minor. Accordingly, the Chamber concludes that these are in fact the same individuals.

2434. Based on the foregoing, the Chamber finds that as a result of the detainees in Planjo's House being forced by Serb Forces to carry out labour at the frontlines or to serve as human shields, at least 16 detainees were killed and a number were wounded during August and September 1992.

(G) Movement of the population from Vogošća and appropriation of property

2435. According to Muračević, between May 1992 and mid-June 1993, approximately 13,000 individuals, of whom the greater majority were Bosnian Muslims, left the Serb-controlled parts of the municipality of Vogošća.⁸¹⁹⁸ Muračević further stated that almost all the Bosnian Muslim inhabitants of Svrake and Tihovići left during the same period.⁸¹⁹⁹ On 31 May 1993, the Executive Board of the Serb municipality of Vogošća established the municipal commission for the census of the population.⁸²⁰⁰ According to the census that was subsequently conducted, the villages of Svrake had not a single Muslim resident, the village of Hotonj had one, whereas Semizovac had 16.⁸²⁰¹ The same census indicates that the population of the 14 villages that were surveyed in the municipality of Vogošća was 93.5% Bosnian Serb, 1.8% Bosnian Muslim, and 2.6% Bosnian Croat.⁸²⁰²

2436. Bosnian Muslims leaving Vogošća were required to obtain certificates of departure and were forced to either sign their property over to the municipal authorities or exchange it with Serb property in other municipalities in BiH.⁸²⁰³ In an interview, published on 13 July 1992, Koprivica admitted that the distribution to Serb refugees of empty houses in the municipality of Vogošća had not been carried out appropriately and implied that there had been various cases where individuals had simply occupied houses without any form of registration whatsoever.⁸²⁰⁴

2437. By reference to the evidence of Nikola Poplašen, the Accused argues that (i) the intention behind the regulation requiring the departing non-Serbs to sign documents transferring ownership of property to the Bosnian Serb authorities was to preserve it and to prevent its misuse by organised armed groups,⁸²⁰⁵ (ii) the enactment of this regulation in itself suggests that there were no

⁸¹⁹⁸ Eset Muračević, T. 12676–12678 (1 March 2011); P2402 (Table prepared by Eset Muračević), pp. 1–2.

⁸¹⁹⁹ Eset Muračević, T. 12677–12678 (1 March 2011).

⁸²⁰⁰ P2400 (Vogošća Executive Board decision, 31 May 1993).

⁸²⁰¹ P2401 (Results of 1993 census re Vogošća), pp. 1–2; Eset Muračević, T. 12812 (2 March 2011).

⁸²⁰² P2401 (Results of 1993 census re Vogošća), p. 3.

⁸²⁰³ P2365 (Vogošća Crisis Staff Order, 20 May 1992); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 88.

⁸²⁰⁴ D4028 (Article from Naš Glas entitled "Vogošća has a future", 13 June 1992), p. 2.

⁸²⁰⁵ Defence Final Brief, para. 1754 (referring to D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 14). In the same vein, the Accused asserts that the regulation created an inventory of

expulsions, because non-Serbs could otherwise not leave the municipality,⁸²⁰⁶ and (iii) non-Serbs relocated on their own accord to the areas where they were in the majority and where they thought they would be safer.⁸²⁰⁷ The Chamber rejects these arguments. Poplašen himself conceded that the regulation did not provide for the return of ownership rights to the original owners and that it had to be annulled before such restoration could take place.⁸²⁰⁸ Furthermore, it is clear from the evidence before the Chamber that the main purpose of the regulation was to facilitate the use of the vacant property in question by Serbs who had just arrived in the municipality. In turn, this ensured that those non-Serbs who left Vogošća, due to the circumstances there, would not return.

2438. In light of the foregoing, and considering the surrounding circumstances in the municipality, the Chamber finds that the non-Serb population from the Serb-controlled parts of Vogošća was forced to leave.

2. Legal findings on crimes

a. Chapeau requirements for Articles 3 and 5 of the Statute

2439. In the Municipalities component of the case, in addition to a count of genocide under Article 4 of the Statute, the Accused is charged with a count of violations of the laws or customs of war under Article 3 of the Statute, namely murder, as well as with five counts of crimes against humanity under Article 5 of the Statute, namely persecution, murder, extermination, deportation, and forcible transfer as an inhumane act.⁸²⁰⁹ The Prosecution alleges that there was a state of armed conflict at all times relevant to the Indictment.⁸²¹⁰ It further alleges that all acts and omissions charged as crimes against humanity, except those that formed part of the sniping and shelling campaign in Sarajevo, were part of a widespread or systematic attack directed against the Bosnian Muslim and Bosnian Croat civilian populations of BiH.⁸²¹¹

all property which subsequently helped “immensely” in returning them to their rightful owners upon their return to Vogošća. Defence Final Brief, paras. 1747, 1754. The Chamber is unable to assign any weight to this assertion as there is no evidence in support of it.

⁸²⁰⁶ Defence Final Brief, para. 1754.

⁸²⁰⁷ Defence Final Brief, para. 1745 (referring to D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 4).

⁸²⁰⁸ See D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 14.

⁸²⁰⁹ See para. 5.

⁸²¹⁰ Indictment, para. 89.

⁸²¹¹ Indictment, para. 88.

i. *Article 3 of the Statute*

2440. Based on the evidence set out in detail above regarding the events related to this case, the Chamber finds that there was an armed conflict in BiH throughout the period relevant to the crimes alleged in the Indictment. At the latest, the armed conflict in BiH started in early April 1992. In the wake of the referendum on the independence of BiH on 29 February and 1 March 1992, armed clashes between Serb Forces on the one hand and Bosnian Muslim and/or Bosnian Croat forces on the other ensued.⁸²¹² These armed clashes intensified and in early April 1992, municipalities starting with those in Eastern BiH were taken over by Serb Forces.⁸²¹³

2441. For murder charged under Article 3 of the Statute, the Chamber has examined whether it was closely related to the armed conflict and made such findings where relevant in this Judgement.⁸²¹⁴

2442. In relation to the four so called “*Tadić* Conditions”, the Chamber refers to the applicable law sections of this Judgement, which expanded on the legal basis for each of the crimes charged in the Indictment under Article 3 of the Statute.⁸²¹⁵ In relation to murder, the prohibition stems from Common Article 3 which is deemed to be part of customary international law.⁸²¹⁶ Further, the Appeals Chamber has confirmed that violations of the provisions of Common Article 3 entail individual criminal responsibility.⁸²¹⁷ The Chamber is therefore satisfied that the four *Tadić* Conditions are met, and consequently that the chapeau requirements for Article 3 of the Statute are fulfilled, in relation to murder.

ii. *Article 5 of the Statute*

2443. As found above, there was an armed conflict in BiH throughout the period of the Indictment. The evidence admitted at trial and explained in detail in the relevant factual sections of this Judgement, demonstrates that there also existed a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH at all times relevant to the crimes charged in the Indictment. The attack took many forms, as shown below in relation to each of the relevant components of the case. As reflected below, the Chamber is also satisfied that the crimes

⁸²¹² See paras. 609, 952, 958, 1242, 1500, 2258, 2306–2308, 2368–2369, 2373.

⁸²¹³ See paras. 610–614, 711–714, 850–859, 1113–1115, 1248–1251, 1501, 2373, 1592–1593, 1939–1941.

⁸²¹⁴ See para. 2455. The Chamber notes that in relation to the Municipalities component, murder is the only charged violation of the laws or customs of war pursuant to Article 3 of the Statute.

⁸²¹⁵ See Section III.A.1: Article 3 of the Statute of the Tribunal.

⁸²¹⁶ *Čelebići* Appeal Judgement, para. 143.

⁸²¹⁷ *Čelebići* Appeal Judgement, paras. 167, 170, 173–174 (holding at para. 173: “It is universally acknowledged that the acts enumerated in common Article 3 are wrongful and shock the conscience of civilised people, and

upon which the Chamber has entered findings formed part of that attack and that the perpetrators knew of the attack and that the crimes were part of it.⁸²¹⁸

2444. In the Municipalities, at the time relevant to the Indictment, the Bosnian Muslim and Bosnian Croat civilian populations were the subject of a widespread and systematic campaign of violence, including through acts of murder, and forcible displacement.⁸²¹⁹ The acts of violence and crimes committed against the Bosnian Muslim and Croat populations included killings, cruel and inhumane treatment such as torture and rape, the establishment and perpetuation of inhumane living conditions, unlawful detention, forced labour at the frontlines and the use of human shields, plunder of property, wanton destruction of private and public property, as well as the imposition of restrictive and discriminatory measures.⁸²²⁰ While the Chamber finds differences in each of the Municipalities, it is satisfied that there was a generally similar pattern of co-ordinated violence during and after the take-over of these Municipalities and in detention facilities throughout. Indeed, in twenty municipalities in Eastern BiH, the ARK, and the Sarajevo area, and in detention facilities therein, Serb Forces committed acts of murder, persecution, and forcible displacement, which resulted in a vast number of Bosnian Muslim and Bosnian Croat victims. The Chamber is therefore satisfied that this demonstrates the systematic and widespread nature of the attack.

2445. The Chamber is therefore satisfied that the chapeau requirements for the crimes charged under Article 5 of the Statute are met.

b. Crimes

i. *Murder: Counts 5 and 6*

(A) Killing incidents

2446. The Chamber recalls its factual findings in Section IV.A.1 above, that a large number of Bosnian Muslims and Bosnian Croats were killed by Serb Forces during and after the take-over⁸²²¹

thus are, in the language of Article 15(2) of the ICCPR, 'criminal according to the general principles of law recognised by civilised nations'.")

⁸²¹⁸ See paras. 2456, 2463, 2481–2482, 2517, 2521, 2529, 2537, 2546, 2558, 2569.

⁸²¹⁹ See Sections IV.A.2.b.i: Legal findings on crimes (Murder: Counts 5 and 6), IV.A.2.b.iii: Legal findings on crimes (Deportation and inhumane acts (forcible transfer): Counts 7 and 8).

⁸²²⁰ See Section IV.A.2.b.iv: Legal findings on crimes (Persecution: Count 3).

⁸²²¹ The Chamber recalls that it did not enter factual findings with respect to killings committed by Serb Forces during and after the take-over of Banja Luka, Bosanki Novi, Brčko, Hadžići, Iliđa, Novo Sarajevo, Pale, Rogatica, and Vogošća as there were no Schedule A killing incidents charged with respect to these municipalities.

of Bijeljina,⁸²²² Bratunac,⁸²²³ Foča,⁸²²⁴ Ključ,⁸²²⁵ Novi Grad,⁸²²⁶ Prijedor,⁸²²⁷ Sanski Most,⁸²²⁸ Sokolac,⁸²²⁹ Višegrad,⁸²³⁰ Vlasenica,⁸²³¹ and Zvornik.⁸²³²

2447. The Chamber also recalls its findings in section IV.A.1 above, that many Bosnian Muslims and Bosnian Croats were killed by Serb Forces while detained at detention facilities⁸²³³ in Banja Luka,⁸²³⁴ Bijeljina,⁸²³⁵ Bratunac,⁸²³⁶ Brčko,⁸²³⁷ Foča,⁸²³⁸ Ilidža,⁸²³⁹ Ključ,⁸²⁴⁰ Novi Grad,⁸²⁴¹ Pale,⁸²⁴² Prijedor,⁸²⁴³ Rogatica,⁸²⁴⁴ Sanski Most,⁸²⁴⁵ Vlasenica,⁸²⁴⁶ Vogošća,⁸²⁴⁷ and Zvornik.⁸²⁴⁸

- ⁸²²² The killing of at least 45 civilians in the town of Bijeljina: Scheduled Incident A.1.1.
- ⁸²²³ The killing of at least four people in the village of Hranča and the killing of at least 65 Bosnian Muslims in the village of Glogova: Scheduled Incidents A.3.1, A.3.2. The Chamber recalls that it did not have sufficient evidence to make a finding beyond reasonable doubt as to the circumstances surrounding the death of some Bosnian Muslims killed in Hranča in the municipality of Bratunac.
- ⁸²²⁴ The killing of a number of civilians from the village of Jeleč and the killing of at least seven Bosnian Muslim civilians from the village of Mješaja/ Trošanj: Scheduled Incidents A.5.2, A.5.4. The Chamber recalls that it did not have sufficient evidence to make a finding beyond reasonable doubt as to the circumstances surrounding the death of three individuals during the initial attack on Mješaja/Trošanj in the municipality of Foča.
- ⁸²²⁵ The killing of at least three civilians in the village of Pudin Han, the killing of 52 Bosnian Muslims in Prhovo; and the killing of approximately 200 Bosnian Muslims in Biljani: Scheduled Incidents A.7.1, A.7.2, A.7.3.
- ⁸²²⁶ The killing of 15 Bosnian Muslim men following the attack on Ahatovići: Scheduled Incident A.9.1.
- ⁸²²⁷ The killing of 80 Bosnian Muslims in Kozarac, the killing of at least six Bosnian Muslims in Hambarine and Ljubija, the killing of at least nine Bosnian Muslim men and women in Kamičani, at least eight Bosnian Muslim men in Jaskići, the killing of a number of Bosnian Muslims and Bosnian Croats in the Brdo area, the killing of at least 300 non-Serbs in Biščani and surrounding hamlets, the killing of about 50 persons at a mine in Kipe, and the killing of at least 68 people in the village of Briševo: Scheduled Incidents A.10.1, A.10.2, A.10.3, A.10.4, A.10.5, A.10.6, A.10.7, A.10.9.
- ⁸²²⁸ The killing of approximately 20 men between Begići and Vrhpolje Bridge, the killing of a number of people in Hrustovo village, the killing of approximately 18 men from Kenjari in the hamlet of Blaževići, the killing of approximately 14 people from the hamlet of Budim in Lukavice village, and the killing of nine men near the village of Škrlejevića: Scheduled Incidents A.12.1, A.12.2, A.12.3, A.12.4, A.12.5.
- ⁸²²⁹ The killing of approximately 40 Bosnian Muslim men in the village of Novoseoci: Scheduled Incident A.13.1.
- ⁸²³⁰ The killing of approximately 45 Bosnian Muslim civilians near Paklenik, close to the village of Kalimanići in Sokolac municipality: Scheduled Incident A.14.2. While the killing incident charged in Scheduled Incident A.14.2 occurred in Sokolac, for ease of reference and as charged in paragraph 48 of the Indictment, the Chamber herein includes it under Višegrad since it occurred after the take-over of Višegrad and relates to Bosnian Muslims taken from this municipality.
- ⁸²³¹ The killing of at least 20 Bosnian Muslim men in the village of Drum and the killing of at least 60 people including women and children in the village of Zaklopača: Scheduled Incidents A.15.1, A.15.2.
- ⁸²³² The killing of at least 15 people in the town of Zvornik and the killing of a large number of Bosnian Muslim men at Gero's slaughterhouse: Scheduled Incidents A.16.1, A.16.3.
- ⁸²³³ The Chamber recalls that it did not enter factual findings with respect to killings of Bosnian Muslims and Bosnian Croats while detained at detention facilities in Bosanski Novi, Hadžići, Sokolac, and Višegrad as there were no Schedule B killing incidents charged with respect to these municipalities.
- ⁸²³⁴ The killing of six Bosnian Muslim men in front of the gates of Manjača, the suffocation of 20 detainees during transportation to Manjača, Banja Luka, the killing of eight or nine Bosnian Muslims and Bosnian Croats on their arrival at Manjača, and the killing of at least 15 Bosnian Muslim men detained at Manjača: Scheduled Incidents B.1.1, B.1.2, B.1.3, B.1.4.
- ⁸²³⁵ The killing of at least six Bosnian Muslim men at Batković camp: Scheduled Incident B.2.1.
- ⁸²³⁶ The killing of at least 50 detainees at the Vuk Karadžić School: Scheduled Incident B.4.1.
- ⁸²³⁷ The killing of a large number of non-Serb men at the Luka Camp: Scheduled Incident B.5.1.
- ⁸²³⁸ The killing of over 200 detainees at KP Dom Foča: Scheduled Incident B.8.1.
- ⁸²³⁹ The beating to death of two detainees at Kula Prison and the killing of at least three detainees from Kula Prison while performing forced labour: Scheduled Incidents B.13.1, B.13.2. The Chamber notes that the Indictment originally included Kula Prison as being located in Novo Sarajevo municipality; however it was subsequently

2448. The Chamber further recalls its findings in section IV.A.1 above, that some Bosnian Muslims and Bosnian Croats died as a result of cruel and inhumane treatment by Serb Forces at detention facilities in Banja Luka,⁸²⁴⁹ Bijeljina,⁸²⁵⁰ Bratunac,⁸²⁵¹ Foča,⁸²⁵² Prijedor,⁸²⁵³ Rogatica,⁸²⁵⁴ Sanski Most,⁸²⁵⁵ and Zvornik.⁸²⁵⁶

corrected to include Kula Prison as falling within Iliđža municipality. *See* fn. 7285. The killing incidents related to this detention facility are therefore considered under Iliđža.

- 8240 The killing of 77 Bosnian Muslim men at Velagići School: Scheduled Incident B.10.1.
- 8241 The killing of 11 Bosnian Muslim detainees who were being held at the cisterns in the Rajlovac barracks and the killing of 47 Bosnian Muslim detainees who had been taken away from Rajlovac by bus: Scheduled Incidents B.12.1, B.12.2.
- 8242 The killing of at least three detainees who died as a result of beatings at Pale Gym: Scheduled Incident B.14.1.
- 8243 The killing of at least 190 persons in Room 3 at Keraterm camp; the killing of a large number of non-Serbs at Omarska or after they were taken from Omarska; the killing of at least 120 persons taken from Omarska in the area of Hrastova Glavica; the killing of at least 150 persons from the Brdo region who were detained at Omarska; the killing of a number of non-Serbs after they were taken from Trnopolje; the killing of approximately 200 men at Korićanske Stijene; and the killing of at least 15 detainees at Ljubija Football Stadium: Scheduled Incidents B.15.1, B.15.2, B.15.3, B.15.4, B.15.5, B.15.6, A.10.8.
- 8244 The killing of a number of men taken from the Veljko Vlahović Secondary School and the killing of 24 Bosnian Muslims who had been taken from Rasadnik: Scheduled Incidents B.16.1, B.16.2.
- 8245 The killing of approximately 17 men taken from the Betonirka Factory Garage: Scheduled Incident B.17.1.
- 8246 The killing of nine men from Sušica camp in June and July 1992; the killing of approximately 140 detainees taken from Sušica camp on or about 30 September 1992; the killing of a Bosnian Muslim man at the Vlasenica SJB building; and the killing of approximately 29 Bosnian Muslim men near Nova Kasaba who were taken from Vlasenica: Scheduled Incidents B.18.1, B.18.2, B.18.3, B.18.4. The Chamber notes that with respect to its finding that 29 Bosnian Muslim men were killed near Nova Kasaba, it is charged in the Indictment as a killing related to a detention facility: Scheduled Incident B.18.4. While the Prosecution filed a notice of withdrawal with respect to the relevant detention facility (Scheduled Detention Facility C.25.4), the Chamber has considered these killings as a Schedule B incident as charged in the Indictment.
- 8247 The killing of at least 16 detainees taken from Plaňjo's House in Svrake and killed while carrying out work on the front-lines or while being used as human shields: Scheduled Incident B.19.1.
- 8248 The killing of approximately 88 men at Drinjača; the killing of at least 60 men at Čelopek Dom Kulture; the killing of approximately 160 men at the Karakaj Technical School; and the killing of at least two men at the Ekonomija Farm: Scheduled Incidents B.20.1, B.20.2, B.20.3, B.20.4.
- 8249 The Chamber found that one elderly detainee died during transportation to Manjača due to intense heat: Scheduled Detention Facility C.1.2.
- 8250 The Chamber found that some detainees from the Batković camp died from starvation, exhaustion or while being forced to work on the front-lines: Scheduled Detention Facility C.2.1.
- 8251 The Chamber found that one detainee died of suffocation after Serb Forces piled detainees on top of each other: Scheduled Detention Facility C.6.2.
- 8252 The Chamber found that at least one detainee died as a result of poor medical care: Scheduled Detention Facility C.10.1.
- 8253 The Chamber found that at least one detainee died as a result of beatings: Scheduled Detention Facility C.20.3. The Chamber also found that at least two men died of suffocation after being crammed into a garage for several days: Scheduled Detention Facility C.20.2.
- 8254 The Chamber found that some detainees died following beatings: Scheduled Detention Facility C.21.3.
- 8255 The Chamber found that one detainee died as a result of a beating: Scheduled Detention Facility C.22.4.
- 8256 The Chamber found that approximately 20 detainees died from suffocation after being held in cramped conditions: Scheduled Detention Facility, C.27.2. The Chamber found that one detainee died following a severe beating: Scheduled Detention Facility C.27.6.

(B) Intent of perpetrators

2449. The Chamber recalls its findings that the death of the victims for each of the incidents identified above was a result of the acts of Serb Forces. The Chamber finds that the perpetrators of each of these incidents acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death.

2450. In reaching that conclusion, the Chamber had regard to the circumstances and the manner in which the victims were killed. With respect to the Schedule A killing incidents, the Chamber found that many of the victims were deliberately shot.⁸²⁵⁷ In other incidents, while the Chamber did not have evidence that the victims were deliberately shot, the Chamber did find that they were killed during or after the take-over of towns or villages by Serb Forces⁸²⁵⁸ and is satisfied considering the surrounding circumstances that these killings were deliberate.⁸²⁵⁹

2451. With respect to killings in scheduled detention facilities under Schedule B of the Indictment, the Chamber found that the victims (i) were shot by Serb Forces during their detention;⁸²⁶⁰ (ii) died as a result of severe beatings by Serb Forces during their detention;⁸²⁶¹ or (iii) were taken away from the detention facilities by Serb Forces and killed.⁸²⁶²

2452. The Chamber recalls its finding that in Vogošća and Ilidža a number of detainees were taken from their place of detention by Serb Forces and killed while carrying out work on the front-lines or while being used as human shields.⁸²⁶³ The victims died as a result of the actions of Serb Forces who used them for work on the front-lines or as human shields. In using the victims for work on the front-lines or as human shields, the members of the Serb Forces deliberately took the risk that they would be killed. The Chamber finds that in using them as human shields or in forcing

⁸²⁵⁷ Scheduled Incidents A.1.1, A.3.1, A.7.2, A.7.3, A.9.1, A.13.1, A.14.2, A.15.1, A.15.2, A.16.1, A.16.3, A.12.1, A.12.2, A.12.3, A.12.4, A.12.5, B.17.1 (includes victims whose throats were slit), A.10.1, A.10.2, A.10.3, A.10.4, A.10.5, A.10.6, A.10.7, A.10.8, A.10.9.

⁸²⁵⁸ Scheduled Incidents A.5.2, A.5.4, A.12.3.

⁸²⁵⁹ For example with respect to the three civilians killed as a result of the shelling by Serb Forces in Pudin Han, Ključ municipality, the Chamber found that the mosque was blown up and levelled and that upon his return, KDZ024 found everything in the village burned, destroyed, and in ruins: Scheduled Incident A.7.1. On this basis the Chamber finds beyond reasonable doubt that the shelling was carried out with the intent to cause serious bodily harm which the perpetrators should reasonably have known might lead to the death of civilians.

⁸²⁶⁰ Scheduled Incidents B.2.1, B.4.1, B.5.1, B.10.1, B.12.1, B.15.1, B.15.4, B.15.5, B.16.2, B.18.1, B.18.3, B.20.1, B.20.2, B.20.3, B.20.4.

⁸²⁶¹ Scheduled Incidents B.2.1, B.4.1, B.8.1, B.12.1, B.15.2, B.15.5, B.18.1, B.1.4, B.12.1, B.13.1. The Indictment refers to a separate category of killings committed during, and deaths resulting from, cruel and inhumane treatment and detention facilities. Indictment, para. 60(a)(ii). However, the Chamber notes that some of the Schedule B killing incidents pertain to deaths resulting from such cruel and inhumane treatment.

⁸²⁶² Scheduled Incidents B.8.1, B.12.1, B.12.2, B.15.2, B.15.3, B.15.6, B.16.1, B.18.2, B.1.1, B.1.3, B.17.1.

⁸²⁶³ Scheduled Incidents B.19.1, B.13.3.

them to work on the frontlines, the perpetrators wilfully caused the victims serious bodily harm, which they should reasonably have known might lead to death.

2453. With respect to victims who died as a result of cruel and inhumane treatment at detention facilities, the Chamber found that the victims died in circumstances which showed an intent by the perpetrators to kill or at least wilfully cause them serious bodily harm, which they should reasonably have known might lead to death.⁸²⁶⁴ For example the Chamber found that the detainees were severely beaten⁸²⁶⁵ *inter alia* with chains and metal rods.⁸²⁶⁶ Others were subjected to such conditions that they died from starvation, exhaustion,⁸²⁶⁷ lack of medical care,⁸²⁶⁸ intense heat,⁸²⁶⁹ or suffocation.⁸²⁷⁰

(C) Status of victims

2454. The Chamber also finds that the victims of each of these incidents were civilians⁸²⁷¹ or had been rendered *hors de combat* at the time of their killing. Many of the victims were executed or killed after being captured by Serb Forces;⁸²⁷² some were killed while trying to escape from Serb Forces⁸²⁷³ while others were killed after being detained by Serb Forces in scheduled detention facilities.⁸²⁷⁴

(D) Conclusion

2455. The Chamber has found that there was an armed conflict in BiH throughout the period relevant to the Indictment. As demonstrated by the Chamber's factual findings explained above, the Chamber finds that the killings referred to in this section were closely related to that armed conflict and thus constitute murder as violation of the laws or customs of war.

⁸²⁶⁴ See para. 2448.

⁸²⁶⁵ Scheduled Detention Facility C.27.6.

⁸²⁶⁶ Scheduled Detention Facility C.20.3.

⁸²⁶⁷ Scheduled Detention Facility C.2.1.

⁸²⁶⁸ Scheduled Detention Facility C.10.1.

⁸²⁶⁹ Scheduled Detention Facility C.1.2.

⁸²⁷⁰ Scheduled Detention Facilities C.6.2, C.20.2, C.27.6. See also Scheduled Incident B.1.2.

⁸²⁷¹ Scheduled Incidents A.1.1, A.3.2, A.7.1, A.13.1, A.14.2, A.15.2, A.7.1, A.12.2, A.12.4, A.10.1, A.10.3, A.10.4, A.10.5, A.10.6, B.15.3.

⁸²⁷² Scheduled Incidents A.3.1, A.3.2, A.5.4, A.7.2, A.7.3, A.9.1, A.15.1, A.15.2, A.16.1, A.16.3, A.12.1, A.12.3, A.12.5, A.10.5, A.10.6.

⁸²⁷³ Scheduled Incidents A.5.2, A.15.2, A.12.2, A.12.3, A.10.3, A.10.2, A.10.7.

⁸²⁷⁴ Scheduled Incidents B.2.1, B.4.1, B.5.1, B.8.1, B.10.1, B.12.1, B.12.2, B.15.1, B.15.2, B.15.3, B.15.4, B.15.5, B.15.6, A.10.8, B.16.1, B.16.2, B.18.1, B.18.2, B.18.3, B.20.1, B.20.2, B.20.3, B.20.4, B.1.1, B.1.2, B.1.3, B.1.4, B.13.1.

2456. The Chamber has also found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the killings referred to above were part of this widespread and systematic attack and the perpetrators of these killings knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these killings, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Croat civilian populations of BiH. The Chamber therefore finds that these killings constitute murder as a crime against humanity.

ii. *Extermination: Count 4*

2457. The Chamber has also had regard to each of the killing incidents identified above to determine whether they amount to extermination. While the Chamber recalls that there is no minimum threshold of victims for the purposes of extermination, it still has to be satisfied that the killings occurred on a mass scale and needs to conduct a case-by-case assessment in that regard.⁸²⁷⁵

2458. As previously noted, extermination may be established based on the accumulation of separate incidents.⁸²⁷⁶ However, it has been found that “as a general matter, the element of killing on a large scale cannot be satisfied by a collective consideration of distinct events committed in different prefectures, in different circumstances, by different perpetrators, and over an extended period of time”.⁸²⁷⁷

2459. In this case, the Chamber noted that a large number of killing incidents charged in the Indictment with respect to the Municipalities were committed in different locations, in different circumstances, and by different perpetrators over an extended period of time. Having considered these factors, where the Chamber found that the incidents in question were distinct, the Chamber assessed on a case-by-case basis whether each incident amounts to a mass scale killing for the purposes of the *actus reus* of extermination. In making that assessment, the Chamber has had regard to the scale of each of the killing incidents and the circumstances in which the killings occurred. The Chamber has done so where the circumstances indicated that the killings were committed in geographically proximate locations, in similar circumstances, over a relatively short period of time and were thus considered to be part of the same operation.

⁸²⁷⁵ See Section III.A.2.c: Extermination as a crime against humanity.

⁸²⁷⁶ See Section III.A.2.c: Extermination as a crime against humanity.

⁸²⁷⁷ See Section III.A.2.c: Extermination as a crime against humanity.

2460. On this basis, the Chamber finds that the element of killing on a mass scale is established with respect to each of the following incidents which occurred during and after the take-over of the Municipalities: (i) the killing of at least 45 civilians in the town of Bijeljina;⁸²⁷⁸ (ii) the killing of at least 65 Bosnian Muslims in the village of Glogova in Bratunac;⁸²⁷⁹ (iii) the killing of 52 Bosnian Muslims in Prhovo in Ključ;⁸²⁸⁰ (iv) the killing of approximately 200 Bosnian Muslims in Biljani in Ključ;⁸²⁸¹ (v) the killing of 80 Bosnian Muslims in Kozarac in Prijedor;⁸²⁸² (vi) the killing of at least 300 non-Serbs in the village of Biščani and surrounding hamlets in Prijedor;⁸²⁸³ (vii) the killing of about 50 persons at a mine in Kipe in Prijedor;⁸²⁸⁴ (viii) the killing of at least 68 people in the village of Briševo in Prijedor;⁸²⁸⁵ (ix) the killing of approximately 40 Bosnian Muslim men in the village of Novoseoci in Sokolac;⁸²⁸⁶ (x) the killing of approximately 45 Bosnian Muslim civilians near Paklenik after being taken from Višegrad;⁸²⁸⁷ (xi) the killing of at least 60 people, including women and children, in the village of Zaklopača in Vlasenica;⁸²⁸⁸ and (xii) the killing of a large number of Bosnian Muslim men at Gero's slaughterhouse in Zvornik.⁸²⁸⁹

2461. Similarly, the Chamber finds that the element of killing on a mass scale is established with respect to each of the following incidents which occurred in charged detention facilities: (i) the killing of at least 50 detainees at the Vuk Karadžić School in Bratunac;⁸²⁹⁰ (ii) the killing of a large number of non-Serb men at the Luka Camp in Brčko;⁸²⁹¹ (iii) the killing of over 200 detainees at KP Dom Foča;⁸²⁹² (iv) the killing of 77 Bosnian Muslim men at Velagići School in Ključ;⁸²⁹³ (v) the killing of 47 Bosnian Muslim detainees who had been taken away from Rajlovac in Novi Grad;⁸²⁹⁴ (vi) the killing of at least 190 persons in Room 3 at Keraterm camp in Prijedor;⁸²⁹⁵ (vii) the killing of a large number of non-Serbs at Omarska or after they were taken from Omarska in

8278	Scheduled Incident A.1.1.
8279	Scheduled Incident A.3.2.
8280	Scheduled Incident A.7.2.
8281	Scheduled Incident A.7.3.
8282	Scheduled Incident A.10.1.
8283	Scheduled Incident A.10.6.
8284	Scheduled Incident A.10.7.
8285	Scheduled Incident A.10.9.
8286	Scheduled Incident A.13.1.
8287	Scheduled Incident A.14.2.
8288	Scheduled Incident A.15.2.
8289	Scheduled Incident A.16.3.
8290	Scheduled Incident B.4.1.
8291	Scheduled Incident B.5.1.
8292	Scheduled Incident B.8.1.
8293	Scheduled Incident B.10.1.
8294	Scheduled Incident B.12.2.
8295	Scheduled Incident B.15.1.

Prijedor;⁸²⁹⁶ (viii) the killing of at least 120 persons taken from Omarska in the area of Hrastova Glavica in Prijedor;⁸²⁹⁷ (ix) the killing of at least 150 persons from the Brdo region who were detained at Omarska in Prijedor;⁸²⁹⁸ (x) the killing of approximately 200 non-Serb men at Korićanske Stijene including men taken from Trnopolje in Prijedor;⁸²⁹⁹ (xi) the killing of approximately 140 detainees taken from Sušica camp in Vlasenica;⁸³⁰⁰ (xii) the killing of approximately 88 men at Drinjača in Zvornik;⁸³⁰¹ (xiii) the killing of at least 60 men at Čelopek Dom Kulture in Zvornik,⁸³⁰² and (xiv) the killing of approximately 160 men at the Karakaj Technical School in Zvornik.⁸³⁰³

2462. The Chamber recalls its finding that the perpetrators of each of the killing incidents identified above acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death. Having regard to the scale of the killings, the Chamber further finds that with respect to the killing incidents above, the perpetrators had intent to kill on a mass scale.

2463. The Chamber found there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the killings above were part of this widespread and systematic attack and the perpetrators of these killings knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these killings, which correspond with the scope of the widespread and systematic attack. Further, given the magnitude and systematic nature of the attack on the Bosnian Muslim and Croat civilian populations of BiH, the Chamber further finds that the perpetrators knew of the attack and that the crimes were part of it. The Chamber therefore finds that these killings constitute extermination as a crime against humanity.⁸³⁰⁴

⁸²⁹⁶ Scheduled Incident B.15.2.

⁸²⁹⁷ Scheduled Incident B.15.3.

⁸²⁹⁸ Scheduled Incident B.15.4.

⁸²⁹⁹ Scheduled Incident B.15.6.

⁸³⁰⁰ Scheduled Incident B.18.2.

⁸³⁰¹ Scheduled Incident B.20.1.

⁸³⁰² Scheduled Incident B.20.2.

⁸³⁰³ Scheduled Incident B.20.3.

⁸³⁰⁴ For the remaining killing incidents the Chamber was not satisfied that the element of killing on a mass scale was established. The Chamber also found that these remaining incidents were distinct and that it was impermissible to aggregate them for the purposes of assessing the mass scale element of the killings for the *actus reus* of extermination.

2464. The Chamber will deal with the issue of cumulative convictions later in this Judgement and the impermissibility of entering convictions for both extermination and murder under Article 5 of the Statute where the elements of both crimes have been established.⁸³⁰⁵

iii. *Deportation and inhumane acts (forcible transfer): Counts 7 and 8*

(A) *Actus reus*

(1) Movement of population

2465. The Chamber recalls its findings in Section IV.A.1 of this Judgement that a large number of Bosnian Muslims and Bosnian Croats in the Municipalities⁸³⁰⁶ were displaced. Bosnian Muslims and Bosnian Croats in Bijeljina,⁸³⁰⁷ Bratunac,⁸³⁰⁸ Foča,⁸³⁰⁹ Pale,⁸³¹⁰ Prijedor,⁸³¹¹ Rogatica,⁸³¹² Sanski Most,⁸³¹³ Sokolac,⁸³¹⁴ Vlasenica,⁸³¹⁵ Zvornik,⁸³¹⁶ Bosanski Novi,⁸³¹⁷ Ilidža,⁸³¹⁸ Novi Grad,⁸³¹⁹ Novo Sarajevo,⁸³²⁰ Ključ,⁸³²¹ Hadžići,⁸³²² and Vogošća⁸³²³ were displaced from their homes, villages and towns in which they were lawfully present to other locations in BiH. The locations to which they moved were mostly under Bosnian Muslim control including Tuzla, Konjević Polje, Srebrenica, Goražde, Visoko, Zenica, and areas of Sarajevo. In the case of Bijeljina, the Chamber found that Bosnian Muslims were transferred to “no-man’s land” before being able to cross to

⁸³⁰⁵ See Section IV.F.

⁸³⁰⁶ The Prosecution does not allege criminal responsibility for forcible transfer or deportation in Banja Luka, Brčko and Višegrad as an underlying act of persecution under Count 3 of the Indictment. Indictment, fn. 6. The Chamber notes that in fn. 13 of the Indictment, the Prosecution only states that with regard to deportation as a crime against humanity under Count 7 of the Indictment, it does not allege criminal responsibility for Višegrad. However, the Chamber has interpreted this restrictively in light of fn. 6 of the Indictment in favour of the Accused and will not make findings with respect to forcible transfer or deportation in Banja Luka, Brčko, and Višegrad under Counts 3, 7, or 8.

⁸³⁰⁷ See Section IV.A.1.a.i.H: Movement of the population from Bijeljina.

⁸³⁰⁸ See Section IV.A.1.a.ii.I: Movement of the population from Bratunac.

⁸³⁰⁹ See Section IV.A.1.a.iv.G: Movement of the population from Foča.

⁸³¹⁰ See Section IV.A.1.c.v.E: Movement of the population from Pale and appropriation of property.

⁸³¹¹ See Section IV.A.1.b.i.D.7: Movement of the population from Prijedor and appropriation of property.

⁸³¹² See Section IV.A.1.a.v.H: Movement of the population from Rogatica.

⁸³¹³ See Section IV.A.1.b.i.E.7: Movement of the population from Sanski Most and appropriation of property.

⁸³¹⁴ See Section IV.A.1.a.vi.E: Movement of the population from Sokolac.

⁸³¹⁵ See Section IV.A.1.a.viii.F: Movement of the population from Vlasenica and appropriation of property.

⁸³¹⁶ See Section IV.A.1.a.ix.H: Movement of the population from Zvornik.

⁸³¹⁷ See Section IV.A.1.b.i.B.5: Movement of the population within and from Bosanski Novi.

⁸³¹⁸ See Section IV.A.1.c.ii.E: Movement of the population from Ilidža.

⁸³¹⁹ See Section IV.A.1.c.iii.H: Movement of the population from Novi Grad.

⁸³²⁰ See Section IV.A.1.c.iv.E: Movement of the population from Novo Sarajevo and appropriation of property.

⁸³²¹ See Section IV.A.1.b.i.C.8: Movement of the population from Ključ.

⁸³²² See Section IV.A.1.c.i.E: Movement of the population from Hadžići and appropriation of property.

⁸³²³ See Section IV.A.1.c.vi.G: Movement of the population from Vogošća and appropriation of property.

Bosnian Muslim controlled territory.⁸³²⁴ With respect to these incidents the Chamber finds that Bosnian Muslims and Bosnian Croats were displaced within the national boundaries of BiH.

2466. The Chamber also found that Bosnian Muslims in Bijeljina, Zvornik and Bosanski Novi were displaced from their homes, villages and towns in which they were lawfully present to Serbia or Croatia.⁸³²⁵ In addition, the Chamber found that following the attack on Zvornik in April 1992 by Serb Forces, thousands of Bosnian Muslims fled to Mali Zvornik in Serbia.⁸³²⁶ The Chamber also found that some Bosnian Muslims from Foča were transferred to Montenegro.⁸³²⁷ The Chamber also recalls that Bosnian Muslim and Bosnian Croat detainees from Prijedor were transferred in convoys to locations in Croatia.⁸³²⁸ With respect to these incidents the Chamber finds that Bosnian Muslims and Bosnian Croats were displaced across a *de jure* or *de facto* border between states.

2467. The Chamber recalls that the scale and extent of the expulsions and movement of civilians from the Municipalities resulted in the displacement of a vast number of Bosnian Muslims and Bosnian Croats.⁸³²⁹

(2) Forcible nature of movement

2468. The Chamber finds that the Bosnian Muslims and Bosnian Croats referred to above were forcibly displaced. In reaching that conclusion, the Chamber had regard to the surrounding circumstances in the Municipalities and found that the Bosnian Muslims and Bosnian Croats were displaced as a result of physical force,⁸³³⁰ threat of force,⁸³³¹ or coercion.⁸³³² Others fled out of

⁸³²⁴ See para. 673.

⁸³²⁵ See paras. 673, 1360, 1458.

⁸³²⁶ See para. 1250.

⁸³²⁷ See para. 933.

⁸³²⁸ See para. 1852.

⁸³²⁹ See paras. 678 (the Chamber found that when the Dayton Accords were signed only 500 to 1,000 Bosnian Muslims remained in Bijeljina from the original 17,000); 788 (the Chamber found that with the exception of a few individuals there were no Bosnian Muslims left in Bratunac by June 1992); 933 (the Chamber found that by mid-August 1992 there were almost no Bosnian Muslims in Foča); 1040 (the Chamber found that by August 1995 there were almost no Bosnian Muslims in Rogatica); 1072 (the Chamber found that by the end of 1992 there were as few as 30 to 40 Bosnian Muslim families remaining in Sokolac); 1220 (the Chamber found that in June 1992 there were approximately 150 Bosnian Muslims in Vlasenica who had not been detained and very few non-Serbs remained by October 1992); 1365 (the Chamber found that by the end of June 1992 very few Bosnian Muslims remained in the town of Zvornik); 1471 (the Chamber found that by the end of 1992 the majority of Bosnian Muslims had left Bosanski Novi); 1567 (the Chamber found that by 1995 only 1,200 of the 17,000 Bosnian Muslims remained in Ključ); 2435 (the Chamber found that by May 1993 only 1.8 per cent of 14 villages in Vogošća were Bosnian Muslim); 2329 (the Chamber found that during the war only a small number of Bosnian Muslims remained in Pale).

⁸³³⁰ See Sections IV.A.1.a.i.H: Movement of the population from Bijeljina; IV.A.1.a.ii.I: Movement of the population from Bratunac; IV.A.1.a.v.H: Movement of the population from Rogatica; IV.A.1.a.viii.F: Movement of the population from Vlasenica and appropriation of property; IV.A.1.a.ix.H: Movement of the population from Zvornik; IV.A.1.c.iv.E: Movement of the population from Novo Sarajevo and appropriation of

fear.⁸³³³ This fear was caused by ongoing violence and various crimes committed against non-Serbs including *inter alia*, killings, cruel and inhumane treatment, unlawful detention, rape and other acts of sexual violence, discriminatory measures, and wanton destruction of villages, houses and cultural monuments.⁸³³⁴

2469. Bosnian Muslims were often given limited time to leave their homes before being loaded onto trucks, buses or trains and transported out of the Municipalities.⁸³³⁵ Some Bosnian Muslims and Bosnian Croats, when expelled, were forced to sign statements which left their property to the Bosnian Serb authorities.⁸³³⁶ In some cases they had to sign statements saying that they were leaving a particular area and would never return again.⁸³³⁷ The Chamber also recalls its finding that in Vlasenica for example, some Bosnian Muslim women were forced to sign documents saying they were leaving the municipality of their own free will and those who refused to sign were subjected to threats to their lives and security.⁸³³⁸

2470. In many cases Bosnian Muslims and Bosnian Croats were forced to leave following attacks against their villages or after the take-over of towns by Serb Forces.⁸³³⁹ In other cases, Bosnian Muslims and Bosnian Croats were first arrested, and detained in detention facilities before being transported out of the municipality.⁸³⁴⁰ While the transfers of some detainees out of detention facilities were described as “exchanges”, the Chamber finds that given that these “exchanges” were

property; IV.A.1.c.iii.H: Movement of the population from Novi Grad; IV.A.1.b.i.E.7: Movement of the population from Sanski Most and appropriation of property; IV.A.1.b.i.D.7: Movement of the population from Prijedor and appropriation of property.

⁸³³¹ See, e.g., Sections IV.A.1.a.ii.I: Movement of the population from Bratunac; IV.A.1.a.v.H: Movement of the population from Rogatica; IV.A.1.a.ix.H: Movement of the population from Zvornik; IV.A.1.c.iv.E: Movement of the population from Novo Sarajevo and appropriation of property.

⁸³³² See, e.g., Sections IV.A.1.a.i.H: Movement of the population from Bijeljina; IV.A.1.a.ii.I: Movement of the population from Bratunac; IV.A.1.a.viii.F: Movement of the population from Vlasenica and appropriation of property; IV.A.1.b.i.E.7: Movement of the population from Sanski Most and appropriation of property.

⁸³³³ See Sections IV.A.1.a.i.H: Movement of the population from Bijeljina; IV.A.1.a.ii.I: Movement of the population from Bratunac; IV.A.1.a.v.H: IV.A.1.a.iv.G: Movement of the population from Foča; Movement of the population from Rogatica; IV.A.1.a.viii.F: Movement of the population from Vlasenica and appropriation of property.

⁸³³⁴ The Chamber found in this section of the Judgement numerous examples of such acts directed against Bosnian Muslims and Bosnian Croats in the Municipalities.

⁸³³⁵ See paras. 672, 732, 931, 1035, 1060, 1072, 1144–1145, 1267, 1271, 1462, 2320.

⁸³³⁶ See paras. 675, 929, 1093, 1216–1217, 1266, 1467, 1561, 1566, 2033, 2319, 2322, 2436–2438. See also para. 2057.

⁸³³⁷ See para. 730.

⁸³³⁸ See paras. 1186, 1217.

⁸³³⁹ See paras. 728–732, 747, 858, 929, 972, 977, 1035, 1056, 1060, 1072, 1134, 1139, 1144–1145, 1151, 1216, 1219, 1250, 1260–1261, 1273, 1449, 1456, 1462–1463, 2089, 2313.

⁸³⁴⁰ See paras. 762–764, 888, 1152, 1186, 1202, 1479, 1850–1852, 1902, 2115, 2343–2344, 2161.

predominantly in relation to unlawfully detained civilians, they also amount to forced displacement.⁸³⁴¹

2471. The Chamber recalls its findings that in some Municipalities Bosnian Muslims may have requested assistance or permission to leave, and in some cases they paid exorbitant fees to do so. However, these departures were not voluntary and occurred under circumstances in which they had no real choice but to leave.⁸³⁴² Even when Bosnian Muslim leaders or other non-governmental organisations were involved in trying to evacuate Bosnian Muslims, this occurred in an environment of fear and threats which does not suggest that the population left voluntarily.⁸³⁴³ The Chamber finds that even though non-governmental organisations may have been involved in facilitating some of these displacements, this does not render lawful what were otherwise unlawful transfers. The Chamber found that in other municipalities while the Bosnian Serb authorities referred to movement of the population as “voluntary departure”, in reality civilians were fleeing out of fear for their lives; this occurred in intimidating and violent circumstances which negated any suggestion of voluntariness in their departures.⁸³⁴⁴

2472. In addition the Chamber recalls its finding that even in municipalities where Bosnian Serb authorities did invite citizens to return, the number of those who returned was extremely limited, and the pattern of mistreatment, intimidation and expulsions continued.⁸³⁴⁵ In Vlasenica for example, Bosnian Muslims when they returned to their villages found that their homes had been burnt down.⁸³⁴⁶ In another incident the Chamber found that Serb Forces turned away Bosnian Muslims who tried to return after fleeing their village in Zvornik.⁸³⁴⁷

2473. The Chamber finds that there is no indication that the forcible displacement of the Bosnian Muslim and Bosnian Croat population was carried out on any grounds permitted under international law.

(B) *Mens rea*

2474. With respect to the incidents in paragraph 2465, the Chamber finds that members of the Serb Forces and Bosnian Serb Political and Governmental Organs intended to forcibly displace the

⁸³⁴¹ For the Chamber’s findings with respect to unlawful detention, *see* Section IV.A.2.b.iv.D: Legal findings on crimes (Unlawful detention).

⁸³⁴² *See* paras. 673, 786, 931, 1215, 1222, 1362, 1459–1460, 1561, 1563, 1565–1566, 2039, 2318, 2320, 2331, 2288. *See also* para. 2058.

⁸³⁴³ *See* paras. 1110, 1215, 1467–1469.

⁸³⁴⁴ *See* paras. 1219, 1268.

⁸³⁴⁵ *See* paras. 677, 720–721, 788–789, 1214.

⁸³⁴⁶ *See* para. 1219.

population within a national border. In relation to the incidents in paragraph 2466, the Chamber finds that members of the Serb Forces and Bosnian Serb Political and Governmental Organs intended to forcibly displace the population across a *de jure* or *de facto* border.

2475. In reaching that conclusion, the Chamber had regard to the involvement of Serb Forces and Bosnian Serb Political and Governmental Organs in the systematic movement of Bosnian Muslims and Bosnian Croats from the Municipalities. The Chamber also considered the similar pattern in which Bosnian Muslims and Bosnian Croats were forcibly displaced and the involvement of Serb Forces and Bosnian Serb Political and Governmental Organs in creating an environment of fear in which Bosnian Muslims and Bosnian Croats had no choice but to leave the Municipalities. As found above, this environment of fear was caused by ongoing violence, killings, cruel and inhumane treatment, unlawful detention, rape and other acts of sexual violence, discriminatory measures, and wanton destruction of villages, houses, and cultural monuments. In many cases the population fled following attacks against their villages and homes by Serb Forces. The Chamber finds beyond reasonable doubt that these circumstances demonstrate the requisite intent to forcibly displace the population.

2476. In addition, the Chamber was able to infer intent from a number of explicit examples. In this regard the Chamber also recalls its finding that during attacks on Bosnian Muslim villages in Bratunac for example, members of Serb Forces said “this is a Serb country” and the Bosnian Muslims should be expelled.⁸³⁴⁸ The Chamber also recalls its finding that Bosnian Muslims were told that they would have to go to Tuzla because Bosnian Serbs were going to live in Bratunac.⁸³⁴⁹ In Pale, Bosnian Muslims were told it was better to go “voluntarily” to areas where they were a majority than to be “chase[d] through the woods” later.⁸³⁵⁰

2477. Bosnian Muslims in Rogatica were also threatened and warned about the forthcoming “cleansing” and were told they would be allowed to leave to Visoko and Zenica because this was where Bosnian Muslims were “supposed to live”.⁸³⁵¹ In Vlasenica, members of Serb Forces were instructed to “cleanse” specific areas of Bosnian Muslims and that the “territory had to be 100 percent clean and that none of the Muslims should remain in the area”.⁸³⁵² In Zvornik, the Chamber recalls its finding that Bosnian Serb authorities met to discuss the removal of Bosnian

⁸³⁴⁷ See para. 1269.

⁸³⁴⁸ See para. 744.

⁸³⁴⁹ See para. 769.

⁸³⁵⁰ See para. 2316.

⁸³⁵¹ See para. 1035.

⁸³⁵² See para. 1128.

Muslims and that the Zvornik TO was ordered to organise and co-ordinate the movement out of the Bosnian Muslim population.⁸³⁵³

2478. The Chamber found for example in Bijeljina, that there was a plan for the organised expulsion of Bosnian Muslims.⁸³⁵⁴ This involved multiple phases which created an atmosphere of fear, hardship, intimidation and humiliation where a large number of Bosnian Muslims were expelled or fled the municipality out of fear.⁸³⁵⁵ In Rogatica the Bosnian Serb authorities were involved in the organised displacement of the Bosnian Muslim population and maintained lists of Bosnian Muslims who had been sent away from the municipality.⁸³⁵⁶ In Pale, Bosnian Serb authorities convened meetings to discuss and take a position on the departure of non-Serbs from the municipality. They informed Bijljana Plavšić that there had been “forced and wilful” efforts to move Bosnian Muslims out of the municipality.⁸³⁵⁷

2479. The intent to forcibly displace the population was also demonstrated by statements from Bosnian Serb leaders that for example in Foča, not a single Bosnian Muslim was in Foča and that there was “only one people” living in the municipality and “one religion” being practised there.⁸³⁵⁸ With respect to Zvornik, the Drina Corps reported that “Turks made up 60% of the municipality’s population and it has now been cleansed and replaced with an ethnically pure Serb population”.⁸³⁵⁹

(C) Conclusion

2480. With respect to the incidents above, which relate to forcible displacement within national boundaries, the Chamber finds that those who were displaced left their homes, belongings and livelihoods, without any guarantee concerning the possibility to return in the future and this caused the victims serious mental suffering or injury. These acts were committed with the intent to inflict serious mental suffering, or with knowledge that these acts were likely to cause such suffering. These acts are of similar seriousness to deportation which is listed under Article 5(d) of the Statute. The Chamber therefore finds that these acts are sufficiently serious to amount to “other inhumane acts” pursuant to Article 5(i) of the Statute.

2481. The Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that these acts of

⁸³⁵³ See para. 1363.

⁸³⁵⁴ See paras. 671–672.

⁸³⁵⁵ See paras. 670–673.

⁸³⁵⁶ See para. 1036.

⁸³⁵⁷ See para. 2324.

⁸³⁵⁸ See para. 933.

⁸³⁵⁹ See para. 1365.

deportation and forcible transfer were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these killings, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Croat civilian populations of BiH. The Chamber therefore finds that these incidents constitute deportation and other inhumane acts (forcible transfer) as crimes against humanity.

iv. *Persecution: Count 3*

(A) Killings

2482. The Chamber refers to its legal findings which address murder as a crime against humanity and a violation of the laws or customs of war charged under Counts 5 and 6 of the Indictment, respectively. The Chamber found above that many Bosnian Muslims and Bosnian Croats (i) were killed by Serb Forces during and after the take-over of the Municipalities; (ii) were killed by Serb Forces while detained at multiple detention facilities in the Municipalities; or (iii) died during and as a result of cruel and inhumane treatment by Serb Forces at a number of detention facilities in the Municipalities. The Chamber also found that the perpetrators of each of these incidents acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death. The Chamber further found that the victims of each of these incidents were civilians or had been rendered *hors de combat* at the time of their killing.

2483. The Chamber also finds that the perpetrators of the killings mentioned above intentionally targeted their victims solely on the basis of their identity as Bosnian Muslims or Bosnian Croats; these killings were carried out on discriminatory grounds. In reaching that conclusion, the Chamber also had regard to the insults, taunts and threats directed at the victims by Serb Forces on the basis of their identity as Bosnian Muslims or Bosnian Croats.⁸³⁶⁰ As found earlier, these killings were part of a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH and the perpetrators knew of the attack and that their crimes were part of it.

2484. Therefore the Chamber finds that these killings constitute persecution as a crime against humanity.

⁸³⁶⁰ See, e.g., 743, 806, 873, 1019, 1151, 1314, 1552, 1625, 1702, 1722, 1763, 1869, 1875.

(B) Cruel and/or inhumane treatment

(1) Torture, beatings, physical and psychological abuse

2485. The Chamber refers to its factual findings in Section IV.A.1 with respect to acts carried out by members of Serb Forces in the Municipalities. These factual findings demonstrate an egregious level of mistreatment suffered by Bosnian Muslims and Bosnian Croats throughout the Municipalities while in detention or during and after the take-over of the Municipalities.

2486. For example, the Chamber found that detainees were cut or stabbed with knives.⁸³⁶¹ Some detainees had crosses carved with knives on their body including on their face, arm, and chest.⁸³⁶² One detainee alone had 30 crosses carved onto his body with a hunting knife.⁸³⁶³ In one incident a detainee had salt rubbed into his wounds after being cut.⁸³⁶⁴ In another incident a knife was used to carve out a detainee's tattoo which depicted a crescent and star.⁸³⁶⁵ In another detention facility, detainees were forced to eat body parts which had been severed from other detainees.⁸³⁶⁶

2487. The Chamber also recalls its finding that detainees were severely beaten and mistreated during interrogations.⁸³⁶⁷ Some detainees were questioned about military operations and security issues and mistreated at the same time.⁸³⁶⁸ They had their arms and legs tied and were beaten over an extended period of time.⁸³⁶⁹ Detainees were tied with chains and belts and some were beaten for several hours including on the soles of their feet with a bat,⁸³⁷⁰ while others were physically mistreated with pliers during questioning.⁸³⁷¹ In another incident, a boy was tied to a fence and beaten with a rope.⁸³⁷² Some detainees were also forced to lie on the ground where they were severely beaten and told to confess about their involvement with Bosnian Muslim forces.⁸³⁷³ At another detention facility, a guard repeatedly beat a detainee after he could not answer questions; the detainee fell to the ground and the guard then jumped on him until the detainee lost

⁸³⁶¹ See Scheduled Detention Facilities C.10.1, C.6.1, C.6.2, C.21.2, C.25.1, C.27.1, C.27.4, C.27.5, C.20.2, C.20.4, C.1.2.

⁸³⁶² See Scheduled Detention Facilities C.7.2, C.6.2, C.21.3, C.20.2.

⁸³⁶³ See Scheduled Detention Facility C.21.3.

⁸³⁶⁴ See Scheduled Detention Facility C.25.1.

⁸³⁶⁵ See Scheduled Detention Facility C.27.4.

⁸³⁶⁶ See Scheduled Detention Facility C.27.1.

⁸³⁶⁷ See Scheduled Detention Facilities C.10.1, C.21.3, C.25.1, C.25.2, C.25.3, C.27.3, C.27.6, C.15.1, C.15.2, C.26.3, C.20.3, C.20.2, C.20.7, C.20.4, C.1.2, C.17.1, C.22.1, C.22.2.

⁸³⁶⁸ See Scheduled Detention Facilities C.25.3, C.20.3.

⁸³⁶⁹ See Scheduled Detention Facilities C.25.1, C.27.6, C.15.2, C.20.5.

⁸³⁷⁰ See Scheduled Detention Facility C.10.1.

⁸³⁷¹ See Scheduled Detention Facility C.21.1.

⁸³⁷² See Scheduled Detention Facility C.10.6.

⁸³⁷³ See Scheduled Detention Facility C.20.3.

consciousness and was revived with water poured on him.⁸³⁷⁴ Detainees were also threatened or beaten before being forced to sign statements regarding their involvement in certain activities.⁸³⁷⁵

2488. In detention facilities, some detainees were forced to kneel on the floor, they had knives, bayonets, or guns put in their mouths as a scare tactic;⁸³⁷⁶ others were ordered to lie on the ground and then a guard jumped on them.⁸³⁷⁷ In one incident a detainee was forced to lick his own blood off the floor after being severely beaten.⁸³⁷⁸ Detainees were ordered to bend forward against a wall and kicked until there was a stream of blood running along the wall; their fingers were then stepped on as they were instructed to position them on top of the wall.⁸³⁷⁹ Members of the Serb Forces also threw smoke grenades, tear gas grenades, and stink bombs into areas where the detainees were held.⁸³⁸⁰

2489. Other incidents of mistreatment included detainees being forced to swallow bullets,⁸³⁸¹ hair which had been pulled from their armpits,⁸³⁸² cigarettes,⁸³⁸³ broken glass,⁸³⁸⁴ and motor oil.⁸³⁸⁵ Detainees were also burnt with lit cigarettes⁸³⁸⁶ and had their teeth pulled out.⁸³⁸⁷ Other detainees were ordered to sit for 40 hours in water, with their hands behind their heads and legs spread on the ground, as they were kicked and beaten.⁸³⁸⁸ Detainees were also forced to stand up for several hours which in one incident caused the weaker detainees to faint and fall to the ground.⁸³⁸⁹ The Chamber also recalls an incident where detainees were packed on top of each other in lavatories and forced to lie in the midst of excrement.⁸³⁹⁰

2490. In another incident a prominent Bosnian Muslim detainee was thrown down the stairs and had to be carried out of the detention facility unconscious.⁸³⁹¹ Some detainees were forced to jump,

⁸³⁷⁴ See Scheduled Detention Facility C.21.3.
⁸³⁷⁵ See Scheduled Detention Facilities C.21.3, C.15.2, C.20.2.
⁸³⁷⁶ See Scheduled Detention Facilities C.25.3, C.15.3, C.26.1.
⁸³⁷⁷ See Scheduled Detention Facility C.21.3.
⁸³⁷⁸ See Scheduled Detention Facility C.15.2.
⁸³⁷⁹ See Scheduled Detention Facility C.20.6.
⁸³⁸⁰ See Scheduled Detention Facilities C.26.3, C.20.3, C.27.3, C.17.1.
⁸³⁸¹ See Scheduled Detention Facilities C.21.2, C.21.3.
⁸³⁸² See Scheduled Detention Facility C.21.3.
⁸³⁸³ See Scheduled Detention Facilities C.21.3, C.26.1.
⁸³⁸⁴ See Scheduled Detention Facility C.27.3.
⁸³⁸⁵ See Scheduled Detention Facility C.20.2.
⁸³⁸⁶ See Scheduled Detention Facilities C.21.3, C.11.2, C.18.1.
⁸³⁸⁷ See Scheduled Detention Facility C.21.3.
⁸³⁸⁸ See Scheduled Detention Facility C.25.3.
⁸³⁸⁹ See Scheduled Detention Facilities C.1.2, C.27.4, C.17.1.
⁸³⁹⁰ See Scheduled Detention Facility C.20.2.
⁸³⁹¹ See Scheduled Detention Facility C.15.1.

sometimes head first or chest first, from high points, and, as a result they sustained severe injuries.⁸³⁹² In another incident, detainees were thrown into a fire made of rubber tires.⁸³⁹³

2491. Detainees were punched, kicked, and beaten often severely with whatever device could be found, including chains, batons, bats, clubs, rifle butts, machine guns, heavy wooden sticks, iron tubes, steel rods, wooden planks, poles, thick plastic pipes, cables, rubber hoses, stakes, chair legs, and brass knuckles.⁸³⁹⁴ Some of these beatings occurred while detainees were forced to run a gauntlet.⁸³⁹⁵ Detainees were sometimes taken out of the detention facilities and beaten.⁸³⁹⁶ Some detainees were also forced to beat or fight each other,⁸³⁹⁷ while others were severely beaten if they did not say what they were instructed to say to ICRC representatives.⁸³⁹⁸

2492. Detainees were also beaten when they were given permission to use the toilet or get water,⁸³⁹⁹ or while receiving food.⁸⁴⁰⁰ Some detainees were beaten when forced to carry dead bodies,⁸⁴⁰¹ while others were beaten for any attempts they made to improve the conditions of their detention.⁸⁴⁰² Other detainees were severely beaten on arrival at detention facilities and when they were searched for valuables.⁸⁴⁰³

2493. Detainees were also subject to verbal and mental abuse, intimidation, and threats, including threats that they would be killed.⁸⁴⁰⁴ In addition, detainees were in constant fear as they were involved in moving dead bodies or could hear the screams of other detainees being beaten and physically abused during the night.⁸⁴⁰⁵ Some detainees were also forced to carry and bury dead bodies, clean toilets with their bare hands, clean traces of blood of detainees who had been beaten

⁸³⁹² See Scheduled Detention Facilities C.26.1, C.26.3.

⁸³⁹³ See Scheduled Detention Facility C.20.2.

⁸³⁹⁴ See Scheduled Detention Facilities C.2.1, C.7.2, C.10.1, C.6.1, C.6.2, C.21.3, C.25.1, C.25.2, C.25.3, C.27.2, C.27.4, C.27.5, C.27.6, C.27.7, C.11.2, C.15.1, C.15.2, C.26.1, C.26.3, C.20.3, C.20.2 (the Chamber found that in some cases there were nails embedded in the implements so that the skin of the detainees would be pierced), C.20.1, C.20.5, C.20.6, C.20.4, C.19.2, C.1.2, C.17.1, C.22.1, C.22.3, C.22.4, C.22.5. See also Scheduled Detention Facility C.18.1.

⁸³⁹⁵ See Scheduled Detention Facilities C.20.1, C.20.6, C.19.2, C.1.2, C.18.1, C.17.1.

⁸³⁹⁶ See Scheduled Detention Facilities C.10.1, C.21.2, C.21.3, C.23.2, C.23.1, C.25.3, C.27.4, C.4.1, C.17.1.

⁸³⁹⁷ See Scheduled Detention Facilities C.2.1, C.7.2, C.21.3, C.27.1, C.27.4, C.27.6, C.11.2, C.15.2, C.26.1, C.20.3, C.20.2, C.20.4, C.22.1.

⁸³⁹⁸ See Scheduled Detention Facilities C.2.1, C.21.3.

⁸³⁹⁹ See Scheduled Detention Facilities C.7.2, C.25.1, C.25.2, C.20.2, C.20.1, C.18.1.

⁸⁴⁰⁰ See Scheduled Detention Facilities C.10.1, C.20.2, C.20.3.

⁸⁴⁰¹ See Scheduled Detention Facility C.7.2.

⁸⁴⁰² See Scheduled Detention Facilities C.10.1, C.1.2.

⁸⁴⁰³ See Scheduled Detention Facilities C.1.2, C.18.1. See also See Scheduled Detention Facility C.18.2.

⁸⁴⁰⁴ See Scheduled Detention Facilities C.7.2, C.10.6, C.10.5, C.10.7, C.10.2, C.6.1, C.6.2, C.21.1, C.21.3, C.25.2, C.27.1 (the Chamber found that detainees were forced to beat each other with the promise that the one who won would not be killed), C.27.4, C.27.5, C.27.6, C.15.3, C.15.2, C.26.3, C.26.1, C.4.1, C.20.2, C.20.1, C.20.4, C.19.2. See also paras. 2093, 2264.

⁸⁴⁰⁵ See Scheduled Detention Facilities C.20.2, C.10.1. See also Scheduled Detention Facility C.21.3.

or killed, and were also taken to loot or clean Bosnian Muslim houses in the town for the use of Bosnian Serb families.⁸⁴⁰⁶

2494. Some detainees were singled out for severe beatings in front of other detainees as an example of what could happen to them.⁸⁴⁰⁷ Detainees were also taunted when forced to carry dead bodies.⁸⁴⁰⁸ Detainees were subjected to humiliation; this included being forced to (i) make the “Serb three-finger sign”,⁸⁴⁰⁹ (ii) make the sign of the cross,⁸⁴¹⁰ (iii) walk or kneel with their heads bowed,⁸⁴¹¹ (iv) eat carbonised bread without dropping anything,⁸⁴¹² and (v) graze grass like animals at gun point.⁸⁴¹³ Some detainees were spat at and verbally degraded.⁸⁴¹⁴ In one case a Bosnian Muslim priest was targeted for humiliation; he was forced to drink beer, make the “Serb three-finger sign”, and sing “Chetnik” songs.⁸⁴¹⁵ Some Bosnian Muslim detainees were also forced to sign papers saying that they had “voluntarily joined the Serbian Orthodox religion”.⁸⁴¹⁶ The Chamber also found that Serb nationalist songs were played loudly and continuously in a detention facility.⁸⁴¹⁷ In Pale, the Chamber found that detainees had their hair forcibly cut with a knife.⁸⁴¹⁸ In another incident detainees in Novi Grad were forced to lie on the ground, beaten, and then subject to attacks by dogs.⁸⁴¹⁹

2495. The Chamber also recalls its findings that Bosnian Muslims were beaten or abused during or after attacks on villages⁸⁴²⁰ or during and after their arrest.⁸⁴²¹ Some Bosnian Muslim patients

⁸⁴⁰⁶ See Scheduled Detention Facilities C.7.2, C.21.3, C.25.3, C.20.2, C.20.4, C.27.4. The Chamber also found that other detainees were forced to work at Ekonomija farm but has insufficient evidence as to the nature of the work to determine whether it amounted to a denial of or infringement upon a fundamental right to reach the level of gravity of other Article 5 crimes. See Scheduled Detention Facility C.27.6.

⁸⁴⁰⁷ See Scheduled Detention Facilities C.7.2, C.26.1, C.15.2.

⁸⁴⁰⁸ See Scheduled Detention Facility C.7.2.

⁸⁴⁰⁹ See Scheduled Detention Facilities C.2.1, C.6.2, C.27.6, C.15.2, C.20.2, C.20.1.

⁸⁴¹⁰ See Scheduled Detention Facilities C.27.4, C.18.1.

⁸⁴¹¹ See Scheduled Detention Facilities C.2.1, C.1.2.

⁸⁴¹² See Scheduled Detention Facility C.27.4.

⁸⁴¹³ See Scheduled Detention Facility C.4.1.

⁸⁴¹⁴ See Scheduled Detention Facility C.15.2.

⁸⁴¹⁵ See Scheduled Detention Facility C.6.2.

⁸⁴¹⁶ See Scheduled Detention Facility C.21.1.

⁸⁴¹⁷ See Scheduled Detention Facility C.20.2.

⁸⁴¹⁸ See Scheduled Detention Facility C.19.2.

⁸⁴¹⁹ See Scheduled Detention Facility C.17.1.

⁸⁴²⁰ See paras. 861, 873, 1264, 1266. The Chamber recalls its finding that following the attack on Mješaja/Trošanji by Serb Forces, Bosnian Muslim villagers were kicked and hit with rifle butts and tree branches, and in one case a Bosnian Muslim lost an eye. See para. 1139.

⁸⁴²¹ See paras. 862, 876–877, 970, 985, 1126, 1134, 1155–1156, 1464, 2093; Scheduled Detention Facilities C.27.2, C.27.6, C.20.6.

were also severely kicked and beaten in hospitals when it was discovered that they were Bosnian Muslims.⁸⁴²²

2496. The Chamber also recalls its finding that prominent Bosnian Muslims and Bosnian Croats, including professionals and leaders, were targeted, taken away, detained, and subjected to intimidation and beatings.⁸⁴²³ The Chamber also found that members of Serb Forces mistreated and intimidated Bosnian Muslims by making derogatory remarks, by shooting at their homes and mosques, and by stopping, beating, and mistreating Bosnian Muslims at check-points and barricades.⁸⁴²⁴

2497. The Chamber recalls its finding that many detainees had visible wounds and bruises following this mistreatment and some were unable to walk or talk for days.⁸⁴²⁵ Some detainees were subjected to multiple beatings on a daily basis.⁸⁴²⁶ Injuries included broken and fractured bones, bleeding, severe bruises, swelling, and knocked-out teeth.⁸⁴²⁷ In one case a detainee began to urinate blood after being beaten severely,⁸⁴²⁸ and others had their eyes knocked out or were blinded.⁸⁴²⁹ Some detainees were beaten severely until they lost consciousness.⁸⁴³⁰ The Chamber also found that detainees continued to suffer ongoing physical and psychological effects.⁸⁴³¹

2498. Having considered these incidents, the Chamber finds that Bosnian Muslims and Bosnian Croats were subjected to intentional acts which caused severe physical and mental pain or suffering. These acts were intentionally carried out by members of Serb Forces and were aimed at (i) obtaining information or a confession; (ii) punishing, intimidating, or coercing the victim or a third person, or (iii) discriminating against the victim or a third person. The Chamber therefore finds that acts of torture were carried out against Bosnian Muslims and Bosnian Croats in the Municipalities.

2499. In addition, these incidents establish that Bosnian Muslims and Bosnian Croats were also subjected to deliberate beatings, physical and psychological abuse, including harassment, constant humiliation, and degradation. The Chamber finds that these beatings and abuse caused serious

⁸⁴²² See para. 863; Scheduled Detention Facility C.20.4.

⁸⁴²³ See paras. 723, 729, 766, 1119, 1162; Scheduled Detention Facilities C.20.2, C20.1.

⁸⁴²⁴ See paras. 950, 952, 970, 1048, 1102, 1119, 1242, 1262, 1266, 1276, 1282, 1493, 1500.

⁸⁴²⁵ See Scheduled Detention Facilities C.10.1, C.21.3, C.20.2, C.20.1.

⁸⁴²⁶ See Scheduled Detention Facilities C.2.1, C.19.2.

⁸⁴²⁷ See Scheduled Detention Facilities C.21.3, C.25.3, C.27.3, C.27.4, C.27.6, C.15.1, C.15.2, C.26.1, C.20.3, C.20.2, C.20.1, C.20.5, C.20.6, C.20.7, C.20.4, C.17.1, C.22.1.

⁸⁴²⁸ See Scheduled Detention Facility C.25.3.

⁸⁴²⁹ See Scheduled Detention Facilities C.27.3, C.4.1.

⁸⁴³⁰ See Scheduled Detention Facilities C.6.2, C.25.3, C.27.3, C.27.4, C.27.6, C.15.1, C.26.1, C.20.1, C.20.6.

⁸⁴³¹ See Scheduled Detention Facilities C.10.1, C.2.1, C.15.1.

mental or physical suffering or injury or constituted a serious attack on human dignity and amounted to a denial of or infringement upon a fundamental right. The Chamber therefore finds that these acts of beatings, physical and psychological abuse are of equal gravity to the other crimes listed under Article 5 of the Statute.

(2) Rape and other acts of sexual violence⁸⁴³²

2500. The Chamber found in Section IV.A.1 above that Serb Forces committed rape against Bosnian Muslim and Bosnian Croat women and men in Bijeljina,⁸⁴³³ Brčko,⁸⁴³⁴ Foča,⁸⁴³⁵ Novo Sarajevo,⁸⁴³⁶ Prijedor,⁸⁴³⁷ Rogatica,⁸⁴³⁸ Vlasenica,⁸⁴³⁹ Vogošća,⁸⁴⁴⁰ and Zvornik.⁸⁴⁴¹ Some Bosnian Muslim women and girls were raped on multiple occasions, sometimes on a continuous basis by members of Serb Forces while in detention facilities.⁸⁴⁴²

2501. In one case a woman was raped approximately 150 times during her detention.⁸⁴⁴³ There were incidents where Bosnian Muslim women who had been detained were taken out of the facilities and raped by Serb Forces; in some incidents the rape was accompanied by additional threats or use of violence and sometimes involved gang rape.⁸⁴⁴⁴ Some Bosnian Muslim women were moved to houses and apartments where they were raped on some occasions in front of each other.⁸⁴⁴⁵ Other incidents included women being raped and further humiliated publicly by members of Serb Forces in villages which had been taken-over.⁸⁴⁴⁶ The Chamber also found that some Bosnian Muslim male detainees, including a 13-year-old boy, were also raped by Serb Forces who used police truncheons and similar objects.⁸⁴⁴⁷

⁸⁴³² The Prosecution does not allege criminal responsibility for rape and other acts of sexual violence in Banja Luka, Bosanski Novi, Bratunac, Pale, and Višegrad. Indictment, fn. 5.

⁸⁴³³ See para. 631 ; Scheduled Detention Facility C.2.1.

⁸⁴³⁴ See Scheduled Detention Facility C.7.2.

⁸⁴³⁵ See Scheduled Detention Facilities C.10.4, C.10.5, C.10.2.

⁸⁴³⁶ See paras. 2270–2271, 2274.

⁸⁴³⁷ See Scheduled Detention Facilities C.20.3, C.20.2, C.20.4.

⁸⁴³⁸ See Scheduled Detention Facility C.21.3.

⁸⁴³⁹ See Scheduled Detention Facility C.25.3.

⁸⁴⁴⁰ See Scheduled Detention Facility C.26.3.

⁸⁴⁴¹ See Scheduled Detention Facility C.27.6.

⁸⁴⁴² See Scheduled Detention Facilities C.7.2, C.10.4, C.10.2, C.21.1, C.21.3, C.20.3, C.20.2, C.20.4.

⁸⁴⁴³ See Scheduled Detention Facilities C.10.5, C.10.7.

⁸⁴⁴⁴ See Scheduled Detention Facilities C.7.2, C.10.5, C.10.2, C.21.1. See also Scheduled Detention Facilities C.20.3 (the Chamber found that a Bosnian Muslim woman was found in a pool of blood after being raped), C.20.2, C.20.4.

⁸⁴⁴⁵ See Scheduled Detention Facilities C.10.2, C.21.1.

⁸⁴⁴⁶ See paras. 631, 1269.

⁸⁴⁴⁷ See Scheduled Detention Facility C.21.1.

2502. In one incident Bosnian Muslim detainees were ordered to get down on all fours, a pointed stake was introduced into their anuses causing them to scream in pain; they were then ordered to wipe the blood with their clothes.⁸⁴⁴⁸ In other incidents detainees were forced to have oral and sexual intercourse with each other, sometimes in front of other detainees.⁸⁴⁴⁹

2503. Other acts of sexual violence included male and female detainees who were ordered to undress, dance, and perform sexual acts in front of Bosnian Serb soldiers.⁸⁴⁵⁰ In other incidents detainees were forced to remove their underwear and bite or suck each others' penises while soldiers stood by and laughed.⁸⁴⁵¹ In another incident detainees were forced to lick the buttocks of a Bosnian Serb woman, who threatened to slit their throats if they did not comply.⁸⁴⁵² A female detainee had her breast exposed while a guard went over it with a knife and the other guards watched and laughed.⁸⁴⁵³

2504. The Chamber finds that each of these acts of rape and other acts of sexual violence were committed by members of Serb Forces without the consent of the victims, that the perpetrators intentionally committed these acts, and that the perpetrators were aware that the victims did not consent to such acts. In reaching that conclusion the Chamber has had regard to the circumstances in which they occurred and the horrific nature of the acts themselves. This includes the fact that the victims were often detained and subjected to threats of or actual violence and humiliation.

2505. With respect to the other acts of sexual violence referred to above, the Chamber finds that they involved serious abuses of a sexual nature which were inflicted upon the integrity of the victims by means of coercion, threat of force, or intimidation in a way that caused the utmost humiliation and degradation to the dignity of the victims. The Chamber finds that these acts of sexual violence amounted to denial of or infringement upon a fundamental right and were of equal gravity to the other crimes listed under Article 5 of the Statute.

2506. The Chamber therefore finds that Bosnian Muslim women, men, girls, and boys were subject to rape and other acts of sexual violence.

⁸⁴⁴⁸ See Scheduled Detention Facility C.27.6.

⁸⁴⁴⁹ See Scheduled Detention Facilities C.2.1, C.26.3, C.26.1, C.20.2.

⁸⁴⁵⁰ See Scheduled Detention Facility C.21.3.

⁸⁴⁵¹ See Scheduled Detention Facilities C.27.6, C.11.2.

⁸⁴⁵² See Scheduled Detention Facility C.11.2.

⁸⁴⁵³ See Scheduled Detention Facility C.20.2.

(3) Establishment and perpetuation of inhumane living conditions

2507. The Chamber found in Section IV.A.1 above that Bosnian Muslims and Bosnian Croats were detained in multiple detention facilities. The Chamber recalls its findings that the detainees were held in terrible living conditions characterised by severe over-crowding;⁸⁴⁵⁴ poor sleeping conditions, including insufficient bedding and blankets;⁸⁴⁵⁵ insufficient or no heating;⁸⁴⁵⁶ lack of ventilation and light; stifling heat;⁸⁴⁵⁷ poor sanitation and hygiene, including inadequate washing and toilet facilities;⁸⁴⁵⁸ the provision of inadequate food and in some cases rotten food,⁸⁴⁵⁹ insufficient or restricted access to water;⁸⁴⁶⁰ and inadequate or non-existent medical care.⁸⁴⁶¹

2508. At some detention facilities, the detainees were held in dark, cold, and wet conditions due to leaking roofs.⁸⁴⁶² In one of these facilities, food was distributed in bowls which had been used to feed dogs and in some cases the detainees' food was given to the dogs.⁸⁴⁶³ The Chamber also recalls its finding that in some detention facilities, there was a terrible stench due to the inadequate and leaking toilet facilities and that at night detainees were forced to use a pot and when this filled, they relieved themselves in their pants or in their rooms.⁸⁴⁶⁴

2509. In some cases detainees experienced extreme weight loss, malnutrition, and a deterioration of their health during their detention as a result of the lack of food and medical attention.⁸⁴⁶⁵ The

⁸⁴⁵⁴ See Scheduled Detention Facilities C.2.1, C.7.2, C.10.1, C.25.1, C.25.2, C.27.2, C.15.3, C.4.1, C.20.3, C.20.2, C.20.5, C.20.4 (the Chamber found that due to the lack of space detainees were forced to sleep outdoors in makeshift shelters), C.18.1, C.18.2, C.22.1, C.22.2, C.22.3.

⁸⁴⁵⁵ See Scheduled Detention Facilities C.10.1, C.21.1, C.25.1, C.25.2, C.25.3, C.11.2, C.26.3, C.26.1, C.4.1, C.20.3, C.19.2, C.1.2, C.22.1, C.22.2, C.22.3, C.22.4.

⁸⁴⁵⁶ See Scheduled Detention Facilities C.10.1, C.18.2. The Chamber found that this was done deliberately, with no heaters in the rooms, windowpanes left broken, and clothes used to combat the cold confiscated from the detainees. See Scheduled Detention Facility C.25.3.

⁸⁴⁵⁷ See Scheduled Detention Facilities C.20.3, C.20.2, C.20.1, C.20.5, C.20.4, C.1.2, C.22.1, C.22.2, C.22.3.

⁸⁴⁵⁸ See Scheduled Detention Facilities C.2.1, C.10.1, C.10.5, C.10.7, C.21.1, C.21.3, C.23.1, C.25.3, C.11.2, C.26.3 (the Chamber found that detainees were held in a location where garbage was disposed of and accumulated), C.26.1, C.4.1, C.20.3, C.20.2, C.20.1, C.20.4, C.19.2, C.1.2, C.18.2, C.22.1, C.22.2, C.22.4.

⁸⁴⁵⁹ See Scheduled Detention Facilities C.2.1, C.10.1, C.10.5, C.10.7, C.6.2, C.21.1, C.23.1, C.25.1, C.25.3, C.27.2, C.11.2, C.11.1, C.26.3, C.26.1, C.4.1, C.20.3, C.20.2, C.20.5, C.20.4, C.19.2, C.1.2, C.17.1, C.18.2, C.22.1, C.22.2, C.22.3, C.22.4.

⁸⁴⁶⁰ See Scheduled Detention Facilities C.21.3, C.25.3, C.11.1, C.4.1, C.20.2 (the Chamber found that detainees were denied water for long periods and when it was provided it was not potable which caused intestinal problems), C.20.5 (the Chamber found that detainees had to "earn" drinking water by singing songs about Greater Serbia), C.20.4, C.1.2, C.18.1, C.17.1, C.22.1, C.22.2, C.22.5.

⁸⁴⁶¹ See Scheduled Detention Facilities C.21.1, C.10.1, C.25.1, C.25.2, C.25.3, C.26.1, C.4.1, C.20.3, C.20.2, C.20.7, C.20.4, C.19.2, C.1.2, C.22.2, C.22.3.

⁸⁴⁶² See Scheduled Detention Facilities C.26.3, C.1.2, C.17.1.

⁸⁴⁶³ See Scheduled Detention Facility C.26.3.

⁸⁴⁶⁴ See Scheduled Detention Facilities C.25.3, C.20.2, C.20.3.

⁸⁴⁶⁵ See Scheduled Detention Facilities C.2.1, C.10.1 (finding that some detainees suffered multiple bouts of pneumonia due to the conditions in the facility), C.26.1, C.4.1, C.20.3, C.20.2. See also Scheduled Detention Facilities C.19.2, C.1.2.

poor hygienic conditions also resulted in a major problem with lice, skin diseases, and dysentery at some facilities.⁸⁴⁶⁶ The Chamber also found that the living conditions in some detention facilities caused lasting physical and psychological problems for some detainees.⁸⁴⁶⁷ The Chamber also refers to its findings in Section IV.A.2.b.i regarding the detainees who died as a result of the conditions of detention.

2510. While the Chamber did find that the conditions improved in some facilities with time, this does not detract from the fact that prior to these modest improvements conditions were deplorable in the overwhelming majority of detention facilities referred to in the Indictment.⁸⁴⁶⁸ The Chamber also notes in this regard its findings that Bosnian Serb authorities and officials attempted to cover up and prevent the leakage of information regarding the conditions of detention and the condition of detainees.⁸⁴⁶⁹ These attempts included hiding detainees before the arrival of international representatives and threatening detainees with severe punishment if they complained about conditions and treatment.⁸⁴⁷⁰

2511. Having considered these factors the Chamber finds that members of the Bosnian Serb Political and Governmental Organs and Serb Forces deliberately established and perpetuated inhumane living conditions at a number of detention facilities in the Municipalities.⁸⁴⁷¹ Having considered the extent and the deplorable nature of these inhumane conditions in so many detention facilities, and the grave consequences for those detained, the Chamber concludes that these acts amount to a denial of or infringement upon a fundamental right and reach the level of seriousness of other crimes listed under Article 5 of the Statute.

(4) Conclusion on cruel and inhumane treatment

2512. As found above, Bosnian Muslims and Bosnian Croats in the Municipalities were subjected to (i) torture, beatings, and physical and psychological abuse; (ii) rape and other acts of sexual violence; and (iii) inhumane living conditions. These acts and/or omissions resulted in serious mental or physical suffering or injury for the victims; this amounts to a serious attack on human dignity. The perpetrators of these acts or omissions were members of Serb Forces. The Chamber finds that the perpetrators committed these acts or omissions (i) with intent to cause serious mental or physical suffering or injury; (ii) with intent to cause a serious attack on human dignity; or (iii)

⁸⁴⁶⁶ See Scheduled Detention Facilities C.10.1, C.20.3, C.20.2, C.20.4, C.1.2, C.18.2.

⁸⁴⁶⁷ See Scheduled Detention Facility C.10.1.

⁸⁴⁶⁸ See Scheduled Detention Facility C.25.3.

⁸⁴⁶⁹ See paras. 1198, 1200. See also para. 2150.

⁸⁴⁷⁰ See Scheduled Detention Facilities C.25.3, C.26.3. See also Scheduled Detention Facilities C.4.1, C.20.2.

with knowledge that serious mental or physical suffering or injury or a serious attack on human dignity was a probable consequence of these acts or omissions.

2513. In addition, the Chamber finds that the perpetrators of these acts or omissions chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. The Chamber finds that these acts or omissions discriminated in fact and denied or infringed on fundamental rights. The Chamber also finds that these acts or omissions were carried out deliberately with the intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.⁸⁴⁷² In reaching that conclusion, the Chamber infers intent from the fact that those targeted by these acts of cruel and inhumane treatment were almost exclusively Bosnian Muslims or Bosnian Croats. In addition, the Chamber also had regard to the insults, taunts, and threats directed at the victims on the basis of their identity as Bosnian Muslims or Bosnian Croats, which expressly demonstrated this discriminatory intent.

2514. Examples of such insults and taunts which the Chamber found were connected to these acts of cruel and inhumane treatment include the following. Detainees who were subject to beatings or mistreatment were called “balijas” and a “Turkish gang, a fictitious people, a non-existent people” and told that they would all be killed or exterminated.⁸⁴⁷³ Other detainees were subject to similar ethnic slurs during the beating and mistreatment.⁸⁴⁷⁴ In one incident a detainee was forced to run around the detention facility and swear at the detainees’ “balija mother”.⁸⁴⁷⁵ Some detainees were called “Ustasha” before or during their mistreatment.⁸⁴⁷⁶ Detainees were also forced to sing “Chetnik” songs⁸⁴⁷⁷ and to make the “Serb three-finger sign”.⁸⁴⁷⁸ Detainees were also taunted with political comments such as “You wanted a state: here is a state for you”, “where is now your Alija to save you?”, and “Where is Naser, your liberator?”⁸⁴⁷⁹ Bosnian Muslims were told “there would be no balija state soon” and they were “finished”.⁸⁴⁸⁰ The Chamber recalls that it found that during one rape, a Bosnian Muslim woman was told that “Muslim women should give birth to Serb children”, and the perpetrator also said that Muslims were not human beings.⁸⁴⁸¹ The

⁸⁴⁷¹ The Chamber recalls that it did not have sufficient evidence to make a finding as to the conditions of detention at the TO military warehouses at Livade in Foča. See Scheduled Detention Facility C.10.6.

⁸⁴⁷² The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

⁸⁴⁷³ See para. 806.

⁸⁴⁷⁴ See paras. 862, 1013, 1196, 1306, 1477, 1532, 1536, 1745, 1764, 1826, 2021, 2093, 2105, 2198, 2277–2278.

⁸⁴⁷⁵ See para. 2105.

⁸⁴⁷⁶ See paras. 776, 873, 1763.

⁸⁴⁷⁷ See Scheduled Detention Facilities C.7.2, C.6.2, C.27.4, C.27.5, C.20.2, C.1.2, C.18.1.

⁸⁴⁷⁸ See Scheduled Detention Facilities C.2.1, C.6.2.

⁸⁴⁷⁹ See para. 2514.

⁸⁴⁸⁰ See para. 2093.

⁸⁴⁸¹ See para. 1830.

discriminatory nature of the conditions of detention was shown, for example, by the finding that in facilities where some Bosnian Serb detainees were also held, they received better food and did not suffer the extreme weight loss of non-Serb detainees.⁸⁴⁸²

2515. In finding discriminatory intent for these acts of cruel and inhumane treatment, the Chamber also had regard to the surrounding circumstances in the Municipalities in the lead-up to, during, and after the take-over of the Municipalities including specific statements directed against the Bosnian Muslim population. In Foča for example, Bosnian Serb leaders made radio announcements that it was no longer possible for Bosnian Serbs to live with their Bosnian Muslim neighbours, that they could not be woken every morning by the hodza from the mosque, and that the “the time had come for the Serbs to settle accounts with the balijas once and for all, and that the Serbs would no longer allow their ribs to be broken. They will no longer allow their children to be circumcised”.⁸⁴⁸³ Similar radio broadcasts were made in Prijedor which referred to the destruction of the “balijas” and their property and mosques.⁸⁴⁸⁴

2516. In addition, the Chamber found in Bratunac, for instance, that in the lead-up to the conflict, SDS members wrote slogans on street and traffic signs as well as on public and private property, which were derogatory towards Bosnian Muslims, including messages to the effect: “Muslims, Balijas, Turks move out, you’re going to be slaughtered”.⁸⁴⁸⁵ In Vlasenica, Bosnian Serb leaders declared that when BiH “was proclaimed a sovereign state, we will draw up our borders in blood”.⁸⁴⁸⁶ Similarly in Vlasenica, graffiti was written on the houses of prominent Bosnian Muslims saying “Ustasha”, “Muslims out”, “We will slaughter”, “Out”, and “This is Serb, this is Serbia”.⁸⁴⁸⁷ Bosnian Serb leaders in Vogošća said that “Muslims were simply going to disappear”.⁸⁴⁸⁸

2517. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the acts or omissions referred to above were part of this widespread and systematic attack and the perpetrators knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims, which

⁸⁴⁸² See paras. 893–894.

⁸⁴⁸³ See para. 852.

⁸⁴⁸⁴ See paras. 1604, 1606, 1609. See also para. 688.

⁸⁴⁸⁵ See para. 688. See also para. 2184.

⁸⁴⁸⁶ See para. 1101.

⁸⁴⁸⁷ See para. 1119.

⁸⁴⁸⁸ See para. 2362.

correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Croat civilian populations of BiH.

2518. The Chamber therefore finds that these incidents of cruel and inhumane treatment constitute acts of persecution as a crime against humanity.

(C) Forcible transfer and deportation

2519. The Chamber found above that deportation and inhumane acts (forcible transfer) were committed and these constituted crimes against humanity as charged under Counts 7 and 8 of the Indictment.

2520. The Chamber also finds that the perpetrators of these acts of forcible transfer and deportation chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. These acts were carried out on discriminatory grounds and with discriminatory intent. In reaching that conclusion, the Chamber recalled its finding that Bosnian Muslims who were removed from their villages were subjected to a “barrage of insults” with respect to their “Muslim ethnicity”.⁸⁴⁸⁹ Similarly during expulsions in Novo Sarajevo Serb Forces made statements such as “all Ustašas and Balijas out!” and in Prijedor victims were cursed and told they would be sent to Turkey.⁸⁴⁹⁰ The Chamber also refers to its findings above relating to *mens rea* which are also indicative of this discriminatory intent.⁸⁴⁹¹ The Chamber also had regard to its finding that these acts of forcible transfer and deportation were discriminatory in fact given that the victims of these acts were almost exclusively Bosnian Muslims and Bosnian Croats.

2521. As the Chamber found above, these acts were part of a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH and the perpetrators knew of the attack and that their crimes were part of it. In addition the Chamber found that the acts of forcible displacement within national boundaries were sufficiently serious to amount to “other inhumane acts”. Therefore the Chamber finds that these acts of forcible transfer and deportation constitute acts of persecution as a crime against humanity.

(D) Unlawful detention

2522. The Chamber found in Section IV.A.1 that a large number of Bosnian Muslim and Bosnian Croat civilians were detained by members of Serb Forces and Bosnian Serb Political and

⁸⁴⁸⁹ See para. 1151.

⁸⁴⁹⁰ See paras. 1652, 2283

⁸⁴⁹¹ See paras. 2474–2479.

Governmental Organs in detention facilities in Banja Luka,⁸⁴⁹² Bijeljina,⁸⁴⁹³ Bosanski Novi,⁸⁴⁹⁴ Bratunac,⁸⁴⁹⁵ Brčko,⁸⁴⁹⁶ Foča,⁸⁴⁹⁷ Hadžići,⁸⁴⁹⁸ Ključ,⁸⁴⁹⁹ Iliđža,⁸⁵⁰⁰ Novi Grad,⁸⁵⁰¹ Novo Sarajevo,⁸⁵⁰² Pale,⁸⁵⁰³ Prijedor,⁸⁵⁰⁴ Rogatica,⁸⁵⁰⁵ Sanski Most,⁸⁵⁰⁶ Sokolac,⁸⁵⁰⁷ Vlasenica,⁸⁵⁰⁸ Vogošća,⁸⁵⁰⁹ and Zvornik.⁸⁵¹⁰

2523. The arbitrary nature of this detention was shown by the Chamber's findings that in some detention facilities the detainees (i) were not detained on any legal grounds; (ii) were not informed as to why they were arrested and detained; (iii) were not suspected, charged, tried, or convicted for any crime before being detained or while detained; (iv) were not advised of their rights before or during their detention and (v) their detention was not subject to review.⁸⁵¹¹ The Chamber also recalls, for example, that the local authorities in Brčko were informed that people were being detained without any legal grounds, and while some detainees were released, this was done in a selective manner and based on personal connections.⁸⁵¹²

2524. The arbitrary nature of the detention is also evidenced, for example, by the decision by the Bosnian Serb authorities in Hadžići to arrest and detain all Bosnian Muslim men of military age from certain areas in the municipality⁸⁵¹³ and that in the Omarska camp the detainees were categorised, and included a category of detainees of "no security interest".⁸⁵¹⁴

⁸⁴⁹² See Scheduled Detention Facility C.1.2.

⁸⁴⁹³ See Scheduled Detention Facility C.2.1.

⁸⁴⁹⁴ See Scheduled Detention Facility C.4.1.

⁸⁴⁹⁵ See Scheduled Detention Facilities C.6.1, C.6.2.

⁸⁴⁹⁶ See Scheduled Detention Facility C.7.2.

⁸⁴⁹⁷ See Scheduled Detention Facilities C.10.1, C.10.2, C.10.4, C.10.5, C.10.6, C.10.7.

⁸⁴⁹⁸ See Scheduled Detention Facilities C.11.1, C.11.2.

⁸⁴⁹⁹ See Scheduled Detention Facilities C.15.1, C.15.2, C.15.3.

⁸⁵⁰⁰ See Scheduled Detention Facility C.18.2.

⁸⁵⁰¹ See Scheduled Detention Facility C.17.1.

⁸⁵⁰² See Scheduled Detention Facility C.18.1.

⁸⁵⁰³ See Scheduled Detention Facility C.19.2.

⁸⁵⁰⁴ See Scheduled Detention Facilities C.20.1, C.20.2, C.20.3, C.20.4, C.20.5, C.20.6, C.20.7.

⁸⁵⁰⁵ See Scheduled Detention Facilities C.21.1, C.21.2, C.21.3. While in Rogatica, some Bosnian Muslims surrendered themselves to Veljko Vlahović Secondary School, the Chamber recalls its finding that those individuals did not seek shelter but were detained at the facility. See Scheduled Detention Facility C.21.1.

⁸⁵⁰⁶ See Scheduled Detention Facilities C.22.1, C.22.2, C.22.3, C.22.4, C.22.5.

⁸⁵⁰⁷ See Scheduled Detention Facilities C.23.1, C.23.2.

⁸⁵⁰⁸ See Scheduled Detention Facilities C.25.1, C.25.2, C.25.3.

⁸⁵⁰⁹ See Scheduled Detention Facilities C.26.1, C.26.2.

⁸⁵¹⁰ See Scheduled Detention Facilities C.27.1, C.27.2, C.27.3, C.27.4, C.27.5, C.27.6, C.27.7.

⁸⁵¹¹ See paras. 883, 1071, 1161, 1297, 1380, 2141.

⁸⁵¹² See para. 802.

⁸⁵¹³ See para. 2094.

⁸⁵¹⁴ See para. 1753.

2525. The Chamber found that these detainees were arrested and taken to these detention facilities from their homes, following attacks on villages or towns, or transferred from other detention facilities.⁸⁵¹⁵ In some cases, the Bosnian Muslim population was ordered to gather *en masse* and then moved to detention facilities.⁸⁵¹⁶ Most of those detained were civilians and included women, children, the sick, and the elderly.⁸⁵¹⁷

2526. The Chamber noted that a small number of detainees in some facilities were Bosnian Muslim soldiers or combatants.⁸⁵¹⁸ The Chamber is not satisfied that their detention was unlawful.

2527. The Chamber considered the circumstances in which detainees were brought to and detained at these facilities, the extended period of detention, the large number of individuals detained across multiple municipalities, and the status of the overwhelming majority as civilians including women, children, and the elderly. On this basis the Chamber finds that with the exception of the Bosnian Muslim soldiers referred to in the previous paragraph, the detainees at these facilities were arbitrarily deprived of their liberty with no legal basis and that the perpetrators intended to arbitrarily deprive these individuals of their liberty. The Chamber finds that this amounted to a denial of or infringement upon a fundamental right and was of equal gravity to the other crimes listed under Article 5 of the Statute. The Chamber therefore finds that there was unlawful detention of Bosnian Muslims and Bosnian Croats.

2528. In addition, the Chamber finds that the perpetrators of these acts of unlawful detention chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. The Chamber finds that these acts were carried out deliberately with the intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.⁸⁵¹⁹ In concluding that these acts were carried out with discriminatory intent, the Chamber had regard to its finding that these acts of unlawful detention were discriminatory in fact given that the unlawful detention was almost exclusively directed against Bosnian Muslims and Bosnian Croats whereas the guards and those in charge of the detention facilities were Bosnian Serbs. In addition, the Chamber also had regard to the insults, taunts, and threats directed at the victims on the basis of their identity as

⁸⁵¹⁵ See Scheduled Detention Facilities C.6.1, C.6.2, C.2.1, C.7.2, C.10.6, C.10.1, C.10.4, C.10.5, C.10.7, C.10.2, C.21.1, C.21.2, C.21.3, C.25.1, C.25.3, C.27.1, C.27.4, C.27.6, C.15.3, C.15.1, C.26.3, C.26.1, C.20.3, C.20.2, C.20.1, C.20.7, C.20.4, C.1.2, C.18.2.

⁸⁵¹⁶ See paras. 983–984.

⁸⁵¹⁷ See Scheduled Detention Facilities C.2.1, C.6.1, C.7.2, C.10.6, C.10.1, C.21.1, C.25.1, C.25.3, C.27.5, C.11.1, C.11.2, C.15.1, C.26.3, C.26.1, C.4.1, C.20.2, C.20.1, C.20.6, C.20.4, C.19.2, C.1.2, C.18.2, C.22.1, C.22.3.

⁸⁵¹⁸ See paras. 883, 1021, 1323, 2209, 2336.

⁸⁵¹⁹ The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

Bosnian Muslims or Bosnian Croats, which expressly demonstrated this discriminatory intent.⁸⁵²⁰ For further evidence of discriminatory intent with respect to unlawful detention, the Chamber also recalls its finding that, for example, in Vlasenica, the Sušica camp was established pursuant to an order of the VRS, following a decision of the SAO Birač on regulating the “moving out of the Muslim population”.⁸⁵²¹ In addition, the Chamber found that Bosnian Muslims during their transportation to the Sušica camp were subjected to threats and racial slurs.⁸⁵²² In Zvornik, the Chamber found that a member of the Serb Forces said that they would bring in every Bosnian Muslim who was found in town.⁸⁵²³

2529. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the incidents of unlawful detention were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations and time period of those acts, and the identity of the victims, which correspond with the scope of the widespread and systematic attack. Further, given the magnitude of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH, the Chamber further finds that the perpetrators knew of the attack and that the crimes were part of it.

2530. The Chamber therefore finds that these incidents of unlawful detention constitute acts of persecution as a crime against humanity.

(E) Forced labour and the use of human shields⁸⁵²⁴

2531. The Chamber recalls its findings in Section IV.A.1 that detainees at a number of detention facilities in Bijeljina,⁸⁵²⁵ Foča,⁸⁵²⁶ Hadžići,⁸⁵²⁷ Iliđža,⁸⁵²⁸ Novo Sarajevo,⁸⁵²⁹ Rogatica,⁸⁵³⁰

⁸⁵²⁰ The Chamber has had regard to its findings with respect to the insults, taunts, and threats which were discussed in the context of cruel and inhumane treatment of these detainees.

⁸⁵²¹ See para. 1181.

⁸⁵²² See para. 1185.

⁸⁵²³ See para. 1317.

⁸⁵²⁴ The Prosecution does not allege criminal responsibility for forced labour in Bosanski Novi, Bratunac, Pale and Višegrad. Indictment, fn. 7.

⁸⁵²⁵ See Scheduled Detention Facility C.2.1.

⁸⁵²⁶ See Scheduled Detention Facility C.10.1.

⁸⁵²⁷ See Scheduled Detention Facilities C.11.1, C.11.2.

⁸⁵²⁸ See Scheduled Detention Facility C.18.2.

⁸⁵²⁹ See para. 2267.

⁸⁵³⁰ See Scheduled Detention Facilities C.21.1, C.21.3.

Vlasenica,⁸⁵³¹ and Vogošća.⁸⁵³² were forced to perform labour on the front lines including, *inter alia*, digging trenches, clearing mines, burying bodies, and carrying munitions.⁸⁵³³

2532. By way of illustration, the Chamber found, that while undertaking work on the front lines the detainees were exposed to sporadic crossfire.⁸⁵³⁴ The Chamber found that some detainees were forced to work in all weather conditions which affected their health.⁸⁵³⁵ The Chamber further recalls that in some municipalities, detainees who did not work fast enough or do exactly as they were instructed were beaten, insulted, and threatened.⁸⁵³⁶ The Chamber found that Bosnian Muslims in Bijeljina were subject to a work obligation including on the front lines.⁸⁵³⁷ Those who did not comply with this work obligation were either sent to Batković camp or expelled from the municipality.⁸⁵³⁸

2533. The forcible nature of this work was demonstrated by the Chamber's finding that detainees were afraid for their lives and of being beaten if they refused to work.⁸⁵³⁹ The Chamber also found that in one incident detainees were also severely beaten and did not receive any food or water while they worked.⁸⁵⁴⁰

2534. Bosnian Muslims in Rogatica,⁸⁵⁴¹ Ključ,⁸⁵⁴² Vogošća⁸⁵⁴³ were also used as human shields on front lines to protect Serb Forces. In one incident Bosnian Muslim detainees were instructed to lead Serb Forces through an area, which had been mined, to recover dead bodies.⁸⁵⁴⁴

2535. The Chamber also had regard to the nature of the forced work, the circumstances in which the detainees were held, and the vulnerable position of the detainees, including the cruel and inhumane treatment and unlawful detention discussed above. Having considered these factors, the Chamber finds that the acts of forced labour and use of human shields amounted to a denial of or

⁸⁵³¹ See Scheduled Detention Facilities C.25.2, C.25.3.

⁸⁵³² See Scheduled Detention Facilities C.26.3, C.26.1.

⁸⁵³³ The Chamber also received evidence about detainees being forced to perform other kinds of work not at the front lines. However, the Chamber has interpreted the allegations in paragraph 60(h) of the Indictment to be limited to forced labour at the front lines.

⁸⁵³⁴ See Scheduled Detention Facility C.11.2.

⁸⁵³⁵ See para. 655.

⁸⁵³⁶ See Scheduled Detention Facilities C.21.1, C.25.3.

⁸⁵³⁷ See para. 670.

⁸⁵³⁸ See para. 671.

⁸⁵³⁹ See paras. 902, 1196.

⁸⁵⁴⁰ See paras. 2423–2424.

⁸⁵⁴¹ See paras. 992, 1025.

⁸⁵⁴² See para. 1511.

⁸⁵⁴³ See paras. 2432, 2434.

⁸⁵⁴⁴ See para. 1019.

infringement upon a fundamental right and were of equal gravity to the other crimes listed under Article 5 of the Statute.

2536. In addition, the Chamber finds that the perpetrators of these acts of forced labour and use of human shields chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. The Chamber finds that these acts were carried out deliberately with the intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.⁸⁵⁴⁵ In reaching this conclusion, the Chamber had regard to its finding that these acts were discriminatory in fact given that only Bosnian Muslims and Bosnian Croats who had been detained were forced to work or used as human shields. The Chamber also had regard to its findings with respect to the insults, taunts, and threats which were discussed in the context of other underlying acts of persecution which expressly demonstrated this discriminatory intent. In addition, the Chamber recalls its finding that in Vlasenica some detainees who were taken away for forced labour were subject to insults such as references to “Baliija’s mother”.⁸⁵⁴⁶ In another incident where Bosnian Muslims were used as human shields in Rogatica, when one person was hit by incoming fire, a member of the Serb Forces cursed the detainees by reference to their “Baliija mothers”.⁸⁵⁴⁷

2537. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the acts of forced labour and use of detainees as human shields were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these acts, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH.

2538. The Chamber therefore finds that these incidents of forced labour and use of human shields constitute acts of persecution as a crime against humanity.

(F) Plunder of property⁸⁵⁴⁸

2539. The Chamber found in Section IV.A.1 that Bosnian Muslims were expelled from their homes, which were then seized by the local authorities and assigned to Serb refugees.⁸⁵⁴⁹ Some

⁸⁵⁴⁵ The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

⁸⁵⁴⁶ See para. 1196.

⁸⁵⁴⁷ See para. 1019.

Bosnian Muslims and Bosnian Croats were forced to sign statements leaving their property to the local authorities.⁸⁵⁵⁰ The Chamber recalls its finding that in Ključ, for example, the Bosnian Serb Political and Governmental Organs effectively seized the abandoned property of Bosnian Muslims on a permanent basis.⁸⁵⁵¹

2540. Serb Forces also looted property and homes belonging to Bosnian Muslims and Bosnian Croats during and after the take-over of towns and villages in Bijeljina,⁸⁵⁵² Bosanski Novi,⁸⁵⁵³ Bratunac,⁸⁵⁵⁴ Foča,⁸⁵⁵⁵ Ključ,⁸⁵⁵⁶ Ilidža,⁸⁵⁵⁷ Novi Grad,⁸⁵⁵⁸ Novo Sarajevo,⁸⁵⁵⁹ Prijedor,⁸⁵⁶⁰ Rogatica,⁸⁵⁶¹ Vlasenica,⁸⁵⁶² Zvornik.⁸⁵⁶³ The Chamber also recalls its finding that in some cases Serb Forces used Bosnian Muslim detainees to loot Bosnian Muslim homes and move furniture and belongings to Bosnian Serb residences.⁸⁵⁶⁴

2541. The Chamber found that Bosnian Serb authorities allocated premises left vacant by Bosnian Muslims for the use of refugees in Sokolac.⁸⁵⁶⁵ However, it has insufficient evidence to determine whether this amounted to an unlawful appropriation of property given that there was evidence that the Bosnian Serb authorities prohibited the unlawful and unauthorised occupation of premises, and that when property was allocated to refugees, these were temporary measures and followed a set criteria including the taking of an inventory of contents by a committee which was created for the allocation of this property.⁸⁵⁶⁶

⁸⁵⁴⁸ The Prosecution does not allege criminal responsibility for plunder in Banja Kuja, Brčko, Pale, Višegrad, and Vogošća. Indictment, fn. 8.

⁸⁵⁴⁹ See paras. 629–630, 675, 857, 1277, 2436.

⁸⁵⁵⁰ See paras. 675, 729, 1217, 1266, 1467, 1561–1562, 1566, 1851, 1903–1904, 2134, 2436.

⁸⁵⁵¹ See para. 1562.

⁸⁵⁵² See paras. 631, 675.

⁸⁵⁵³ See paras. 1447, 1449.

⁸⁵⁵⁴ See paras. 719–721, 732, 753–754.

⁸⁵⁵⁵ See paras. 857, 861. The Chamber also found that paramilitaries were involved in looting gold, jewellery, and money in Foča, but it has insufficient evidence to determine whether or not the victims of these incidents were Bosnian Muslims and/ or Bosnian Croats. See para. 866.

⁸⁵⁵⁶ See para. 1512.

⁸⁵⁵⁷ See paras. 2131–2132.

⁸⁵⁵⁸ See para. 2186.

⁸⁵⁵⁹ See paras. 2268, 2273, 2281.

⁸⁵⁶⁰ See paras. 1607–1608, 1621, 1638, 1672, 1675, 1680, 1683, 1704, 1723, 1802.

⁸⁵⁶¹ See paras. 951, 1018.

⁸⁵⁶² See paras. 1119, 1126, 1134, 1176, 1196.

⁸⁵⁶³ See paras. 1264, 1282.

⁸⁵⁶⁴ See paras. 1018, 1176, 1324.

⁸⁵⁶⁵ See para. 1054.

⁸⁵⁶⁶ See para. 1054.

2542. Bosnian Muslims had their money, identification documents, jewellery, and valuables taken away from them before leaving the municipality,⁸⁵⁶⁷ on arrival at detention facilities,⁸⁵⁶⁸ or before their execution.⁸⁵⁶⁹ The Chamber found on one occasion that Serb Forces were also instructed to search the bodies of killed Bosnian Muslims for valuables before the bodies were taken away for burial.⁸⁵⁷⁰ Serb Forces also seized the vehicles of Bosnian Muslims.⁸⁵⁷¹

2543. The property of Bosnian Muslim businesses was also looted or confiscated.⁸⁵⁷² The Chamber also found that Bosnian Croat companies were looted by Serb Forces in Bijeljina.⁸⁵⁷³

2544. The Chamber finds that these acts involved the unlawful appropriation of the private property of Bosnian Muslims and Bosnian Croats by Serb Forces and Bosnian Serb Political and Governmental Organs. Having considered the extent and scope of the unlawful appropriation of property owned by Bosnian Muslims and Bosnian Croats in multiple municipalities, the Chamber concludes that these acts had grave consequences and amounted to a denial of or infringement upon a fundamental right and are of equal gravity to the other crimes listed under Article 5 of the Statute.

2545. The perpetrators of these acts of plunder chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. The Chamber finds that these acts were carried out deliberately with the intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.⁸⁵⁷⁴ In concluding that these acts were carried out with discriminatory intent, the Chamber had regard to its finding that these acts were discriminatory in fact given that Bosnian Muslims and Bosnian Croats were systematically targeted by these acts of plunder which were directed at their homes and property. The Chamber also had regard to its findings with respect to the insults, taunts, and threats which were discussed in the context of other underlying acts of persecution which expressly demonstrated this discriminatory intent.

2546. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the acts of plunder were part of this widespread and systematic attack and the perpetrators of these acts

⁸⁵⁶⁷ See paras. 673, 1157, 1362, 1458.

⁸⁵⁶⁸ See Scheduled Detention Facilities C.6.1, C.7.2, C.10.1, C.21.1, C.25.2, C.25.3, C.27.2, C.27.6, C.15.3, C.15.2, C.20.2, C.20.5, C.1.2. See also Scheduled Detention Facilities C.26.3 (the Chamber found that guards stole from detainees), C.22.5.

⁸⁵⁶⁹ See para. 1835.

⁸⁵⁷⁰ See para. 1152.

⁸⁵⁷¹ See paras. 950, 1282.

⁸⁵⁷² See paras. 857, 1282.

⁸⁵⁷³ See para. 631.

⁸⁵⁷⁴ The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these acts, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH.

2547. The Chamber therefore finds that these incidents of plunder constitute acts of persecution as a crime against humanity.

(G) Wanton destruction of private property and public property including cultural monuments and sacred sites⁸⁵⁷⁵

2548. The Chamber recalls its findings in Section IV.A.1 that during attacks by Serb Forces, Bosnian Muslim and Bosnian Croat homes and businesses were set on fire and Bosnian Muslim and Bosnian Croat villages were destroyed by Serb Forces in Bosanski Novi,⁸⁵⁷⁶ Bratunac,⁸⁵⁷⁷ Foča,⁸⁵⁷⁸ Ključ,⁸⁵⁷⁹ Novi Grad,⁸⁵⁸⁰ Pale,⁸⁵⁸¹ Prijedor,⁸⁵⁸² Rogatica,⁸⁵⁸³ Sanski Most,⁸⁵⁸⁴ Sokolac,⁸⁵⁸⁵ Vlasenica,⁸⁵⁸⁶ Vogošća,⁸⁵⁸⁷ and Zvornik.⁸⁵⁸⁸ For example, in the municipality of Ključ alone, the Chamber found that approximately 3,500 houses were razed to the ground and burned in Bosnian Muslim villages.⁸⁵⁸⁹

2549. The Chamber also found that Bosnian Muslim neighbourhoods in the centre of Rogatica were extensively shelled by artillery, mortars, anti-aircraft guns, and tanks and, as a result, a large part of the town was destroyed.⁸⁵⁹⁰ The Chamber also recalls its finding that Bosnian Muslim

⁸⁵⁷⁵ The Prosecution indicated that it would not lead evidence on the wanton destruction of private property in Banja Luka, Brčko, Hadžići, Ilidža, Pale, and Višegrad. Indictment, fn. 9.

⁸⁵⁷⁶ See paras. 1442, 1445, 1447.

⁸⁵⁷⁷ See paras. 728, 730–731, 742.

⁸⁵⁷⁸ See paras. 857, 859–861.

⁸⁵⁷⁹ See paras. 1512, 1514.

⁸⁵⁸⁰ See para. 2186.

⁸⁵⁸¹ See para. 2313.

⁸⁵⁸² See paras. 1621, 1638, 1643, 1666, 1669, 1675, 1680, 1683, 1723.

⁸⁵⁸³ See paras. 970, 976.

⁸⁵⁸⁴ See paras. 1925, 1945.

⁸⁵⁸⁵ See para. 1056.

⁸⁵⁸⁶ See paras. 1129–1130, 1133.

⁸⁵⁸⁷ See para. 2380.

⁸⁵⁸⁸ See paras. 1251, 1260, 1269.

⁸⁵⁸⁹ See para. 1512.

⁸⁵⁹⁰ See paras. 967–968.

detainees were ordered to set fire to property which had been taken from a Bosnian Muslim house in Vlasenica.⁸⁵⁹¹ Some Bosnian Muslim houses were dismantled for materials.⁸⁵⁹²

2550. The Chamber finds that the property referred to in paragraphs above was destroyed or damaged extensively and such destruction or damage was not justified by military necessity.

2551. While the Chamber also found that Serb Forces shelled Konjević Polje in Bratunac,⁸⁵⁹³ the villages of Kramer Selo, Kozarde, Dobrašina, and Borovsko in Rogatica,⁸⁵⁹⁴ the village of Musići in Hadžići,⁸⁵⁹⁵ the village of Blagaj in Bosanski Novi⁸⁵⁹⁶ it has insufficient evidence about the property destroyed or the extent of damage to conclude whether this amounts to wanton destruction of private property.

2552. The Chamber recalls its finding that Serb Forces completely destroyed, almost destroyed, or heavily damaged multiple mosques, Catholic churches and other cultural monuments and sacred sites in Bratunac,⁸⁵⁹⁷ Bosanski Novi,⁸⁵⁹⁸ Foča,⁸⁵⁹⁹ Ključ,⁸⁶⁰⁰ Novi Grad,⁸⁶⁰¹ Prijedor,⁸⁶⁰² Rogatica,⁸⁶⁰³ Sanski Most,⁸⁶⁰⁴ Sokolac,⁸⁶⁰⁵ and Zvornik.⁸⁶⁰⁶ The Chamber finds that the Serb Forces intended to destroy these monuments and sites. In reaching that conclusion the Chamber had regard to the nature and extent of the damage to these monuments and sites and the manner in which they were destroyed. For example, the Chamber notes evidence that Bosnian Serb fire brigades stood by and watched while mosques were burnt in Foča.⁸⁶⁰⁷ Many of the mosques were completely destroyed by explosives; the rubble was removed from the site and the location was later used for other purposes including as garbage dumps and parking lots.⁸⁶⁰⁸

8591 See para. 1196.

8592 See para. 2549.

8593 See para. 731.

8594 See para. 977.

8595 See paras. 2089–2090.

8596 See paras. 1442–1443.

8597 See Scheduled Incident D.6.

8598 See Scheduled Incident D.4.

8599 See Scheduled Incident D.10.

8600 See Scheduled Incident D.13.

8601 See Scheduled Incident D.15.

8602 See Scheduled Incident D.17.

8603 See Scheduled Incident D.18.

8604 See Scheduled Incident D.19.

8605 See Scheduled Incident D.20.

8606 See Scheduled Incident D.22.

8607 See para. 925.

8608 See Scheduled Incidents D.10, D.6, D.18, D.20, D.22, D.13, D.4.

2553. The Chamber recalls its finding that the evidence presented with respect to Bijeljina,⁸⁶⁰⁹ Pale,⁸⁶¹⁰ and Vogošća⁸⁶¹¹ was insufficient to allow for an inference to be drawn that Serb Forces destroyed the cultural monuments and sacred sites in those municipalities. The Chamber did not enter a finding with respect to the destruction of the Catholic Church in Ključ.⁸⁶¹² The Chamber also found that three mosques in the Vragolovi area of Rogatica were destroyed but had insufficient evidence to determine when they were destroyed and who was responsible for their destruction.⁸⁶¹³

2554. The Chamber finds that the destruction of these mosques, cultural monuments, and sacred sites was not justified by military necessity. For example, with regard to Foča, where the Accused argued that certain mosques were used for military purposes in Foča, the Chamber concluded that this evidence was unreliable and further that there was no other indication that the mosques were used for military purposes.⁸⁶¹⁴

2555. The Chamber also finds that these acts of wanton destruction of private and public property, including cultural monuments and sacred sites, were carried out with discriminatory intent against Bosnian Muslims and Bosnian Croats.⁸⁶¹⁵ In reaching that conclusion the Chamber noted that in some cases adjacent Bosnian Serb homes were untouched and there were notes which identified them as Serb property that should not be torched.⁸⁶¹⁶ In addition, fire engines were used to protect Bosnian Serb houses while Bosnian Muslim houses burned.⁸⁶¹⁷ In an attack on a Bosnian Muslim village in Vlasenica, Serb Forces were specifically ordered to torch all Bosnian Muslim houses and told "you can see for yourselves that if we don't set fire to these houses, they'll return later on".⁸⁶¹⁸

2556. With respect to the cultural monuments and sacred sites, the Chamber found that the sites destroyed were targeted given their significance to the Bosnian Muslim or Bosnian Croat people in those locations and were discriminatory in fact and were carried out with discriminatory intent.

2557. Having considered the nature and extent of the private and public property destroyed, the Chamber finds that the impact of the destruction was serious given that it affected indispensable

⁸⁶⁰⁹ See para. 668.

⁸⁶¹⁰ See para. 2352.

⁸⁶¹¹ See para. 2389.

⁸⁶¹² See fn. 5391.

⁸⁶¹³ See para. 1032.

⁸⁶¹⁴ See para. 927.

⁸⁶¹⁵ The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

⁸⁶¹⁶ See paras. 857, 1129.

⁸⁶¹⁷ See paras. 857, 1119 (the Chamber found that the fire brigade was prevented from taking any action when Bosnian Muslim houses were torched).

⁸⁶¹⁸ See para. 1133.

and vital assets of the population, including homes and religious sites. The Chamber therefore finds that these acts of wanton destruction of private and public property amounted to a denial of or infringement upon a fundamental right and were of equal gravity to the other crimes listed under Article 5 of the Statute.

2558. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the acts of wanton destruction were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these acts, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH.

2559. The Chamber therefore finds that these incidents of wanton destruction of private and public property, including cultural monuments and sacred sites, constitute acts of persecution as a crime against humanity.

measures⁸⁶¹⁹ (H) Imposition and maintenance of restrictive and discriminatory

2560. The Chambers found in section IV.A.1 that Bosnian Muslims and Bosnian Croats were removed from positions of authority and dismissed from their employment in Bijeljina,⁸⁶²⁰ Bosanski Novi,⁸⁶²¹ Bratunac,⁸⁶²² Foča,⁸⁶²³ Ključ,⁸⁶²⁴ Pale,⁸⁶²⁵ Prijedor,⁸⁶²⁶ Sanski Most,⁸⁶²⁷ Vogošća,⁸⁶²⁸ Vlasenica,⁸⁶²⁹ and Zvornik.⁸⁶³⁰ In Foča for example, announcements were made that the administration of the entire municipality would be run by Bosnian Serbs.⁸⁶³¹ In addition, after the dismissal of Bosnian Muslims in Bratunac, all key positions in local government were taken

⁸⁶¹⁹ The Prosecution indicated that it would not lead evidence with respect to the imposition and maintenance of discriminatory measures in Banka Luka, Brčko, and Višegrad. Indictment, fn. 10.

⁸⁶²⁰ See paras. 628–629, 865.

⁸⁶²¹ See para. 1437.

⁸⁶²² See para. 723.

⁸⁶²³ See para. 858.

⁸⁶²⁴ See paras. 1502–1505.

⁸⁶²⁵ See paras. 2306–2308.

⁸⁶²⁶ See paras. 1596–1601, 1659.

⁸⁶²⁷ See para. 1950. See also para. 2061.

⁸⁶²⁸ See para. 2382 (the Chamber found that non-Serb workers were suspended from their jobs at the medical centre).

⁸⁶²⁹ See paras. 1120, 1124.

⁸⁶³⁰ See para. 1276.

over by Bosnian Serbs.⁸⁶³² In some municipalities, Bosnian Muslims were prevented or discouraged from reporting for work,⁸⁶³³ while others were subject to threats, harassment, and insults after which they stopped going to work.⁸⁶³⁴ In Vlasenica, the Chamber also found that the salaries of Bosnian Muslim workers were stopped while Bosnian Serb workers continued to be paid.⁸⁶³⁵

2561. In Bratunac, Vlasenica, and Zvornik, Bosnian Muslim judges were expelled,⁸⁶³⁶ while in Pale,⁸⁶³⁷ Sokolac,⁸⁶³⁸ and Vlasenica,⁸⁶³⁹ Bosnian Muslim members of the SJB were dismissed. The Chamber also recalls its finding that a Bosnian Muslim officer in the JNA was progressively stripped of his duties and authority until he was told that his safety could not be guaranteed and he left the JNA.⁸⁶⁴⁰

2562. Other discriminatory measures included forcing Bosnian Muslim police officers to pledge loyalty to the Bosnian Serb authorities and wear the Serb flag on their caps to retain their jobs.⁸⁶⁴¹ Similarly in Bratunac, Bosnian Muslims were given a deadline to pledge loyalty to the Serbian Municipality of Bratunac but continued to be subject to searches of their homes and other intimidation.⁸⁶⁴² Bosnian Muslims in Zvornik who returned were required to register and sign a pledge of loyalty to the Bosnian Serb authorities in order to remain employed.⁸⁶⁴³

2563. The dismissal of Bosnian Muslims and Bosnian Croats from their employment was discriminatory in fact. In addition, the Chamber found in Ključ that the Bosnian Serb authorities expressly decided that only Bosnian Serb officials could occupy certain important posts in the municipality and that those dismissed from their jobs were so treated because of their ethnicity.⁸⁶⁴⁴

⁸⁶³¹ See para. 858.

⁸⁶³² See para. 723.

⁸⁶³³ See para. 865.

⁸⁶³⁴ See paras. 1033, 1119, 1276.

⁸⁶³⁵ See para. 1120.

⁸⁶³⁶ See paras. 723, 1276.

⁸⁶³⁷ See paras. 2306–2307.

⁸⁶³⁸ See para. 1050.

⁸⁶³⁹ See para. 1124.

⁸⁶⁴⁰ See para. 950.

⁸⁶⁴¹ See paras. 629, 1437 (the Chamber found that even those Bosnian Muslim police officers who signed the oath were also fired), 1502, 1597, 1616. See also para. 1936.

⁸⁶⁴² See para. 721.

⁸⁶⁴³ See para. 1276.

⁸⁶⁴⁴ See paras. 1504–1505.

2564. In Foča there were widespread arrests of Bosnian Muslim male civilians who were rounded up and arrested in the streets or in their homes, workplaces, or hospitals.⁸⁶⁴⁵ Similarly the Chamber found that there were random arrests of Bosnian Muslims in Pale and Prijedor.⁸⁶⁴⁶ For further evidence on arbitrary arrests, the Chamber refers to its findings in Section IV.A.2.iv.D above regarding unlawful detention. During and after these arrests, Bosnian Muslims were referred to by Serb soldiers by the derogatory term “baliija” and cursed.⁸⁶⁴⁷ Bosnian Muslim homes were also subject to arbitrary searches sometimes accompanied by violence or intimidation towards the occupants.⁸⁶⁴⁸ On occasions those searches were on the pretext of searching for weapons but intimidated the Bosnian Muslim population.⁸⁶⁴⁹

2565. The Chamber also found that restrictions were placed on the movement of Bosnian Muslims, including the issuance of movement passes which did not apply to Bosnian Serbs.⁸⁶⁵⁰ Some Bosnian Muslims who were involved with the SDA were not issued with passes, and others who did have such passes were still often arrested and detained.⁸⁶⁵¹ Some Bosnian Muslims were only able to secure transit passes if they had connections or they had to pay substantial amounts of money in order to leave the municipality.⁸⁶⁵²

2566. The Chamber also recalls that there were restrictions on Bosnian Muslims meeting each other, their phone lines and utilities were cut, and some were placed under virtual house arrest.⁸⁶⁵³ The Chamber found that in Zvornik, for example, Bosnian Serb authorities banned the sale or trade of real estate in the municipality unless it was between Bosnian Serbs and and only ordered the back pay of pensions for Bosnian Serbs.⁸⁶⁵⁴ In Vlasenica, the Chamber found that Bosnian Muslims had restrictions placed on the amount of money they could withdraw from the bank.⁸⁶⁵⁵

⁸⁶⁴⁵ See para. 862.

⁸⁶⁴⁶ See paras. 1587, 2310.

⁸⁶⁴⁷ See paras. 862, 1033.

⁸⁶⁴⁸ See paras. 864, 1126 (the Chamber found that Bosnian Muslim homes in Vlasenica were visited during the night by members of the Serb Forces who harassed them and demanded money), 1276, 1610. See also paras. 950 (pertaining to the searches of Bosnian Muslims), 2264–2266, 2268. The Chamber also found that Serb Forces searched houses in Hadžići but has insufficient evidence to determine if these searches were arbitrary or directed against Bosnian Muslims and/ or Bosnian Croats. See para. 2086.

⁸⁶⁴⁹ See para. 1149.

⁸⁶⁵⁰ See paras. 865, 952, 1118, 1506, 1609, 1661. See also paras. 2177, 2182. The Chamber also found that Serb Forces restricted the movement of the population in Hadžići but has insufficient evidence to determine if these restrictions were directed against Bosnian Muslims and/ or Bosnian Croats. See para. 2086.

⁸⁶⁵¹ See para. 1118.

⁸⁶⁵² See para. 1118.

⁸⁶⁵³ See paras. 865, 952, 976, 1119 (relating to television broadcasts from Sarajevo), 1276, 2311. See also para. 1269 (the Chamber found that in some cases after the attack by Serb Forces on Bosnian Muslim villages they cut the electricity supply).

⁸⁶⁵⁴ See paras. 1236, 1279.

⁸⁶⁵⁵ See para. 1119.

2567. The Chamber considered the circumstances and the environment in which Bosnian Muslims and Bosnian Croats were subjected to restrictive and discriminatory measures. The Chamber did not consider these measures in isolation, but also had regard to its findings that contemporaneously Bosnian Muslims and Bosnian Croats in the Municipalities were also subject to killings, torture, beatings, physical and psychological abuse, rape and other acts of sexual violence, cruel and inhumane living conditions, forcible displacement, unlawful detention, forced labour, plunder, and the wanton destruction of private and public property.⁸⁶⁵⁶ When these restrictive and discriminatory measures are considered in conjunction with these other underlying acts of persecution which were perpetrated at the same time, against the same category of victims, the Chamber finds that this amounted to a denial of or infringement upon a fundamental right and was of equal gravity to the other crimes listed under Article 5 of the Statute.

2568. In addition, the Chamber finds that the perpetrators of these restrictive and discriminatory measures chose their victims on the basis of their identity as Bosnian Muslims or Bosnian Croats. The Chamber finds that these acts were carried out deliberately with the intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.⁸⁶⁵⁷ In concluding that these acts were carried out with discriminatory intent, the Chamber had regard to its finding that these acts were discriminatory in fact given that the restrictive and discriminatory measures were directed against Bosnian Muslims and Bosnian Croats whereas Bosnian Serbs were not subject to the same restrictions. In addition, the Chamber also had regard to the insults, taunts, and threats directed at the victims on the basis of their identity as Bosnian Muslims or Bosnian Croats in the Municipalities which expressly demonstrated this discriminatory intent with respect to other underlying acts of persecution.⁸⁶⁵⁸

2569. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations in the Municipalities. The Chamber finds that the incidents of restrictive and discriminatory measures were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these acts, which correspond with the scope of the widespread and

⁸⁶⁵⁶ For the Chamber's findings in this regard, see Section IV.A.2.iv: Legal findings on crimes (Persecution: Count 3).

⁸⁶⁵⁷ The Chamber considers that discrimination on the grounds of the identity of the victims as Bosnian Muslims or Bosnian Croats falls within the prohibited grounds of discrimination under Article 5(h) of the Statute.

⁸⁶⁵⁸ The Chamber has had regard to its findings with respect to the insults, taunts, and threats which were discussed in the context of cruel and inhumane treatment of these detainees.

systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH.

2570. The Chamber therefore finds that the imposition and maintenance of restrictive and discriminatory measures constitute acts of persecution as a crime against humanity.

v. Genocide: Count 1

2571. In Count 1 of the Indictment, the Prosecution charges the Accused with genocide pursuant to Article 4 of the Statute. It alleges that between 31 March and 31 December 1992, in seven of the Municipalities, namely Bratunac, Foča, Ključ, Prijedor, Sanski Most, Vlasenica, and Zvornik (“Count 1 Municipalities”), the alleged persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.⁸⁶⁵⁹ It submits that the crimes charged in the Indictment were not aimed at the victims as individuals but as members of an “undesired community”; the Accused “intended the demographic restructuring of Bosnia to be accomplished by the destruction of substantial parts of the Bosnian Muslim and Bosnian Croat communities” in the Count 1 Municipalities.⁸⁶⁶⁰ According to the Prosecution, the proper name for this crime is “genocide”.⁸⁶⁶¹

2572. In his Final Brief, the Accused concentrates his argument in relation to Count 1 on the lack of genocidal intent from his part or from anyone in the Bosnian Serb leadership; this argument will be addressed below. The Chamber notes that at the end of the Prosecution’s case, in his submissions pursuant to Rule 98 *bis*, the Accused argued that there was no genocide in the Municipalities in 1992 and that there was therefore no evidence upon which the Chamber could conclude that the Accused was guilty of genocide as charged in Count 1.⁸⁶⁶² More specifically, he argued that “displacement does not equal destruction”,⁸⁶⁶³ and referred to all of the previous Tribunal judgements in which genocide was not found to have been committed in the Municipalities, or at least in some of the Municipalities.⁸⁶⁶⁴

⁸⁶⁵⁹ Indictment, paras. 36, 38. The Chamber gives a restrictive interpretation to paragraph 38 of the Indictment, which states that the “most extreme manifestations of an intent to partially destroy these groups took place in [the Count 1 Municipalities]”. This is in conformity with the Prosecution Final Brief focusing on the Count 1 Municipalities, by reference only to the “municipalities specified in Count 1”. Prosecution Final Brief, para. 570.

⁸⁶⁶⁰ Prosecution Final Brief, para. 570.

⁸⁶⁶¹ Prosecution Final Brief, para. 570.

⁸⁶⁶² Hearing, T. 28570 (11 June 2012).

⁸⁶⁶³ Hearing, T. 28571 (11 June 2012).

⁸⁶⁶⁴ Hearing, T. 28572–28579 (11 June 2012).

(A) The protected group

2573. For the purpose of Count 1, the Prosecution alleges that the protected groups are the national, ethnical and/or religious groups of Bosnian Muslims and Bosnian Croats.⁸⁶⁶⁵

2574. The Chamber notes that other Chambers have concluded that both the Bosnian Muslims and the Bosnian Croats are protected groups within the meaning of Article 4 of the Statute.⁸⁶⁶⁶ The Chamber is satisfied for the purpose of Article 4 of the Statute that the protected groups were the Bosnian Muslims and the Bosnian Croats.

(B) The *actus reus*

2575. In relation to Count 1, the Prosecution charges three types of acts under Article 4(2) of the Statute: (i) the killing of Bosnian Muslims and Bosnian Croats, including leading members of these groups;⁸⁶⁶⁷ (ii) the causing of serious bodily or mental harm to thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, during their confinement in detention facilities;⁸⁶⁶⁸ and (iii) the detention of thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, in detention facilities, under conditions of life calculated to bring about their physical destruction.⁸⁶⁶⁹ The Prosecution alleges that the evidence is overwhelming that these acts of genocide within the meaning of Article 4(2) of the Statute occurred on a massive scale.⁸⁶⁷⁰

⁸⁶⁶⁵ See Indictment, para. 38; Prosecution Final Brief, fn. 2147 (making reference to the “national group of Bosnian Muslims and of Croats”).

⁸⁶⁶⁶ In relation to the Bosnian Muslim group, see *Krstić* Appeal Judgement, para. 15 (holding that identifying “the protected group as the national group of Bosnian Muslims” comports with the guidelines in relation to the definition of the protected group pursuant to Article 4 of the Statute). See also *Popović et al.* Trial Judgement, para. 840; *Krstić* Trial Judgement, para. 560. In relation to both the Bosnian Muslim and Bosnian Croat groups, see *Stakić* Appeal Judgement, para. 36 (concluding that the Trial Chamber did not err in law either by defining the groups allegedly targeted for genocide as Bosnian Muslims and Bosnian Croats”). See also *Brđanin* Trial Judgement, para. 736.

⁸⁶⁶⁷ Indictment, para. 40(a) (referring to killings carried out during and after take-overs and in detention facilities, including those committed during, and deaths resulting from, cruel and inhumane treatment at detention facilities).

⁸⁶⁶⁸ Indictment, para. 40(b) (referring to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence and beatings).

⁸⁶⁶⁹ Indictment, para. 40(c) (referring to cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities).

⁸⁶⁷⁰ Prosecution Final Brief, para. 572; Prosecution Closing Argument, T. 47577 (29 September 2014).

2576. When presenting the Accused's closing arguments on genocide under Count 1, the Accused's legal adviser acknowledged that "crimes such as murder and infliction of serious harm, were committed during the 1992 events in the municipalities in Bosnia".⁸⁶⁷¹

2577. The Chamber will examine below each of the categories of acts charged under Article 4(2) of the Statute.

(1) Killing members of the group

2578. The Chamber entered findings that a large number of Bosnian Muslims and Bosnian Croats were killed by Serb Forces throughout the Count 1 Municipalities. Victims were killed during and after the take-over of these municipalities. Victims were also killed while they were detained at detention facilities; some of them died as a result of cruel and inhumane treatment inflicted on them.⁸⁶⁷²

2579. The Chamber is therefore satisfied for the purpose of Article 4(2)(a) of the Statute that members of the Bosnian Muslim and Bosnian Croat groups were killed.

(2) Causing serious bodily or mental harm to members of the group

2580. Throughout the Count 1 Municipalities, the Chamber found that a large number of Bosnian Muslims and Bosnian Croats were subjected to cruel treatment, including torture, beatings, as well as physical and psychological abuse. The Chamber described these acts in detail above in relation to Count 3 and provided vivid examples of the most egregious acts found to have been committed against the Bosnian Muslims and Bosnian Croats in detention facilities as well as during and after take-overs in the Count 1 Municipalities. The Chamber also found that prominent Bosnian Muslims and Bosnian Croats, including professionals and leaders, were targeted for such treatment. Following these acts, the Chamber found that many detainees bore serious injuries, had visible wounds, were unable to walk or talk for days, and suffered long-term psychological and physical effects. These acts were found to cause serious mental or physical suffering or injury.

2581. The Chamber also found that in some of the Count 1 Municipalities, namely Foča, Prijedor, Vlasenica, and Zvornik, Bosnian Muslim women, men, girls, and boys were subjected to rape and

⁸⁶⁷¹ Accused Closing Argument, T. 47935–47936 (2 October 2014).

⁸⁶⁷² See para. 2446. For Bratunac, *see* fn. 8223, 8236, 8251; for Foča, *see* fn. 8224, 8238, 8252; for Ključ, *see* fn. 8225, 8240; for Prijedor, *see* fn. 8227, 8243, 8253; for Sanski Most, *see* fn. 8228, 8245, 8255; for Vlasenica, *see* fn. 8231, 8246; and for Zvornik, *see* fns. 8232, 8248, 8256.

other acts of sexual violence, involving serious abuses of a sexual nature.⁸⁶⁷³ These acts were found to cause serious mental or physical suffering or injury.⁸⁶⁷⁴

2582. The Chamber considers that these acts were of such a serious nature as to contribute or tend to contribute to the destruction of the Bosnian Muslims and Bosnian Croats in the Count 1 Municipalities. The Chamber is therefore satisfied for the purpose of Article 4(2)(b) of the Statute that members of the Bosnian Muslim and Bosnian Croat groups were subjected to serious bodily or mental harm in the Count 1 Municipalities.

(3) Deliberately inflicting on the group conditions calculated to bring about its physical destruction in whole or in part

2583. The Chamber recalls that when the same acts are charged under Articles 4(2)(b) and 4(2)(c), a chamber will consider whether these alleged acts amount to conditions calculated to bring about physical destruction only when it does not find them to amount to “causing serious bodily or mental harm”.⁸⁶⁷⁵ The Chamber shall therefore limit its assessment to the acts which are not included above. These include the imposition of inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.⁸⁶⁷⁶

2584. In all of the Count 1 Municipalities, the Chamber found that Bosnian Muslim and Bosnian Croat detainees were held in terrible conditions.⁸⁶⁷⁷ For the purpose of Article 4(2)(c), the Chamber recalls its findings that the detainees faced severe over-crowding in the detention facilities.⁸⁶⁷⁸ This combined with stifling heat and lack of ventilation led to unbearable conditions for the detainees and some died.⁸⁶⁷⁹ In these detention facilities, medical care was non-existent or inadequate, at best.⁸⁶⁸⁰ Access to water and food was insufficient, which led to severe weight loss, malnutrition, and at times, starvation.⁸⁶⁸¹ Hygienic conditions were poor and the lack of access to washing facilities led to dysentery, lice, and skin diseases spreading throughout the facilities.⁸⁶⁸²

⁸⁶⁷³ See paras. 2500–2505. In particular for Foča, *see* fn. 8435; for Prijedor, *see* fn. 8437; for Vlasenica, *see* fn. 8439; and for Zvornik, *see* fn. 8441.

⁸⁶⁷⁴ See paras. 2499, 2505, 2512.

⁸⁶⁷⁵ See *Brđanin* Trial Judgement, para. 905.

⁸⁶⁷⁶ Indictment, para. 40(c).

⁸⁶⁷⁷ See generally para. 2507.

⁸⁶⁷⁸ See para. 2507, fn. 8454. in relation to Foča, Ključ, Prijedor, Vlasenica, and Zvornik.

⁸⁶⁷⁹ See paras. 780, 1299, 1301, 1756.

⁸⁶⁸⁰ See para. 2507, fn. 8461.

⁸⁶⁸¹ See paras. 2507, 2509; fns. 8459, 8460.

⁸⁶⁸² See para. 2509.

The Chamber further found that the living conditions in some of the detention facilities had serious effects on some of the detainees.⁸⁶⁸³

2585. Further, in Foča, Ključ, and Vlasenica, the Chamber found that a number of Bosnian Muslim and Bosnian Croat detainees were forced to perform labour at the frontline.⁸⁶⁸⁴ They were put in dangerous situations, were afraid for their lives and of being beaten if they refused to work.⁸⁶⁸⁵

2586. However, the Chamber recalls that the “*actus reus* of Article 4(2)(c) of the Statute ‘covers methods of physical destruction, other than killing, whereby the perpetrator ultimately seeks the death of the members of the group’”.⁸⁶⁸⁶ While Article 4(2)(a) and (b) in that Article 4(2)(a) and (b) proscribes acts causing a specific result, *i.e.*: death and serious bodily or mental harm, respectively, Article 4(2)(c) concerns “those methods of destruction that do not immediately kill the members of the groups, but which, ultimately, seek their physical destruction”, *i.e.*: slow death.⁸⁶⁸⁷

2587. While the conditions in the detention facilities in the Count 1 Municipalities were dreadful and had serious effects on the detainees, the Chamber is not convinced that the evidence before it demonstrates that they ultimately sought the physical destruction of the Bosnian Muslims and Bosnian Croats. The Chamber is therefore not satisfied for the purpose of Article 4(2)(c) of the Statute that conditions of life calculated to bring about the physical destruction of the Bosnian Muslims and Bosnian Croats were deliberately inflicted on these groups in the Count 1 Municipalities.

(C) The *mens rea*

2588. The Prosecution first alleges that there is direct evidence that the Accused had genocidal intent.⁸⁶⁸⁸ This is exemplified, according to the Prosecution, through the statements the Accused made as to the fate of the Bosnian Muslims and Bosnian Croats if they persisted in pursuing independence.⁸⁶⁸⁹ The Prosecution also claims that by casting the conflict as existential and

⁸⁶⁸³ See para. 2509.

⁸⁶⁸⁴ See paras. 2531, 2534.

⁸⁶⁸⁵ See paras. 2532–2533.

⁸⁶⁸⁶ *Tolimir* Appeal Judgement, para. 233 (citing ICJ *Croatia v. Serbia* Judgement, para. 161).

⁸⁶⁸⁷ *Tolimir* Appeal Judgement, paras. 228, 233.

⁸⁶⁸⁸ Prosecution Final Brief, paras. 578–581.

⁸⁶⁸⁹ Prosecution Final Brief, para. 579.

genocidal and by requiring the use of reciprocal force, the Accused “prepared his followers for the use of destructive forces”.⁸⁶⁹⁰

2589. Second, the Prosecution alleges that the existence of genocidal intent is confirmed through indirect evidence.⁸⁶⁹¹ For the Prosecution, the pattern of crimes in the Count 1 Municipalities, taking Prijedor as the core example,⁸⁶⁹² demonstrates the intent to destroy the very existence of the Bosnian Croat and Bosnian Muslim communities in the Count 1 Municipalities and to prevent their ability to reconstitute themselves.⁸⁶⁹³ The Prosecution submits that “[n]ot only can the paramount leader of the Bosnian Serbs’ intent to destroy be inferred, it is compelled by the nature and extent of the underlying genocidal acts”.⁸⁶⁹⁴ It further claims that other members of the Overarching JCE shared the Accused’s genocidal intent, in particular Mladić, whom the Accused personally selected to command his military forces and continued to entrust with carrying out his policies, even when the VRS was perpetrating widespread acts of genocide.⁸⁶⁹⁵

2590. On the contrary, the Accused submits that there is no direct or indirect evidence that he or the Bosnian Serb leadership had genocidal intent with regard to the Count 1 Municipalities.⁸⁶⁹⁶

2591. The Chamber recalls that in the present case the required *mens rea* for genocide is the intent to destroy, in part, the Bosnian Muslim and the Bosnian Croat groups as such.⁸⁶⁹⁷ The Appeals Chamber held that given that the Accused is charged under Count 1 for his participation in the first form of JCE, “it is the genocidal intent of Karadžić and other alleged JCE members, not the physical perpetrators of the underlying alleged genocidal acts, that is determinative”.⁸⁶⁹⁸ The Chamber notes, however, that the Accused’s responsibility under Count 1, is alleged in relation to all modes of responsibility under Articles 7(1) and 7(3) of the Statute and therefore at this stage the Chamber must examine whether there was genocidal intent present at any level from the physical perpetrators of the crimes to Bosnian Serb representatives not named as alleged Overarching JCE members, all the way up to the named alleged JCE members, including the Accused himself.

2592. In determining the existence of such specific intent, the Chamber has considered the evidence as a whole and examined whether there existed direct evidence or whether such inference

⁸⁶⁹⁰ Prosecution Final Brief, para. 580.

⁸⁶⁹¹ Prosecution Final Brief, paras. 582–595.

⁸⁶⁹² Prosecution Final Brief, paras. 589–594.

⁸⁶⁹³ Prosecution Final Brief, paras. 583–585.

⁸⁶⁹⁴ Prosecution Final Brief, para. 585 (further alleging that “[t]his intent is confirmed by [the Accused’s] own statements anticipating, threatening, and embracing just such acts”).

⁸⁶⁹⁵ Prosecution Final Brief, para. 586.

⁸⁶⁹⁶ Defence Final Brief, paras. 2767–2771; Closing Arguments, T. 47931–47935 (2 October 2014).

⁸⁶⁹⁷ See para. 549.

could be drawn from all the facts and the circumstances in the case. In this regard, the Chamber recalls that such inference must be the only reasonable inference that could be made based on that evidence.⁸⁶⁹⁹ Given that the intent of the named alleged JCE members, including the Accused, is intrinsically connected to all of the evidence on the record pertaining to the existence and the scope of the Overarching JCE, the Chamber conducted a holistic and contextualised assessment of this evidence and will indicate below, where relevant, the appropriate cross-references to these sections.

(1) Intent to destroy the group as such, in part

2593. In the instant case, under Count 1, the Prosecution refers to the intent to destroy a part of the protected groups of the Bosnian Muslims and Bosnian Croats, namely the Bosnian Muslims and Bosnian Croats in the Count 1 Municipalities.⁸⁷⁰⁰ It argues that the part of the Bosnian Muslim and Bosnian Croat groups in each of the Count 1 Municipalities satisfies the substantiality requirement when considering the numeric size and significance of the targeted parts as well as the areas of the perpetrators' activity and the possible extent of their reach.⁸⁷⁰¹ Prijedor is taken as the primary example of the part of the Bosnian Muslim and Bosnian Croat groups that would meet the substantiality requirement with regard to numeric size and the significance of targeting these communities, given that Prijedor represented a symbol of "brotherhood and unity".⁸⁷⁰²

2594. The Chamber will examine below whether it can be satisfied beyond reasonable doubt that there was intent to destroy a part of the Bosnian Muslim and/or Bosnian Croat groups, namely the Bosnian Muslims and Bosnian Croats in the Count 1 Municipalities.

(2) Evidence of genocidal intent of the Accused and named alleged Overarching JCE members

2595. In assessing whether or not the Accused or any of the named members of the alleged Overarching JCE had genocidal intent for the purposes of Count 1, the Chamber relies on the findings in the section of the Judgement pertaining to the ideology and objectives of the Accused and the Bosnian Serb leadership, and in particular paragraphs 2634 to 2903 therein.

2596. The Chamber found that the speeches and statements made by the Accused and the Bosnian Serb leadership denigrated Bosnian Muslims and Bosnian Croats, portrayed them as their historic enemies, and exacerbated ethnic tensions in BiH. This evidence also demonstrates an intent to

⁸⁶⁹⁸ Rule 98 *bis* Appeal Judgement, para. 79.

⁸⁶⁹⁹ See para. 10.

⁸⁷⁰⁰ See Indictment, paras. 36, 38.

⁸⁷⁰¹ Prosecution Final Brief, paras. 589–594.

⁸⁷⁰² Prosecution Final Brief, paras. 589–594.

create an ethnically homogeneous Serb state in BiH, to separate from Bosnian Muslims and Bosnian Croats, and remove them from Bosnian Serb controlled territory. It also shows that the Accused and the Bosnian Serb leadership advocated a position that co-existence with non-Serbs within Bosnian Serb-controlled territory in BiH was impossible.⁸⁷⁰³ However, the Chamber is not satisfied that the evidence which demonstrates this objective also shows an intent to physically destroy a part of either of those protected groups.

2597. Even where the Bosnian Serb leadership called into question the identity of the Bosnian Muslims as a nation or a people,⁸⁷⁰⁴ these speeches were delivered in the context that the Bosnian Muslim population residing in Bosnian Serb-claimed territory should be separated from the Serbs—by force if necessary—but did not suggest that a part of that group should be physically destroyed as such.

2598. The Chamber also found that the Accused and the Bosnian Serb leadership repeatedly referred to the historic grievances of the Serb people.⁸⁷⁰⁵ The Chamber found that these speeches were used by the Accused and the Bosnian Serb leadership to remind the Bosnian Serb population about crimes committed against Serbs by Muslims and Croats and emphasised the need to ensure that they would not be repeated.⁸⁷⁰⁶ The Chamber also found that these references were used as justification for renewing historical Bosnian Serb claims to land in BiH where they had once been a majority.⁸⁷⁰⁷ These speeches also had the effect of creating fear and inciting inter-ethnic hatred amongst the population.⁸⁷⁰⁸ This rhetoric then made it easier for the Accused and the Bosnian Serb leadership to promote their objectives of ethnic separation and the creation of an ethnically homogeneous state. However, the Chamber did not find any evidence to demonstrate that these constant references to the historic genocide against Serbs were used to call on the Bosnian Serbs to do the same. The Chamber therefore finds that while these statements had the effect of identifying the historic enemies of the Bosnian Serbs and furthering the objective of ethnic separation, they do not demonstrate that the only reasonable inference is that the Bosnian Serb leadership intended to physically destroy a part of the Bosnian Muslim and/or Bosnian Croat groups in order to achieve these aims.

2599. While there were certainly highly inflammatory speeches and statements in which the Accused and other alleged members of the Overarching JCE spoke about the “disappearance”,

⁸⁷⁰³ See Section IV.A.3.a.i.D.2: Conclusion.

⁸⁷⁰⁴ See e.g. paras. 2664, 2773.

⁸⁷⁰⁵ See Section IV.A.3.a.i.B: Identification of historic enemies.

⁸⁷⁰⁶ See para. 2670.

⁸⁷⁰⁷ See para. 2671.

“annihilation”, “vanish[ing]”, “elimination”, and “extinction” of the Bosnian Muslims, the Chamber has considered these statements in the full context in which they were delivered and not in isolation.⁸⁷⁰⁹ The Chamber finds that the early speeches which contained this kind of rhetoric were delivered mainly as a warning that Bosnian Muslims should not pursue a path to independence which was contrary to the Bosnian Serb interests, and as a threat that if they did do so there would be war which would lead to severe bloodshed. The Chamber also recalls that some of the statements made by the Accused himself reflected how angry he was about the proposed moves towards the independence of BiH, which would lead to violence if Bosnian Serb demands were not met.⁸⁷¹⁰ The Chamber finds that when the Accused and the Bosnian Serb leadership issued these threats they envisaged that any attempt to circumvent the interests of the Bosnian Serbs would result in chaos and extreme violence. The record shows that the Bosnian Serbs were prepared to use force and violence against Bosnian Muslims and Bosnian Croats in order to achieve their objectives and assert their historic territorial claims. However, in light of the totality of the evidence, the Chamber is not convinced that the only reasonable inference to draw from these statements is that the respective speakers intended to physically destroy a part of the Bosnian Muslim and/or Bosnian Croat groups.

2600. For example, the Chamber recalls its finding that in the Accused’s speech in October 1991 to the SRBiH Assembly in which he spoke about a “highway of hell”, he issued very specific threats about what would happen if the Bosnian Muslims continued to pursue the path of independence and ignored the will of the Bosnian Serbs.⁸⁷¹¹ The Chamber finds that the Accused was clearly threatening war if the Bosnian Serb interests were ignored, and that he also envisaged that such a war would be “hell” and that the Bosnian Muslims would be unable to defend themselves in such a scenario. The Chamber finds that through this speech the Accused intended to threaten the Bosnian Muslims against pursuing independence for BiH and that he was fully aware that a potential conflict would be extremely violent. However, the Chamber is not satisfied that the only reasonable inference is that this statement demonstrates that the Accused intended to physically destroy a part of the Bosnian Muslim group .

2601. Another example is the speech the Accused delivered in July 1992 before the Bosnian Serb Assembly where he said that the conflict had been “roused in order to eliminate the Muslims [...] They think they are being nationally established, but in fact they are vanishing”.⁸⁷¹² The

⁸⁷⁰⁸ See para. 2672.

⁸⁷⁰⁹ See e.g. paras. 2675, 2766, 2789, 2810, 2864, 2870, 3272–3273.

⁸⁷¹⁰ See para. 2654.

⁸⁷¹¹ See para. 2675.

⁸⁷¹² D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 86.

Prosecution refers to this statement as evidence that the Accused was preparing his followers for the use of destructive force.⁸⁷¹³ However, the Chamber also notes that right after making this statement, the Accused went on to say: “I think we have to save the Serb people in their ethnic and also historical territories [...]. We’ll have for sure, we’ll have in the beginning so many Serbs, but I think that they will leave those states, both the Muslim and the Croat state. In the state that we are building, we have to ensure that they have all the rights that we have, under the condition that they are not hostile and that they leave the weapons”.⁸⁷¹⁴ When read in the full context, the Chamber is not satisfied that the Accused’s statement at the Bosnian Serb Assembly demonstrates that he intended to physically destroy a part of the Bosnian Muslim and/or Bosnian Croat groups.

2602. Similarly, the Chamber considers that while Šešelj, Plavšić, and Koljević sometimes delivered highly inflammatory and violent statements,⁸⁷¹⁵ the evidence before the Chamber does not lead to the conclusion that the only reasonable inference was that they intended to physically destroy a part of the Bosnian Muslim and/or Bosnian Croat groups.

2603. With respect to an order of 10 April 1994 in which Mladić is quoted as encouraging VRS operations because “The [t]urks must disappear from these areas”, the Chamber notes that the area covered by this order is not related to the Count 1 Municipalities.⁸⁷¹⁶ In any event, the Chamber also notes Michael Rose’s testimony with regard to this order, namely that he and other international representatives had thought that the objective of the combat operations in Goražde was to move the Bosnian Muslims out of the right bank of the town and therefore he suspected the reference in the order to “[t]he Turks must disappear from these areas” to mean just that: the removal—not the destruction—of the Bosnian Muslim population in those areas.⁸⁷¹⁷ The Chamber also noted statements made by Mladić at the Bosnian Serb Assembly where he stated that their enemies should be eliminated but later stated that there are ways of neutralising the Muslims which do not mean that they have to be expelled or drowned.⁸⁷¹⁸ The Chamber therefore considers that, while the evidence clearly evinces the intent to separate and move Bosnian Muslims out of Bosnian Serb claimed territory, it is not satisfied that the only reasonable inference is that Mladić intended to destroy a part of that group in the process.

⁸⁷¹³ Prosecution Final Brief, para. 580.

⁸⁷¹⁴ D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 86.

⁸⁷¹⁵ See e.g. paras. 2657, 2663–2664, 2706, 2728, 2798.

⁸⁷¹⁶ P1645 (Order of Višegrad Tactical Group, 11 April 1994).

⁸⁷¹⁷ Michael Rose, T. 7424–7425 (5 October 2010).

⁸⁷¹⁸ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 33, 39.

2604. In relation to the 20 September 1994 entry in Mladić's diary, in which Slobodan Milošević stated that he opposed the view of Krajišnik to "kill off all the Muslims and Croats",⁸⁷¹⁹ the Chamber notes that it has very limited information about when or in which context Krajišnik expressed this sentiment, and therefore, that it is of low probative value. The Chamber is therefore not satisfied that the only reasonable inference is that this demonstrates intent to destroy a part of either of the protected groups.

2605. The Chamber has also analysed the totality of the evidence relating to the statements, speeches, and actions of the Accused and the named members of the alleged Overarching JCE. The Chamber has characterised each of these statements and reached a conclusion about what they meant and what they showed in terms of intent. In conducting that assessment, the Chamber did not simply look at these statements in isolation, but also had regard to their meaning in the context of the totality of the evidence on the record. As has been discussed in this section, the Chamber has found that these statements, speeches, and actions were consistent with the Bosnian Serb objective of ethnic separation and the forceful creation of an ethnically homogenous state. However, the Chamber is not satisfied that this evidence—even when considered in the context of the pattern of crimes found to have been committed in the Count 1 Municipalities as will be detailed below—allows the Chamber to conclude that the Accused or the named members of the alleged Overarching JCE had genocidal intent for the purposes of Count 1. In other words, the evidence does not support a conclusion that the only reasonable inference is that the Accused or any of the alleged members of the Overarching JCE had the intent to physically destroy the Bosnian Muslim and/or the Bosnian Croat groups in the Count 1 Municipalities as such.

(3) Evidence of genocidal intent of Bosnian Serbs not named as alleged members of the Overarching JCE

2606. In relation to the intent of the Accused's "followers", the Prosecution refers to what it coins as a threat by Miroslav Deronjić that the Muslims of Bratunac would disappear.⁸⁷²⁰ At a meeting between SDS and SDA representatives in early April 1992, Deronjić reiterated that the police should be divided into separate Bosnian Serb and Bosnian Muslim units and when the SDA representatives opposed the idea, fearing it would lead to further tensions, Deronjić threatened that if they did not comply, "Muslims would disappear".⁸⁷²¹ He went on to say that the division would be the best way for the Bosnian Muslims to prevent violence breaking out.⁸⁷²² In the context of

⁸⁷¹⁹ See P1487 (Ratko Mladić's notebook, 4 September 1994–28 January 1995), p. 17.

⁸⁷²⁰ See Prosecution Final Brief, para. 580, referring to P3196 (Witness statement of Dževad Gušić undated), paras. 31–32.

⁸⁷²¹ P3196 (Witness statement of Dževad Gušić undated), paras. 31–32.

⁸⁷²² P3196 (Witness statement of Dževad Gušić undated), para. 32.

negotiations at the republic and the municipal levels to divide the police into separate entities,⁸⁷²³ the Chamber considers that, in the statement above, Deronjić clearly intended to intimidate the SDA representatives and coerce them into accepting the division. However, the Chamber is not satisfied beyond reasonable doubt that the only reasonable inference to be drawn from this statement is that Deronjić possessed genocidal intent.

2607. The Prosecution also refers to a speech made before the Bosnian Serb Assembly in July 1992 by Miladin Nedić, member of the SDS Main Board and representative at the Bosnian Serb Assembly, which the Prosecution coins as “the executioners’ speech”.⁸⁷²⁴ The Accused, on the contrary, refers to Nedić’s evidence that this particular statement must be understood in light of his later address during the same session.⁸⁷²⁵ During his first address to the 17th Bosnian Serb Assembly session, Nedić stated the following

I am against solving the situation in Bosnia in haste, we must admit that the Muslims have been planted to us as a people whose executioners we are to be. I do not want the Serb people to be executioners but I am also against us giving up our state, our land and our territory.[...] Therefore we should not hurry, because we are a people who have been determined to be executioners and to do someone a favour.⁸⁷²⁶

2608. Nedić testified that the essence of his statement was that he was advocating a peaceful solution to avoid the war.⁸⁷²⁷ The Chamber notes that Nedić indeed described the Serb people as having been called upon to be the executioners of the Muslims. However, it also notes that he immediately stated: “I am against any defined borders while people are getting killed”.⁸⁷²⁸ Furthermore, later in the session, during a second address, Nedić reiterated that he opposed any discussion on the definition of borders and advocated the following:

Let us leave the time to solve that, but I am not for waging a war in order to enslave some and us to become oppressors. Let us treat the soldiers in accordance with military codes, let us not kill women and children for wearing dimijas. [...] I told a colonel that I am for a knightly warfare and not for genocide.⁸⁷²⁹

2609. The Chamber notes that the Prosecution refers to later statements made by Nedić before the Bosnian Serb Assembly, which it claims contradicts Nedić’s evidence that he was advocating

⁸⁷²³ See Section IV.A.3.a.ii.C: Split in the MUP and the creation of Bosnian Serb MUP.

⁸⁷²⁴ Prosecution Final Brief, fn. 2184. The Chamber notes that the Prosecution erroneously refers to D4332 and not to D4232 as the exhibit number for Nedić’s witness statement.

⁸⁷²⁵ Defence Final Brief, para. 2769.

⁸⁷²⁶ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 41. See also Miladin Nedić, T. 45883 (22 January 2014) (testifying, in relation to this statement, that he never advocated the extermination of the Muslim people and that the “only thing I hold against the Muslims as a religious group or people, whatever you wish, is that they are forcing me to have to fire at them too”).

⁸⁷²⁷ D4232 (Witness statement of Miladin Nedić dated 20 January 2014), para. 5.

⁸⁷²⁸ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 41.

peace.⁸⁷³⁰ Having considered these statements, the Chamber finds that they show Nedić's exasperation with the position of the Bosnian Muslims during negotiations and his wish that peace be established; albeit solely under the conditions established by the Bosnian Serbs.⁸⁷³¹

2610. In light of the above, the Chamber is not satisfied that the only reasonable inference that can be drawn from Nedić's statement at the 17th session of the Bosnian Serb Assembly is that he possessed the intent to destroy a part of the Bosnian Muslim group as such.

2611. The Chamber notes that these are merely examples referred to by the Prosecution to show genocidal intent of the "Accused's followers" but that the Chamber conducted its own assessment of the remainder of the trial record to examine whether there was genocidal intent towards the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such, on the part of Bosnian Serbs not named as alleged Overarching JCE members.

2612. In light of the above and having assessed the entire trial record, including the pattern of crimes described below,⁸⁷³² the Chamber is not satisfied beyond reasonable doubt that the only reasonable inference that can be drawn from the facts and circumstances is that Bosnian Serbs not named as alleged Overarching JCE members possessed the intent to destroy the Bosnian Muslim and/or the Bosnian Croat groups in the Count 1 Municipalities as such.

(4) Evidence of genocidal intent of the physical perpetrators

2613. The Chamber examined the record to assess whether there was evidence of genocidal intent by the perpetrators of the above acts in relation to the Count 1 Municipalities. In relation to Count 3, the Chamber found that victims of crimes during the take-overs of the Count 1 Municipalities and in detention facilities in those municipalities were targeted solely on the basis that they were Bosnian Muslims and Bosnian Croats.⁸⁷³³ This led the Chamber to find that the said crimes were committed with discriminatory intent.⁸⁷³⁴ The Chamber is not satisfied, however, that there is evidence establishing, beyond reasonable doubt, that the perpetrators of these crimes possessed

⁸⁷²⁹ D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 60.

⁸⁷³⁰ Prosecution Final Brief, fn. 2184.

⁸⁷³¹ D115 (Transcript of 25th session of RS Assembly, 19-20 January 1993), p. 25 (stating: "Everything that we offered them as a people they refused, and had they been a people, they would have accepted at least one option, for us to live like human beings and like peoples. They are to blame, not us. Let them fare as God sees fit."); P1394 (Transcript of 42nd session of RS Assembly, 18-19 July 1994), ecourt p. 85 (stating: "I don't know what /they/ want from us, to go in front of a wall of pain to beg someone for peace. [...] I am not worried about the Muslims who have declared war on us, I am worried about Serbs."). The Chamber notes that the Prosecution erroneously refers to D1379 in fn. 2184, which is a map.

⁸⁷³² See paras. 2614-2615.

⁸⁷³³ See paras. 2483, 2513-2516.

⁸⁷³⁴ See paras. 2483, 2513.

intent to destroy the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such.

(5) Evidence of genocidal intent through the pattern of crimes

2614. The Chamber will now examine whether the pattern of crimes in the Count 1 Municipalities, as considered in light of the whole trial record, satisfies the Chamber that the only reasonable inference that could be drawn from the facts and circumstances was that the acts described above in the Count 1 Municipalities were committed with genocidal intent.

2615. The Chamber recalls a few key factual findings made above in relation to each of the Count 1 Municipalities, first in relation to eastern BiH (Zvornik, Foča, Bratunac, and Vlasenica) before turning to the ARK (Ključ, Prijedor, and Sanski Most).

2616. In Zvornik, preparations for the division of municipal organs and the creation of Serb institutions started at the end of 1991.⁸⁷³⁵ The take-over of the town of Zvornik by Serb Forces started on or about 8 April 1992 and by the following morning, a Serbian flag was flying over the main mosque.⁸⁷³⁶ During the take-over, Bosnian Muslims were killed by Serb Forces.⁸⁷³⁷ Restrictive measures were imposed and Bosnian Muslims were dismissed from employment.⁸⁷³⁸ Paramilitaries looted, mistreated, raped, and killed inhabitants.⁸⁷³⁹ After the attack on the town, Serb Forces attacked surrounding villages; they set houses on fire, cut the electricity supply, and rounded up people who were then either transferred out of the municipality or detained in detention facilities there.⁸⁷⁴⁰ Hundreds of Bosnian Muslims were arrested and detained in detention facilities throughout Zvornik; there, they were held in appalling conditions, subjected to severe mistreatment, rape and other acts of sexual violence; some detainees were killed.⁸⁷⁴¹ The Chamber also found that 26 mosques were heavily damaged, almost destroyed, or completely destroyed by Serb Forces from April 1992.⁸⁷⁴² Finally, the Chamber found that Bosnian Muslims were forced to leave Zvornik and that towards the end of June 1992, there were very few Bosnian Muslims remaining in the town.⁸⁷⁴³

⁸⁷³⁵ See paras. 1232, 1233.

⁸⁷³⁶ See paras. 1249, 1251.

⁸⁷³⁷ See para. 1258.

⁸⁷³⁸ See para. 1276.

⁸⁷³⁹ See para. 1282.

⁸⁷⁴⁰ See paras. 1259–1263, 1269–1274.

⁸⁷⁴¹ See e.g. paras. 1296, 1301, 1305, 1309, 1314, 1323, 1328, 1333, 1340, 1341, 1343, 1346.

⁸⁷⁴² See para. 1359.

⁸⁷⁴³ See paras. 1364–1365.

2617. In Foča, steps towards the creation of separate Serb institutions were taken starting at the end of 1991.⁸⁷⁴⁴ The town was taken over by Serb Forces in early April 1992.⁸⁷⁴⁵ During and after the take-over, Bosnian Muslim houses were looted and destroyed and Bosnian Muslim inhabitants left.⁸⁷⁴⁶ Then, ensued a period of large-scale arrests of non-Serb men who were taken to detention facilities throughout the municipality and of restrictions on the Bosnian Muslim population.⁸⁷⁴⁷ The Chamber found that Bosnian Muslim civilians were killed either during attacks on villages throughout the municipality or in detention facilities.⁸⁷⁴⁸ In the detention facilities, detainees were held in terrible conditions; they were also mistreated and subjected to rape and acts of sexual violence.⁸⁷⁴⁹ The Chamber also found that two mosques were destroyed by Serb Forces between April and August 1992.⁸⁷⁵⁰ Finally, the Chamber found that Bosnian Muslims were forced to leave Foča and that by mid-August 1992, there were almost no Bosnian Muslim left in Foča.⁸⁷⁵¹

2618. In Bratunac, the Chamber made findings that at the end of 1991 and the beginning of 1992, preparations were made to divide municipal structures and create separate Serb institutions.⁸⁷⁵² On or about 17 April 1992, Serb Forces entered the town.⁸⁷⁵³ From then on, Bosnian Muslim houses were searched and looted,⁸⁷⁵⁴ Bosnian Muslims were dismissed from their jobs,⁸⁷⁵⁵ Bosnian Serb refugees settled in the homes of Bosnian Muslims who had left,⁸⁷⁵⁶ and mosques and other Muslim monuments were destroyed.⁸⁷⁵⁷ In the days following the attack on the town, surrounding Bosnian Muslim villages were attacked by Serb Forces; during the course of these attacks, houses were looted and burned, and villagers were told to leave.⁸⁷⁵⁸ Bosnian Muslims were also killed by Serb Forces in these villages.⁸⁷⁵⁹ From May 1992, hundreds of Bosnian Muslims and Bosnian Croats were rounded up from their homes and detained in facilities throughout Bratunac, where they were subjected to severe mistreatment and held in cramped condition; some detainees died.⁸⁷⁶⁰ In these

⁸⁷⁴⁴ See paras. 843–846.

⁸⁷⁴⁵ See paras. 852–855.

⁸⁷⁴⁶ See paras. 855–858.

⁸⁷⁴⁷ See paras. 861–865.

⁸⁷⁴⁸ See paras. 869, 874, 911.

⁸⁷⁴⁹ See paras. 879, 889, 903, 923.

⁸⁷⁵⁰ See para. 928.

⁸⁷⁵¹ See paras. 930–934.

⁸⁷⁵² See paras. 697–710.

⁸⁷⁵³ See para. 714.

⁸⁷⁵⁴ See paras. 719, 721.

⁸⁷⁵⁵ See para. 723.

⁸⁷⁵⁶ See para. 725.

⁸⁷⁵⁷ See paras. 782–783.

⁸⁷⁵⁸ See paras. 728–732.

⁸⁷⁵⁹ See paras. 737, 749.

⁸⁷⁶⁰ See paras. 759, 766, 767, 780.

detention facilities, prominent Bosnian Muslims intellectuals were targeted.⁸⁷⁶¹ The Chamber found that Bosnian Muslims were forced to leave Bratunac and that by the end of June 1992, very few remained in the town.⁸⁷⁶²

2619. In Vlasenica, measures were adopted to divide municipal institutions and create Serb organs at the end of 1991 and the beginning of 1992.⁸⁷⁶³ Serb Forces took over Vlasenica on or about 21 April 1992.⁸⁷⁶⁴ After the take-over, the movement of Bosnian Muslims was restricted and they were dismissed from their jobs.⁸⁷⁶⁵ They were arrested and interrogated.⁸⁷⁶⁶ During the course of the take-over of villages within the municipality, Bosnian Muslim houses were set on fire.⁸⁷⁶⁷ Bosnian Muslims were also killed during the course of these attacks.⁸⁷⁶⁸ There were a number of detention facilities in Vlasenica; there, Bosnian Muslims were detained, held in appalling conditions, beaten, raped, and some were killed.⁸⁷⁶⁹ The Chamber found that Bosnian Muslims were forced to leave Vlasenica in 1992 and early 1993 and that by then there were very few Bosnian Muslims left in Vlasenica town.⁸⁷⁷⁰

2620. In Prijedor, measures were also taken for the division of municipal organs and the establishment of Serb institutions at the end of 1991 and the beginning of 1992.⁸⁷⁷¹ At this time, propaganda in the municipality against Bosnian Muslims and Bosnian Croats was common.⁸⁷⁷² The town of Prijedor was taken over on 30 April 1992 by Serb Forces.⁸⁷⁷³ After the take-over, non-Serbs were dismissed from the workforce and their houses were searched and looted.⁸⁷⁷⁴ About a month later, villages in the predominantly Muslim areas of Kozarac and Brdo, as well as in Briševo were attacked by Serb Forces; villages were shelled, set ablaze, and for the most part destroyed,⁸⁷⁷⁵ During the course of these attacks, Bosnian Muslims and Croats were killed.⁸⁷⁷⁶ Thousands of

⁸⁷⁶¹ See para. 774.

⁸⁷⁶² See paras. 789, 791. The Chamber recalls that parts of the territory of Bratunac remained under the control of the Bosnian Muslim forces and that they launched an offensive in the second half of 1992 and the beginning of 1993. See para. 790.

⁸⁷⁶³ See paras. 1108, 1109.

⁸⁷⁶⁴ See para. 1114.

⁸⁷⁶⁵ See paras. 1118, 1120.

⁸⁷⁶⁶ See paras. 1116, 1123.

⁸⁷⁶⁷ See paras. 1129–1130, 1133.

⁸⁷⁶⁸ See paras. 1146, 1153, 1159.

⁸⁷⁶⁹ See paras. 1167, 1170, 1179, 1201, 1207, 1213.

⁸⁷⁷⁰ See paras. 1220, 1222.

⁸⁷⁷¹ See paras. 1578–1581.

⁸⁷⁷² See para. 1582.

⁸⁷⁷³ See paras. 1592–1593.

⁸⁷⁷⁴ See paras. 1596–1603.

⁸⁷⁷⁵ See paras. 1618, 1621, 1638, 1666, 1669, 1681–1682, 1684, 1700–1701, 1717.

⁸⁷⁷⁶ See paras. 1619, 1631, 1637, 1647, 1657, 1677, 1684, 1692, 1700–1703, 1715, 1735.

Bosnian Muslims and Bosnian Croats were detained in detention facilities in Prijedor.⁸⁷⁷⁷ The Chambers has made findings that the conditions in these detention facilities were, in general, abysmal, that detainees were subjected to frequent and severe beatings, rape and other acts of sexual violence, and that some were killed.⁸⁷⁷⁸ In Prijedor, 17 mosques and two Catholic churches were heavily damaged, almost destroyed, or completely destroyed by Serb Forces.⁸⁷⁷⁹ The Chamber found that following the attacks on towns and villages in Prijedor between late May and end of July 1992, the non-Serb population was expelled from the municipality.⁸⁷⁸⁰ As detention facilities were closed in Prijedor, detainees held there were transferred around the municipality as well as to camps outside of the municipality and ultimately often to third countries.⁸⁷⁸¹ The Chamber found by 1995, the population of Prijedor municipality consisted of approximately 92% Bosnian Serbs, 5% Bosnian Muslims, and 1% Bosnian Croats.⁸⁷⁸²

2621. In Sanski Most, Serb municipal organs were only established in early April 1992.⁸⁷⁸³ Bosnian Muslim neighbourhoods and villages were attacked on 25 May 1992.⁸⁷⁸⁴ Houses were destroyed and individuals were captured.⁸⁷⁸⁵ Thereafter, Bosnian Muslims were dismissed from their work and Bosnian Croat and Muslim political leaders were arrested.⁸⁷⁸⁶ Bosnian Muslims and Croats were killed.⁸⁷⁸⁷ After military operations against Bosnian Muslim and Bosnian Croat villages in Sanski Most, soldiers collected the able-bodied military-aged men from the village and transferred them by bus to Sanski Most town.⁸⁷⁸⁸ Over a thousand individuals were thus detained in detention facilities throughout the municipality in poor conditions; they were beaten and some were also killed.⁸⁷⁸⁹ The Chamber also found that at least 16 mosques and the town Catholic church were heavily damaged, almost destroyed or completely destroyed by Serb Forces between May and December 1992.⁸⁷⁹⁰ The Chamber also found that Bosnian Muslims and Bosnian Croats in Sanski Most were forced to leave and that by February 1995, the population of Sanski Most

⁸⁷⁷⁷ See paras. 1628, 1738.

⁸⁷⁷⁸ See paras. 1747, 1774, 1778, 1781, 1803, 1815, 1832, 1847, 1861, 1871, 1877, 1885.

⁸⁷⁷⁹ See para. 1896.

⁸⁷⁸⁰ See para. 1897.

⁸⁷⁸¹ See para. 1902.

⁸⁷⁸² See para. 1913.

⁸⁷⁸³ See paras. 1933–1934.

⁸⁷⁸⁴ See para. 1945.

⁸⁷⁸⁵ See para. 1945.

⁸⁷⁸⁶ See para. 1950.

⁸⁷⁸⁷ See paras. 1960, 1965, 1969, 1973, 1978.

⁸⁷⁸⁸ See para. 1979.

⁸⁷⁸⁹ See paras. 1991, 1998, 2002, 2011, 2018, 2024.

⁸⁷⁹⁰ See para. 2031.

municipality was approximately 3,350 Bosnian Muslims, 1,050 Bosnian Croats, and 33,600 Bosnian Serbs.⁸⁷⁹¹

2622. In Ključ, preparations to establish separate Serb institutions started at the end of 1991.⁸⁷⁹² Violence intensified in March 1992 and the town was taken over in early May 1992.⁸⁷⁹³ After the take-over, Bosnian Muslims were expelled from the police, administrative organs, and the workforce.⁸⁷⁹⁴ A large number of Bosnian Muslim houses were destroyed and Bosnian Muslims were killed during the course or after attacks on villages.⁸⁷⁹⁵ Other Bosnian Muslims from Ključ were rounded up and detained in facilities throughout the municipality, where they were subjected to mental abuse and physical mistreatment.⁸⁷⁹⁶ The Chamber found that eight mosques were destroyed by Serb Forces between May and August 1992.⁸⁷⁹⁷ The Chamber also found that Bosnian Muslims and Bosnian Croats were forced to leave Ključ and that by 1995, only 1,200 of Ključ's original 17,000 Bosnian Muslims remained.⁸⁷⁹⁸

2623. As summarised above, the Chamber's findings in relation to the Count 1 Municipalities show a clear pattern of widespread intimidation, violence, killings, and expulsions targeted at the Bosnian Muslims and Bosnian Croats, for the most part of 1992 and, in some instances, into 1993. The Chamber has already found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat population of BiH, demonstrated by the existence of a campaign of co-ordinated violence during the take-overs and in the detention facilities.⁸⁷⁹⁹ Further, the acts which the Chamber has determined herein to constitute acts under Article 4(2) of the Statute were found to have targeted their victims solely on the basis of their ethnicity and were therefore found to constitute persecution.⁸⁸⁰⁰ This campaign of violence resulted in the Serb-claimed territories of the Count 1 Municipalities being cleared of the overwhelming majority of their Bosnian Muslim and Bosnian Croat populations, as most had left by the end of 1992 and into 1993.

2624. This pattern of crimes in the Count 1 Municipalities is illustrated by the commission of dreadful crimes, namely crimes against humanity and violations of the law or customs of war,

⁸⁷⁹¹ See paras. 2039–2040.

⁸⁷⁹² See para. 1495–1497.

⁸⁷⁹³ See paras. 1500–1501.

⁸⁷⁹⁴ See paras. 1502–1505.

⁸⁷⁹⁵ See paras. 1512, 1515, 1522, 1555.

⁸⁷⁹⁶ See paras. 1529, 1536, 1544.

⁸⁷⁹⁷ See para. 1558.

⁸⁷⁹⁸ See paras. 1567, 1568.

⁸⁷⁹⁹ See para. 2444.

⁸⁸⁰⁰ See paras. 2513–2514, 2518.

against the Bosnian Muslims and Bosnian Croats on a widespread scale. As a result, many Bosnian Muslims and Bosnian Croats in the Count 1 Municipalities, including some prominent members of that group, were subjected to the acts described above. The Chamber found that the scale and extent of the expulsions and movement of the civilians from the Municipalities, including the Count 1 Municipalities, resulted in the displacement of a vast number of Bosnian Muslims and Bosnian Croats and in drastic changes to the ethnic composition of towns with almost no Bosnian Muslim remaining there.⁸⁸⁰¹ As recalled above, by early 1993, practically all of the Bosnian Muslims had been moved out of Serb held territory in the Count 1 Municipalities. The total number of Bosnian Muslims and Bosnian Croats displaced—especially when examined in light of the portion of the groups of Bosnian Muslims and Bosnian Croats allegedly targeted for destruction in the Count 1 Municipalities through the commission of the acts under Article 4(2) of the Statute identified above as well as the fact that Serb Forces exercised control over these territories—does not satisfy the Chamber that the only reasonable inference is that there existed an intent to destroy the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such. Rather, the Chamber considers that a reasonable inference to be drawn from the pattern described above is that the intent behind those crimes was to ensure the removal of members of the Bosnian Muslims and Bosnian Croats from the Count 1 Municipalities.

2625. In assessing this pattern of crimes also in the context of its findings on the objectives of the Bosnian Serb leadership, including the Accused,⁸⁸⁰² the Chamber recalls that their objective was to create an ethnically pure Bosnian Serb state as well as contiguous Serb areas, which would require a redistribution—rather than the physical destruction—of the population.⁸⁸⁰³ Bosnian Serbs promoted the idea that they could not live with anyone else and therefore that BiH had to be divided along ethnic lines.⁸⁸⁰⁴ The results on the ground, including in the Count 1 Municipalities, were consistent with these goals. As an example that this pattern of crimes is consistent with the Bosnian Serb leadership's intent to create ethnically pure territories through the removal of the Bosnian Muslims and Bosnian Croats, the Chamber refers to the Accused's speech at the 37th Bosnian Serb Assembly in 1994 where he congratulates Foča, then renamed as Srbinja, for being "a true Serbian town" as well as to the broadcast in which he announced that Bosnian Muslims have given up on Foča in their negotiations.⁸⁸⁰⁵ When seen in this context, the Chamber is not satisfied that the only reasonable inference that can be drawn from the pattern of crimes described above is

⁸⁸⁰¹ See para. 2467.

⁸⁸⁰² See Section IV.A.3.a.i: Objectives of the Accused and the Bosnian Serb leadership.

⁸⁸⁰³ See Section IV.A.3.a.i: Objectives of the Accused and the Bosnian Serb leadership; para. 2898.

⁸⁸⁰⁴ See para. 2841.

⁸⁸⁰⁵ See paras. 2810–2811.

that there existed intent to destroy the parts of the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such.

(6) Conclusion

2626. Having reviewed all of the evidence on the record, for the purpose of Count 1, the Chamber is not satisfied beyond reasonable doubt that the acts under Article 4(2) identified above in the Count 1 Municipalities were committed with genocidal intent. Further, it is not convinced that the only reasonable inference to be drawn from the evidence is that named members of the alleged Overarching JCE, including the Accused, other Bosnian Serbs not named as alleged members of the Overarching JCE, or physical perpetrators possessed such intent to destroy the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such.

3. Overarching JCE and the Accused's responsibility

2627. The Chamber recalls that with respect to the Overarching JCE, the Prosecution alleges that from at least October 1991 to 30 November 1995, the Accused participated in an "overarching" JCE, the objective of which was to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory in BiH.⁸⁸⁰⁶

2628. The named individuals who are alleged to have been members of the Overarching JCE and to have acted in concert with the Accused are Krajišnik, Mladić, Slobodan Milošević, Plavšić, Koljević, Mićo Stanišić, Mandić, Jovica Stanišić, Franko Simatović, Arkan, and Šešelj.⁸⁸⁰⁷

2629. In addition, the Prosecution alleges that other members of the Overarching JCE included members and leaders of the Bosnian Serb Political and Governmental Organs and commanders, senior officers, chiefs of the Serbian MUP, JNA, VJ, VRS, RS MUP, Bosnian Serb TO, and leaders of Bosnian Serb paramilitary forces and volunteer units.⁸⁸⁰⁸ In the alternative, the Prosecution alleges that some or all of these individuals were not members of the Overarching JCE, but were used by members of the Overarching JCE to carry out the crimes committed in furtherance of its objective.⁸⁸⁰⁹

2630. The Prosecution alleges that the objective of the Overarching JCE was achieved through the commission of the crimes of genocide, persecution, extermination, murder, deportation, and

⁸⁸⁰⁶ See paras. 592–594; Indictment, paras. 9–14, 30–31.

⁸⁸⁰⁷ See Indictment, para. 11.

⁸⁸⁰⁸ See Indictment, para. 12.

⁸⁸⁰⁹ See Indictment, para. 12.

inhumane acts (forcible transfer).⁸⁸¹⁰ The Prosecution charges the Accused with the first and the third form of JCE in relation to the Overarching JCE.⁸⁸¹¹ It primarily argues that the Accused shared the intent for the commission of each of these crimes with other members of the Overarching JCE.⁸⁸¹² Alternatively, the Prosecution argues that the shared objective of the Overarching JCE included at least the crimes of deportation and inhumane acts (forcible transfer) and that for the remaining crimes the Accused is responsible as it was foreseeable that the remaining crimes might be perpetrated in order to carry out the *actus reus* of the crimes which formed part of the shared objective.⁸⁸¹³

2631. The Prosecution alleges that members of the Overarching JCE implemented its objective by personally committing crimes, and/or by using others to carry out crimes in furtherance of its objective.⁸⁸¹⁴ Those alleged to have been used by members of the Overarching JCE to carry out these crimes were members of the Bosnian Serb Political and Governmental Organs and members of the Serb Forces.⁸⁸¹⁵

2632. The Prosecution lists ten ways in which it alleges the Accused significantly contributed to the objective of the Overarching JCE.⁸⁸¹⁶

2633. The Chamber will consider the evidence presented with respect to (i) the objectives of the Accused and the Bosnian Serb leadership; (ii) the Accused's authority over Bosnian Serb political and governmental structures; (iii) the Accused's authority over Serb Forces; (iv) the knowledge and acts of named alleged members of the Overarching JCE; and (v) the Accused's knowledge of crimes and measures taken to prevent and punish crimes in the Municipalities. The Chamber will analyse this evidence to determine whether the Overarching JCE existed, and if so, when it came into existence, what was its common purpose, and whether a plurality of persons, including the Accused, shared and acted pursuant to that common purpose. The Chamber will then analyse whether or not the Accused significantly contributed to the alleged Overarching JCE and which crimes if any were intended or, alternatively, whether any of the alleged crimes were foreseeable in the implementation of the objective of the Overarching JCE.

⁸⁸¹⁰ See Indictment, para. 9.

⁸⁸¹¹ See Indictment, paras. 9–10.

⁸⁸¹² See Indictment, para. 9.

⁸⁸¹³ See Indictment, para. 10.

⁸⁸¹⁴ See Indictment, para. 13.

⁸⁸¹⁵ See Indictment, para. 13.

⁸⁸¹⁶ See Indictment, para. 14.

a. Responsibility related facts

i. *Objectives of the Accused and the Bosnian Serb leadership*

(A) Unity of the Serb people and promotion of Serb interests

(1) Analysis of evidence

2634. In the period leading up to the start of the conflict, the Accused made statements calling for the unity of the Serb people and the promotion of Serb interests. These are discussed below.

2635. The Chamber recalls that the SDS was established on 12 July 1990, and the Accused as president of the party stated that the objectives of the SDS included “a federative Yugoslavia, and in it an equal federal Bosnia and Herzegovina”.⁸⁸¹⁷ During this speech he also spoke about how decades of “single-party rule have intensely disturbed the natural development of the Serbian nation”.⁸⁸¹⁸ In addition, he spoke about how “Serbian entities” in BiH had been broken down and had been left in an inferior “economic, demographic and political position”.⁸⁸¹⁹

2636. On 13 October 1990, in a speech before Serb representatives in Banja Luka, the Accused expressed his view that the “Serbian nation” was united and spoke of his fear that BiH would set its course to separate from Yugoslavia and that the Serbs would be separated from Serbia and be a national minority.⁸⁸²⁰ The Accused also said “[w]hether a greater Croatia or greater Bosnia and Herzegovina as some kind of independent state, separate from Yugoslavia, they are equally unfavourable for us, the Serbs. [...] The Serbian people of Bosnia and Herzegovina will not abandon its demands to live in a state which also includes its main country, the country of Serbia”.⁸⁸²¹ In the same speech, the Accused spoke about changes to “the essence of the borders, the quality and nature of our internal borders. So the administrative lines which are supposed to join us have been transformed, or will soon be transformed into firm state borders which separate us. [...] They would like to chop the Serbian nation up in pieces against its will.”⁸⁸²² The Accused

⁸⁸¹⁷ See para. 58; D255 (Radovan Karadžić’s speech at the constituent SDS Assembly), p. 2; P971 (Robert Donia’s expert report entitled “The Origins of Republika Srpska, 1990–1992”, 30 July 2002), p. 20; Patrick Treanor, T. 14001 (1 June 2011). See also Adjudicated Fact 1931.

⁸⁸¹⁸ D255 (Radovan Karadžić’s speech at the constituent SDS Assembly), p. 1.

⁸⁸¹⁹ D255 (Radovan Karadžić’s speech at the constituent SDS Assembly), p. 1.

⁸⁸²⁰ D1280 (Nikola Koljević and Radovan Karadžić’s speeches at the All-Serb Council in Banja Luka, 13 October 1990), pp. 5–6.

⁸⁸²¹ D1280 (Nikola Koljević and Radovan Karadžić’s speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 6. See also D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 38.

⁸⁸²² D1280 (Nikola Koljević and Radovan Karadžić’s speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 4.

also expressed his concern regarding the collapse of Yugoslavia “into the abyss” and warned that the Bosnian Serbs would take any threat of civil war seriously.⁸⁸²³

2637. At this same meeting, Koljević identified the purpose of establishing the SDS as a means of expressing the national objective of the Bosnian Serbs, which was “a federative Yugoslavia and for the Serbs to be able to survive [...] in that Yugoslavia and for all the other peoples to be able to survive together”.⁸⁸²⁴ Koljević also emphasised that the SDS was formed in “response to the new situation which has arisen and which we will not and must not tolerate” and that they should not remain unprepared.⁸⁸²⁵ In this same speech Koljević called on the other national parties in BiH to think about “what the partition of a confederal Yugoslavia means and for them not to push us into another civil war”.⁸⁸²⁶

2638. In an interview in November 1990, the Accused discussed the possibility of Serbs being outvoted in the BiH Assembly and predicted that if that happened “all conditions for a civil war would be in place, because the Serbs in BiH are no longer helpless, but very powerful and united”.⁸⁸²⁷ The Accused stated that he did not think civil war would happen “because the Serbs won’t start the skirmish first and others are afraid to. No one has reason to fear the Serbs if they have no misdeeds against them”.⁸⁸²⁸ The Accused further stated that “under no circumstances will Serbs accept to live in several independent states, and to become a national minority everywhere outside Serbia. The Serbs will stay in one state – Federative Yugoslavia” and would not be separated from Serbia.⁸⁸²⁹

⁸⁸²³ D1280 (Nikola Koljević and Radovan Karadžić's speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 4. *See also* P5860 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 23 September 1991).

⁸⁸²⁴ D1280 (Nikola Koljević and Radovan Karadžić's speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 8.

⁸⁸²⁵ D1280 (Nikola Koljević and Radovan Karadžić's speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 8.

⁸⁸²⁶ D1280 (Nikola Koljević and Radovan Karadžić's speeches at the All-Serb Council in Banja Luka, 13 October 1990), p. 9.

⁸⁸²⁷ P2539 (Radovan Karadžić's interview in NIN, 9 November 1990), p. 3.

⁸⁸²⁸ D1281 (Articles from *Večernje Novine* entitled “Karadžić shocked me” and “Šešelj is amiable”, 9 May 1991), pp. 2–3. *See also* P6540 (Excerpt of video from Banja Luka, 3 March 1991, with transcript), p. 2; P6617 (Article entitled “Jovan Rašković on Shrink's Sofa”), p. 2. The Chamber places no weight on the opinions expressed by Jovan Rašković in this article, including his view that the Bosnian Serb leadership had “burnt the fuse of Serbian people”.

⁸⁸²⁹ P2539 (Radovan Karadžić's interview in NIN, 9 November 1990), pp. 6–8. *See also* P2555 (Intercepts of conversations between (i) Radovan Karadžić and Anđelko Vukić; and (ii) Radovan Karadžić and Boro Sendić, 16 October 1991), p. 3; D269 (Radovan Karadžić's interview with NIN, 20 July 1990), p. 6; Radomir Nešković T. 14260 (6 June 2011). *But see* D3528 (Witness statement of Milan Martić dated 7 May 2013), para. 69; Milan Martić, T. 38106–38109 (13 May 2013) (testifying that contrary to what the Accused said in P2555, the Accused's position was not that he wanted to keep Serbian parts of BiH linked to other Serbian parts of the former Yugoslavia). The Chamber does not find Martić's evidence in this regard to be reliable. In reaching that

2639. The Accused also indicated that the political life of Bosnian Serbs “had been fully revived and established”, which was the main purpose of setting up the SDS, and that in all places where Serbs lived they had set up municipal organisations with municipal and local boards.⁸⁸³⁰ He spoke about how the SDS had become the party of all Serbs and there was now “only a unified Serbian people”.⁸⁸³¹ These statements were made before the first multi-party elections, which the Chamber recalls were held in BiH on 18 November 1990.⁸⁸³²

2640. The Accused delivered a speech in 1990 in which he said that Bosnian Serbs did not agree to “sacrifice any Croat, any Muslim, and any human being in organizing a state” and that those who did not know how to organise their state “except with blood and corpses, they must go!”⁸⁸³³ In this speech the Accused also said they would act democratically and be benign so long as democracy was able to function but that the “moment anyone attacks us, we shall bring out the spear”.⁸⁸³⁴ The Accused also stated that one of the objectives of the SDS was to improve multi-ethnic relations but that it would not co-operate with any parties which “have even the slightest trace of anti-Serbism”.⁸⁸³⁵

2641. In May 1991, the Accused and Plavšić discussed preserving the common state of Yugoslavia, the danger of BiH “sliding into chaos and civil war”, and the need to reach an agreement with Izetbegović in line with their interests.⁸⁸³⁶ The Accused, in June 1991, repeated his position that BiH would never be independent and that it would not follow the footsteps of Croatia.⁸⁸³⁷ He also said that if BiH were to collapse, there would be chaos but that they would not bow their heads.⁸⁸³⁸ The Accused warned Izetbegović out of frustration that they would form a

conclusion the Chamber found that his testimony was marked by contradictions, evasiveness, and indicators of bias.

⁸⁸³⁰ P2539 (Radovan Karadžić’s interview in NIN, 9 November 1990), p. 1. *See also* P5643 (Intercept of conversation between Radovan Karadžić and an unidentified male, 8 July 1991).

⁸⁸³¹ P2539 (Radovan Karadžić’s interview in NIN, 9 November 1990), p. 1. *See also* P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), p. 47.

⁸⁸³² *See para.* 38.

⁸⁸³³ D4185 (Radovan Karadžić’s speech, 2 September 1990, with transcript), p. 2. Miloš Milinčić testified that the Accused in this speech called for good neighbourly relations, and that people lived best when they lived together in peace and harmony. Miloš Milinčić, T. 44937–44940 (11 December 2013). The Chamber notes that this is based on Milinčić’s own interpretation of the Accused’s speech and is thus of limited weight. In addition, Milinčić’s evidence was marked by extreme evasiveness and indicators that he lacked candour. The Chamber therefore does not find his evidence in this regard to be reliable.

⁸⁸³⁴ P6563 (Excerpt of Radovan Karadžić’s speech in Srbac, 2 September 1990, with transcript).

⁸⁸³⁵ D255 (Radovan Karadžić’s speech at the constituent SDS Assembly), pp. 2–3.

⁸⁸³⁶ P5681 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 23 May 1991), pp. 2–3. *See also* P5727 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 2 March 1992), p. 2; P5605 (Intercept of conversation between Radovan Karadžić, Goran Milić, Alija Izetbegović, and an unidentified woman, 3 March 1992), p. 7.

⁸⁸³⁷ D270 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 17 June 1991), p. 7. *See also* P5896 (Intercept of conversation between Radovan Karadžić and an unidentified journalist, 24 June 1991).

⁸⁸³⁸ D270 (Intercept of conversation between Vitomir Žepinić and Radovan Karadžić, 17 June 1991), pp. 8–9.

parallel government and parallel police if their people were excluded and that the Bosnian Serbs were all armed.⁸⁸³⁹ The Accused also said in a related conversation that they had “prepared an alternative, which will be atrocious. We prepared it and we’ll fuck their mothers”.⁸⁸⁴⁰ The Accused in another conversation also spoke about territories which would be integral to the Serb part of BiH in the event that there was a split and that they would have their own “army and militia”.⁸⁸⁴¹

2642. On 23 July 1991, the Accused told Kuprešanin that the referendum for an independent Krajina would be a mistake for negotiations at that time because the Bosnian Muslims had prepared “all the evidence that the Serbs are creating the Greater Serbia. And now you are playing right into their hands, as if they are paying you. [...]. They have to make a mistake. They will definitely make a mistake we know that”.⁸⁸⁴²

2643. In an intercepted conversation on 4 September 1991, the Accused said that the army had been invited to Tuzla and that the Bosnian Muslims should be warned that the Serbs could defend themselves.⁸⁸⁴³ When informed about tensions in Bratunac, the Accused responded “we will arrest them and kill them. [...] Tell them that Serbs in Bosnia and Herzegovina [...] can defend themselves and defend themselves successfully. There are two hundred thousand armed men and they should not mess around”.⁸⁸⁴⁴ On 13 September 1991, referring to a proposal by Izetbegović to resolve the question of the army in BiH and demilitarisation, the Accused said to Koljević “we will put the army in all our areas, Serbian Bosnia, right? Down there, on Neretva...”.⁸⁸⁴⁵ The Accused also told international representatives that unless the Serb areas in BiH could remain tied to

⁸⁸³⁹ P5625 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 8 July 1991), p. 1; D364 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 24 July 1991), p. 6. *See also* D2925 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 9 September 1991), p. 2.

⁸⁸⁴⁰ D364 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 24 July 1991), p. 4. *See also* P962 (Intercept of conversation between Radovan Karadžić and Malko Koroman, 9 September 1991), pp. 2–3. Žepinić stated that he did not take the comments the Accused made during these intercepted phone conversations in this regard seriously as the Accused was “blowing off steam” and that he did not believe he meant them literally. D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), paras. 40, 43, 48–49. While the Chamber accepts that Žepinić formed this impression during these conversations, the Chamber finds that these conversations show that the Accused was indeed angry about proposed moves towards the independence of BiH and was prepared to change their strategy if Bosnian Serb demands were not met and this would include violence.

⁸⁸⁴¹ P5616 (Intercept of conversation between Radovan Karadžić and an unidentified male, 13 December 1991), pp. 4–5.

⁸⁸⁴² P1084 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 23 July 1991), pp. 3–4.

⁸⁸⁴³ D1643 (Intercept of conversation between Radovan Karadžić and Zvonko Bajagić, 4 September 1991), pp. 5–8.

⁸⁸⁴⁴ D1643 (Intercept of conversation between Radovan Karadžić and Zvonko Bajagić, 4 September 1991), p. 7.

⁸⁸⁴⁵ P5870 (Intercepts of conversations between (i) Radovan Karadžić and Mira; (ii) Radovan Karadžić and Nikola Koljević, 13 September 1991), pp. 2–3

Yugoslavia war would result.⁸⁸⁴⁶ On 30 September 1991, the Accused stated that the “war goal” of the Serbian people was Yugoslavia.⁸⁸⁴⁷ The SDS was ready to have Serb territories secede from an independent BiH if that was the only way for Serbs to remain in Yugoslavia.⁸⁸⁴⁸

2644. In May 1991, Slobodan Milošević told the Accused that his position should be that they were against the secession and wanted BiH to remain in Yugoslavia, to which the Accused agreed.⁸⁸⁴⁹ In another conversation in July 1991, Milošević told the Accused that their objective was to “have disintegration in [...] line with our inclinations” and that they “should take radical steps and speed the things up”.⁸⁸⁵⁰

2645. In other conversations, Slobodan Milošević told the Accused that the Serbs would not be divided into many states, and that this “should be the basic premise for your thinking”.⁸⁸⁵¹ He also questioned who could “take the Serbian people out of Yugoslavia if it is against their will”, to which the Accused responded that it was important to emphasise that the borders had been artificially created by Tito and did not follow an “ethnic [or] historical principle”.⁸⁸⁵²

2646. In July 1991, Milošević encouraged meetings between Serbs and Muslims because the population did not want war.⁸⁸⁵³ The Accused agreed but said that it was Izetbegović who was preparing for civil war and suggested to “let everybody identify themselves now, who does not want an agreement with the Serbs obviously wants a dispute with the Serbs”.⁸⁸⁵⁴ Milošević made it clear that they were “offering nothing else but an integral Bosnia, equal to other republics in Yugoslavia”.⁸⁸⁵⁵ The Accused repeated that they wanted to have strong ties with Yugoslavia and if

⁸⁸⁴⁶ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4172–4173, 4400–4401. See also Herbert Okun, T. 1516–1517 (23 April 2010), T. 1698 (27 April 2010), T. 1843–1844 (28 April 2010); P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), e-court p. 37; P777 (Fourth notebook of Herbert Okun’s Vance Mission diary), e-court p. 23.

⁸⁸⁴⁷ P2543 (Minutes of meeting of SDS deputies’ club, 30 September 1991). See also D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 27–28 (stating the Bosnian Serbs wanted to preserve Yugoslavia); D3528 (Witness statement of Milan Martić dated 7 May 2013), paras. 13–14.

⁸⁸⁴⁸ See Adjudicated Fact 1932.

⁸⁸⁴⁹ D1282 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 May 1991), p. 3. See also P5686 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 11 June 1991), p. 2; P5687 (Intercepts of conversations between (i) Ljiljana Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Slobodan Milošević, 12 June 1991), p. 3.

⁸⁸⁵⁰ P5890 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 July 1991), p. 2.

⁸⁸⁵¹ P5881 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 31 July 1991), p. 11.

⁸⁸⁵² P5880 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 6 August 1991), p. 5. See also P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), p. 2; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4164; Herbert Okun, T. 1479 (22 April 2010); P786 (Third notebook of Herbert Okun’s ICFY diary), e-court p. 34.

⁸⁸⁵³ P5881 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 31 July 1991), p. 5. See also P5775 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 5 January 1992), pp. 2–3.

⁸⁸⁵⁴ P5881 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 31 July 1991), p. 5.

⁸⁸⁵⁵ P5881 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 31 July 1991), p. 6.

the Bosnian Muslims refused, the alternative would be war.⁸⁸⁵⁶ This was confirmed in an intercepted conversation towards the end of the conflict, where the Accused and Krajišnik spoke about the fact that they had waged war because they did not accept BiH as “integral and separate from Yugoslavia”.⁸⁸⁵⁷

2647. On 2 October 1991, in an intercepted conversation with Krajišnik, the Accused alluded to there being “very concrete plans for transfer” and combat operations from Western Herzegovina to “that Ustasha’s oasis in Goražde and further to the Drina River”.⁸⁸⁵⁸ In this conversation, the Accused and Krajišnik agreed upon and discussed the importance of unifying Serbs in a common state, and Krajišnik stated that they had a clear, unified vision of a “state over the state”.⁸⁸⁵⁹ At a joint meeting between the government of the SAO Krajina and the ARK Executive Council in Banja Luka on 20 October 1991, which was attended by the Accused and Krajišnik, a conclusion was reached to support and implement the objective that the Serb people would remain in a single joint state.⁸⁸⁶⁰ The Accused also spoke to Milošević and told him that Serbs had one third of the electorate in BiH and that they were “going to forcefully make some other moves and they can no longer keep up with us”.⁸⁸⁶¹

2648. In an intercepted conversation in January 1992, the Accused emphasised his ideology with municipal leaders and said that the policy of the SDS “is the unified Serbianhood” in BiH and that if anybody had a problem they could create their own party.⁸⁸⁶² The Accused also spoke about working towards an option involving a “union of Serbian states” which would involve preparing a Serbian federation and defending “it with arms and at any cost”.⁸⁸⁶³ He also said that if they could not preserve Yugoslavia, the Serbs would find their own “place in the Sun” and that the “back up option” was to have all Serb territories in one state.⁸⁸⁶⁴ Similarly in February 1992, in the context

⁸⁸⁵⁶ P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), pp. 1–2; P5795 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 December 1991), p. 3.

⁸⁸⁵⁷ P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik and Radovan Karadžić, 30 May 1995), p. 9.

⁸⁸⁵⁸ P5856 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 2 October 1991), p. 3.

⁸⁸⁵⁹ P5856 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 2 October 1991), pp. 1–2.

⁸⁸⁶⁰ D4082 (Article from Glas entitled “Resolutely in a United State”, 21 October 1991).

⁸⁸⁶¹ P5822 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 11 November 1991), pp. 1, 3.

⁸⁸⁶² P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), p. 3; P5821 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 11 November 1991), pp. 1–2, 9, 12. *See also* D300 (Article from Politika entitled “Transformation of BiH”, 17 January 1992), pp. 1–2.

⁸⁸⁶³ P5763 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 19 January 1992), pp. 4, 6–7; P5762 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 22 January 1992), p. 3.

⁸⁸⁶⁴ P5762 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 22 January 1992), pp. 7, 9–10; P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), pp. 5–7.

of discussing their position at international negotiations, the Accused emphasised that: “Our optimum is a Greater Serbia, and if not that, then a Federal Yugoslavia” and that while they could settle for a cantonal structure he stated that “[t]here are no further concessions”.⁸⁸⁶⁵

2649. The Accused also spoke derisively of Serbs who did “not comply with the policy of the SDS, which advocates a single solution for the Serb people in Yugoslavia”.⁸⁸⁶⁶ At a rally in February 1992, attended by Bosnian Serb leaders including Krajišnik, Plavšić, and Koljević, speeches were delivered, including by a minister from Serbia, who said that nobody had the right to separate the Serbian people from Serbia and that if the Bosnian Serbs did not get what they were asking for in BiH they could rely on the support of Serbia.⁸⁸⁶⁷

2650. On 29 February 1992, the Accused, Krajišnik, and Koljević attended the 14th session of the ARK Assembly.⁸⁸⁶⁸ At the meeting, the Accused declared that if BiH changed its status in Yugoslavia then the Serbs would change their status as well.⁸⁸⁶⁹ In a March 1992 interview, the Accused stated: “I am convinced that the Serbs will never find peace until they have achieved their age-old aspiration of living in one state. Whether now or in a few years’ time, I don’t know. But they will achieve it.”⁸⁸⁷⁰

(2) Conclusion

2651. Having considered the evidence above, the Chamber finds that from 1990 and into mid-1991, the political objective of the Accused and the Bosnian Serb leadership was to preserve Yugoslavia and to prevent the separation or independence of BiH, which would result in a separation of Bosnian Serbs from Serbia.

2652. The Chamber also finds that the Accused emphasised that the Bosnian Serbs did not want to be a minority in an independent BiH and would not accept separation from Serbia. In these speeches, the Accused also spoke about the marginalisation of the Serb people and the need to protect their interests. These speeches and statements also demonstrate that the Accused was passionate about a common Serb identity and working towards creating a unified Serbian nation, which was viewed as an age-old aspiration of all Serbs living in one state. The Accused continued to adhere to this ideology of Serb unity and the importance of creating a Serb state into 1992.

⁸⁸⁶⁵ P5748 (Intercept of conversation between Radovan Karadžić and Lukić, 13 February 1992), pp. 1–2.

⁸⁸⁶⁶ P2596 (Intercept of conversation between Radovan Karadžić and “Miroslav”, 7 January 1992), p. 5.

⁸⁸⁶⁷ Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 400–402, 538–539.

⁸⁸⁶⁸ P5452 (Extract from minutes of 14th session of ARK Assembly, 29 February 1992), p. 1.

⁸⁸⁶⁹ P5452 (Extract from minutes of 14th session of ARK Assembly, 29 February 1992), p. 2.

⁸⁸⁷⁰ P1940 (Interview with Radovan Karadžić from *Naša Borba* entitled “Yugoslavia or Three Bosnias”, 16 March 1992), p. 1; KDZ310, T. 9175–9176 (29 November 2010).

2653. The Chamber finds that this evidence demonstrates the central role which the Accused played in developing the ideology and role of the SDS after its formation in 1990. The Accused also promoted the SDS as the party which would address the political aspirations of Bosnian Serbs and spoke against Serbs who did not follow the policy of the SDS.

2654. In this period, the Accused also foreshadowed the prospect of civil war if the Bosnian Serbs were politically outvoted in the BiH Assembly or if Serb areas could not remain tied with Yugoslavia. He also warned that the Bosnian Serbs were prepared for such a threat of civil war and were powerful and united. It was clear that even in the speeches in which he spoke in favour of improving multi-ethnic relations and against violence, the Accused stressed that the Bosnian Serbs were ready to use violence if they considered that they had been attacked and would not co-operate with anyone seen to be against the Serbs. He also adumbrated chaos and violence if BiH followed the path towards independence. The Accused also spoke about alternative preparations Bosnian Serbs had made if their demands were not met, and it was clear that these alternatives envisaged violence.

(B) Identification of historic enemies

(1) Analysis of evidence

2655. At the founding assembly of the SDS in July 1990, the Accused called for the unity of the Serbs and also made reference to the genocide which had been carried out against them by their “enemies” and his opposition to a system in BiH “which seemed to have been established to ensure our national annihilation”.⁸⁸⁷¹ At the founding meeting of the SDS in Brčko, the Accused delivered a speech in which he said that the “Serbian people for the first time in its history had a chance to set up its own party and that for the first time in history the Serbian people would have enough political strength to avoid the repetition of the bloody history”.⁸⁸⁷²

2656. In an interview in May 1991, the Accused stated:

We have today at play the Croat-Muslim party coalition, but we cannot be outvoted in the Assembly. The Serbs cannot allow the Muslims to declare themselves the majority people on the basis of the Ustasha genocide against the Serbs in World War II, before which the Serbs were the majority people in Bosnia. We are a state-building people even if we are just five, let alone 31%.⁸⁸⁷³

⁸⁸⁷¹ D255 (Radovan Karadžić’s speech at the constituent SDS Assembly), p. 1.

⁸⁸⁷² Isak Gaši, T. 16621–16622, 16642–16643 (14 July 2011).

⁸⁸⁷³ D1281 (Articles from Večernje Novine entitled “Karadžić shocked me” and “Šešelj is amiable”, 9 May 1991), p. 2.

2657. Both Šešelj and the Accused spoke at a rally in May 1991, where Šešelj stated that in the Serbian part of BiH, they had only one political party, the SDS, and its leadership had “saved the dignity of the all-Serbian brotherhood”.⁸⁸⁷⁴ Šešelj in this speech also spoke about the “traditional enemies” of the Serbian people and the need for Serbs to be united to prevent a “new genocide against the Serbian people”.⁸⁸⁷⁵ He emphasised that they would avenge the current and historic Serb victims and that they would not “give an inch of the Serbian land”.⁸⁸⁷⁶ He also warned the Muslims not to “become a weapon of the Croatian Ustashas again” and that if they repeated history again it would be “fatal to the Muslims, because us Serbs shall no longer forget or forgive. Our revenge is going to be terrible”.⁸⁸⁷⁷

2658. In January 1991, at a commemoration ceremony, the Accused stated, “Serbs are the only people in the world who were persecuted and killed only because they exist. That is why we will no longer allow them to separate us and divide us in three states and gradually destroy us.”⁸⁸⁷⁸ He also assured the population that the Bosnian Serb leadership would “not let you be slaughtered like in 1941”.⁸⁸⁷⁹ The Accused told Koljević in June 1991 that he had told Izetbegović that “nobody can form a state on a territory where there was genocide”.⁸⁸⁸⁰ At a meeting with Bosnian Serb representatives on 10 June 1992, the Accused stated that the plan was to empty BiH of Serbs and that Bosnian Serbs should persist and defend their borders against attacks but not attack themselves.⁸⁸⁸¹

2659. The Accused in his speeches before the Bosnian Serb Assembly repeatedly referred to the threat faced by the Serb people and the historic threats they faced dating back to World War II and the need to protect themselves from their “enemies”.⁸⁸⁸² In June 1992, the Accused signed the

⁸⁸⁷⁴ P2527 (Video footage of speeches of Vojislav Šešelj and Radovan Karadžić, 6 May 1991, with transcript), pp. 1–2. See also D1281 (Articles from *Večernje Novine* entitled “Karadžić shocked me” and “Šešelj is amiable”, 9 May 1991), p. 1; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 36–37.

⁸⁸⁷⁵ P2527 (Video footage of speeches of Vojislav Šešelj and Radovan Karadžić, 6 May 1991, with transcript), p. 1.

⁸⁸⁷⁶ P2527 (Video footage of speeches of Vojislav Šešelj and Radovan Karadžić, 6 May 1991, with transcript), p. 1; P6391 (Excerpts from Vojislav Šešelj’s speech).

⁸⁸⁷⁷ P6389 (Vojislav Šešelj’s interview with *Pogledi*, 31 May 1991), p. 2.

⁸⁸⁷⁸ P1939 (Article from *Javnost*, entitled “Mind for the Souls of the Innocents”, 26 January 1991).

⁸⁸⁷⁹ P6540 (Excerpt of video from Banja Luka, 3 March 1991, with transcript), p. 3.

⁸⁸⁸⁰ P5683 (Intercepts of conversations between (i) Radovan Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Nikola Koljević, 4 June 1991), p. 4.

⁸⁸⁸¹ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 132–133.

⁸⁸⁸² P1343 (Transcript of 1st session of SerBiH Assembly, 24 October 1991), pp. 56–60 (wherein the Accused spoke about the international Catholic and Islamic objective to “drive the Orthodox Slavs from the Mediterranean”). See also D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), pp. 37, 42; D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 16–17; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 4; P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), pp. 3, 8; P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 9, 11; P5492 (Record of speech by Radovan Karadžić, 9 January 1994), pp.

“political platform for the survival of the Serbian people in BiH” which noted that a war to extinction had been imposed on the Serbs.⁸⁸⁸³ This platform called for the Bosnian Muslims to end the war and negotiate and claimed that both Muslims and Serbs had a right to stay in the country.⁸⁸⁸⁴ The Accused continued to make speeches which emphasised the historic suffering and victimisation of the Serbs.⁸⁸⁸⁵ For example, in September 1992, the Accused spoke about the continuation of the fascist policy of World War II in which one third of Serbs were to be expelled, one third converted to Catholicism, and one third were to be killed.⁸⁸⁸⁶

2660. These constant references to World War II and the historic suffering and grievances of the Serbian people polarised the population in BiH and incited inter-ethnic hatred.⁸⁸⁸⁷ The media was also used as a propaganda tool to emphasise the historic suffering of the Serb people and to encourage people to fight for their “motherland” so that all Serbs would be together.⁸⁸⁸⁸ In August 1992, VJ General Panić told Mladić that there should be “propagators among ordinary people”, that is a person in every region instructed to say one thing but do another.⁸⁸⁸⁹ At a meeting with Sarajevo municipality presidents and commanders of SRK units on 14 January 1994, the Accused suggested to “give a little more thought to the propaganda war” and to create a small propaganda staff.⁸⁸⁹⁰

2661. These messages of suspicion and hatred were also reflected at a municipal level where messages were broadcast on the radio in the lead-up to the conflict to the effect that “the time had come for the Serbs to settle accounts with the balijas once and for all, and that the Serbs would no longer allow their ribs to be broken. They will no longer allow their children to be circumcised”.⁸⁸⁹¹

2662. International observers such as Okun noted the constant references to, and intensity with which the Accused spoke about, the genocide committed against the Serbs and warned him that if

3, 5; Milorad Dodik, T. 36896–36897 (9 April 2013); P6487 (Declaration of SDS Executive Board, undated); P6688 (Interview with Radovan Karadžić in Duga Magazine, 23 May 1992), pp. 1–2.

⁸⁸⁸³ D4686 (Article from SRNA entitled “Political platform for the survival of the Serbian People in BiH”, 12 June 1992), p. 1.

⁸⁸⁸⁴ D4686 (Article from SRNA entitled “Political platform for the survival of the Serbian People in BiH”, 12 June 1992), p. 4.

⁸⁸⁸⁵ See, e.g., D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), pp. 3, 8.

⁸⁸⁸⁶ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), pp. 1–2.

⁸⁸⁸⁷ KDZ310, T. 9170–9174 (29 November 2010); P3634 (Witness statement of KDZ490, undated) (under seal), p. 14.

⁸⁸⁸⁸ KDZ310, T. 9188–9189 (29 November 2010); KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6812–6813, 6913 (under seal); KDZ240, T. 16084 (5 July 2011) (closed session).

⁸⁸⁸⁹ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 29, 38.

⁸⁸⁹⁰ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 133, 148–149.

he kept “talking about the genocide of the Serbs so much, you will commit a pre-emptive genocide”.⁸⁸⁹² Okun made this statement to the Accused to express his shock at the argument that the genocide committed during World War II “justified all of Bosnian Serb behaviour”.⁸⁸⁹³ Mladić in meeting with international representatives also spoke about the genocide committed against Serbs in World War II in areas including Srebrenica and Sarajevo.⁸⁸⁹⁴

2663. Other Bosnian Serb leaders including Biljana Plavšić,⁸⁸⁹⁵ Nikola Koljević,⁸⁸⁹⁶ and Momčilo Krajišnik⁸⁸⁹⁷ delivered speeches about the historical and contemporary threats faced by Serbs, the importance of all Serbs living in one state, and the political decisions made by Muslim and Croat representatives which made it impossible to live together. This sentiment was also reflected in political rallies attended by other Bosnian Serb leaders; for example at a rally in Banja Luka in November 1991, Predrag Radić stated “[t]wice they slaughtered us. We have forgiven but not forgotten. If they try to do the same for the third time, we shall neither forgive nor forget, regardless of how non-Christian it may be”.⁸⁸⁹⁸ At this same rally Krajišnik spoke about not allowing the “dark forces” to “destroy our common fatherland, to tear us into pieces”.⁸⁸⁹⁹ The Accused spoke and said that by voting to remain in a federal state “with all the Serbian lands and those who wish to stay with us, we hope to, once and for all, put a circle by state where there will be no traitors, a state that will not fall apart every 20 years or so”.⁸⁹⁰⁰

2664. In January 1993, other deputies such as Vlado Kovačević spoke in the Bosnian Serb Assembly about the threat faced by the Serb people, and described the Islamic and Catholic threat

⁸⁸⁹¹ KDZ239, T. 18929 (15 September 2011). See para. 852.

⁸⁸⁹² Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4156, 4164–4165; Herbert Okun, T. 1489–1491 (22 April 2010); P779 (Sixth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 43; P778 (Fifth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 41.

⁸⁸⁹³ Herbert Okun, T. 1490 (22 April 2010).

⁸⁸⁹⁴ P792 (Ninth notebook of Herbert Okun’s ICFY diary), e-court p. 49.

⁸⁸⁹⁵ P1347 (Shorthand record of 5th session of SerBiH Assembly, 9 January 1992), pp. 37–41; D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 22–23; P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), pp. 33–34.

⁸⁸⁹⁶ P1347 (Shorthand record of 5th session of SerBiH Assembly, 9 January 1992), pp. 51, 56–57; P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), pp. 11, 13–14; Vitomir Žepinić, T. 33594–33595 (13 February 2013).

⁸⁸⁹⁷ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 30–31, 62, 64; P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), pp. 15–16. See also P6306 (Letter from Momčilo Krajišnik to Government of SAO Krajina, 19 December 1991) (where Krajišnik wrote about the historical right of the Serbian people to live in one state); P6308 (Letters from Milan Martić to Radovan Karadžić, Momčilo Krajišnik, Slobodan Milošević, Jovica Stanišić, and Momčilo Perišić), pp. 1–5; P2448 (Excerpt of video depicting speech of Velibor Ostojić, with transcript).

⁸⁸⁹⁸ P13 (TV footage of plebiscite rally held in Banja Luka, with transcript), p. 1; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7370–7371, 7377–7378.

⁸⁸⁹⁹ P13 (TV footage of plebiscite rally held in Banja Luka, with transcript), p. 1; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7377–7378.

⁸⁹⁰⁰ P13 (TV footage of plebiscite rally held in Banja Luka, with transcript), p. 1; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7377–7378.

as a “two-headed dragon” which wanted to destroy the Serb people and that Europe wanted to push them into being “imprisoned in the dark realm of Islam”.⁸⁹⁰¹ Krajišnik thanked Kovačević for his speech and praised him, saying “you are the best when we have opponents”.⁸⁹⁰² Krajišnik went on to say that the Bosnian Muslims were not a nation or a people and called on the Bosnian Serb Assembly to take a position that Muslims were a group of unbelievers, a sect, “a communist creation and that they are a religious group of Turkish orientation”.⁸⁹⁰³ Krajišnik also spoke about the need to “take the Muslims out of Serbism for ever”.⁸⁹⁰⁴ Šešelj also did not recognise the Bosnian Muslims as a people but described them as “Muslim Serbs” and stated that there was no such thing as a Bosnian language and that the Croatian nation was an “artificial nation under the direct patronage of the Catholic church”.⁸⁹⁰⁵

2665. In addition to historic crimes committed against Serbs, there were also references made to the killing of Bosnian Serbs during the conflict. For example, when 29 Bosnian Serb soldiers were killed by ABiH forces, the funeral was held on 30 September 1992 at the Orthodox church in Vlasenica.⁸⁹⁰⁶ Over 1,000 people attended the funeral, including the Bosnian Serb leadership from Pale that consisted of the Accused, Ostojić, Koljević, and Svetozar Andrić.⁸⁹⁰⁷ The Accused and others gave speeches at the funeral and the speakers and the crowd “were very agitated and embittered” by the death of the Bosnian Serb soldiers.⁸⁹⁰⁸ The Accused delivered a speech in which he said:

Nor must we forget their executioners and attackers. I do not know if I am allowed to say that we must not forgive either. Who knows how many times this century our brothers, who are no brothers at all, have been at our throats. They assault our good men. But the Lords sees that and has given us strength to resist [...] I will keep telling the international powers that Serbs do not persecute anyone, that Serbs only defend their homes. And if they do not want to believe, it's up to them. The God believes, and he turned his face to us, and He will help us get out of the darkness of slavery, fears, lies, pretence, and to become what every nation in the world deserves.⁸⁹⁰⁹

⁸⁹⁰¹ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 38.

⁸⁹⁰² P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 39.

⁸⁹⁰³ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 95–97. This conclusion about the status of the Bosnian Muslims was accepted unanimously.

⁸⁹⁰⁴ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 96.

⁸⁹⁰⁵ D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 15; Vojislav Šešelj, T. 39546–39548 (7 June 2013), T. 39558–39559 (10 June 2013); D3667 (Transcript of Vojislav Šešelj's press conference, 26 March–16 April 1992), p. 20. *See also* Herbert Okun, T. 1774–1775 (28 April 2010); D119 (Radovan Karadžić's speech re cessation of hostilities, May 1992), p. 2.

⁸⁹⁰⁶ P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 121 (under seal).

⁸⁹⁰⁷ P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 121 (under seal).

⁸⁹⁰⁸ P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 122, 124–125 (under seal).

⁸⁹⁰⁹ P3261 (Excerpt of video footage of Radovan Karadžić's speech, with transcript); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 123, 125 (under seal); KDZ033, T. 18110–18114 (31 August 2011) (closed session).

These speeches created a feeling that the Bosnian Serbs would be pardoned for whatever they did and created a fear that Bosnian Muslims who remained in Vlasenica would be killed.⁸⁹¹⁰ The Chamber recalls its finding that following this funeral, approximately 140 detainees were taken from Sušica camp and killed by Serb Forces.⁸⁹¹¹ The Accused also gave an interview on the day of the funeral and said: “We are concerned about Muslims, we want them to have their own territory. Since we wanted to separate from them, since we see that we can’t live together any longer. But, if they do not proclaim a realistic objective concerning territories, they may lose everything.”⁸⁹¹²

2666. Such speeches were in contrast to statements the Accused made to international representatives. For example, in a meeting with General Morillon in February 1993, the Accused claimed that their army had discovered a mass grave containing more than 50 bodies in the recaptured territory south of Zvornik and that General Milovanović had requested that he not release this information as it would “inflame the local Serb population in the area”⁸⁹¹³

2667. At a meeting of Serb representatives on 8 January 1993 in Belgrade with the Accused in attendance, Vladislav Jovanović, who was the foreign minister of Serbia, stated that the destruction of the Serb people was a necessary condition of the plan to divide the FRY.⁸⁹¹⁴

2668. In May 1993, the Accused described the situation as a “conflict between us and the greatest enemy”.⁸⁹¹⁵ He also spoke of the Serbs’ neighbours as those who “every 20 years, turn into our executioners”.⁸⁹¹⁶ In September 1993, the Accused said “[w]ho knows when we will settle our relations with Moslems? Most probably never if the fundamentalists keep coming from the East

⁸⁹¹⁰ P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 122–123 (under seal). *See also* KDZ033, T. 18114 (31 August 2011) (closed session). *But see* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 98 (stating that the Accused’s speech did not incite anyone to hate or take revenge but seeing the bodies themselves would have created hatred and a desire for revenge). However, the Chamber notes that Savkić’s evidence was marked by multiple contradictions and indicators that he was not forthright in his testimony and therefore does not rely on his evidence in this regard. In addition the Chamber has had regard to the text of the speech itself, and Savkić’s evidence is in direct contradiction to the content of that speech.

⁸⁹¹¹ *See* Scheduled Incident B.18.2.

⁸⁹¹² P3230 (Video footage re excerpt of interview with Radovan Karadžić, with transcript); KDZ033, T. 18023–18024 (29 August 2011) (closed session).

⁸⁹¹³ P4228 (UNPROFOR report re meeting with Radovan Karadzic and Alija Izetbegović, 16 February 1993), p. 2; P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 135.

⁸⁹¹⁴ P1482 (Ratko Mladić’s notebook, 2–28 January 1993), p. 40.

⁸⁹¹⁵ P1373 (Transcript of 31st session of RS Assembly, 9 May 1993), p. 18. *See also* P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 9, 11 (where the Accused spoke about their “biggest enemy, our annihilators”). Other deputies spoke about the need to distance themselves from their “blood enemies”. P1373 (Transcript of 31st session of RS Assembly, 9 May 1993), p. 21.

⁸⁹¹⁶ P939 (Video footage of Radovan Karadžić’s speech at the 21st session of RS Assembly, 30 October 1992, with transcript), p. 2.

[...]. Under this kind of circumstances we must have a different kind of the Army”.⁸⁹¹⁷ He spoke about recognising the “ancient danger posed by the toxic, all-destructive Islamic octopus” which was “constant in its irreconcilable poisonousness towards the Serbian Orthodox being”.⁸⁹¹⁸

2669. At a symposium of the VRS held on 15 January 1994, in the presence of the Accused, Mladić opened his speech with: “For three years now our people have been shedding blood, defending their country and infants from Ustasha and Islamic hordes which have, for decades, in secret and from within the bosom of our people, been preparing its extermination”.⁸⁹¹⁹

(2) Conclusion

2670. The evidence above demonstrates that the Accused and the Bosnian Serb leadership in their speeches repeatedly and consistently referred to the historic grievances of the Serb people and the crimes which were committed against them by Muslims and Croats. The Chamber finds that these speeches were used by the Accused and the Bosnian Serb leadership to remind the Bosnian Serb population about crimes committed against Serbs and emphasised the need to ensure they would not be repeated. In order to convey this message the Accused and the Bosnian Serb leadership often portrayed the Muslims and Croats as the historic enemies of the Serbs and stressed the importance of recognising this fact for the future survival of the Serb people. The Accused also used these historic references to emphasise the important role of the SDS in protecting the Serbs.

2671. The Accused also often referred to the genocide committed against Serbs during World War II which made them a minority in BiH and asserted that they could not allow the Bosnian Muslims to declare themselves a majority people in BiH on this basis. The references to the genocide committed against the Serbs was also used as justification for renewing the historical claims to land in BiH where they had once been a majority.⁸⁹²⁰ The Chamber finds that speeches and messages of this nature were delivered by the Accused and the Bosnian Serb leadership from as early as 1990 and continued throughout the conflict in BiH.

2672. As these speeches demonstrate, the reference to the historical threats faced by the Serbs was used by the Accused to justify his position that the Serbs would not allow themselves to be separated or outvoted in BiH. It was also used to promote the idea that the Bosnian Serbs could not live together with the Bosnian Muslims and Bosnian Croats and formed the foundation for the

⁸⁹¹⁷ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 427–428.

⁸⁹¹⁸ P5492 (Record of speech by Radovan Karadžić, 9 January 1994), p. 6.

⁸⁹¹⁹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 150.

⁸⁹²⁰ See para. 55.

separation of the three people and the creation of an ethnically homogeneous Serb state. The Chamber also finds that this rhetoric, which was amplified by the media, had the effect of adding to ethnic divisions and tension in BiH and incited inter-ethnic hatred. The Chamber further finds that it encouraged Serbs to fight for what was portrayed as their survival and to fight for the creation of a state where all Serbs would be united.

2673. These speeches also demonstrate that the Bosnian Serb leadership went so far as to suggest that the Bosnian Muslims were not a nation or a people at all and that Islam posed a threat to the Bosnian Serbs.

(C) Reaction to proposed independence of BiH

(1) Analysis of evidence

2674. The Chamber took judicial notice that a confidential SDS document, dated 23 February 1991, considered specific actions to be taken should BiH move towards independence.⁸⁹²¹ This document provided that in this situation, municipal authorities were to ensure that only Yugoslav (federal) law would apply, suspending the implementation of republican regulations and thus creating a foundation for direct communication and co-operation between the municipalities and Yugoslavia and its organs. It also provided for the engagement of the JNA and the Federal Secretariat for National Defence.⁸⁹²² This policy was adopted by the SDS Deputies' Club, the parliamentary caucus of the party, and was made public in a document dated 10 June 1991.⁸⁹²³ This document indicated the opposition of the Serbian deputies to unilateral action which would break up Yugoslavia.⁸⁹²⁴ They also expressed their opposition to the separation of the Bosnian Serbs from Yugoslavia.⁸⁹²⁵ At a meeting of the SDS Deputies' Club on 30 September 1991, the Accused stated: "We are politically most numerous in Yugoslavia and Bosnia. Nothing can be done in BiH without the Serbs and their will".⁸⁹²⁶

2675. The Chamber recalls that in October 1991, the coalition government in SRBiH broke down and during the night of 14 to 15 October 1991, the Accused addressed the SRBiH Assembly, stressing that the proposed secession of BiH from Yugoslavia was unconstitutional and was against

⁸⁹²¹ See Adjudicated Fact 1917.

⁸⁹²² See Adjudicated Fact 1918.

⁸⁹²³ Adjudicated Fact 1919.

⁸⁹²⁴ D4654 (Report of SDS Deputies Club, 10 June 1991), p. 2.

⁸⁹²⁵ D4654 (Report of SDS Deputies Club, 10 June 1991), pp. 4–5.

⁸⁹²⁶ P2543 (Minutes of meeting of SDS deputies' club, 30 September 1991).

the will of the Bosnian Serb people.⁸⁹²⁷ While the Accused professed that he was not acting like the “God of war”, he emphasised that the Serb people wanted to live in Yugoslavia and that if the same situation developed in BiH as it did in Slovenia and Croatia, “the hell would be one thousand times worse”.⁸⁹²⁸ He also stated that while he was not threatening the Bosnian Muslims, he was asking them one more time to take seriously the will of the Serbian people. He finished with a warning that “[t]his is the road that you want [BiH] to take, the same highway of hell and suffering that Slovenia and Croatia went through. Don’t think you won’t take [BiH] to hell and Muslim people in possible extinction. Because, Muslim people will not be able to defend itself if it comes to war here!”.⁸⁹²⁹ Given that these speeches were broadcast, the sentiments and particularly the suggestion that a people would disappear created fear among the Bosnian Muslim population.⁸⁹³⁰

2676. This statement was greeted with a loud reaction from the BiH assembly to which the Accused responded “I know these are serious words. Serious situations call for serious words. How will you prevent that everybody start killing everybody in [BiH]” and he concluded that he wanted them to take the matter of the independence of BiH off the agenda.⁸⁹³¹

2677. This was not the only occasion on which the Accused spoke in these terms about the inability of the Bosnian Muslims to survive if they insisted on independence which would lead to civil war. On 4 September 1991, he told Krajišnik: “We’ll make our point, you see, that’s where it leads, where your policies lead!!! [...] Do you realise that you will disappear in all this?! [...] Man, you will disappear. Many of us will also disappear, but you will be annihilated!”.⁸⁹³² In response,

⁸⁹²⁷ See paras. 44, 47; D267 (Video footage of Radovan Karadžić’s speech at the 8th session of SR BiH Assembly, 15 October 1991, with transcript), pp. 1–2. See also Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4163; D270 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 17 June 1991), pp. 8–9; Milorad Dodik, T. 36839–36840 (9 April 2013); P5843 (Intercept of conversation between Radovan Karadžić and Borisav Jović, 15 October 1991), pp. 2–3; P5842 (Intercept of conversation between Radovan Karadžić and Vukić, 15 October 1991).

⁸⁹²⁸ D267 (Video footage of Radovan Karadžić’s speech at the 8th session of SRBiH Assembly, 15 October 1991, with transcript), pp. 2–3. See also Herbert Okun, T. 1626 (26 April 2010), T. 1669 (27 April 2010).

⁸⁹²⁹ D267 (Video footage of Radovan Karadžić’s speech at the 8th session of SRBiH Assembly, 15 October 1991, with transcript), pp. 3–4. See also Eset Muračević, T. 12673–12674 (1 March 2011); Robert Donia, T. 3101–3105 (1 June 2010); P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 96; KDZ310, T. 9176, 9186, 9191–9192 (29 November 2010).

⁸⁹³⁰ Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5022–5023; KDZ026, P2089 (Transcript from *Prosecutor v. Stakić*), T. 1993–1994 (under seal); KDZ026, T. 10414–10415 (18 January 2011) (closed session). See also KDZ029, T. 17613–17614 (22 August 2011) (closed session); Ramiz Mujkić, T. 12458 (25 February 2011); Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3648–3650; P3707 (Video footage of Radovan Karadžić’s speech, with transcript), p. 4.

⁸⁹³¹ D267 (Video footage of Radovan Karadžić’s speech at the 8th session of SRBiH Assembly, 15 October 1991, with transcript), p. 4. See also Vitomir Žepinić, T. 33655 (14 February 2013).

⁸⁹³² P3200 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 4 September 1991), p. 2. See also P5862 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 22 September 1991), p. 2.

Krajišnik suggested that they should deliberately say that both sides would disappear and the Accused agreed.⁸⁹³³

2678. The Accused made a similar observation in an intercepted conversation on 12 October 1991 where he said that if the Bosnian Muslims started a war “they should be thrashed” and that they would “disappear, that people will disappear from the face of the earth [...], if they start now. Our offer was their only chance”.⁸⁹³⁴ The Accused continued and said that they did not understand that they would be “up to their necks in blood and that the Muslim people would disappear, the poor Muslims would disappear, who don’t know where he is taking them” and that it would be a “real bloodbath”.⁸⁹³⁵ In a similar vein in another conversation on the same day, the Accused repeated that the “Muslims know what it is, it is hell in which five-six hundreds of thousands of them will disappear, they will disappear”.⁸⁹³⁶

2679. The Accused echoed this sentiment in an intercepted conversation with Mandić on 13 October 1991 in which he also referred to what happened in Croatia. The Accused said that what would happen had nothing to do with his decision or anyone else’s decision but they knew what was going to happen in BiH and that “[i]n just a couple of days, Sarajevo will be gone and there will be five hundred thousand dead, in one month Muslims will be annihilated in BiH”.⁸⁹³⁷

2680. In a telephone conversation on 15 October 1991, the Accused spoke about the attempt to create an independent BiH, and said “[t]welve percent of Serbs made hell in Croatia, they didn’t allow an Ustasha state to be introduced into their homes, and these here are trying to do this with thirty-five percent” and further stated: “[t]hat would mean war until their extinction. [...] The Serbs would never forgive them such a thing, it would destroy them completely. First, none of their leaders would survive, they’d all be killed in three to four hours. They’d stand no chance of surviving whatsoever”.⁸⁹³⁸

2681. The Accused also warned Izetbegović that if the Bosnian Muslims proceeded with a constitution and referendum for BiH, the Serbs would not be able to recognise BiH since “events will overrun you” and that he would not be able to hold back the “extremists” who he had until then

⁸⁹³³ P3200 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 4 September 1991), p. 2.

⁸⁹³⁴ D279 (Intercept of conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991), pp. 3, 7.

⁸⁹³⁵ D279 (Intercept of conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991), pp. 8–9. *See also* P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), pp. 17–18.

⁸⁹³⁶ P5846 (Intercept of conversation between Radovan Karadžić and an unidentified male, 12 October 1991), p. 3. For further analysis of this speech, *see* Section IV.A.2.b.v: Genocide.

⁸⁹³⁷ D377 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 13 October 1991), p. 2.

⁸⁹³⁸ P2540 (Intercept of conversation between Radovan Karadžić and Miodrag Davidović, 15 October 1991), pp. 5–6. *See also* Patrick Treanor, T. 14005–14006 (1 June 2011).

restrained with “all [his] might”.⁸⁹³⁹ In October 1991, the Accused told Milošević that the solution Izetbegović was pursuing could “trigger a long-lasting civil war” and that the Bosnian Serbs would not accept the BiH authorities “in 40 municipalities and all forces would be turned towards opposing this”; in short, the situation would be even worse than in Croatia.⁸⁹⁴⁰ Milošević responded that it would be better than in Croatia because the balance of forces was “vastly more favourable”.⁸⁹⁴¹

2682. The Chamber recalls that after the SRBiH Assembly was adjourned on 15 October 1991 and the Bosnian Serb delegates walked out, the HDZ and SDA delegates reconvened without the Serb delegates and passed a declaration of sovereignty.⁸⁹⁴² The SDS Political Council then met to assess the situation.⁸⁹⁴³ At this meeting it was noted that the Serbs had to “shed the illusion that a form of coexistence with the Muslims and Croats can be found”.⁸⁹⁴⁴ The SDS leadership demanded that the declaration of sovereignty be repealed before 24 October 1991.⁸⁹⁴⁵ The SDS position was that unless the declaration of sovereignty was withdrawn within seven days, the SDS would instruct its members to leave governmental institutions and start creating parallel institutions.⁸⁹⁴⁶ The Bosnian Serb leadership also objected to earlier violations by the Bosnian Muslims of the inter-party agreement on the sharing of power in BiH.⁸⁹⁴⁷

2683. On 24 October 1991 the Accused complained to Slobodan Milošević about the steps which had been taken by Izetbegović towards the independence of BiH.⁸⁹⁴⁸ The Accused indicated that they had given Izetbegović a deadline to abolish the decisions taken with respect to the independence of BiH, but Izetbegović did not intend to abolish them.⁸⁹⁴⁹ The Accused explained that they would “respond with all means possible” and that they would “establish Yugoslavia in all the areas where we live”.⁸⁹⁵⁰ He continued and told Milošević that the Bosnian Muslims wanted “Europe, to give them a state in which we would be locked within these borders by international agreements, we can’t allow that, we have to [...] prepare everything, and we have prepared

⁸⁹³⁹ P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), p. 6.
⁸⁹⁴⁰ P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), pp. 8–9.
⁸⁹⁴¹ P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), p. 9.
⁸⁹⁴² See paras. 46, 76.
⁸⁹⁴³ See para. 76; Adjudicated Fact 1937; D294 (Minutes of SDS Council meeting, 15 October 1991); Robert Donia, T. 3107 (1 June 2010).
⁸⁹⁴⁴ D294 (Minutes of SDS Council meeting, 15 October 1991), p. 1.
⁸⁹⁴⁵ See para. 46.
⁸⁹⁴⁶ D294 (Minutes of SDS Council meeting, 15 October 1991), p. 1.
⁸⁹⁴⁷ Momčilo Mandić, T. 4750–4751 (6 July 2010); P1079 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 22 July 1991), p. 4.
⁸⁹⁴⁸ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 1.
⁸⁹⁴⁹ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 1.

everything to create a *de facto* situation [...] which they will break their teeth on, they simply have to break them, there is no way we will live in a country with them. No, no way at all, that's it".⁸⁹⁵¹

2684. Slobodan Milošević encouraged the Accused to speak to Izetbegović to explain the position of the Bosnian Serbs but the Accused responded that Izetbegović was a religious fanatic who could not be talked to.⁸⁹⁵² When Milošević asked whether he should speak to Izetbegović, the Accused responded that he could tell Izetbegović that "Karadžić and the others will not give up on establishing an Assembly and parallel organs of authority" and that the "Serbian Assembly" would decide on what was to be respected and not.⁸⁹⁵³ The Accused also suggested that Milošević tell Izetbegović "that the Serbs are moving on [...] that you can't exert influence over us to mellow things down. We are moving on. We will establish full authority over the Serbian territories in BiH [...]. He will not be able to exercise power. He will not have control over 65% of his territory. That is our goal".⁸⁹⁵⁴

2685. Milošević questioned whether it was wise to use "an illegitimate act in response to another illegitimate act" and questioned the legality of forming a Bosnian Serb Assembly. However, the Accused dismissed this and stressed the illegality of the measures taken by the Bosnian Muslims and the importance of the Bosnian Serb interests.⁸⁹⁵⁵ The Accused emphasised that they held power in 37 municipalities and had relative majority in about ten municipalities and that they would not implement "any of their decisions" given that they were leading them to secession from Yugoslavia.⁸⁹⁵⁶

2686. Milošević also suggested that they should not announce the Bosnian Serb Assembly but the Accused responded "[b]ut we have to announce it! There can be no discussion about it, this is an obligation of the Serbian people and the representatives of the Serbian people in [the] executive, because they will start arresting us, they'll start pacifying municipalities forcibly, forcibly, installing special forces, we will not allow that".⁸⁹⁵⁷ When Slobodan Milošević suggested that the

⁸⁹⁵⁰ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 1.

⁸⁹⁵¹ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 1.

⁸⁹⁵² P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), pp. 1–2, 6.

⁸⁹⁵³ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 6.

⁸⁹⁵⁴ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 7. See also P5620 (Intercept of conversation between Radovan Karadžić and an unidentified male, 21 January 1992), pp. 2–4; P5621 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 25 January 1992), p. 8.

⁸⁹⁵⁵ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), pp. 4–5.

⁸⁹⁵⁶ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 5.

⁸⁹⁵⁷ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), pp. 5–6.

Accused not call it an assembly, the Accused insisted: “No [...] we can’t do that to the people. The people [...] feel they have been robbed and destroyed”.⁸⁹⁵⁸

2687. In this same conversation Slobodan Milošević expressed his reservations about how a Bosnian Serb Assembly could exclude the Muslims who were “for Yugoslavia”, but the Accused replied: “There are none, President! Not even 10% [...] we can’t take a risk for those 10%! That’s out of the question! The Serbian people want a clear situation. We cannot go on pretending anymore. They’ve destroyed us, we have to respond. We can’t just mobilise the people for nothing”.⁸⁹⁵⁹

2688. The Accused also stated that “the army can no longer agree to cease-fires, it is out of the question. Tudman has to be militarily crushed, the military might of Croatia has to be destroyed. I guarantee you that after Friday 500,000 Serbs must rise again, there can be no more discussion about it, this is destroying, exhausting, crippling, dragging us into the winter and we will all be ruined”.⁸⁹⁶⁰ When Slobodan Milošević suggested a more considered approach without getting excited, the Accused replied: “No, we’re not excited at all. Our steps are calculated and we have to establish authority and control over our territories, so that he doesn’t get his sovereign Bosnia. Croatia doesn’t have control over 30% of its territory, and Bosnia will not have control over 60% of its territory!”.⁸⁹⁶¹

2689. Despite these words of caution, Slobodan Milošević, in meetings with international representatives, did not accept the independence of BiH and spoke of the desire of all Serbian people to live together.⁸⁹⁶² In September 1991, Milošević told the Accused that they should “get mobilised, acquire the arms and get going”.⁸⁹⁶³ In November 1991, when the Accused informed Milošević that Izetbegović did not want BiH to be in Yugoslavia, Milošević asked him to “take care of this and nothing else”.⁸⁹⁶⁴ The Accused responded that he would but that they should “prepare a

⁸⁹⁵⁸ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 6. See also P5817 (Intercept of conversation between Radovan Karadžić and Božidar Vučurović, 14 November 1991), p. 2 (in which the Accused said that if he stood up in the Assembly and said that they accepted the independence and sovereignty of BiH, the people would reject it and take up arms including against him). This conversation was referred to by the Accused in his final brief. Defence Final Brief, para. 266. The Chamber finds that in light of the weight of evidence, the Accused’s observation was purely rhetorical and he had no intention of acknowledging the independence of BiH.

⁸⁹⁵⁹ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 7.

⁸⁹⁶⁰ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), p. 2.

⁸⁹⁶¹ P2546 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 October 1991), pp. 7–8.

⁸⁹⁶² KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6747 (under seal).

⁸⁹⁶³ P5861 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), p. 5.

⁸⁹⁶⁴ P5897 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 14 November 1991), p. 3.

reserve variant” because he did not “know what will it be like tomorrow”.⁸⁹⁶⁵ In a conversation with General Uzelac on 2 November 1991, the Accused discussed the mobilisation of the Serb population in BiH, stating “I’ll call all the presidents of the municipalities [...] to deploy the army”.⁸⁹⁶⁶

2690. The Chamber recalls that a plebiscite was held in November 1991 to determine whether Serbs in BiH wished to remain in a joint state of Yugoslavia, and the overwhelming majority voted in favour.⁸⁹⁶⁷ The Accused delivered a speech connected with the plebiscite where he said if there was a sovereign BiH it would be “without our areas” unless there was an exchange of population.⁸⁹⁶⁸ The Accused in this speech said that he had openly told Izetbegović that “no Muslim foundation shall ever be laid in Serb areas and Serb villages whether or not you import Turks because we will instruct Serbs not to sell land to Muslims. [...] The first foundations that are laid will be blown up, and all foundations that are laid will be blown up”.⁸⁹⁶⁹ He also envisaged that there was a chance that they would fight, and they were prepared to “let the chips fall where they may” in the knowledge that the Serbs were better armed and that the war would be bloody.⁸⁹⁷⁰ He also emphasised that they would not give up on their territories and that it was “a fight to the finish, a battle for living space”.⁸⁹⁷¹

2691. In December 1991, Milošević told the Accused that he should not give in to Izetbegović and that they had to stick to their line and that “if they want to fight, we’ll fight” given that the Serbs were stronger.⁸⁹⁷² They also spoke about the unconstitutional nature of the decision changing the status of BiH.⁸⁹⁷³ In an intercepted conversation on 17 December 1991, the Accused affirmed his commitment to use force to ensure that the establishment of a sovereign and independent BiH did not result in the separation of Bosnian Serbs from other Serbs in the former Yugoslavia.⁸⁹⁷⁴ In relation to the possible secession of BiH, the Accused stated “we will completely defend the

⁸⁹⁶⁵ P5897 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 14 November 1991), p. 3.

⁸⁹⁶⁶ P5824 (Intercept of conversation between Radovan Karadžić and General Uzelac, 2 November 1991), pp. 1–2, 6–8.

⁸⁹⁶⁷ See para. 47. See also Robert Donia, T. 3107 (1 June 2010).

⁸⁹⁶⁸ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 5.

⁸⁹⁶⁹ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 6. See also Eset Muračević, T. 12673–12676, 12683 (1 March 2011); Eset Muračević, T. 12822 (2 March 2011).

⁸⁹⁷⁰ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 6.

⁸⁹⁷¹ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 6.

⁸⁹⁷² P5790 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 20 December 1991), pp. 2–3.

⁸⁹⁷³ P5787 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 25 December 1991), pp. 2–3.

⁸⁹⁷⁴ P5794 (Intercept of conversation between Radovan Karadžić and Branko Kostić, 17 December 1991), pp. 4–5 (wherein Kostić stated “nobody can make a decision on his own, er, each possible Bosnian request for

country”, including if necessary by war, “fuck them, if they fuck around, the country should be defended with all powers”.⁸⁹⁷⁵

2692. On 21 December 1991, at the Bosnian Serb Assembly, the Accused issued another warning about the hundreds of thousands of deaths, destruction, displacement of people and population homogenisation which would occur if there was a civil war in BiH.⁸⁹⁷⁶

2693. In January 1992, the Accused spoke to Krajišnik and said “we have to realise our minimum aim, there’s no other way. Nothing should and nothing can stop us. No way”.⁸⁹⁷⁷ The Accused was also angry about Izetbegović speaking openly about a sovereign and independent BiH, and said: “Does he want someone to destroy Sarajevo? [...] he’s really crazy [...] fuck him. We will release our tigers and let them do their job”.⁸⁹⁷⁸ He went on to say that he had been calming the Serb people for a year, but that he “will not be calming anyone anymore, nor can I” and that they could no longer hold back their people anymore.⁸⁹⁷⁹

2694. As early as January 1992, Koljević warned of the danger of an Islamic republic being created.⁸⁹⁸⁰ In this regard, Koljević spoke with Tuđman and noted that they had a common interest of separating people, that an independent BiH did not suit them as it would separate them from their “mother lands”, and that they advocated a sovereign Muslim, Serbian and Croatian Bosnia.⁸⁹⁸¹

2695. At a meeting of the SRBiH Assembly on 24 January 1992, the issue of a national referendum was discussed and the speakers from the SDS opposed the holding of a referendum.⁸⁹⁸² The Serb position was that they would not accept or allow themselves to become a minority in BiH and that they would not be forced to do something they did not want to do. The Serbs also expressed their concern that the SDA wanted to create an Islamic state in BiH and that the only

recognition and so on, leads directly into a conflict” and the Accused responded: “[d]irectly to war, a bloody, bloody and dangerous war”).

⁸⁹⁷⁵ P5794 (Intercept of conversation between Radovan Karadžić and Branko Kostić, 17 December 1991), p. 7.

⁸⁹⁷⁶ D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), pp. 40–41. *See* P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), pp. 4–6. *See also* KDZ310, T. 9191–9192 (29 November 2010).

⁸⁹⁷⁷ P5779 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 1 January 1992), p. 3.

⁸⁹⁷⁸ P5779 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 1 January 1992), p. 5.

⁸⁹⁷⁹ P5779 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 1 January 1992), pp. 5–6.

⁸⁹⁸⁰ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 3–4.

⁸⁹⁸¹ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 5–6, 9, 37–38.

⁸⁹⁸² P942 (ECMM report re the BiH Assembly meeting held on 24–25 January 1992), p. 1; Colm Doyle, T. 2825–2826 (27 May 2010).

guarantee for the Serbs was to have a separate state in BiH.⁸⁹⁸³ The SDS under the leadership of the Accused withdrew from the session when no agreement could be reached and, following their withdrawal, the BiH Assembly supported a referendum being held between 29 February and 1 March regarding the sovereignty and independence of BiH.⁸⁹⁸⁴ On 19 February 1992, the Chairman of the SDS Executive Board ordered the municipal and regional boards of the SDS to hold immediate meetings and to draw up a plan of action to stop the referendum and to explain to “every adult Serb” that they should boycott the referendum which would be illegal after the adoption of the Constitution of the SerBiH.⁸⁹⁸⁵

2696. The Chamber recalls that on 23 February 1992, the Cutileiro Plan was proposed and called for an independent and geographically continuous BiH, comprised of the three constituent units that represented the Bosnian Muslims, Bosnian Croats, and Bosnian Serbs.⁸⁹⁸⁶ The Cutileiro Plan included constitutional principles for BiH and proposed the structure of the Assembly and government of BiH.⁸⁹⁸⁷ The Accused decided to accept the Cutileiro Plan notwithstanding the fact that it contemplated BiH as an independent state, with cantons where ethnic minorities would remain, even though this was less than what the Bosnian Serb leadership had wished for, namely to remain in Yugoslavia.⁸⁹⁸⁸ In a conversation with Kuprešanin on 23 February 1992, the Accused expressed satisfaction with the recent international negotiations where the Cutileiro Plan was discussed, stating:

We achieved maximum success because we achieved that Bosnia cannot be a single state anymore and that it will be composed of three republics. In one paper they even called them states. [...] Our police on our territory. Our national guard on our territory. Our national guard, and we're pushing further: our army on our territory, one that is placed under a single command in case of an external enemy.⁸⁹⁸⁹

2697. On 25 February 1992, the Accused summarised the outcome of the talks at a session of the Bosnian Serb Assembly and stated that the Bosnian Serbs had agreed to the three main principles of the Cutileiro Plan which stated that BiH would (i) be an independent state, (ii) maintain its present

⁸⁹⁸³ P942 (ECMM report re the BiH Assembly meeting held on 24–25 January 1992), p. 1; Colm Doyle, T. 2825–2826 (27 May 2010).

⁸⁹⁸⁴ P942 (ECMM report re the BiH Assembly meeting held on 24–25 January 1992), p. 2; Colm Doyle, T. 2825–2826 (27 May 2010).

⁸⁹⁸⁵ P5475 (Letter from SDS Executive Board to SDS Municipal and Regional Boards BiH, 19 February 1992).

⁸⁹⁸⁶ See International Peace Negotiations Section, para. 14. The Chamber does not consider that Mandić's assertion that this plan demonstrated that the Bosnian Serb leadership did not intend to exchange populations in BiH to have a basis. Momčilo Mandić, T. 4895 (8 July 2010).

⁸⁹⁸⁷ See International Peace Negotiations Section, para. 14.

⁸⁹⁸⁸ D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), paras. 39, 50. See also D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), paras. 55–56; Milorad Dodik, T. 36849–36850 (9 April 2013).

borders; and (iii) consist of three constituent parts.⁸⁹⁹⁰ However, when war broke out the option of an independent BiH with cantons was dropped.⁸⁹⁹¹

2698. The Chamber recalls that the referendum on the question of SRBiH independence was held on 29 February and 1 March 1992 and resulted in a vote in favour of independence.⁸⁹⁹²

2699. In February 1992, Jovanović spoke with the Accused and Koljević about the Cutileiro Plan; they discussed internal borders in BiH and the establishment of cantonal units in BiH based on ethnic principles.⁸⁹⁹³ Jovanović explained to the Accused that his priorities should be to synchronise the negotiations in order to provide the maximum protections for the Serbian people and to form cantons which were both economically and geographically sustainable.⁸⁹⁹⁴ Jovanović warned the Accused that Europe could ask for a commitment towards an independent BiH, and told the Accused not to mention state borders.⁸⁹⁹⁵ The Accused spoke about having three entities in BiH as a confederation “based on the national territories where national communities make a majority and they have their organs plus common organs”.⁸⁹⁹⁶ Jovanović spoke with Koljević about maintaining the right to self-determination and to independently organise or integrate with “the mother country” but that in negotiations they did not have to mention directly integration with the mother countries.⁸⁹⁹⁷

2700. In February 1992, the Accused in meetings with international representatives expressed his view that the request of BiH for independence was a “very irresponsible move” and he had a tough time keeping Serbs quiet and that he was worried about deaths and disaster.⁸⁹⁹⁸ He also stated that

⁸⁹⁸⁹ P5745 (Intercept of conversation between (i) Radovan Karadžić and an unidentified male; (ii) Radovan Karadžić and Vojo Kuprešanin, 23 February 1992), p. 3.

⁸⁹⁹⁰ See para. 325; D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 11–12; P798 (Statement of Principles, Lisbon Agreement, 23 February 1992).

⁸⁹⁹¹ Vladislav Jovanović, T. 34300–34305 (26 February 2013); D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), paras. 38–39, 41.

⁸⁹⁹² See Adjudicated Fact 395; P5427 (Proclamation of the SDS Executive Board, undated); P5530 (Proclamation of the SDS Executive Board, 20 February 1992), p. 3.

⁸⁹⁹³ D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 49.

⁸⁹⁹⁴ D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 49; P5750 (Intercept of conversation between Radovan Karadžić, Nikola Koljević, and Vladislav Jovanović, 12 February 1992), pp. 3–4.

⁸⁹⁹⁵ P5750 (Intercept of conversation between Radovan Karadžić, Nikola Koljević, and Vladislav Jovanović, 12 February 1992), p. 6.

⁸⁹⁹⁶ P5750 (Intercept of conversation between Radovan Karadžić, Nikola Koljević, and Vladislav Jovanović, 12 February 1992), pp. 4–5. See also D2149 (Aide mémoire of Manojlo Milovanović), p. 9; P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), p. 4; P3119 (Minutes of meeting of the Club of Deputies from the SDS and SPO, 23 January 1992), p. 1.

⁸⁹⁹⁷ P5750 (Intercept of conversation between Radovan Karadžić, Nikola Koljević, and Vladislav Jovanović, 12 February 1992), p. 22.

⁸⁹⁹⁸ P778 (Fifth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 41.

it was very hard to disarm the people in BiH because individuals held 500,000 weapons.⁸⁹⁹⁹ He emphasised that any moves towards the independence of BiH would imply a very cruel war.⁹⁰⁰⁰ The Accused was described by international representatives as “very radical” and they observed that it was important that the Accused’s “illusions” were overcome.⁹⁰⁰¹ International representatives also identified that negotiations with the Accused, Koljević, and Krajišnik were the most difficult.⁹⁰⁰²

2701. The Accused also told international observers that Bosnian Serbs would not fight after the map of BiH was decided.⁹⁰⁰³ At an SDS Deputies’ Club meeting on 28 February 1992, the Accused spoke about a confederal BiH with an “integral Serbian Bosnia and Herzegovina within it”.⁹⁰⁰⁴ At this meeting the Accused also said:

Bosnia and Herzegovina will remain in Yugoslavia until we say it has left Yugoslavia. If Bosnia and Herzegovina is to leave Yugoslavia, then only three Bosnia and Herzegovinas will leave Yugoslavia. As Mr Krajišnik says, Muslims who used to be a religious sect, and have recently been given the status of a people, that’s what I say, should now get their independence. For what? [...] If they want independence, then we want independence too!⁹⁰⁰⁵

2702. The Chamber recalls that the Cutileiro Plan was further refined through a Statement of Principles which was agreed upon by the parties to the conflict on 18 March 1992.⁹⁰⁰⁶ The Statement of Principles stated that BiH would be one state “composed of three constituent units, based on national principles and taking into account economic, geographic, and other criteria”.⁹⁰⁰⁷ The Statement of Principles also provided for a working group to be established to define the territory of the constituent units.⁹⁰⁰⁸ Bosnian Serb negotiators reported back to the Bosnian Serb Assembly regarding this plan and noted that it aimed at a division of BiH into three constituent

⁸⁹⁹⁹ P778 (Fifth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 41.

⁹⁰⁰⁰ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6749–6750 (under seal).

⁹⁰⁰¹ P779 (Sixth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 24. Skoko stated that the Accused always looked for reasons to accept international peace plans and to make concessions during negotiations with respect to other ethnicities. D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 30. The Chamber noted that Skoko’s testimony was marked by multiple contradictions, evasiveness and indicators of partiality and bias and therefore does not find his evidence to be reliable in this regard.

⁹⁰⁰² P779 (Sixth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 56.

⁹⁰⁰³ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4177–4178. Okun’s assessment was that this meant that the Bosnian Serbs would stop fighting only when they acquired the territory they wanted.

⁹⁰⁰⁴ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), pp. 33–34. Mandić testified that originally all three sides agreed that there should be three entities in BiH but the Croats and Muslims failed to adhere to this agreement. Momčilo Mandić, T. 5001 (13 July 2010).

⁹⁰⁰⁵ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 4.

⁹⁰⁰⁶ See para. 326.

⁹⁰⁰⁷ See para. 326.

⁹⁰⁰⁸ See para. 326.

units based not only on nationality, but also on economic and geographic considerations and would be marked as a “basis for further negotiations”.⁹⁰⁰⁹

2703. In April 1992, the Accused in a meeting with international representatives agreed that all sides would lose if there was a conflict and complained about propaganda against the Serbs.⁹⁰¹⁰ He also said that they founded the TO because many troops were out of control.⁹⁰¹¹ Koljević at this meeting said that he and the Accused had agreed that they should divide Sarajevo.⁹⁰¹² During a discussion with international observers in September 1992, the Accused proposed constructing a wall in Sarajevo to separate the Serb controlled areas and the Muslim controlled areas.⁹⁰¹³

2704. Krajišnik wrote to Cutileiro on 3 April 1992, suggesting a continuation of negotiations based on the Statement of Principles.⁹⁰¹⁴ In June 1992, Izetbegović withdrew his agreement to the Cutileiro Plan.⁹⁰¹⁵ By July 1992, Izetbegović stated that he could not agree to certain elements of the Statement of Principles.⁹⁰¹⁶ The Accused stated that while he continued to agree with the Statement of Principles, the proposal of BiH being a unitary state was not satisfactory.⁹⁰¹⁷

2705. The Chamber recalls that during a meeting in September 1992, the Accused and Koljević stated that the Bosnian Serbs and the Bosnian Croats would not accept a unitary BiH state; a state based on one-man, one-vote.⁹⁰¹⁸ Koljević also stated that the Bosnian Serbs would not accept the internal borders of BiH without some form of cantonisation.⁹⁰¹⁹ At international negotiations, the Accused also expressed the Bosnian Serb position that while they wanted a political resolution they would not abandon their sovereignty or accept a unitarian state or a “loss of national status on our land”.⁹⁰²⁰ The Accused also called for three units for the three constituent peoples in BiH and emphasised the security of the Serb people who he presented as the “principal victims”.⁹⁰²¹

⁹⁰⁰⁹ See para. 327.

⁹⁰¹⁰ P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), e-court p. 36.

⁹⁰¹¹ P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), e-court p. 36.

⁹⁰¹² P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), e-court p. 36.

⁹⁰¹³ Aernout van Lynden, T. 2563–2564 (20 May 2010).

⁹⁰¹⁴ See para. 328.

⁹⁰¹⁵ See para. 333.

⁹⁰¹⁶ See para. 340.

⁹⁰¹⁷ See para. 340.

⁹⁰¹⁸ See para. 357.

⁹⁰¹⁹ See para. 357.

⁹⁰²⁰ P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 9. See also P791 (Eighth notebook of Herbert Okun’s ICFY diary), e-court pp. 38–39.

⁹⁰²¹ P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 45; P790 (Seventh notebook of Herbert Okun’s ICFY diary), e-court pp. 10–11.

2706. At first the Accused expressed that he wanted to be loyal to Yugoslavia and for the Bosnian Serbs to stay in this joint state.⁹⁰²² When the situation deteriorated and it became clear that BiH would not remain in Yugoslavia, the Accused adapted this goal.⁹⁰²³ In October 1992, Plavšić stated that the “establishment of a Muslim state without observing the interests of the Serbian people verges on insanity” and that Izetbegović had walked into that situation and “the consequences are now obvious”.⁹⁰²⁴

(2) Conclusion

2707. The Chamber finds that the Accused’s speech to the SRBiH Assembly in October 1991 in which he spoke about a “highway of hell” clearly shows the Accused’s consistent opposition to the proposed independence of BiH. While the Accused in the speech stated that he was not threatening the Bosnian Muslims, the Chamber finds that on the contrary, the speech contained very specific threats about what would happen if the Bosnian Muslims continued to pursue the path of independence and ignored the will of the Bosnian Serbs. The Chamber finds that the Accused was clearly threatening war if the Bosnian Serb interests were ignored, and he also envisaged that such a war would be “hell” and that the Bosnian Muslims would be unable to defend themselves in such a scenario.

2708. The Chamber also finds that these warnings by the Accused were not just an isolated aberration. The Chamber finds, by reference to multiple intercepted conversations in September and October 1991, that the Accused discussed how he would warn the Bosnian Muslims that if they persisted with their policies relating to the independence of BiH, this course of action would lead to extreme bloodshed, annihilation and the disappearance or extinction of the Bosnian Muslims. These conversations, in addition to speeches made by the Accused in 1991, underscore that the Accused intended to threaten the Bosnian Muslims against pursuing independence for BiH and that he was fully aware that a potential conflict would be extremely violent and result in thousands of deaths, the destruction of property, and the displacement of people and that it would be particularly devastating for the Bosnian Muslim population.

⁹⁰²² Vladislav Jovanović, T. 34268–34269 (26 February 2013). *See also* Milorad Dodik, T. 36845 (9 April 2013); D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 8, 15. The Chamber does not rely on Bulatović’s general opinion that everything that the Bosnian Serbs did was in response to acts and threats by Bosnian Muslims.

⁹⁰²³ Vladislav Jovanović, T. 34269 (26 February 2013); D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 16. *See also* P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992), p. 8.

⁹⁰²⁴ P1360 (Transcript from Joint session (21st session) of RS Assembly and Assembly of Serbian Krajina, 31 October 1992), pp. 9–10.

2709. The Chamber finds that the declaration of sovereignty by the SRBiH Assembly in the absence of the Bosnian Serb delegates on 15 October 1991, escalated the situation. The Bosnian Serb leadership made it clear once again that they would not accept a sovereign BiH and issued an ultimatum for the revocation of this declaration. However, it is clear from the conversation on 24 October 1991 between the Accused and Slobodan Milošević that the Accused did not expect the Bosnian Muslims to abolish the decisions they had taken with respect to the sovereignty of BiH.

2710. The conversation with Milošević in October 1991 is also instructive as it shows that the Accused envisaged responding in such a way that the Bosnian Serbs would establish full authority in Bosnian Serb territories, create a *de facto* situation to ensure that the Bosnian Serbs would never live in the same state as the Bosnian Muslims, and create their own parallel and separate institutions and structures. It is also clear from this conversation that Slobodan Milošević was attempting to take a more cautious approach while the Accused was adamant that their goal was to ensure that they would establish full authority in their territories, which would mean that Izetbegović would not have control of 65% of BiH, and that they would announce their own Bosnian Serb Assembly.

2711. The Chamber also finds that while Milošević expressed reservations about excluding Bosnian Muslims, the Accused was adamant that there were not even 10% of Bosnian Muslims who supported Yugoslavia and that they could not take such a risk. The Accused also spoke clearly about steps Bosnian Serbs would take to establish authority and control over territories which they claimed and that the Bosnian Serbs would be moving towards mobilisation. The Chamber finds that this demonstrates that the Accused from October 1991 vehemently opposed the independence of BiH and planned on taking over Bosnian Serb claimed territory. This conversation also demonstrates that the Accused envisaged a separation of the Bosnian Serbs from non-Serbs in BiH and that war in BiH would result in "population homogenisation". The Chamber also finds that the Accused supported the creation of ethnically based entities in BiH. The Accused also encouraged the identification of Serb areas which would be to the exclusion of Bosnian Muslims.

2712. The Accused's conversation with Krajišnik in January 1992 also demonstrates the Accused's continuing anger with respect to the proposed independence of BiH. In this regard the Accused said that he would not be calming the Bosnian Serb people any further and that he would "release [their] tigers and let them do their job". The Accused also spoke about the non-negotiable character of the Bosnian Serb objectives and his position that they would not allow anything to stop them. The Chamber finds that the Accused's position was that the Bosnian Serbs would not allow BiH to secede from Yugoslavia, and if BiH insisted on independence so would the Bosnian Serbs.

2713. The Accused also described the Bosnian Muslims as a “religious sect” who had only recently been given the status of “people” and that they had no basis for their independence. The Chamber finds that this rhetoric when combined with the Accused’s references to the Bosnian Muslims as their historic enemies, created an environment which sought to quash any claim to independence by BiH and to re-assert the Bosnian Serb interests in BiH.

2714. In meetings with international representatives, the Accused repeated his warning about how the independence of BiH would result in a “cruel war” and his prediction that he would not be able to calm down the Bosnian Serbs in this scenario.

2715. The Chamber also finds that there was a disjuncture between what the Accused said in private conversations or before a Bosnian Serb audience and the tone he took in international negotiations where he was more conciliatory, spoke against conflict, and claimed that the Serbs were the victims of propaganda. The Accused took a leading role in portraying the Bosnian Serbs as the victims of the conflict and used this as justification for pursuing their territorial and political objectives of a separate Serb state in BiH.

(D) Advocating separation of population and creation of a Bosnian Serb state

(1) Analysis of evidence

(a) Separation of population—inability to co-exist

2716. On 27 August 1991, in an intercepted conversation with Koljević, the Accused expressed his opposition to BiH independence and indicated his willingness to divide BiH along ethnic lines by stating “[l]et us see what it is, what the solution for each ethnic group would be, and for everyone to agree to it [...]. Because if there is no solution acceptable to us in [BiH], we will find our own solution”.⁹⁰²⁵

2717. In November 1991, the Accused spoke about the “principle of reciprocity” and that the Serbs alone would not move out of certain areas and then allow the Bosnian Muslims to “stay in our areas to settle and build their colonies”.⁹⁰²⁶ The Accused called on the Bosnian Serbs to “get ready and establish your authority in your territories; in municipalities, regions, local communities, and to prepare yourselves for restructuring and regionalizing the municipalities” and for them to

⁹⁰²⁵ P5878 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 27 August 1991), p. 4.

⁹⁰²⁶ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 7. See also P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), p. 29.

control the process until the very last moment.⁹⁰²⁷ The Accused concluded that after and during the plebiscite it was important to “seize power wherever you can”.⁹⁰²⁸

2718. With respect to the “three national communities” in BiH, the Accused suggested that “the more separate things there are the better it will be”.⁹⁰²⁹

2719. The Accused in a speech in January 1992 stated that the Bosnian Serbs would “not impose anything on each other” and that they would work towards a form of state organisation to which Croats, Serbs and Muslims would agree.⁹⁰³⁰ The Accused also said that they had “no influence over the war or peace” and that if an inter-ethnic or religious war started in BiH, Serbs, Muslims, and Croats would run away and go to their own “fully homogeneous” areas and that there would be severe bloodshed and destruction of towns.⁹⁰³¹ Similarly the Accused told Vance that BiH independence could lead to war and that there “will be great mass movements, homogenisation of territories, migrations from one area into another and, of course, accompanied by instances of shooting out of hand”.⁹⁰³²

2720. In January 1992, in a conversation in which there was discussion about having Bosnian Muslims within their borders, the Accused said “they will have their region, we will have our own region”.⁹⁰³³ The Accused also spoke about the importance of creating their country first and then establishing “krajinas” and the danger that they would never create their state if they started establishing “krajinas” first.⁹⁰³⁴

2721. In February 1992, Krajišnik stated that if they were successful in creating a confederal BiH it would consist of three states and he was “not interested in Muslims in [BiH]”.⁹⁰³⁵ He also stressed that everything which the Bosnian Serb Assembly did, and everything he did, was “for pure areas” of BiH, that he was in favour of a “monolithic Serbian state” where all Serbs live

⁹⁰²⁷ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 10.

⁹⁰²⁸ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 12.

⁹⁰²⁹ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 13–14; P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 7. *See also* D424 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 10 February 1992), p. 11.

⁹⁰³⁰ D87 (Transcript of 9th session of SRBiH Assembly, 24–25 January 1992), pp. 103–104.

⁹⁰³¹ D87 (Transcript of 9th session of SRBiH Assembly, 24–25 January 1992), p. 103; P5762 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 22 January 1992), p. 6. *See also* Herbert Okun, T. 1715–1717 (27 April 2010); P5621 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 25 January 1992), p. 3; P5615 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 11 December 1991), p. 4; D4523 (Intercept of conversation between Radovan Karadžić and an unidentified male, 3 March 1992).

⁹⁰³² P5774 (Intercept of conversation between Radovan Karadžić and Vladislav Jovanović, 5 January 1992), pp. 6–7. *See also* D2149 (Aide mémoire of Manojlo Milovanović), pp. 18, 28.

⁹⁰³³ P2596 (Intercept of conversation between Radovan Karadžić and “Miroslav”, 7 January 1992), p. 5.

⁹⁰³⁴ P2596 (Intercept of conversation between Radovan Karadžić and “Miroslav”, 7 January 1992), p. 6.

together.⁹⁰³⁶ Koljević also emphasised that they would not allow the Bosnian Muslims to have a sovereign state which extended over both the Serb and Croat parts of BiH and that they had therefore constituted a Serb Assembly.⁹⁰³⁷ Koljević acknowledged that the process of re-organising municipalities was with the aim of creating “homogeneity of certain areas” and argued that contrary to the political assertions, it was not impossible to divide BiH.⁹⁰³⁸ Koljević stated that at a municipal level they had tried separate municipal assemblies and formed new municipalities.⁹⁰³⁹ Further, he repeatedly called for the expulsion of Bosnian Muslims and the homogeneity of territories, claiming it was impossible for Serbs to live with anyone else.⁹⁰⁴⁰

2722. Krajišnik also stated that “[o]ur aim is to divide with the Muslims, if the Muslims were to capitulate we would remain with them, if they remained with us they would soon be the majority?” and outlined the Strategic Goals, including dividing from Bosnian Muslims and Bosnian Croats.⁹⁰⁴¹

2723. In February 1992, the Accused spoke about having less than 10% of Bosnian Muslims in their “canton” of BiH according to the proposed maps.⁹⁰⁴² The Accused continued to deliver speeches in which he (i) spoke about avoiding the subjugation of the Serb people; (ii) advocated the creation of a “Serbian state”; and (iii) blamed the Muslims and Croats for destroying the unity of BiH and Yugoslavia.⁹⁰⁴³ The Accused in May 1992 spoke with Krajišnik, Mladić, and other military leaders and said that BiH as a state did not exist because it did not have any territory and that the Serbs were “on the threshold of achieving our centuries-old dream of creating our own state without many internal enemies”.⁹⁰⁴⁴ In this regard, the Accused also stated that they were “controlling the Serbian settlements” in Sarajevo and were expanding them.⁹⁰⁴⁵

⁹⁰³⁵ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 62–63.

⁹⁰³⁶ P5623 (Speech of Momčilo Krajišnik at the Assembly of Serbian People of BiH, 28 February 1992), pp. 3–4.

⁹⁰³⁷ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 11, 24.

⁹⁰³⁸ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), p. 13.

⁹⁰³⁹ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 22–23.

⁹⁰⁴⁰ Vitomir Žepinić, T. 33594–33595 (13 February 2013); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4220. During a meeting with Serb and Muslim representatives in May 1992, Koljević precluded any possibility of Muslims and Serbs cohabitating in Pale; the former had to leave. P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 38; Sulejman Crnčalo, T. 1164–1165 (14 April 2010).

⁹⁰⁴¹ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 140, 143–144.

⁹⁰⁴² P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 2, 15.

⁹⁰⁴³ P1347 (Shorthand record of 5th session of SerBiH Assembly, 9 January 1992), pp. 45, 47–49; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp.3–4.

⁹⁰⁴⁴ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), pp. 256–258. *See also* D4025 (Excerpt of SDS Main Board meeting, 14 February 1992), pp. 13, 15 (where Kuprešanin spoke about BiH ceasing to exist as their “holy mission”).

⁹⁰⁴⁵ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), p. 257.

2724. In February 1992, the Accused went on to state “now our main goal is the only goal that can be achieved: to solve the issue of the majority of the Serbian people”, namely the creation of their republic of BiH.⁹⁰⁴⁶ He also stated that “it is clear to every Serb that Croats and Serbs cannot live in a single state. Consequently, they cannot be in the same army, and also that BiH cannot have its army. There would remain national guards in each of the republics, and the police which would be under the control of the respective republics”.⁹⁰⁴⁷ The Accused emphasised that there was tension and conflict in undefined territories where “two national communities touch each other” and that they should be defined as soon as possible.⁹⁰⁴⁸

2725. In meetings with international representatives, Bosnian Serb leaders including the Accused, Krajišnik, and Plavšić openly stated that it was impossible for Bosnian Serbs to co-exist with the other communities, particularly the Bosnian Muslims, and that it was better to separate the communities.⁹⁰⁴⁹ For example in discussions with Owen and Morillon, the Accused repeated that separation from the Bosnian Muslims and Croats was essential.⁹⁰⁵⁰

2726. In meetings with Harland, the Accused as well as Plavšić openly said that the basic Serb war aim was to redistribute the population of BiH so that the Serbs would be left in control of a single continuous block of territory embracing the whole border with Montenegro and Serbia and also including all of the traditionally Serb-inhabited areas.⁹⁰⁵¹ The Bosnian Serb leadership said that due to “an historical accident”, Bosnian Muslims were a majority in certain areas and to achieve their goal, large numbers of Bosnian Muslims had to be removed because the majority of the population along the Drina River in northeast BiH, was Muslim.⁹⁰⁵² They openly stated that the purpose of war was for the Bosnian government to accept this redistribution of the population and the Accused acknowledged that some “old people will probably want to remain” but he envisaged that to a large extent the overwhelming majority of the population that would remain in Serb areas

⁹⁰⁴⁶ P938 (Minutes from SDS Deputies' Club meeting, 28 February 1992), p. 35.

⁹⁰⁴⁷ P938 (Minutes from SDS Deputies' Club meeting, 28 February 1992), p. 6.

⁹⁰⁴⁸ P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), pp. 2, 7; D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), pp. 4–5, 10.

⁹⁰⁴⁹ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6751–6752, 6843 (under seal); KDZ240, T. 16064–16065, 16068 (5 July 2011) (closed session); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4205; Herbert Okun, T. 1496–1497 (23 April 2010); P785 (Second notebook of Herbert Okun's ICFY diary), e-court p. 25; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 120; KDZ088, T. 6253–6255, 6314 (7 September 2010) (closed session) [REDACTED]; Hussein Ali Abdel-Razek, T. 5512–5514, 5522–5523 (20 July 2010). See also KDZ088, T. 6314 (7 September 2010); P5748 (Intercept of conversation between Radovan Karadžić and Lukić, 13 February 1992), p. 1; P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), pp. 8–9. [REDACTED].

⁹⁰⁵⁰ P1481 (Ratko Mladić's notebook, 5 October–27 December 1992), pp. 349, 357–358.

⁹⁰⁵¹ P820 (Witness statement of David Harland dated 4 September 2009), para. 269.

⁹⁰⁵² P820 (Witness statement of David Harland dated 4 September 2009), para. 270.

would be Serb and Muslim in Muslim areas.⁹⁰⁵³ At these meetings, some members of the Bosnian Serb leadership openly stated that it was good if all non-Serbs left and that they wanted them to go because they were not living well together.⁹⁰⁵⁴

2727. Biljana Plavšić spoke about the importance of the partition of territory and executing this partition “properly as this business awaits us”.⁹⁰⁵⁵ She also expressed the idea that Bosnian Serbs could no longer live with Bosnian Muslims; on one occasion at a funeral for a Bosnian Serb soldier she said that the Bosnian Muslims should be slaughtered or exterminated.⁹⁰⁵⁶ In May 1992, Plavšić spoke of the entitlement of the Serbs to 70% of the territory and that Bosnian Serbs “were used to living in wide spaces” while Muslims typically lived in cities.⁹⁰⁵⁷ Plavšić further stated that “if it takes the lives of 3 million people to solve this crisis, lets get it done and move on”.⁹⁰⁵⁸ Plavšić also spoke about creating the conditions for “forced emigration” and that the “last thing that can be allowed [...] is a compromise at the expense of conquered territories” and that foreign countries should be reminded that the Bosnian Serbs would not give up what they had conquered.⁹⁰⁵⁹

2728. Koljević was particularly extreme in his views and continued to repeat at important meetings that it was impossible for the communities to live together.⁹⁰⁶⁰ A deputy at the Bosnian Serb Assembly echoed this sentiment and spoke about their common wish for an “ethnically pure Serbian state” and the need, in the context of negotiations, to “emphasise that we can not live with them”.⁹⁰⁶¹ Lukić, who was the second Prime Minister of the RS, also advocated “ethnic cleansing” and told leaders in Serbia that Bosnian Muslims could not be trusted.⁹⁰⁶² International observers reported that the JNA acquiesced in, or in some cases supported, the creation of ethnically homogeneous regions in BiH which involved “the seizure of territory by military force and intimidation of the non-Serb population”.⁹⁰⁶³

⁹⁰⁵³ P820 (Witness statement of David Harland dated 4 September 2009), paras. 270, 272.

⁹⁰⁵⁴ P820 (Witness statement of David Harland dated 4 September 2009), para. 274.

⁹⁰⁵⁵ P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), p. 36.

⁹⁰⁵⁶ Colm Doyle, T. 2667–2668, 2670–2672 (21 May 2010); [REDACTED]; Vitomir Žepinić, T. 33594–33595 (13 February 2013).

⁹⁰⁵⁷ Colm Doyle, T. 2671–2672 (21 May 2010).

⁹⁰⁵⁸ Colm Doyle, T. 2672 (21 May 2010).

⁹⁰⁵⁹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 38–39, 52.

⁹⁰⁶⁰ Vitomir Žepinić, T. 33595 (13 February 2013). *See also* Herbert Okun, T. 1497–1498 (23 April 2010); P785 (Second notebook of Herbert Okun’s ICFY diary), e-court p. 44.

⁹⁰⁶¹ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 34.

⁹⁰⁶² Momir Bulatović, T. 34543–34544 (1 March 2013); P6161 (Excerpt from notes of FRY’s SDC 8th session, 12 March 1993), pp. 1–2.

⁹⁰⁶³ P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), paras. 3–5; Colm Doyle, T. 2663–2666 (21 May 2010).

2729. Krajišnik often recalled that the main Bosnian Serb objective was to separate from the Bosnian Muslims and to create their own state which was ethnically “pure”.⁹⁰⁶⁴

2730. In July 1992, Mandić spoke about the Bosnian Serb territories which were “supposed to be taken”, had already been taken, and identified areas which were still disputable, including in Sarajevo.⁹⁰⁶⁵ Mandić also questioned “what to do with the Turks” and suggested that there “should be an airlift established with Turkey and let them go, we should split Bosnia in two parts”.⁹⁰⁶⁶ In this same conversation, Mandić said “[w]e don’t want to have a single-nation state, man. We want to have democratic state where the Serbian people would be in the majority.”⁹⁰⁶⁷ Mandić acknowledged that Croats and “the rest of Muslims” would also have rights after “we clean them out”.⁹⁰⁶⁸

2731. The Chamber recalls that Kuruzović, the Commander of Trnopolje, confirmed that the plan of the Serb authorities was to reduce the number of Bosnian Muslims in Prijedor to 10% or less, and then later to reduce this to 2% or less.⁹⁰⁶⁹ The Chamber also heard from KDZ051 that around September 1992, he was told by the President of the Rogatica SDS, Sveto Veselinović, that “all the Muslims were going to disappear from the territory” and that in conversations with the Accused in Pale, “[i]t has been decided that one third of Muslims would be killed, one third would be converted to the Orthodox religion and a third will leave on their own”.⁹⁰⁷⁰ Sveto Veselinović testified that he did not meet KDZ051 in person, that he did not make such a statement, and that he did not have such a conversation with the Accused, as he did not speak to him between

⁹⁰⁶⁴ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 140, 143–144; P5623 (Speech of Momčilo Krajišnik at the Assembly of Serbian People of BiH, 28 February 1992), pp. 3–4; P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 146–147; P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 48; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4293, 4295. See Adjudicated Fact 2411. Živanović acknowledged that separation from the Bosnian Muslims was discussed. Milenko Živanović, T. 42585–42590 (30 October 2013).

⁹⁰⁶⁵ P1104 (Intercept of conversation between (i) Momčilo Mandić and Ivo Rezo; (ii) Momčilo Mandić and Branko Kvesić, 10 July 1992), pp. 7–8; Momčilo Mandić, T. 4619–4620 (5 July 2010). In an earlier conversation in May 1992, Mandić said that they “should settle the Sarajevo problem through war and then sit down and talk”. P1149 (Intercept of conversation between Momčilo Mandić and Milanko Mučibabić, 26 May 1992), p. 8.

⁹⁰⁶⁶ P1104 (Intercept of conversation between (i) Momčilo Mandić and Ivo Rezo; (ii) Momčilo Mandić and Branko Kvesić, 10 July 1992), p. 8.

⁹⁰⁶⁷ P1104 (Intercept of conversation between (i) Momčilo Mandić and Ivo Rezo; (ii) Momčilo Mandić and Branko Kvesić, 10 July 1992), p. 10.

⁹⁰⁶⁸ P1104 (Intercept of conversation between (i) Momčilo Mandić and Ivo Rezo; (ii) Momčilo Mandić and Branko Kvesić, 10 July 1992), p. 11.

⁹⁰⁶⁹ See para. 1910 (referring to Adjudicated Fact 1093). *But see* D4195 (Witness statement of Milomir Stakić dated 16 November 2013), paras. 28, 42; Milomir Stakić, T. 45266–45267 (17 December 2013). Stakić testified that he never had any knowledge or heard of such a plan and the municipal authorities in Prijedor never planned for the municipality to be mono-ethnic and that the rights of all citizens were maintained. In light of the weight of contrary evidence received by the Chamber and Stakić’s interest in distancing himself and the authorities from events in Prijedor, the Chamber does not find his evidence in this regard to be reliable.

⁹⁰⁷⁰ P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 95.

January 1992 and autumn of 1993.⁹⁰⁷¹ The Chamber finds that Veselinović's evidence casts reasonable doubt on this issue and thus dismisses KDZ051's evidence on this point.

2732. The Accused made a number of speeches which spoke about the inability of the "three peoples" in BiH to live together, and for example compared them to "plants which cannot grow side by side. They have to be separated to flourish".⁹⁰⁷² He also stated that "they lived together only when occupied or under a dictatorship. [...] We can only be together like oil and water. When you mix us, we are together. When you leave us alone, we separate" and that if they were put in the same pot the soup would not mix.⁹⁰⁷³ The Accused stated that "[w]e are really something different [...] we should not hide that. We are not brothers. We must know that" and that when the world asked why they could not live together, he would answer that "we are three cultures, three peoples and three religions" and that they had never lived together in democracy.⁹⁰⁷⁴

2733. This sentiment was also reflected in speeches delivered by Bosnian Serb leaders at a municipal level. For example, the Chamber recalls that in early April 1992, there were radio announcements in Foča in which SDS President Miroslav Stanić said it was no longer possible for Bosnian Serbs to live with their Bosnian Muslim neighbours, that they could not be woken every morning by the hodža from the mosque, and that there was a danger that the Bosnian Serb population would be circumcised.⁹⁰⁷⁵ In May 1992, the Accused attended a meeting where he said

⁹⁰⁷¹ D4192 (D4192 (Supplemental witness statement of Sveto Veselinović dated 17 November 2013). Similarly Karabeg, the President of the SDA Executive Board in Sanski Most, testified that the "goal of the Serbian side was not to have more than 10 per cent of the population in Sanski Most". Mirzet Karabeg, T. 18700-187002 (13 September 2011). However, the Chamber does not consider that Karabeg's testimony provided any basis for him to reach this conclusion, or that he was privy to that kind of information. The Chamber therefore does not rely on his evidence in this regard.

⁹⁰⁷² D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 8. See also Vitomir Žepinić, T. 33586-33587 (13 February 2013) (also testifying that in his own talks with the Accused, he "was not convinced that [the Accused] really thought about physical elimination of non-Serbs from [BiH]", but that it was impossible to live together due to the extremism of the nationalist parties). While the Chamber accepts that this was Žepinić's own assessment, it does not rely on his opinion in this regard.

⁹⁰⁷³ P5596 (Video footage depicting interview of Radovan Karadžić on CNN, with transcript), p. 1; P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 19; P6688 (Interview with Radovan Karadžić in Duga Magazine, 23 May 1992), p. 3.

⁹⁰⁷⁴ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 19-20. KDZ310 testified that the Accused as the head of the SDS pursued a policy which was designed to prove to "both peoples that they can no longer live together" even though they had lived together for years. KDZ310, T. 9178, 9182-9183 (29 November 2010). During cross-examination, KDZ310 acknowledged that he was in no way involved in politics and he formed these views based on conversations with people and what was reported in the media. The Chamber therefore places no weight on his assessment. Similarly the Chamber places no weight on Mujadžić's opinion that in Prijedor, the Accused placed his confidence in Stakić as a municipal leader, as he came from a typical "Chetnik" background, to create a rift between Bosnian Muslims and Serbs and to impair the belief that it was possible for the two ethnic groups to co-exist. Mirsad Mujadžić, P3703 (Transcript from *Prosecutor v. Stakić*), T. 3737-3739, 3903-3904.

⁹⁰⁷⁵ KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1185. See para. 852.

that if there was a response to the mobilisation of the 1st Krajina Corps, “then we clear the Posavina of Croats”.⁹⁰⁷⁶

2734. These speeches are in stark contrast with an interview on 20 July 1990, where the Accused stated that

an illusion was created about a discord between the Serbs and the Muslims. [...] Basically, there is nowhere a conflict of interest between the Serbs and the Muslims. Regardless of what may happen, the Serbs and the Muslims will always live in a common state, and they know how and they will know in future how to live together. There is no need for a third party to fix the things between them.⁹⁰⁷⁷

2735. The Accused also stated:

Here, the Muslims are Slavs, people with our blood and language who, for the most part, opt for the European quality of life and preservation of the Islamic faith. There is no room for panic neither among the Serbs nor among the Muslims. According to my estimation, the Serbs do not have to defend the boundaries of the Christian Europe and fight the Islam. We are much closer to our Muslims than with that Europe.⁹⁰⁷⁸

2736. The Chamber notes, however, that these statements were made by the Accused in a very different environment and were delivered in a period where the political objective of the Bosnian Serb leadership was to emphasise the unity of Yugoslavia and the existence of a common state.

2737. Similarly the Chamber recalls that in the summer of 1991, the Accused attended an SDS rally in Zvornik;⁹⁰⁷⁹ thereafter, the SDS and SDA issued a joint declaration expressing the need to maintain peace in the municipality and calling for greater tolerance between ethnic groups there.⁹⁰⁸⁰

In August 1991, the Accused spoke about peace and reaching an agreement with the Bosnian Muslims.⁹⁰⁸¹

⁹⁰⁷⁶ P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 38, 41.

⁹⁰⁷⁷ D269 (Radovan Karadžić's interview with NIN, 20 July 1990), p. 8.

⁹⁰⁷⁸ D269 (Radovan Karadžić's interview with NIN, 20 July 1990), p. 9. *See also* Momčilo Mandić, T. 4748 (6 July 2010); D363 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 13 July 1991), p. 5.

⁹⁰⁷⁹ D3693 (Witness statement of Marinko Vasilčić dated 9 June 2013), paras. 17–18; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 15, 18. *See para.* 1230. Vasilčić stated that the Accused at SDS rallies in 1991 spoke in favour of a peaceful solution and respect for everyone in BiH. D3693 (Witness statement of Marinko Vasilčić dated 9 June 2013), para. 17. The Chamber notes that Vasilčić's testimony was marked by inconsistencies, evasiveness and other indicators that he was not forthright in his evidence. The Chamber therefore does not consider his evidence on what the Accused said at SDS rallies to be reliable.

⁹⁰⁸⁰ D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 15; D3725 (Joint declaration of Zvornik SDS and SDA, undated). *See also* D4533 (Intercept of conversation between Radovan Karadžić and unidentified male, 9 July 1991) (in which the Accused instructs an unidentified man to ensure that nothing happens to the Muslims in Bosnian Krajina); D4550 (Intercept of conversation between Radovan Karadžić and Dragan Đokanović, 13 December 1991), p. 2.

⁹⁰⁸¹ D276 (Intercept of telephone conversation between Radovan Karadžić and Momčilo Krajišnik, 7 August 1991), p. 2; D277 (Intercept of conversation between Nenad Stevandić and Radovan Karadžić, 17/18 August 1991), pp. 1–2. *See also* D272 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić and

2738. On 12 May 1992, there was a large public rally in Banja Luka. The Accused, Mićo Stanišić, and Stojan Župljanin, amongst others, were present.⁹⁰⁸² The Accused addressed the rally and said that it demonstrated the organisation and power of the SerBiH and that he regretted that the war in BiH had been imposed on them by the two other national communities and that the “mutual extermination, killings and tortures have been imposed to us”.⁹⁰⁸³ The Accused stated that while they had no conflict with the Croats and Muslims they would not allow their “militant leadership” to make them second class citizens and this was the reason why they created their state unit in BiH.⁹⁰⁸⁴ The Accused also said that they were proud to say that Muslims and Croats were not in danger in SerBiH and that they had to defend the borders of SerBiH for all citizens of BiH regardless of their “confession or nationality”.⁹⁰⁸⁵ Similarly in June 1992, the RS Presidency issued a press statement condemning the BiH declaration of war and noting that this placed pressure on Serbs to fight “against their brothers” and that they wanted a peaceful resolution of the conflict and that all those who sought protection in SerBiH would be provided the bare necessities “irrespective of their nationality”.⁹⁰⁸⁶

2739. In contrast to these public statements, when the Accused spoke to Žepinić about his view that the different nationalities could not live together in BiH, Žepinić expressed his concern about what was going to happen to the large number of mixed families in BiH and the difficulty of dividing people who lived in the same high-rise buildings.⁹⁰⁸⁷ Žepinić was threatened by Mićo Stanišić and later arrested for his opposition to ethnically based parties and also faced pressure from both Koljević and the Accused.⁹⁰⁸⁸

Momčilo Mandić, 24 June 1991), p. 2; Robert Donia, T. 3470–3472 (8 June 2010); D4195 (Witness statement of Milomir Stakić dated 16 November 2013), para. 32; Milomir Stakić, T. 45193–45194 (16 December 2013) (stating that he met the Accused for the first time in 1991 when they were having issues with the political party in Prijedor and the Accused told him that “everything should be resolved democratically and through elections”). See D4546 (Intercept of conversation between Radovan Karadžić and Levko Žar, 21 September 1991), p. 3 (wherein the Accused stated that [a]ll disputed issues should be resolved peacefully.”); D4545 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 13 September 1991), p. 2 (referring to a Bosnian Muslim and Bosnian Serb agreement).

⁹⁰⁸² D494 (Video footage of rally in Banja Luka, 12 May 1992, with transcript); Momčilo Mandić, T. 5331–5336 (16 July 2010).

⁹⁰⁸³ D494 (Video footage of rally in Banja Luka, 12 May 1992, with transcript), pp. 4–5.

⁹⁰⁸⁴ D494 (Video footage of rally in Banja Luka, 12 May 1992, with transcript), p. 5.

⁹⁰⁸⁵ D494 (Video footage of rally in Banja Luka, 12 May 1992, with transcript), pp. 5–7; Momčilo Mandić, T. 5334–5335 (16 July 2010). See also D1587 (Radovan Karadžić’s platform for the solution of crisis in BiH, 22 April 1992).

⁹⁰⁸⁶ D2244 (Statement by SRBiH Presidency, 23 June 1992), p. 1.

⁹⁰⁸⁷ Vitomir Žepinić, T. 33588–33589 (13 February 2013). Žepinić also testified that he could not accept this policy of division and he did not believe that the Accused was able to do so either, but that the Accused faced problems from extremists in his own ranks. Vitomir Žepinić, T. 33589 (13 February 2013).

⁹⁰⁸⁸ Vitomir Žepinić, T. 33603–33607, 33619–33620 (13 February 2013). Žepinić testified, however, that the Accused did in certain situations try to protect him from extremists in the SDS. When questioned about whether the Accused took a position that Bosnian Muslims and Croats should be expelled, he testified that if the Accused

2740. In May 1992, the Accused issued an announcement to Bosnian Muslims appealing for a cessation of hostilities and assured them that Muslims who remained in SerBiH and had laid down their arms had full protection and lived peacefully.⁹⁰⁸⁹ The Accused warned against the “crazy idea of an Islamic state” and that the West wanted Muslims to be “obliterated” but the Serbs wanted to reach an agreement with them.⁹⁰⁹⁰ He also assured Bosnian Muslims that they would be allowed to leave in the direction of their choice with the right to return when the war was over.⁹⁰⁹¹ Okun described this announcement as “thoroughly disingenuous” and noted that it was issued at the same time as the Bosnian Serb Assembly issued its war aims.⁹⁰⁹²

2741. On 2 June 1992, the Accused issued a decision which called for all citizens who had temporarily left the territory of the SerBiH to return and report to the Crisis Staff in their place of residence by 20 May 1992.⁹⁰⁹³ It also promised the right of return to “[p]ersons whose actions were not contrary to the interests of the [SerBiH]”.⁹⁰⁹⁴ It provided that persons who had left and did not return or did not explain their inability to return to the relevant municipal crisis staff, would be denied the right of citizenship of SerBiH and all acquired rights regarding employment, housing, health and retirement insurance would cease and their property would be used temporarily for the needs of defence of SerBiH.⁹⁰⁹⁵

2742. On 4 July 1992, at the 36th session of the Bosnian Serb Government, it was noted that the “question has been raised whether there are agreed criteria regarding the moving out of the Muslim population from the territory of the [SerBiH]. It has been concluded that the Government has not until now had a point of view on this matter. The Ministry of the Interior is entrusted with preparing information on this issue that the Government would consider and take the appropriate standpoint”.⁹⁰⁹⁶ This idea of ethnic separation was also supported and reinforced by municipal leaders such as Prstojević who said that “those who convert to Orthodox religion on the spot, they can stay”.⁹⁰⁹⁷

or the SDS had directly made such a statement he would have been arrested for such an unconstitutional decision. Vitimir Žepinić, T. 33619–33620 (13 February 2013), T. 33655–33656 (14 February 2013).

⁹⁰⁸⁹ D119 (Radovan Karadžić’s speech re cessation of hostilities, May 1992), pp. 1–2. *See also* Momčilo Mandić, T. 5183 (15 July 2010).

⁹⁰⁹⁰ D119 (Radovan Karadžić’s announcement re cessation of hostilities, May 1992), pp. 1–2.

⁹⁰⁹¹ D119 (Radovan Karadžić’s announcement re cessation of hostilities, May 1992), p. 2.

⁹⁰⁹² Herbert Okun, T. 1810–1811 (28 April 2010).

⁹⁰⁹³ P2617 (Radovan Karadžić Decisions, May–June 1992), pp. 2–3.

⁹⁰⁹⁴ P2617 (Radovan Karadžić Decisions, May–June 1992), p. 3.

⁹⁰⁹⁵ P2617 (Radovan Karadžić Decisions, May–June 1992), pp. 2–3.

⁹⁰⁹⁶ P1098 (Minutes of 36th session of SerBiH Government, 4 July 1992), pp. 4–5.

⁹⁰⁹⁷ P1086 (Intercepts of conversations between (i) Nedeljko Prstojević and Milenko LNU; (ii) Nedeljko Prstojević and FNU Novaković, 14 May 1992), p. 3.

2743. At a meeting of the Bosnian Serb leadership on 10 July 1992, the Accused stated that unlike the Bosnian Muslims and Croats, the Bosnian Serbs were going to build a law-abiding state rather than an ethnically clean state. Other attendees expressed their agreement as to the stance to be taken in that regard.⁹⁰⁹⁸

2744. On 11 July 1992, at the 17th session of the Bosnian Serb Presidency, attended by the Accused, it was decided “that a decision be adopted on the signing of a proclamation on the moving out and retention of citizens from certain parts of the former [BiH], and on guarantees and safety, on condition that the people be disarmed, enemy activities halted and peace established”.⁹⁰⁹⁹ On the same date, the Presidency made an announcement to the citizens of RS stating that civilians living in areas affected by war must be allowed to leave those areas and that any emigration had to be voluntary and cannot be obstructed or encouraged.⁹¹⁰⁰ This same announcement indicated that Croats and Muslims in the RS were “guaranteed all rights granted by a legal state” and that the authorities were not forcibly detaining people in war zones, as that would make them hostages, or forcing them to emigrate as that would amount to “ethnic cleansing”.⁹¹⁰¹ The announcement also indicated that all refugees would be allowed to return.⁹¹⁰²

2745. Despite these public announcements, the Accused continued to advocate the division of BiH on ethnic lines.⁹¹⁰³ For example in July 1992, he spoke about the dangers of living in a unitary state where they could not control the Muslims. In this regard he said “[w]e know very well what the fundamentalism is and that we cannot live together, there’s no tolerance, they quadruple through the birth-rate, and we Serbs are not up to that”.⁹¹⁰⁴ The Accused also spoke about the Bosnian

⁹⁰⁹⁸ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 309, 313–314.

⁹⁰⁹⁹ D444 (Minutes of 17th session of Presidency of SerBiH, 11 July 1992, p. 1. *See also* Momčilo Mandić, T. 5131–5132 (14 July 2010).

⁹¹⁰⁰ D445 (SerBiH announcement to the public, 11 July 1992); Momčilo Mandić, T. 5133 (14 July 2010).

⁹¹⁰¹ D445 (SerBiH announcement to the public, 11 July 1992). *See also* D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 16, 18–18A, 46; Momir Bulatović, T. 34540–34541 (28 February 2013).

⁹¹⁰² D445 (SerBiH announcement to the public, 11 July 1992), p. 1. *See also* D112 (Radovan Karadžić’s Request to Serbian MUP, 1 September 1992); D113 (Radovan Karadžić’s Request to Montenegrin MUP, 1 September 1992) (both requests provided that all refugees regardless of religion or nationality were obliged to return to their place of residence in SerBiH).

⁹¹⁰³ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), pp. 5, 10; P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 5, 9–10; P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 7; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*, T. 6751–6752 (under seal). *See also* P3474 (News report re meeting of Derventa SDS Executive Board, 13 February 1992), p. 1; D1591 (Radovan Karadžić’s interview from *Le Figaro*, 23 April 1991), p. 1.

⁹¹⁰⁴ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 86. *See also* D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 5. *See also* P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 18–19; P5828 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 November 1991), p. 1; Ronald Hatchett, T. 31958 (16 January 2013); D4686 (Article from SRNA entitled “Political platform for the survival of the Serbian People in BiH”, 12 June 1992), p. 1.

Muslims overwhelming the Bosnian Serbs “with their birth rate and their tricks. We cannot allow that to happen”.⁹¹⁰⁵

2746. In meetings with international observers, these sentiments were repeated by Bosnian Serb who kept emphasising that “they simply couldn’t live with the Muslims” and that Bosnian Muslims wanted all of BiH which they could achieve through their higher birth rate.⁹¹⁰⁶ The Accused continued to emphasise this issue and stated that in “all variants we must be cautious so that Muslims don’t wind up in our state” and cited to the example of Serbia as being unstable even though the population was 65% Serb.⁹¹⁰⁷ Other Bosnian Serb deputies also spoke about the danger faced by the Serb people due to the high birth-rate of Bosnian Muslims which would change the demographic percentages in BiH.⁹¹⁰⁸

2747. The SDS leadership also commissioned a number of studies on the changing demographics in BiH which showed the growth rate of the Muslim population and reflected the fears of the SDS leadership that Bosnian Muslims would soon become an absolute majority in an independent BiH and impact the position of the Serbs.⁹¹⁰⁹ This concern about demographics and the Bosnian Muslim birth rate continued to be emphasised by the Accused throughout the conflict. For example, at the 37th Bosnian Serb Assembly Session on 10 January 1994, the Accused stated that the Muslim population increases by 1% daily because “that is how it is with them”.⁹¹¹⁰

2748. Rajko Dukić in July 1992 delivered a speech at the Bosnian Serb Assembly in which he asked “why we expelled all Muslim judges from Vlasenica, Bratunac and Zvornik. Will we be accused then, I hope we will not [...] I would be ashamed and I would regret all the victims if I lived in a state in which Muslims and Muslim ideology would judge and where their justice is done”.⁹¹¹¹ Dukić also stated that there were 120,000 Muslims in the Birač region and he hoped that this number “has at least been halved”.⁹¹¹² In August 1992, at a Bosnian Serb Assembly session, Brđanin proposed that they “appoint only those judges who are of Serbian nationality. We cannot

⁹¹⁰⁵ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 36.

⁹¹⁰⁶ Colm Doyle, T. 2668, 2670 (21 May 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4163–4164, 4168–4169, 4220; Herbert Okun, T. 1487–1489 (22 April 2010); P1417 (Transcript of 55th session of RS Assembly, 22–23 October 1995), p. 60; P777 (Fourth notebook of Herbert Okun’s Vance Mission diary), e-court p. 21; P785 (Second notebook of Herbert Okun’s ICFY diary), e-court p. 26.

⁹¹⁰⁷ P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), pp. 88–89.

⁹¹⁰⁸ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 82.

⁹¹⁰⁹ Patrick Treanor, T. 14006–14007, 14009 (1 June 2011); P2541 (Report on demographic trends in BiH prepared by SDS, June 1991). The Chamber notes that Treanor’s testimony also included his own assessment about the objectives of the Bosnian Serb leadership and the meaning of certain speeches. The Chamber considers that this falls outside the scope of his expertise and does not rely on his evidence in this regard.

⁹¹¹⁰ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 109.

⁹¹¹¹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 71–73.

⁹¹¹² D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 73.

say this to Europe or the rest of the world, but we can say it here between ourselves. Our people do not have the right to live, yet here we are, crying over those ones”.⁹¹¹³

2749. On 2 September 1992, the Accused was among the Bosnian Serb political and military leaders who met in Bijeljina on 2 September 1992.⁹¹¹⁴ At this meeting, the Accused observed that “[w]e are close to the goal and we must run across it [...] the Serbian people will either create their own state [...] or we will be squeezed into a small area”.⁹¹¹⁵ At this meeting it was observed that there was “no political position as to how to proceed with Muslims who have declared loyalty”.⁹¹¹⁶ The Accused expressed his view that “we must have ethnic minorities in the state as well”.⁹¹¹⁷ Krajišnik reminded those present that the VRS should not distance itself from the SDS. He also recalled that the aim of the Bosnian Serbs was to divide with the Muslims.⁹¹¹⁸ The Accused then noted that he had not heard a “single political difference”.⁹¹¹⁹ At a meeting with the Bosnian Serb Presidency and VRS commanders in October 1992, the Accused stated that the Bosnian Serbs must insist on having a single Serbian community.⁹¹²⁰

2750. The Bosnian Serb leadership did envisage small enclaves in RS where Bosnian Muslims could live.⁹¹²¹ For example, the Accused said that while Bosnian Muslims could stay in the enclaves, “it is going to be our state”.⁹¹²² At a meeting on 19 June 1993 in Pale with members of the Supreme Command with, *inter alios*, Krajišnik, Koljević, Lukić, Mladić, and Milovanović in attendance, the Accused stated that the Serbs and Croats should work together so that the Muslims get some territory in central BiH.⁹¹²³

2751. At the 34th session of the Bosnian Serb Assembly, Mladić stated that they had not allowed “any connection of the enclaves in Eastern Bosnia” and that his “aim was, and I am sure that if we establish Republika Srpska they could not wait to get out of the enclaves. However, if they don’t

⁹¹¹³ D422 (Transcript of 19th session of SerBiH Assembly, 12 August 1992), p. 12.

⁹¹¹⁴ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 131–132.

⁹¹¹⁵ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 132.

⁹¹¹⁶ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 134.

⁹¹¹⁷ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 156.

⁹¹¹⁸ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 131, 141, 143.

⁹¹¹⁹ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 153.

⁹¹²⁰ P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp.48, 52.

⁹¹²¹ Herbert Okun, T. 1698–1699 (27 April 2010). KDZ026 testified that the Accused advocated and pursued a policy under which in Serb territory, 90% of the population would be Serb and 10% of Muslims would be allowed to remain. KDZ026, T. 10414 (18 January 2011) (closed session). However, it is unclear on what basis KDZ026 reached this conclusion. The Chamber therefore does not rely on his evidence in this regard.

⁹¹²² P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 149.

⁹¹²³ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 212.

want to, we have to provide the conditions so that they could feel glad when we offer it to them”⁹¹²⁴.

2752. The Accused in meetings with international negotiators stated that “Serbs would never accept to be ruled by Muslims”, but that if Muslims gave up their claim to rule over all of BiH, “they could quite happily live alongside each other” but each with their own administrations and safeguards for minorities.⁹¹²⁵ In contrast, at a meeting on 8 September 1992, the Accused stated that there were no Serbs, except in Sarajevo, who wanted to live with the Bosnian Croats and Bosnian Muslims in one state.⁹¹²⁶

2753. Later on, in meetings with international negotiators, the Bosnian Serb leadership indicated that they were prepared to accept changes in internal borders “to accommodate ethnic realities”.⁹¹²⁷ However, by the time these statements were made, there had already been a large forcible displacement of Bosnian Muslims from their homes and the Bosnian Serb leadership sought a peace deal on the basis of the large percentage of territory in BiH which they had already taken.⁹¹²⁸ Similarly, the Bosnian Serb leadership also suggested holding referenda in early 1993 to solve “controversial areas” but in reality by this time there were very few Bosnian Muslims or Bosnian Croats who remained to vote.⁹¹²⁹

2754. In September 1992, the Accused continued to stress that their objective was to have a state and that its borders “towards the Muslims and Croats are to be thicker than our borders towards Serbia and Montenegro and the Serbian Krajina”.⁹¹³⁰ When the Accused discussed maps of BiH and issues of population and division of territories this also caused a feeling of fear, anxiety, insecurity and uncertainty amongst people who “saw themselves living in the territory of another people or another nation”.⁹¹³¹

⁹¹²⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 70.

⁹¹²⁵ P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), p. 3; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 69; Pyers Tucker, T. 23236–23237 (18 January 2012). See also D539 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 27 November 1992), p. 2.

⁹¹²⁶ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 167, 171.

⁹¹²⁷ P785 (Second notebook of Herbert Okun’s ICFY diary), e-court pp. 34, 44. Okun’s assessment was that the phrase “to accommodate ethnic realities” was a “very clear, not-so-subtle reference to the ethnic cleansing”. Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4215–4216.

⁹¹²⁸ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4215–4216, 4218–4219.

⁹¹²⁹ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4245; Herbert Okun, T. 1519, 1522–1524 (23 April 2010); P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 58; P790 (Seventh notebook of Herbert Okun’s ICFY diary), e-court p. 40.

⁹¹³⁰ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 55.

⁹¹³¹ KDZ310, T. 9177–9178 (29 November 2010).

2755. On 30 October 1992, the Accused delivered a speech at the 21st Session of the Bosnian Serb Assembly in which he described

an artificial state in which we were forcefully held in an artificial creation that is Bosnia and Herzegovina together with our centuries-old foes. It all reminds me of the experiment in which a dog and cat are held in a box together against their will, or a bad marriage maintained by all sorts of forceful means. It transpired that a dog and cat can remain in the box together under only one condition, namely that they lose their natural characteristics and cease being a dog and a cat. We will remember that we could not be Serbs and live in such a box.⁹¹³²

2756. The Accused characterised the conflict in BiH as a “conflict among peoples” and stated that “Muslims cannot live with others. We must be clear on that. They couldn’t live with the Hindu, who are as peaceful as sheep. [...] They couldn’t live with the Greek on Cyprus, they couldn’t live in the Lebanon with Arabs of the same blood, same language, but of a different faith. There can be no discussion here [...] We are in power, and we should exercise that power”.⁹¹³³ In this regard the Accused noted that there was nothing new, and that in the case of India and Pakistan there had been a “huge resettlement of the people” and the separation was “covered in blood”.⁹¹³⁴

2757. At a gathering in January 1993 attended by UN personnel, the Accused emphasised that they could not live together anymore with the Bosnian Muslims, they would not allow the past to repeat itself, and that therefore the Bosnian Muslims would be transferred out of Bosnian Serb territory.⁹¹³⁵ The Bosnian Serb leaders who attended included Mladić, Krajišnik, and Plavšić, and they all agreed with what the Accused said in this regard.⁹¹³⁶ They spoke about “ethnic cleansing” as something which was necessary.⁹¹³⁷

2758. In January 1993, at a meeting attended by Bosnian Serb and Serbian leaders, Vladislav Jovanović spoke about the importance of ensuring the territory they got was “nationally homogeneous as soon as possible”.⁹¹³⁸ Jovanović stated that this was not to be achieved by “ethnic cleansing” but through the “exchange of inhabitants”, and stressed that where life in BiH becomes

⁹¹³² P939 (Video footage of Radovan Karadžić’s speech at the 21st Session of RS Assembly, 30 October 1992, with transcript), pp. 1, 3.

⁹¹³³ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 36. See P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 153. See also P2493 (Anthony Banbury’s notes, 30 April 1995).

⁹¹³⁴ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 36; P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 18–19.

⁹¹³⁵ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), pp. 5–7.

⁹¹³⁶ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), pp. 6–7, 11–12. See also P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 113–115, 120 (under seal).

⁹¹³⁷ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), p. 7.

⁹¹³⁸ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 3; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4284–4285.

impossible everybody rushes off to their “original provinces”.⁹¹³⁹ This was described by Jovanović as a “strategic goal to which we should aspire, and which should be achieved”.⁹¹⁴⁰ Jovanović stated that they had to be conscious that there was attention on Serbs and they were trying to catch them on “anything that even resembles ethnic cleansing or linking” and that they would have to look out for these traps and try to ‘catch’ them where they are weak”.⁹¹⁴¹

2759. Jovanović also spoke of the need to ensure in an “indisputable way” a territorial link with Serbia and Montenegro.⁹¹⁴² Jovanović also cautioned against freedom of settlement which could result in the “mixing of the composition of the population to our disadvantage” and that what they had gained would “gradually erode”.⁹¹⁴³

2760. The Accused went on to say that “this which Jovanović is talking about, has already happened to a huge extent. There was fifty-fifty of us in Zvornik. The number of inhabitants of Zvornik is now the same, approximately 50,000, and they are all Serbs. More than 24,000 Serbs from Zenica and Central Bosnia have arrived and stopped in Zvornik.”⁹¹⁴⁴ The Accused also stated that there will not be a unitary BiH of the civic type or one in which the Muslim majority will come to the fore.⁹¹⁴⁵

⁹¹³⁹ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 3. See also Herbert Okun, T. 1824–1825 (28 April 2010). Jovanović acknowledged that this meeting took place but that when he spoke about developing an area which would be as “nationally homogeneous” as soon as possible, this was to be achieved by allowing people to freely move to other cantonal units if they did not want to live in a particular canton. D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), paras. 53, 64; Vladislav Jovanović, T. 34318–34319 (26 February 2013). The Chamber notes however, that Jovanović’s testimony was marked by indicators of evasiveness and bias. In addition, the Chamber considers that he had an interest in characterising his own words in a favourable light. The Chamber therefore does not find his evidence to be reliable with respect to the voluntary nature of the movement of population which was envisaged.

⁹¹⁴⁰ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p.3.

⁹¹⁴¹ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 5; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4284–4287.

⁹¹⁴² P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 3.

⁹¹⁴³ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 3.

⁹¹⁴⁴ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), p. 4; See also Herbert Okun, T. 1823–1824 (28 April 2010); P4518 (Excerpts from Robert Đurđević’s diary, 7–25 September 1993), p. 2. Jovanović’s assessment was that the Accused had merely been pointing out undesirable and unavoidable consequences of any war, which was that the Serbs had been fleeing the Muslim-dominated and heading to the regions where the Serbs made up a majority. D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 53. The Chamber refers to its credibility assessment in fn. 9139 in concluding that it does not find Jovanović’s evidence to be reliable in this regard.

⁹¹⁴⁵ D4765 (Notes from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), p. 3.

2761. The Accused further stated that Serbs must fight for these territories to get a quality piece and said “we want some of our rich areas to belong to us”.⁹¹⁴⁶ The Accused also said that the Neretva was disputable and that they could live without it, but that they could not give up Podrinje and Posavina.⁹¹⁴⁷ Further, the Accused agreed with Slobodan Milošević and Kontić that they could not invoke the democratic principle if they abandoned the “ethnic criterion”.⁹¹⁴⁸ The Accused said that they would gladly exchange prisoners but would no longer make unilateral releases.⁹¹⁴⁹ Slobodan Milošević also expressed the view that had there not been the war, the changes on the ethnical basis would not have taken place, but that now they had the changes based on the ethnical principle.⁹¹⁵⁰

2762. Krajišnik said that what was important was not how big the territory was but the “quality of that territory” and that they had to seriously consider the issue of maps.⁹¹⁵¹ Krajišnik also stated that they had to “solve one part at a time – something through politics, something else through migration, and some things through settlement”.⁹¹⁵² He also emphasised that the continuity of the territory which they had was very important to allow for the unification of Serb territory in the RS and also spoke in favour of connection with their motherlands in Serbia and Montenegro.⁹¹⁵³ Koljević stated that they would have to “develop the activity of settlement homogenisation” while there was still time.⁹¹⁵⁴

2763. In 1993, Velibor Ostojić also referred to their goal of “ethnical – geographical continuity of Serb population” and that they were “building new demographic politics for the RS” and the need to have Serbs settle in areas which they held.⁹¹⁵⁵ Ostojić was responsible for the Commission for

⁹¹⁴⁶ D4765 (Notes from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), pp. 7–8.

⁹¹⁴⁷ P6164 (Excerpt from notes of enlarged session of Council for Coordinating Positions on State Policy, 9 January 1993), e-court p. 65.

⁹¹⁴⁸ D4765 (Notes from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), p. 43.

⁹¹⁴⁹ D4765 (Notes from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), p. 43.

⁹¹⁵⁰ P6164 (Excerpt from notes of enlarged session of Council for Coordinating Positions on State Policy, 9 January 1993), e-court p. 41.

⁹¹⁵¹ P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court pp. 5–6.

⁹¹⁵² P794 (Excerpt from expanded session of Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 6.

⁹¹⁵³ P6164 (Excerpt from notes of enlarged session of Council for Coordinating Positions on State Policy, 9 January 1993), e-court p. 51.

⁹¹⁵⁴ P794 (Excerpt from the session of the Council for Coordinating Positions on the State Policy, 21 January 1993), e-court pp. 8–9; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4292 (testifying that in his assessment, this “settlement homogenisation” referred to “ethnic cleansing”).

⁹¹⁵⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 212–213. Vladimir Lukić testified that the Bosnian Serb Government sought the return of refugees regardless of ethnicity. D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), paras. 33,

Refugees and Humanitarian Aid which organised this settlement of Serbs and did not provide for the return of Bosnian Muslims or Bosnian Croats.⁹¹⁵⁶ Ostojić was the Minister of Information and was trusted by, and had direct contact with, the Accused.⁹¹⁵⁷ This process of settling Serbs was done with a view to filling a particular area so Bosnian Muslims did not have a place to return to.⁹¹⁵⁸ This was in contrast with statements made at sessions of the Bosnian Serb Government in March and May 1993 where they emphasised the need to create conditions for the return of refugees who had left the RS during the conflict.⁹¹⁵⁹

2764. In April 1993, in discussions with international representatives, the Accused stated that he could not persuade Bosnian Serbs to remain in the Posavina and that they were asking for new land and territories.⁹¹⁶⁰ Mladić also spoke at this meeting and suggested that all sides sit down to resolve the problems.⁹¹⁶¹ The Accused also explained why the proposals at the time were absolutely unacceptable to the Serbs and questioned whether they could set up a regime to identify areas where they had to withdraw from and areas where they would have to resettle Bosnian Serbs.⁹¹⁶² In April 1993, Krajišnik also expressed his opposition to “any kind of joint state with the murderers of Serbian people, Muslims and Croats”.⁹¹⁶³ In August 1993, Krajišnik noted with respect to Banja Luka that the Muslims and Croats had asked for the municipality during negotiations, but he stressed that the Bosnian Serbs did not accept that “because we must have that territory clean”.⁹¹⁶⁴

46; Vladimir Lukić, T. 38787–38790 (28 May 2013). *See also* P3129 (Minutes of the 66th session of RS Government, 20 March 1993), p. 8. The Chamber finds that Vladimir’s Lukić’s testimony with respect to this issue was marked by evasiveness and indicators of insincerity particularly when confronted with the speeches made by Ostojić which suggested that the Bosnian Serb policy on refugees was connected with its goal of achieving ethnic geographic continuity of the Serb population and did not make provision for the return of Bosnian Muslims and Bosnian Croats. The Chamber therefore does not find his evidence in this regard to be reliable.

⁹¹⁵⁶ P1388 (Transcript of 39th session of RS Assembly, 24–25 March 1994), pp. 168–169; D3588 (Minutes of 89th session of RS Government, 18 January 1994), p. 4. Radoslav Brdanin was tasked along with Velibor Ostojić with preparing a programme for the accommodation of refugees in the RS. D3588 (Minutes of 89th session of RS Government, 18 January 1994), p. 4; P1392 (Transcript of 41st session of RS Assembly, 31 May to 1 June 1994), p. 50.

⁹¹⁵⁷ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 10. *See also* D422 (19th session of SerBiH Assembly, 12 August 1992), p. 38.

⁹¹⁵⁸ P1419 (Transcript of 56th session of RS Assembly, 17 December 1995), pp. 94–95.

⁹¹⁵⁹ P3129 (Minutes of the 66th session of RS Government, 20 March 1993), p. 8; P3112 (Minutes of the 71st session of RS Government, 26–27 May 1993), pp. 10–11.

⁹¹⁶⁰ P792 (Ninth notebook of Herbert Okun’s ICFY diary), e-court pp. 46–48.

⁹¹⁶¹ P792 (Ninth notebook of Herbert Okun’s ICFY diary), e-court p. 47.

⁹¹⁶² P792 (Ninth notebook of Herbert Okun’s ICFY diary), e-court pp. 48–49.

⁹¹⁶³ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 34.

⁹¹⁶⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 48. *See* Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4293, 4295.

2765. The Accused also suggested that Krajina would “take on an appearance of a rotten apple” if their enemy was in Krajina.⁹¹⁶⁵ Similarly the Accused spoke about a “green stain” which had appeared on maps given that there were proposals for portions of territory to be allocated to Bosnian Muslims and that the Serbs in that area would not allow that to happen.⁹¹⁶⁶

2766. At the 37th session of the Bosnian Serb Assembly on 10 January 1994, Mladić addressed the assembly on the issue of lack of resources and material support for the VRS.⁹¹⁶⁷ He went on to describe how the Bosnian Serbs had an historical chance to create an “all Serbian state” with as little enemies as possible and that the Muslims and the Croats represented a danger.⁹¹⁶⁸ He thus recommended to keep on fighting as the enemy the Bosnian Serbs were facing was getting stronger and stated: “They started the war at first, they are heading this war, but that is not my concern. My concern is not that they will create the state. My concern is to have them vanish completely.”⁹¹⁶⁹

2767. At the same session, Krajišnik stated that “the biggest tragedy would be if the Muslims accepted to live with us now. [...] That is the only thing I would never accept, and I would rather accept that we get a smaller percentage of the territory than it is the case now, provided that we remain separated from the Muslims and that we have our country”.⁹¹⁷⁰ He also spoke about their goal being “to separate from the Croats and Muslims forever”.⁹¹⁷¹ Krajišnik continued to make similar statements and by 1995 spoke about their first Strategic Goal being to separate from the Bosnian Muslims and Bosnian Croats.⁹¹⁷²

2768. At the same Bosnian Serb Assembly session on 10 January 1994, the Accused noted that they were now a “state and what we hold is 100% ours”.⁹¹⁷³ The Accused also acknowledged that “[i]f we are going to divorce from the Muslims, we must give them something. It is impossible to make the Muslims vanish, and that we keep the entire territory”.⁹¹⁷⁴ The Accused also noted that

⁹¹⁶⁵ P1394 (Transcript of 42nd session of RS Assembly, 18–19 July 1994), e-court p. 12.

⁹¹⁶⁶ P6134 (Video footage of interview with Radovan Karadžić; with transcript), p. 2. *See also* Jose Cutileiro, T. 33964–33967 (19 February 2013).

⁹¹⁶⁷ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 43.

⁹¹⁶⁸ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 47.

⁹¹⁶⁹ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), pp. 48–49.

⁹¹⁷⁰ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), pp. 121, 124. *See also* P796 (Excerpt from 37th session of RS Assembly, 10 January 1994), p. 2; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4298 (testifying that the comments by Krajišnik were consistent with what they heard during international negotiations about the position taken by the Bosnian Serb leadership with respect to ethnic purity and the creation of a Bosnian Serb state).

⁹¹⁷¹ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), p. 262; P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 140, 144.

⁹¹⁷² P1419 (Transcript of 56th session of RS Assembly, 17 December 1995), p. 104.

⁹¹⁷³ P1385 (Transcript of 37th Session of RS Assembly, 10 January 1994), pp. 107, 110.

⁹¹⁷⁴ P1385 (Transcript of 37th Session of RS Assembly, 10 January 1994), p. 132.

they could not declare a ban on the return of refugees according to international law and that in principle they would say that all refugees could return on a reciprocal basis.⁹¹⁷⁵

2769. In April 1994, Mladić was quoted as encouraging VRS operations because “[t]he Turks must disappear from these areas”.⁹¹⁷⁶ Michael Rose testified that he and other international representatives had thought that the objective of the combat operations in Goradže was to move the Bosnian Muslims out of the right bank of the town and therefore he suspected the reference in the order to “[t]he Turks must disappear from these areas” to mean just that.⁹¹⁷⁷

2770. In July 1994, the Accused in an address before the Bosnian Serb Assembly, spoke about achieving

our primary strategic aim, which is to get rid of the enemies in our house, the Croats and Muslims, and not to be in the same state with them any more. Every divorce has a price, we have to give something up, but we are the winners, we have a majority of the territory now, not only under our control, but also in our ownership.⁹¹⁷⁸

2771. In August 1994, in video footage taken of Mladić and Milan Lešić, the founder of a Canadian charitable organisation called “Serbian Humanitarian Public Organisation”,⁹¹⁷⁹ in a car as they drove through Han Pijesak and Crna Rijeka, Mladić boasted that he “kicked the hell out of the Turks [...] who gives a fuck about them!” and commented that Lešić should film what they had done to the Turks and pointed to abandoned Bosnian Muslim houses.⁹¹⁸⁰

2772. At a Bosnian Serb Assembly session in November 1994, the Accused gave a speech in which he explained that “[w]e have created new realities” and that Zvornik used to be 60% Muslim but that Bosnian Serbs from Zenica arrived, occupied Kozluk and the Bosnian Muslims left.⁹¹⁸¹ He went on to say that they were requesting Zvornik “which comes out of a new reality. [...] This war has created the new reality, there are now the Serbs from Zenica here. [...] We request Zvornik according to this right”.⁹¹⁸² At this same session, Krajišnik stated that “the primary strategic goal of our people and this Parliament is partition and separation from Croats and Muslims. And the

⁹¹⁷⁵ P1385 (Transcript of 37th Session of RS Assembly, 10 January 1994), p. 132. The Chamber places no weight on Vladimir Lukić’s assessment about the meaning of this statement. Vladimir Lukić, T. 38794–38796 (28 May 2013). In doing so the Chamber refers to its credibility assessment in fn. 9155.

⁹¹⁷⁶ P1645 (Order of Višegrad Tactical Group, 11 April 1994).

⁹¹⁷⁷ Michael Rose, T. 7274–7275 (5 October 2010).

⁹¹⁷⁸ P1394 (Transcript of 42nd session of RS Assembly, 18–19 July 1994), e-court p. 76. See also P1387 (Transcript of 38th session of RS Assembly, 17 January 1994), p. 67.

⁹¹⁷⁹ Milan Lešić, T. 25010 (21 February 2012).

⁹¹⁸⁰ P4442 (Video footage depicting a conversation between Milan Lešić and Ratko Mladić, with transcript); Milan Lešić, T. 25030–25032 (22 February 2012).

⁹¹⁸¹ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 157.

⁹¹⁸² P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 157.

partition can only be made if they will have their state while we have our own. How big these states will be is another issue. We cannot get entire Bosnia".⁹¹⁸³ The Accused in 1995 confirmed this objective when he stated that if they were able to secure the territory they decided on and if it was "nearly 100% Serbian", they would be great victors and would have realised their ultimate dream, a Serbian State west of the Drina.⁹¹⁸⁴ The Accused also acknowledged that they had undertaken military operations to expand the territory but that after the Bosnian Muslims had been packed into small areas, "thus achieving their concentration", there was not much more that could be done.⁹¹⁸⁵

2773. At a meeting of the Supreme Command on 31 March 1995, the Accused made reference to the danger posed by Bosnian Muslims who remained in their territory and stated that "Muslims remaining there in any way is disastrous for us", and that their policy had been the "separation of peoples, of cultures, of worlds", based on the idea that "birds of a feather flock together".⁹¹⁸⁶ He also spoke about turning a blind eye to private agencies and arrangements through which Bosnian Muslims left for western Europe because in those situations "no one can accuse us", whereas if a state institution was involved they would be accused of "ethnic cleansing".⁹¹⁸⁷ Krajišnik stressed that freedom of movement was allowed in order to pull Serbs out of Muslim territory and "if the Muslims want to go from our territory, then we enable them to leave our area, without coercion, because we do not have the right to do that, nor should anyone take on himself their ethnic cleansing, but there would be no crying if they left from here".⁹¹⁸⁸

(b) Territorial claims and control

2774. On 23 December 1991, the Accused spoke about the plebiscite which had been conducted and stated that in principle, even if Serbs constituted only 5% of the population, "everywhere where Serbs live and where they have voted against secession, or to remain in Yugoslavia, no one can break away there. In other words, there remain only five municipalities that could separate from Yugoslavia".⁹¹⁸⁹ In a conversation with Koljević in December 1991, the Accused stated that there

⁹¹⁸³ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 262.

⁹¹⁸⁴ P1417 (Transcript of 55th session of RS Assembly, 22–23 October 1995), p. 60. *See also* P5608 (Intercept of conversation between Todor Dutina and Radovan Karadžić, 29 June 1995), p. 2 (where the Accused continued to emphasise the importance of the Strategic Goals into 1995).

⁹¹⁸⁵ P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), p. 64. *See also* D2149 (Aide mémoire of Manojlo Milovanović), pp. 25, 27.

⁹¹⁸⁶ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 65.

⁹¹⁸⁷ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), pp. 65–66.

⁹¹⁸⁸ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 28. *See also* D3565 (RS Government conclusion, 26 January 1993).

⁹¹⁸⁹ D4555 (Intercept of conversation between Radovan Karadžić and Maristela Lučić, 23 December 1991), pp. 1–2; D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), pp. 37–38.

was great media interest in whether the Serbs wanted war but they had said that “we want war by no means” and that “we have no aims, we don’t want to take what belongs to someone else”; “we just don’t want them to take ours”.⁹¹⁹⁰

2775. In February 1992, Krajišnik suggested that the Serbian people had two options, to either fight by political means or to “break off the talks and go for what we have done over the centuries: win our own territories by force”.⁹¹⁹¹ In this regard, Krajišnik said “[y]ou know what our profession has always been – to wage war”.⁹¹⁹²

2776. In March 1992, Krajišnik also stated that “[s]ince municipality borders may be adjusted, we have already made some adjustments and we plan to include all parts that will be Serbian territory in our municipalities, and what remains to be discussed, the discussion will be about where it is going to be, where are we going to put our lines” and that for strategic reasons “we could start implementing what we have agreed upon, the ethnic division on the ground. That we start determining the territory”.⁹¹⁹³ Krajišnik, in interviews, also spoke about the borders and territory held by the VRS but refuted the suggestion that they were holding territories populated by other national communities, although he acknowledged that it may have been the case with certain enclaves within their territory.⁹¹⁹⁴

2777. In March 1992, the Accused explained that SerBiH existed, that there would be no return to a unitary BiH and the only contest was of “quantity, there is a tug of war about who will have more. We won, we have drawn the rope to a certain point and we are not going to yield it back”.⁹¹⁹⁵ The Accused stated that the goals of the Bosnian Serbs were being accomplished stage by stage.⁹¹⁹⁶ The Accused also said that the Bosnian Muslims were forced to accept that BiH was divisible along national lines, and that the Bosnian Serbs would “decide what our constituent unit is” based on “what conditions we establish on the ground”.⁹¹⁹⁷

⁹¹⁹⁰ P5789 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 21 December 1991), p. 1.

⁹¹⁹¹ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 21.

⁹¹⁹² D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 64.

⁹¹⁹³ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 13.

⁹¹⁹⁴ P797 (TV Belgrade interview with Momčilo Krajišnik), p. 1. *See also* Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4306–4307.

⁹¹⁹⁵ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 43.

⁹¹⁹⁶ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 43.

⁹¹⁹⁷ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 43.

2778. On 23 April 1992, Mandić was informed that Višegrad had been taken.⁹¹⁹⁸ On 30 April 1992, the Bosnian Serb Government was informed about the situation in Foča and that Bosnian Serb authorities had control over “liberated areas”.⁹¹⁹⁹

2779. In meetings with international representatives in April 1992, the Accused showed maps on which the ethnic composition was marked, as was Bosnian Serb claimed or controlled territory; in total, this amounted to approximately 70% of BiH.⁹²⁰⁰ This was consistent with earlier speeches by the Accused where he stated that it would be impossible for Izetbegović to establish authority in 70% of the territory in BiH.⁹²⁰¹ Many of the areas which the Bosnian Serbs claimed included municipalities along the Drina River and in the Posavina area which had a majority Bosnian Muslim population but later became Bosnian Serb controlled areas with very few Bosnian Muslims remaining.⁹²⁰²

2780. The Accused had previously spoken about territorial issues. For example in an intercepted conversation in September 1991, the Accused spoke about negotiations regarding territories and the plan to free Bosanska Krajina, Semberija and Doboj and said that Eastern Herzegovina and Romanija were “clean”.⁹²⁰³ In November 1991, the Accused had a conversation about the situation in Novo Sarajevo and said that they would teach the SDA “the law pretty soon” given that they had blocked the work of the Municipal Assembly and that they would “probably carry out some kind of reorganisation of the city”.⁹²⁰⁴ The Accused then said, “[a]nd they cau go to fucking hell”.⁹²⁰⁵ The Accused also asked where Bosnian Muslim settlements were in Novo Sarajevo and questioned how many Bosnian Muslims lived in specific areas and in the municipality generally.⁹²⁰⁶

2781. On 6 May 1992, Mladić was at a meeting where he was informed that “Foča has been finished”.⁹²⁰⁷ At the 16th Session of the Bosnian Serb Assembly on 12 May 1992 the Accused

⁹¹⁹⁸ P5701 (Intercept of conversation between Momčilo Mandić, Zorica and Traparić, 23 April 1992), p. 5.

⁹¹⁹⁹ P4986 (Report of SerBiH Government, 30 April 1992), p. 1. See also P2716 (Notebook of Radovan Karadžić), p. 28.

⁹²⁰⁰ [REDACTED]. See also P797 (TV Belgrade interview with Momčilo Krajišnik); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4300–4301; Herbert Okun, T. 1477–1483, 1485–1486 (22 April 2010); P784 (First notebook of Herbert Okun’s ICFY diary), e-court p. 45; P802 (Map of BiH marked by Herbert Okun); P788 (Fifth notebook of Herbert Okun’s ICFY diary), e-court p. 29; P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), e-court p. 27.

⁹²⁰¹ P958 (Radovan Karadžić’s speech at the Plebiscite of the Serb People, November 1991), p. 11.

⁹²⁰² Herbert Okun, T. 1487–1488 (22 April 2010), T. 1498–1499 (23 April 2010); P783 (Ethnic map of BiH).

⁹²⁰³ P5864 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), p. 1.

⁹²⁰⁴ P2574 (Intercept of conversation between Radovan Karadžić and Žarko Đurović, 19 November 1991), p. 2.

⁹²⁰⁵ P2574 (Intercept of conversation between Radovan Karadžić and Žarko Đurović, 19 November 1991), p. 2.

⁹²⁰⁶ P2574 (Intercept of conversation between Radovan Karadžić and Žarko Đurović, 19 November 1991), pp. 2–3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641–16645.

⁹²⁰⁷ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), pp. 253, 255.

stated that the conflict in municipalities, including Foča, Zvornik, and Višegrad, had ended successfully.⁹²⁰⁸ On 19 May 1992, in an intercepted conversation, Mićo Stanišić said that Foča had fallen along with Višegrad and that all those who had left these municipalities were in Goražde.⁹²⁰⁹ Stanić reported to Mladić that in contrast to what it was before the conflict, the percentage of Serbs in Foča was 99%.⁹²¹⁰

2782. On 8 May 1992, the National Security Council tasked the Ministry of Justice with proposing the state borders of SerBiH.⁹²¹¹ On 24 May 1992, Prime Minister Branko Đerić wrote a letter in which he stated the Serbs in BiH were “not an invented people as we have been living on this land for thirteen centuries”. He also wrote that the Bosnian Serbs held title to 64% of the arable land, and that they used to be a majority in BiH before the genocide jointly carried out against Serbs by Muslims and Croats during World War II.⁹²¹²

2783. The Accused also stated “[w]e must prove to the international factor that [...] we hold no siege over Sarajevo. Basically, we are protecting our territories and here it is visible that Sarajevo sprung up in Serbian territory, as Serbian property, and the entire surrounding of Sarajevo is Serbian”.⁹²¹³ The Accused spoke about Serbian villages, towns, and settlements which were beyond dispute and that they should seek to solve issues where ethnic areas and maps overlap.⁹²¹⁴

2784. At a meeting of the Bosnian Serb leadership on 6 June 1992, Krajišnik stated that “we have to conquer what is ours and be prepared to defend our state” and that the goal was to form and unite the “Birač-Romanija area”.⁹²¹⁵

2785. After a meeting on 30 June 1992 when he received reports on the combat success of voluntary formations, the Accused stressed that the Bosnian Serbs had “by and large outlined their territory” and the most pressing tasks involved successfully establishing democratic civilian

⁹²⁰⁸ P956 (Transcript of 16th Session of Assembly of SerBiH, 12 May 1992), p. 12. *See also* D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 51 (where a deputy in the Bosnian Serb Assembly referred to the struggle for Serbdom and the fighters in Foča who had liberated 98% of Serbian territories).

⁹²⁰⁹ P5671 (Intercept of conversation between Mićo Stanišić and Janković, 19 May 1992), e-court pp. 8, 11–12.

⁹²¹⁰ P1480 (Ratko Mladić’s notebook, 10–30 September 1992), p. 66.

⁹²¹¹ P3078 (Minutes of meeting of the National Security Council and the SerBiH Government, 8 May 1992), p. 1.

⁹²¹² P1094 (Letter from Government of SerBiH to James Baker, 24 May 1992). *See also* D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), paras. 45, 51; D3026 (Article from Yugoslav Daily Survey entitled “Montenegrin President: Decisive Step towards Peace in Bosnia”, 21 June 1993), p. 1; Nedeljko Prstojević, T. 13639–13640 (17 March 2011); P5063 (Video footage depicting interview of Rađovan Karadžić on “Ask the President”, undated, with transcript), pp. 5–7.

⁹²¹³ P2578 (Excerpt of transcript of movie entitled “Bosnia 1992-Serbian Epics”), p. 5.

⁹²¹⁴ P2578 (Excerpt of transcript of movie entitled “Bosnia 1992-Serbian Epics”), p. 5. *See also* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16694–16698.

⁹²¹⁵ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 93–94, 108–109.

authorities and that the Serb side was ready for a political outcome and negotiations.⁹²¹⁶ At a meeting on 30 June 1992 attended by the Accused and General Mladić, a municipal leader from Vlasenica reported that part of Cerska would be liberated in the days to come and if they brought back their forces from Kalesija they “would liberate everything” and that “[w]hoever controls Vlasenica, controls eastern Bosnia”.⁹²¹⁷

2786. At the 17th session of the Bosnian Serb Assembly held in July 1992, Krajišnik stated that there were territories which were not under their control but which should be part of SerBiH “due to them being ethnic territories” and over which the Bosnian Serbs claimed their rights.⁹²¹⁸ Krajišnik on this issue explained that the territories they held constituted the SerBiH and were indisputable to them, “[w]hat is ours, is ours. We do not want to take the territories of others and we cannot give away what is ours”.⁹²¹⁹ He also emphasised that the final goal was the formation of a state and that the “single space” of the SerBiH “must be achieved”.⁹²²⁰

2787. At the same session, the Accused reported that “we control all of our territories, and perhaps also some territories that will be given to other national communities once a deal is reached” but that those territories could not be handed over during the war.⁹²²¹ The Accused gave credit to the JNA, the TO, and the army of the SerBiH and stated that the borders of their state had been marked by a difficult and bloody battle.⁹²²² Koljević also acknowledged how much had been achieved militarily.⁹²²³ The Accused emphasised the significance of controlling territory and the factual situation on the ground.⁹²²⁴ At this session there was a statement made about the danger of losing Foča which would allow the creation of the “green transversal”.⁹²²⁵

2788. Prstojević also spoke at the 17th Bosnian Serb Assembly session and said that after the Accused visited Ilidža and encouraged them, “the Serbs from Sarajevo retained control over the

⁹²¹⁶ D3658 (TANJUG news report, 30 June 1992); D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 70. *See also* D2149 (Aide mémoire of Manojlo Milovanović), p. 40.

⁹²¹⁷ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 246, 261–262.

⁹²¹⁸ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 49.

⁹²¹⁹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 50.

⁹²²⁰ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 50.

⁹²²¹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 14, 19.

⁹²²² D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 14, 21.

⁹²²³ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 32–33. *See also* D2149 (Aide mémoire of Manojlo Milovanović), pp. 7, 25, 27.

⁹²²⁴ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 87. *See also* Anthony Banbury, T. 13307, 13310, 13338–13339, 13341 (15 March 2011) (testifying about the importance of the “facts on the ground” in international negotiations); P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), p. 19.

⁹²²⁵ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 41.

territory, and even extended their territory in some areas, driving the Muslims out of the territories where they had actually been the majority”.⁹²²⁶

2789. At the same session, the Accused said that the conflict had been “roused in order to eliminate the Muslims. [...] They think they are being nationally established, but in fact they are vanishing. If that’s the case, then we have our interests for our historical territories”.⁹²²⁷ Right after making this statement, the Accused went on to say:

I think we have to save the Serb people in their ethnic and also historical territories [...]. We’ll have for sure, we’ll have in the beginning so many Serbs, but I think that they will leave those states, both the Muslim and the Croat state. In the state that we are building, we have to ensure that they have all the rights that we have, under the condition that they are not hostile and that they leave the weapons.⁹²²⁸

2790. At the end of the 17th Bosnian Serb Assembly session in July 1992, the Bosnian Serb Assembly adopted the “Decision on establishing disputable and indisputable borders of its territory” and identified where those borders would run, which could be subject to corrections and verifications in accordance with international agreements.⁹²²⁹

2791. The Accused acknowledged with time that during negotiations they risked losing traditional and “centuries-old Serb territories”.⁹²³⁰ These historical territorial claims were also reflected in the proclamation of the Bosnian Serb Assembly in January 1992 where reference was made to “areas in which the Serbian people is now a minority due to the genocide carried out against it in World War II” and in the statements to the international observers that these areas should be part of the RS.⁹²³¹

2792. The objectives which the Bosnian Serb leadership spoke about in the lead-up to and during the conflict were also reflected in VRS reports. For example, the VRS Main Staff analysis of armed activities in 1992 noted that the declaration of independence by BiH and its premature

⁹²²⁶ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 66.

⁹²²⁷ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 86.

⁹²²⁸ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 86.

⁹²²⁹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 103–104.

⁹²³⁰ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 11. See also D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), p. 26.

⁹²³¹ P6444 (Declaration of the Assembly of Serbian people in BiH, 9 January 1992), p. 2; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4165–4168, 4188–4189, 4370; Herbert Okun, T. 1489–1491 (22 April 2010). See also P6540 (Excerpt of video from Banja Luka, 3 March 1991, with transcript); Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3400; KDZ240, T. 16068–16069 (5 July 2011) (closed session); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8617; P5746 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 15 February 1992), p. 5. Čeklić testified that the Bosnian Serb leadership did not want to occupy territories but instead wanted to protect Serbian people in those territories. Savo Čeklić, T. 41227–41229 (11 July 2013). However, the Chamber does not find Čeklić’s evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that Čeklić’s evidence was marked by evasiveness and contradictions and as such did not find his evidence to be reliable in this regard.

recognition threatened the Bosnian Serbs and made them a national minority that faced the prospect of being “subjected to genocide”.⁹²³² This report noted that in order to prevent this “humiliation”, the Serbian people organised itself politically and when it was attacked, “it started a defensive and liberating war” with the SDS taking on the most significant political role in the organisation of the Serbian people.⁹²³³

2793. The VRS reported that during the early phase of the conflict in the RS there were units of the Serb TO which had been “formed on the initiative and under the leadership” of the SDS and had been able to protect the Serbs until the formation of the VRS.⁹²³⁴ The VRS reported however, that these units failed to achieve the “main strategic objectives of the armed struggle of the Serbian people” in BiH.⁹²³⁵ They failed to open and secure the required corridors and to “gain control over a considerable part of the territory of former [BiH] which historically and ethnically belongs to the Serbian people”.⁹²³⁶ This report further noted that the VRS was capable of protecting the Serbs and “liberating territories which by [historic] birthright are ours” and that this would lay the foundations for a Serb state.⁹²³⁷

2794. This report noted that the strategic objectives of the war were promptly defined and formed the general guidelines for their operations.⁹²³⁸ Mladić reflected this sentiment and said that the people and the VRS had carried out most of the tasks and the Strategic Goals set for them.⁹²³⁹ He noted that the VRS had “liberated the territories we consider our own” which had created conditions for the Bosnian Serb leadership to go to negotiations in a stronger territorial position.⁹²⁴⁰ The report further noted that the Accused, as the Supreme Commander, orally assigned a number of tasks which were vital to “protecting the Serbian people and its territories” and the Main Staff “translated the set objectives and tasks into general and individual missions”.⁹²⁴¹ The Accused spoke in favour and praised the military successes of the VRS under Mladić.⁹²⁴²

⁹²³² D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 46, 152, 159.

⁹²³³ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 46.

⁹²³⁴ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 69, 75.

⁹²³⁵ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 69.

⁹²³⁶ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 69.

⁹²³⁷ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 159. *See also* D232 (Directive 1, 6 June 1992), p. 1; D2149 (Aide mémoire of Manojlo Milovanović), p. 40.

⁹²³⁸ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 159.

⁹²³⁹ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 66. *See also* D2149 (Aide mémoire of Manojlo Milovanović), p. 27; D232 (Directive 1, 6 June 1992); D593 (Directive 2, 22 July 1992), pp. 1, 3; D235 (Directive 3, 3 August 1992); P977 (Directive 5, 25 June 1993), p. 2; P3039 (Directive 6, 11 November 1993), p. 6.

⁹²⁴⁰ D593 (Directive 2, 22 July 1992), p. 1. *See also* D235 (Directive 3, 3 August 1992), p. 7.

⁹²⁴¹ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 159.

⁹²⁴² P4440 (Excerpt from video of Radovan Karadžić’s speech, with transcript).

2795. On 26 August 1992, in a meeting with Vance and Carrington at the London Conference, the Accused stated that following the recognition of BiH, “Serbs had been forced to act in order to protect the Serbian population” and that they wanted full autonomy.⁹²⁴³ The Accused further stated that the Bosnian Serbs were willing to negotiate and even return some territory as part of an overall agreement, as long as Serb property rights in predominantly Croat and Muslim areas were protected.⁹²⁴⁴ When the Accused spoke about Bosnian Serb territory being geographically continuous, Vance asked how this could be achieved without “moving people”.⁹²⁴⁵

2796. At an international press conference in September 1992, the Accused stated that Bosnian Serbs owned, possessed, and controlled 64% of BiH and that they were only a minority in BiH because of the genocide during World War II.⁹²⁴⁶ When questioned about whether those in the “wrong part of the territory” would have to leave their homes, the Accused denied the suggestion vigorously and stated that they had to guarantee minority rights.⁹²⁴⁷

2797. The Accused told Van Lynden in September 1992 that the Serbs had to have the northern areas and Banja Luka. He also said that Eastern Bosnia was all Serb and that the enclaves of Gorazde, Srebrenica, and smaller enclaves were unacceptable and had to become part of Serb territory.⁹²⁴⁸

2798. Šešelj, on behalf of the SRS, also expressed his support for the formation of the SerBiH and his view that the Bosnian Serb authorities should demarcate Serbian territory, proclaim its own TO and police in territories under its control, and simultaneously “liberate” those areas which were not under Serbian control but which were “part of the Serbian territorial corpus”.⁹²⁴⁹ In April 1992, Šešelj spoke about the necessity of dividing BiH, where Serbs would end up with the majority of the area.⁹²⁵⁰ In an interview in September 1992, Šešelj recognised that it was “obvious that Serbs

⁹²⁴³ See para. 347; P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), p. 1.

⁹²⁴⁴ P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), p. 1.

⁹²⁴⁵ See para. 347; P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), pp. 1–2.

⁹²⁴⁶ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), p. 6; Vladislav Jovanović, T. 34309–34310 (26 February 2013).

⁹²⁴⁷ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), p. 9.

⁹²⁴⁸ P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 71; Aernout van Lynden, T. 2419 (19 May 2010).

⁹²⁴⁹ D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March–16 April 1992), pp. 3, 8, 11; See also P6393 (Video clip of interview with Vojislav Šešelj, with transcript).

⁹²⁵⁰ D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March–16 April 1992), p. 27 (stating that “Serbian Herzegovina with a border on Neretva, Romanija to the Serbs, Ozren to the Serbs, Podrinje to the Serbs, Semberija to the Serbs, Bosnian Krajina to the Serbs. The Central Bosnia to the Muslims. The Western Herzegovina to the Croats. That is the best solution”). See also D3668 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), p. 1; Vojislav Šešelj, T. 39585–39586 (10 June 2013).

hold larger territories today than they would have if there had been a peaceful demarcation of borders with Croats and Muslims”.⁹²⁵¹ He further stated that Serbs would continue to gain more and more territories and Muslims would end up with nothing.⁹²⁵²

2799. In November 1992, in a meeting attended by General Morillon, Piers Tucker, Mladić, and Koljević, the Accused showed maps with the ethnic distribution in BiH and claimed that “Bosnian Serbs had only seized those territories to which they had a right, which [were] territories where the population was more than 50 per cent Bosnian Serb” and they had “no wish to live with the Muslims”, whom he called “Turks”.⁹²⁵³ On 7 November 1992, at a meeting attended by Đerić and other ministers, the situation in a number of municipalities was discussed and it was reported that the largest part of the municipality of Vlasenica was “free”.⁹²⁵⁴ In January 1993, the Accused also spoke about how they had created a state with their own forces.⁹²⁵⁵

2800. The Chamber recalls that on 15 January 1993, at a meeting with Okun and Vance, the representative for the Bosnian Serbs, Aleksa Buha, stated that the Bosnian Serbs needed the Posavina “corridor”, which was a road that connected Belgrade to Banja Luka via Bijeljina and Brčko.⁹²⁵⁶ For territories still under dispute, Buha noted the Accused’s request for a resolution by referendum.⁹²⁵⁷ The importance of certain municipalities to the political objectives of the Bosnian Serbs was underscored by statements in the Bosnian Serb Assembly in January 1993 to the effect that there could be no Serbian state or prospects for the Serbian people “without Podrinje [...] from Foča to Bijeljina”.⁹²⁵⁸ A deputy from Prijedor spoke against the proposal of sharing the municipality of Prijedor and stated that they had “conquered, actually restored only the Serb territory that they took away from us back in 1941”.⁹²⁵⁹ This sentiment reflected the statements by the Accused and the Bosnian Serb leadership regarding the historical crimes committed against the Serb people and their historical claim to the land which they viewed as belonging to them.

2801. Following the ICFY, the Vance-Owen Plan was formally introduced on 2 January 1993 and provided for constitutional and military arrangements in BiH and a map of the provincial

⁹²⁵¹ D3668 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), p. 7.

⁹²⁵² D3668 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), p. 7.

⁹²⁵³ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 78–79; Piers Tucker, T. 23217 (17 January 2012).

⁹²⁵⁴ D3696 (Minutes of RS Government session, 7 November 1992), pp. 1, 3.

⁹²⁵⁵ D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 7.

⁹²⁵⁶ See para. 362.

⁹²⁵⁷ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4245 (opining that holding a referendum would benefit Bosnian Serbs in territories from which non-Serbs had been removed).

⁹²⁵⁸ D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 42.

⁹²⁵⁹ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 31–32.

structure.⁹²⁶⁰ Izetbegović objected to the map on the basis that regions from which the population had been removed could not come under the control of those who removed them.⁹²⁶¹ The Accused noted that certain territories were still under dispute and when the map was discussed, he asked for a larger Bosnian Serb territory and proposed his own boundaries.⁹²⁶²

2802. In April 1993, the Accused also spoke about the importance of certain Serb areas in the context of international negotiations pertaining to maps of BiH.⁹²⁶³ In the context of discussing whether or not to accept the Vance-Owen Plan, Brđanin at the Bosnian Serb Assembly stated “[e]verything we have liberated is Serbian land. No one will be able to convince the people of Prijedor, Sanski Most [...] and all the places under threat all the way to Foča that we have passed a just decision”.⁹²⁶⁴ The Accused stressed for example that they could not give up on Sanski Most because it was in the middle of their territory.⁹²⁶⁵ The Accused also spoke about Brčko being their “mutual concern” and that they would “finish with Brčko the way it should be [...] [a]nd if there is war we will be strong and repel them 50 kilometres to the south”.⁹²⁶⁶ The Chamber recalls that on 2 May 1993, the Accused signed the Vance-Owen Plan in Athens, but this was subject to ratification by the Bosnian Serb Assembly, which ultimately rejected the plan.⁹²⁶⁷

2803. At a meeting on 28 May 1993 between members of the Bosnian Serb leadership, including the Accused, and the leadership of the FRY, disagreements were voiced among the participants as to whether to continue fighting, or whether to negotiate a path towards peace.⁹²⁶⁸ During this meeting, the Accused stated that there was “no other way but to fight”.⁹²⁶⁹

2804. At the 34th Session of the Bosnian Serb Assembly in August 1993, the Accused cautioned against the view that they had given up on their far-reaching goals with respect to the union of Serb states and explained that “[i]t is a phase we have to finish”.⁹²⁷⁰ When the Accused refused to accept the Vance-Owen Plan, he claimed that the old BiH ceased to exist and that there was now a

⁹²⁶⁰ See paras. 359–360.

⁹²⁶¹ See para. 363.

⁹²⁶² See para. 363. For more detail on the course of the negotiations the Chamber refers to Section II.E: International peace negotiations.

⁹²⁶³ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 8.

⁹²⁶⁴ P1371 (Transcript of 30th session of RS Assembly, 5–6 May 1993), p. 93.

⁹²⁶⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 80.

⁹²⁶⁶ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 80.

⁹²⁶⁷ See International Peace Negotiations Section, para. 61.

⁹²⁶⁸ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 164–180.

⁹²⁶⁹ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 175.

⁹²⁷⁰ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 93.

state with three constituent peoples.⁹²⁷¹ Given the Accused's refusal, Owen stated "I weep for your country. The path you are heading on is bitterness, hatred and death".⁹²⁷²

2805. At this same session, the Accused stated that while he did not think there would be a broader war in Europe, if there was one "we shall be stronger" and that they would have a corridor again on the map of BiH.⁹²⁷³ The Accused explained that "[i]f we want it by force, we could have taken some more, we can still do it".⁹²⁷⁴ He went on to state that they were militarily ready and would not withdraw from anywhere until they had firm guarantees about the resolution of the conflict.⁹²⁷⁵ He stated that while they did not want the war to continue and would be willing to lessen their territory, he wanted the land they retained to remain theirs "for all [...] time".⁹²⁷⁶ The Accused also suggested that the Serbs would vanish if they were weakened, but they would be given a state if they were seen as strong militarily, economically, and politically.⁹²⁷⁷

2806. Koljević at the 34th Session of the Bosnian Serb Assembly stated his view that they had entered "this fight" not with the aim of winning the most territory but with the aim of the "spiritual and moral revitalisation of Serbhood".⁹²⁷⁸ At the same Bosnian Serb Assembly session, Mladić stated that if the negotiations and agreement failed, they would "have to find the means and organise ourselves for the continuation of the even bloodier war".⁹²⁷⁹ Another deputy spoke and recognised that they held 13 municipalities including Prijedor, Sanski Most, Ključ, Zvornik, Vlasenica, Rogatica, Višegrad, Foča and part of Brčko even though they "did not belong to Serbs, according to indicators of relative or absolute majority".⁹²⁸⁰ The Chamber recalls its finding that

⁹²⁷¹ P791 (Eighth notebook of Herbert Okun's ICFY diary), e-court pp. 76–77.

⁹²⁷² P791 (Eighth notebook of Herbert Okun's ICFY diary), e-court pp. 76–77. *See also* P792 (Ninth notebook of Herbert Okun's ICFY diary), e-court pp. 33–34, 50.

⁹²⁷³ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 62.

⁹²⁷⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 63.

⁹²⁷⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 63.

⁹²⁷⁶ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 63.

⁹²⁷⁷ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 240.

⁹²⁷⁸ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 44, 46.

⁹²⁷⁹ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 66–67.

⁹²⁸⁰ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 105–106.

the control of municipalities, including Bijeljina and Vlasenica,⁹²⁸¹ was geographically important with respect to the Strategic Goals of the Bosnian Serb leadership.

2807. The municipality of Brčko was an example of where the Accused and the Bosnian Serbs continued to emphasise their territorial and strategic interests. Brčko was considered of strategic importance by the Bosnian Serb leadership as it was viewed as necessary for the formation of a corridor in the Posavina region through to Bosanska Krajina; this was in accordance with the second Strategic Goal.⁹²⁸² Given the strategic importance of Brčko, despite the Bosnian Serbs constituting a minority, the Bosnian Serb leadership insisted that it would become a province of RS.⁹²⁸³ The Accused also spoke about negotiations relating to Brčko and the importance of protecting Serb interests.⁹²⁸⁴ A representative from Brčko acknowledged that it had never been a Serb town, but that even before the war there had been “strictly defined Serb areas within the town, separated from the areas in which the other two peoples lived” and by agreement this area had been defined.⁹²⁸⁵ This representative spoke about the possibility of having to return “Muslim territories that we have liberated” but emphasised which areas of Brčko should be retained.⁹²⁸⁶

2808. At a meeting held in August 1994 between the Accused, Krajišnik, and Milan Martić, Krajišnik stated: “Everyone is telling us not to give up Brčko”.⁹²⁸⁷ The Accused stressed that the corridor being offered to them through Brčko was too narrow and could not be defended.⁹²⁸⁸ In a meeting with UNPROFOR on 19 August 1994, the Accused expressed his view that if an “arrangement” was reached for Brčko similar to the plan for Sarajevo, it should “not prevent the

⁹²⁸¹ See paras. 600, 1099.

⁹²⁸² P2888 (Brčko’s War Presidency Summary of events in Brčko Municipality), pp. 1–2; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4244, 4258, 4265–4266, 4276, 4306; Herbert Okun, T. 1481–1482 (22 April 2010); P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 66, 229–231; Đorđe Ristanić, T. 16763, 16768–16769, 16819 (18 July 2011). While the Chamber notes that the only crimes charged in Indictment with respect to Brčko are limited to the Luka camp, it has had regard to this evidence as supporting the pattern of what occurred in the Municipalities and how this corresponded with the strategic interests of the Accused and the Bosnian Serb leadership.

⁹²⁸³ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4278; P2888 (Brčko’s War Presidency Summary of events in Brčko Municipality), p. 2.

⁹²⁸⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 13.

⁹²⁸⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 37–38.

⁹²⁸⁶ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 37.

⁹²⁸⁷ P2563 (Minutes of meeting between Milan Martić and Radovan Karadžić, 20 August 1994), pp. 1, 10.

⁹²⁸⁸ Patrick Treanor, T. 14056–14057 (1 June 2011); P2563 (Minutes of meeting between Milan Martić and Radovan Karadžić, 20 August 1994), p. 5.

Serbs from transiting the area with their armaments” and that if the Bosnian Serbs kept “sovereignty in Brčko” they would seriously consider the proposal of not attacking Tuzla.⁹²⁸⁹

2809. At a Bosnian Serb Assembly session on 11 May 1994, the Accused stated: “We have never been [a] majority in Brčko, but we were always the third, but we have to solve that with a combination, we cannot call upon one principle, that is ethnic and historical. [...] This is not [an] important town for the Muslims, but it is important to us”.⁹²⁹⁰ In meeting with Akashi in May 1994 the Accused warned of an ABiH offensive on Brčko and that they would not agree to withdraw Bosnian Serb troops to make Brčko a safe area because it was historically a Serb area and it had been under Bosnian Serb control since the beginning of the war.⁹²⁹¹

2810. When the Accused visited Foča to open a medical school, he gave a speech in which he said that he was “satisfied and happy that Foča has been preserved” and it was important for the citizens to know that the Bosnian Muslims had given up on Foča in negotiations.⁹²⁹² In 1994, Krajišnik attended a celebration in Foča with other members of the Bosnian Serb leadership and delivered a speech in which he addressed the people of Srbinje, which was the new Serb name of Foča.⁹²⁹³ In this speech Krajišnik said:

Today you are not as you were before. Now I see a true Serbian town. And you proudly bear your Serbian name. You are the example to every Serb. All that was coming from this town you’ve managed to eliminate you prevented it from happening. [...] Izetbegović said that this town would be another Mecca. But you did not let them. And for that, in the name of all Serbs, I thank you.⁹²⁹⁴

2811. The Accused also noted that in Foča the Bosnian Muslims had a plan to “build a big Islamic centre” and that Foča was extremely important to the Bosnian Muslims but “it will never be theirs again”.⁹²⁹⁵

2812. In 1993 and 1994, commemorations were held to celebrate the anniversary of the “liberation” of Zvornik which were attended amongst others by the Accused, Koljević, and

⁹²⁸⁹ D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994), para. 9.

⁹²⁹⁰ P1390 (Transcript of 40th session of RS Assembly, 10–11 May 1994), p. 40.

⁹²⁹¹ D3499 (UNPROFOR report, 4 May 1994), e-court pp. 7, 11. *See also*: P5422 (UNPROFOR report, 8 May 1994), p. 7.

⁹²⁹² P6205 (Excerpts of radio broadcast of Radovan Karadžić’s visit to Foča medical centre, with transcript), pp. 1–2. *See* Veljko Marić, T. 35595–33596 (19 March 2013).

⁹²⁹³ P6204 (Excerpt of video clip of Momčilo Krajišnik’s speech in Foča, with transcript). *See* Veljko Marić, T. 35590–33591 (19 March 2013).

⁹²⁹⁴ P6204 (Excerpt of video clip of Momčilo Krajišnik’s speech in Foča, with transcript). *See also* Adjudicated Fact 2411.

⁹²⁹⁵ P1385 (Transcript of 37th Session of RS Assembly, 10 January 1994), p. 110.

Arkan.⁹²⁹⁶ The Accused in an interview also said that the Bosnian Serbs would “never leave Zvornik again, and the state of facts established by this war, by this one year of the war, will not be reconciliated without large crimes”.⁹²⁹⁷ The Accused’s position was that Zvornik could not be given to the Bosnian Muslims because that would mean that the Serbs could not return and would be refugees.⁹²⁹⁸

2813. The Accused stated that during the war he had placed the SDS on hold but that in the first 45 days of the conflict, the SDS had been instrumental in “practically defin[ing] the borders”.⁹²⁹⁹ In an interview in July 1995 the Accused stressed that everyone should accept the reality that BiH was completely Serbian. He went on to state:

We now possess 64% of the land and control 70% of the territory of that false State Bosnia, which does not exist, and we are not going to accept anything less than 50% We are not going to give up on our own State, the ultimate objective for any nation; it is like our home. And we are not going to end up homeless in a Bosnia dominated by Muslims.⁹³⁰⁰

2814. In the same interview, the Accused stated that they were ready to end the war on the condition that the Bosnian Serbs’ right to self-determination was recognised and observed that if “we are fighting and dying for certain places, we cannot hand them over afterwards. Nobody can expect us to guarantee the Muslims that they are always going to keep the same percentage of territory [...]. If they want a military solution, they will get to keep what they have now, at most. But if they want a political solution, we are ready to be flexible”.⁹³⁰¹ The Accused also said that they would “never accept giving up a single Serbian place, especially if it was taken by force”.⁹³⁰²

2815. In August 1995, Mladić issued a notice to the Main Staff of the VRS which, *inter alia*, praised the VRS and observed that it had thwarted “a planned and prepared genocide of the Serbian

⁹²⁹⁶ KW317, T. 39352–39353 (6 June 2013), 39353–39354 (6 June 2013) (private session), T. 39355–39356, (6 June 2013); P6371 (Photographs re celebration of anniversary of Zvornik liberation); P5167 (Report of Zvornik Brigade, 10 April 1993), p. 2. The Chamber notes that the Accused and Koljević are only reported to have attended the first anniversary in April 1993. The Chamber also received evidence that Arkan and the Accused both attended a celebration in Zvornik in 1995. Čedomir Zelenović, T. 40323–40326 (24 June 2013), T. 40338–40339 (25 June 2013); P6412 (Photograph of Radovan Karadžić); P6413 (Photograph of Željko Ražnatović aka Arkan).

⁹²⁹⁷ P5591 (Video footage of Radovan Karadžić on SRT Talk Show).

⁹²⁹⁸ Momčilo Krajišnik, T. 43782 (19 November 2013).

⁹²⁹⁹ P5595 (Excerpt of video footage of Radovan Karadžić’s speech, with transcript), p. 1.

⁹³⁰⁰ P2564 (Radovan Karadžić’s interview in El Pais, 16 July 1995), p. 3.

⁹³⁰¹ P2564 (Radovan Karadžić’s interview in El Pais, 16 July 1995), p. 2.

⁹³⁰² P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), p. 7.

people, protecting the greater part of Serbian territories, and achieving victory after victory in the liberation of occupied historically and ethnically Serbian areas”.⁹³⁰³

2816. At a Bosnian Serb Assembly session in August 1995, the Accused said:

To tell the truth, there are towns that we've grabbed for ourselves, and there were only 30% of us. I can name as many of those as you want, but we cannot give up the towns where we made up 70%. Don't let this get around, but remember how many of us were in Bratunac, how many in Srebrenica, how many in Višegrad, how many in Rogatica, how many in Vlasenica, in Zvornik, etc. Due to strategic importance they had to become ours, and no one is practically questioning it any more.⁹³⁰⁴

(c) Creation of a Bosnian Serb state

2817. In December 1991, the Accused spoke about how in some municipalities it was “really necessary to create separate municipalities” and to have dual municipal authorities.⁹³⁰⁵

2818. The Chamber recalls that on 11 January 1992, the first session of the Council of Ministers was attended by Bosnian Serb leaders including the Accused, Krajišnik and Plavšić.⁹³⁰⁶ At this meeting one of the identified priorities with respect to the declaration on the promulgation of the SerBiH was “the defining of ethnic territory, establishment of government organs in the territory and the economic disempowerment of the current authorities in the [SRBiH]”.⁹³⁰⁷ On 17 January 1992, the Council of Ministers discussed the need to adopt the Constitution of the Republic as soon as possible and to consolidate and organise the territory of the regions, including through the formation of new municipalities.⁹³⁰⁸

2819. In February 1992, the Accused spoke about their hope that nearly 90% of the Serb population would be in their republic in BiH and that this would be a “sovereign area of the Serbian people”.⁹³⁰⁹ At a meeting of the SDS Deputies' Club in February 1992, the Accused stated

until two or three months ago we were hoping to be able to play the ‘Yugoslav card’[...]. This is slipping out of our grasp. That's why we started on another track: a Serbian Bosnia and Herzegovina. Our sovereign right, our army. We are preparing the constitutional framework to be able to have immediately [...] to have a national guard, to

⁹³⁰³ P2566 (Ratko Mladić notice, 5 August 1995), p. 1.

⁹³⁰⁴ P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), pp. 68–69.

⁹³⁰⁵ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 13.

⁹³⁰⁶ See para. 104.

⁹³⁰⁷ P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), pp. 2–3; P2536 (Patrick Treanor's expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 227.

⁹³⁰⁸ See para. 105; P3111 (Minutes of the 2nd meeting of the Ministerial Council of SerBiH Assembly, 17 January 1992), pp. 4–5.

⁹³⁰⁹ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 14.

have our own police force, to have a government, to turn the Yugoslav army into the army of the Serbian Bosnia and Herzegovina.⁹³¹⁰

2820. At this meeting Koljević expressed his agreement with the Accused over the outcome of the recently held peace negotiations and the proposed division of BiH into a confederation.⁹³¹¹ Koljević stated “our only chance is to draw borders, to tear them down. That’s what we have been doing in Bosnia and Herzegovina, what we have begun in order to be able to draw the borders and to create our own, and then not to give up on our goal until the times are better”.⁹³¹² Krajišnik stated with respect to the creation of a unitary Islamic BiH, “that will not succeed. We are a force to be reckoned with. We will not agree to that [...] there is nothing more important than Serbian freedom”.⁹³¹³

2821. The Accused also spoke to other Bosnian Serb leaders about the chance to create “our independent state and our Army”.⁹³¹⁴ In this regard, the Accused also spoke about the preparation of their constitution and laws which would create “the basis to receive the Army on our territory”.⁹³¹⁵

2822. The Accused at Bosnian Serb Assembly sessions reported on the progress of international negotiations with respect to the situation in BiH and his view on what conditions and developments were unacceptable to Bosnian Serbs and what he viewed as attempts to prevent the Serbs from creating a state and exercising their right to self-determination.⁹³¹⁶ In March 1992, the Accused complained about the manner in which Bosnian Muslim leaders were conducting negotiations but stated that “[f]ortunately we have not been relying on those talks but have created preconditions for the security of the Serb people in their ethnic space within BiH [...] we have not passed the opportunity to complete all the actions necessary for the protection of Serb people”.⁹³¹⁷

⁹³¹⁰ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 37.

⁹³¹¹ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992). pp. 6, 8.

⁹³¹² P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992). p. 39.

⁹³¹³ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992). p. 44–45.

⁹³¹⁴ P5754 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 9 February 1992), p. 2.

⁹³¹⁵ P5754 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 9 February 1992), p. 8.

⁹³¹⁶ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 5–12, 16–19, 71–72; P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), pp. 4–10; P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 5–16; D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 4; P1371 (Transcript of 30th session of RS Assembly, 5–6 May 1993), p. 10; D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 12, 56; D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 13. *See also* P5476 (Report of 1st Krajina Corps, 1 October 1992). Other Bosnian Serb leaders including Koljević and Krajišnik gave similar updates on international negotiations. P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), pp. 110–112; P6164 (Excerpt from notes of enlarged session of Council for Coordinating Positions on State Policy, 9 January 1993), e-court p. 9.

⁹³¹⁷ P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), p. 7.

2823. In March 1992, the SDS Executive Board confirmed the objective of creating a Serb state in BiH, with its own army and media.⁹³¹⁸ Doyle testified that at the conferences he attended the general understanding was that “the overall objective of Serbs was to join physically the territories that the Serbs controlled in Bosnia to the territory of Serbia to create a Greater Serbia”.⁹³¹⁹ Okun also testified that the goal of the Bosnian Serb leadership was to create an ethnically Serb state in BiH.⁹³²⁰ The difficulty of this objective of ethnic separation was that BiH was highly intermixed.⁹³²¹ Vitomir Žepinić, for example, warned Plavšić that if they tried to separate the ethnic communities “there would be violence and thousands of innocent civilians would be killed”.⁹³²²

2824. Krajišnik in March 1992 wrote to Cutileiro and emphasised that the Bosnian Serbs were opposed to the independence of BiH and the creation of a unitary state which could have “catastrophic consequences” and he advocated the creation of “three-national state entities”.⁹³²³ Krajišnik also expressed their fear about becoming a national minority in a fundamentalistic Muslim BiH.⁹³²⁴

2825. On 17 May 1992, the Accused, Krajišnik, and Mladić attended a meeting with the SAO Romanija and heads of neighbouring municipalities in Sokolac where the political and security situation was discussed and the Accused indicated that “[w]e are looking for results from the army [...] [w]e want our people to be kept safe”.⁹³²⁵ The Accused went on to recall that creating a separate Serb state and taking that state out of BiH remained the priority and that they should

⁹³¹⁸ D1277 (Minutes of joint meetings of SDS's General and Executive Committees and Political Council, 11 March 1992), pp. 1–2.

⁹³¹⁹ Colm Doyle, T. 2994 (28 May 2010).

⁹³²⁰ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4352–4355, 4414–4415 (further testifying that there was no way to achieve this objective and to separate the people except by forcible means). Similarly, other witnesses testified that (i) the SDS had “a policy of ethnically cleansing the territories which they conquered and removing the non-Serb populations from most of those territories”; (ii) the identical pattern in which the Bosnian Muslim population was moved out of areas where the SDS was in power meant that it “could not have happened spontaneously” and that it was a planned, organised, and systematic operation in accordance with the policy of the SDS and that the local authorities were simply implementing the instructions they had been given; (iii) the forced expulsions could not have occurred without there being a policy or participation by Bosnian Serb authorities. Milorad Davidović, T. 15536–15537 (28 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 21; Anthony Banbury, T. 13337–13338 (15 March 2011); P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 79.

⁹³²¹ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4205.

⁹³²² Vitomir Žepinić, T. 33589–33590 (13 February 2013).

⁹³²³ D2970 (Letter from SerBiH Assembly to Jose Cutileiro, 11 March 1992), p. 1. See also D2969 (Letter from Radovan Karadžić, Nikola Koljević, and Momčilo Krajišnik to Jose Cutileiro, 2 March 1992), p. 1.

⁹³²⁴ D2970 (Letter from SerBiH Assembly to Jose Cutileiro, 11 March 1992), p. 2.

⁹³²⁵ P1477 (Ratko Mladić's notebook, 14 February–25 May 1992), pp. 349–351; P6254 (Article from TANJUG entitled “Serb Leaders Promote Ethnic Demarcation”, 17 May 1992), p. 1.

continue with the transformation of the JNA.⁹³²⁶ Krajišnik at this meeting indicated that the “time is ripe for a demarcation of the areas between Croats, Serbs, and Muslims because [...] a common state with them is no longer possible, not because we do not want that but because that is what they want. The Muslims leadership has imposed the war on us even though the Serbs wanted a political solution of all problems”.⁹³²⁷

2826. Even in August 1992, Krajišnik spoke about Serbs wanting a unified state: “We have our plan, which we must carry out by political, military, and other means, depending on the situation”.⁹³²⁸

2827. At a meeting of the 1st Krajina Corps in September 1992, attended by Mladić and Bogdan Subotić, and the commanders and presidents of municipalities, it was also noted that the temporary ceasefire “cannot replace the aims of our struggle to create a new Serbian Republic”.⁹³²⁹ At this meeting, a conclusion was reached to “[e]liminate sectarian feelings towards other nations” based on certain conditions, including their contribution to the advancement of the Serbian Republic.⁹³³⁰

2828. In October 1992, the Accused outlined how before the international recognition of BiH they were able to declare their republic “a sovereign and independent state” and that he, along with Buha, and Koljević had insisted in meetings with diplomats on a constituent entity for the Serbian people.⁹³³¹ He expressed his view that the criteria for establishing provinces in BiH were unacceptable and noted that Serbs would only be a temporary majority in one or two provinces.⁹³³² During this speech, the Accused also outlined his view on the position to be taken during negotiations and that one of the provinces would be a Serbian state called Republika Srpska.⁹³³³

2829. When the RS and RSK were unified on 31 October 1992, Bosnian Serb leaders including Plavšić emphasised the unity of the Serbian people and their right to self-determination and

⁹³²⁶ P6254 (Article from TANJUG entitled “Serb Leaders Promote Ethnic Demarcation”, 17 May 1992), p. 1; Milovan Bjelica, T. 36443–36447 (3 April 2013).

⁹³²⁷ P6254 (Article from Tanjug entitled “Serb Leaders Promote Ethnic Demarcation”, 17 May 1992), p. 2.

⁹³²⁸ P1357 (Transcript of 18th session of SerBiH Assembly, 11 August 1992), p. 19. *See also* P5476 (Report of 1st Krajina Corps, 1 October 1992), pp. 3–4.

⁹³²⁹ D3702 (Report of 1st Krajina Corps, 14 September 1992), pp. 1–2.

⁹³³⁰ D3702 (Report of 1st Krajina Corps, 14 September 1992), p. 5. *See also* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 292.

⁹³³¹ P939 (Video footage of Radovan the Accused’s speech at the 21st Session of RS Assembly, 30 October 1992, with transcript), p. 1.

⁹³³² P939 (Video footage of Radovan the Accused’s speech at the 21st Session of RS Assembly, 30 October 1992, with transcript), pp. 3, 6.

⁹³³³ P939 (Video footage of Radovan the Accused’s speech at the 21st Session of RS Assembly, 30 October 1992, with transcript), p. 4.

continued to make similar speeches emphasising this right.⁹³³⁴ The declaration of unification also decided that a co-ordinating committee would consist of the presidents of the republics, the presidents of the assemblies of the republics and the prime ministers of the republics.⁹³³⁵

2830. In November 1992, Koljević stressed that “we should finish everything that’s necessary militarily as soon as possible, because that’s going to improve our political and diplomatic position” and that once fighting calmed down, the media scrutiny and pressure would reduce and they would be able to postpone a political solution based on the territory they held.⁹³³⁶

2831. In June 1993, the Accused spoke about recognition of the Bosnian Serb legitimate right to self-determination, that BiH would certainly be divided into three parts, and that Bosnian Muslims should be satisfied with the division because of the municipalities which they would obtain, but if they continued with the war the Bosnian Muslims could lose everything because the Bosnian Serbs would not allow themselves to be “subjugated and dominated” by Muslims.⁹³³⁷

2832. The Chamber recalls that, at a meeting with international negotiators on 11 January 1993, Krajišnik stressed the Bosnian Serb objective of territorial continuity and named three conditions from the Bosnian Serb Assembly: (i) BiH must be a “composite state community”; (ii) the Bosnian Serbs must have relations with other “states”; and (iii) they must have territorial continuity.⁹³³⁸ Mladić told Okun and Owen that the Bosnian Serbs wanted “peace with justice” for all three peoples but that the Bosnian Muslims could not “beat”, “exterminate”, or “cause [the Serbs] to disappear”.⁹³³⁹ The following day, at a plenary meeting, the Accused expressed his reservations about the ICFY’s constitutional principles and stated he could not accept them but that he would convey the ICFY’s proposals to the Bosnian Serb Assembly.⁹³⁴⁰

2833. At a meeting with VRS commanders on 29 January 1994, the Accused stated that while everyone was aware of the Bosnian Serb objectives, “appropriate statements” should be issued to hand trump cards to other parties; he instructed not to make “war-mongering statements” but

⁹³³⁴ P1360 (Transcript from Joint session (21st session) of RS Assembly and Assembly of Serbian Krajina, 31 October 1992), p. 4; D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), pp. 20–21. See P5541 (Prijedor Declaration on the Unification of the RSK and RS, 31 October 1992), pp. 1, 4.

⁹³³⁵ P5541 (Prijedor Declaration on the Unification of the RSK and RS, 31 October 1992), pp. 3–4.

⁹³³⁶ P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 112.

⁹³³⁷ D3026 (Article from Yugoslav Daily Survey entitled “Montenegrin President: Decisive Step towards Peace in Bosnia”, 21 June 1993), p. 2.

⁹³³⁸ See para. 361; P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 43.

⁹³³⁹ P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 45.

⁹³⁴⁰ See para. 361; P789 (Sixth notebook of Herbert Okun’s ICFY diary), e-court p. 48. According to Milovanović, in November 1992, the Accused issued a public statement that BiH should be made of its three constituent states with the RS as a “single whole” and rejected the Vance-Owen proposal for a “centralised BiH with ten cantons”. D2149 (Aide mémoire of Manojlo Milovanović), p. 12.

instead to discuss peace.⁹³⁴¹ The Chamber recalls that in April 1994, UNPROFOR representatives went to Pale to speak to the Accused, who declared that the right bank of the Drina will be the Bosnian Serbs.⁹³⁴²

2834. The Chamber recalls that on 7 July 1994, the Contact Group unveiled a new peace plan under which 51% of BiH would be administered by a newly formed Bosnian-Croat Federation and that 49% be administered by the Bosnian Serbs.⁹³⁴³ On 19 July 1994, at the Bosnian Serb Assembly, the Accused spoke about the Contact Group's proposed plan stating that the acceptance of the plan would not be a guarantee for peace.⁹³⁴⁴ The Bosnian Serbs rejected the plan stating that the plan was unfair and their demands were not met and in a later referendum in Bosnian Serb-held territory, 96% of voters rejected the plan.⁹³⁴⁵

2835. The Accused met with Ronald Hatchett in 1994 to discuss a proposal to end the war and asked Hatchett to bring back the proposal to the highest level that he could reach in the United States of America.⁹³⁴⁶ The Accused proposed that: (i) BiH would remain a single country; (ii) it would be comprised of two autonomous republics; (iii) each republic would have its own constitution and government; and (iv) he would be willing to accept a division of BiH which would give Bosnian Serbs 49% of the territory so long as it was contiguous and that there would be some trade of areas held by Bosnian Muslims and Bosnian Serbs.⁹³⁴⁷

2836. At a meeting held in August 1994 between the Accused, Krajišnik and Martić, the President of the RSK, the Accused advocated that "we should unite in essence, and use formal unification as a threat. Our unification is not enough to arrive at a complete solution. The right solution is unification of all Serbian lands".⁹³⁴⁸ Krajišnik also stated that the "[t]he objective is a single Serbian state to be agreed upon between the Republic of Serbian Krajina and Republika Srpska. We must work towards that objective without ever losing ties with Serbia".⁹³⁴⁹ In September 1994, when discussing the possibility of tightened sanctions on Pale with international representatives, the Accused said "if the international community treats us like a beast, then we will behave like a

⁹³⁴¹ P1485 (Ratko Mladić's notebook, 9 January–21 March 1994), pp. 51, 78–79.

⁹³⁴² See para. 393.

⁹³⁴³ See para. 398.

⁹³⁴⁴ See para. 399; P1394 (Transcript of 42nd Session of RS Assembly, 18–19 July 1994), pp. 15–18. See also D2149 (Aide mémoire of Manojlo Milovanović), pp. 45–46.

⁹³⁴⁵ See paras. 401–406.

⁹³⁴⁶ D2741 (Witness statement of Ronald Hatchett dated 13 January 2013), para. 15.

⁹³⁴⁷ D2741 (Witness statement of Ronald Hatchett dated 13 January 2013), para. 16; D2744 (Article from Dallas Morning News entitled "Don't Ignore the Serbs' Peace Plan", 4 August 1995). See also D2149 (Aide mémoire of Manojlo Milovanović), p. 12.

⁹³⁴⁸ P2563 (Minutes of meeting between Milan Martić and Radovan Karadžić, 20 August 1994), p. 7.

⁹³⁴⁹ P2563 (Minutes of meeting between Milan Martić and Radovan Karadžić, 20 August 1994), p. 11.

beast”.⁹³⁵⁰ The Accused made a similar observation in an interview when he said that if they were treated as animals or “wild beasts in a cage” they could not be expected to “act in a tolerant and correct manner”.⁹³⁵¹

2837. Through Directive 7, issued on 8 March 1995, the Accused continued to call on the VRS to “by force of arms, impose the final outcome of the war on the enemy, forcing the world into recognising the actual situation on the ground and ending the war”.⁹³⁵² In this same directive, the Accused called for full support for the creation of a “free and unified Serbian state”.⁹³⁵³ The Chamber recalls that at a press conference in April 1995 in the context of further international negotiations, the Accused stated that if peace was not possible through political means, the Bosnian Serbs would put an end to the war by military means.⁹³⁵⁴

2838. The Chamber recalls that the Dayton peace talks began in November 1995 and even though the Accused had been removed from the RS negotiating team he played a central consultative role in regards to RS negotiations.⁹³⁵⁵ These talks concluded in the Dayton Agreement, however, the RS delegation was unsatisfied with specific details of the agreement and refused to attend the final plenary session of the peace talks as well as the ceremonial initialling of the peace agreement.⁹³⁵⁶ The Dayton Agreement was initialled by Tuđman, Slobodan Milošević, and Izetbegović on 21 November 1995 and signed on 14 December 1995.⁹³⁵⁷

(2) Conclusion

2839. The Chamber finds based on this evidence that the Accused as early as September 1991 was identifying territories which were to be claimed by Bosnian Serbs. It is clear that the Accused and the Bosnian Serb leadership advocated and worked towards a territorial re-organisation which would allow the Bosnian Serbs to claim control and ownership of a large percentage of the territory in BiH. In terms of establishing control over this territory, the Accused worked towards the creation of parallel institutions, organs of government, and military and police structures which could gain or retain control of those areas. The Chamber’s findings with respect to the creation of these parallel structures will be further elaborated in Section IV.A.3.ii.

⁹³⁵⁰ See para. 402.

⁹³⁵¹ P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), p. 13.

⁹³⁵² P838 (Directive 7, 8 March 1995), p. 8.

⁹³⁵³ P838 (Directive 7, 8 March 1995), p. 14.

⁹³⁵⁴ See para. 415.

⁹³⁵⁵ See para. 432.

⁹³⁵⁶ See paras. 433–435.

⁹³⁵⁷ See paras. 436–437.

2840. Having considered this evidence, the Chamber finds that from November 1991 the Accused and the Bosnian Serb leadership spoke against Bosnian Muslims being allowed to stay in Bosnian Serb claimed territory and emphasised the importance of taking control of power and the creation of separate municipalities and municipal structures. The Chamber considers the Accused's statement in February 1992 and the supporting statements of both Koljević and Krajišnik to be highly probative in terms of explaining the changing objectives of the Accused and the Bosnian Serb leadership. The Chamber finds that this speech by the Accused confirms that until late 1991, the Bosnian Serbs were still hopeful of maintaining Yugoslavia, but when it became apparent that this objective was slipping away, they changed course and made preparations for the creation of their own sovereign Serb entity in BiH which would include its own political, civilian, and military structures.

2841. The Accused's rhetoric and discussions with international representatives also made it clear that he advocated the separation of people and believed that co-existence with the Bosnian Muslims and Bosnian Croats was not possible. His rhetoric also emphasised that they were fundamentally different people who had been forced to live together. The Chamber finds that this ideology was repeated and used by the Accused and the Bosnian Serb leadership as justification for the creation of ethnically homogeneous entities in BiH and for minimising the number of Bosnian Muslims and Bosnian Croats who would remain in Bosnian Serb claimed territory. The Chamber notes that these sentiments were in contrast with public statements the Accused had made in 1990 when the Accused and the Bosnian Serb leadership continued to emphasise the unity of Yugoslavia and the existence of a common state.

2842. The Chamber further finds that the Accused made extensive use of maps to highlight the territorial claims of the Bosnian Serbs. These territorial claims included strategically significant areas where Bosnian Muslims were a majority prior to the conflict. The Accused defended these claims and noted that they only seized territories to which they had a right. This rhetoric was also linked with the stated position of the Accused and the Bosnian Serb leadership that they had no interest in living with Bosnian Muslims.

2843. The Accused and the Bosnian Serb leadership repeatedly referred to and re-asserted the historic territorial claims of the Bosnian Serbs. In making these arguments and territorial claims, reference was also made to the historic crimes committed against the Bosnian Serbs, which meant they were no longer a majority in BiH and in areas which they claimed as a "birthright". The Chamber finds that the Accused's position with respect to these historic territorial claims was endorsed by the Bosnian Serb Assembly and formed a core aspect of the Bosnian Serb objectives in

including these territories in the RS. The Chamber finds that constant references to historic crimes committed against Bosnian Serbs were used as a means of justifying their territorial acquisitions which they viewed as belonging to them. The Chamber also finds that the Accused and the Bosnian Serb leadership referred back to historic attacks they faced from their “enemies” and the manner in which the Serbs became a minority in BiH to justify their objective of creating a Bosnian Serb State.

2844. The Accused and the Bosnian Serb leadership also spoke about the importance of controlling Bosnian Serb claimed territories and how significant the factual situation on the ground in terms of controlling territory was for the purposes of international negotiations. The Accused and the Bosnian Serb leadership emphasised the Serb nature of the land which they claimed and controlled and the importance of those territorial claims in preventing the Islamisation of those areas.

2845. The Chamber further finds that the strategic objectives of the Accused and the Bosnian Serb leadership were also communicated to and formed a core element in the military strategy of the VRS which was to create the RS. These speeches and statements also demonstrate that the Accused and the Bosnian Serb leadership supported and endorsed the territorial acquisitions which had been achieved militarily by Serb Forces. The Chamber finds that while these military operations were described by the Bosnian Serbs as being “defensive” or for the purposes of “liberation”, their purpose and effect was to take control of Bosnian Serb claimed territory in BiH and to expand the area which would be included in the RS. The Accused supported these military successes and viewed them as a means of defining Bosnian Serb territory and creating their own state which they would not relinquish.

2846. While the Accused publicly claimed that he had no influence over the issue of war, it was clear that he envisaged that in a war, there would be bloodshed and all the communities would flee towards their “fully homogeneous” areas. In contrast to public statements where the Accused foreshadowed what could happen, the Accused was simultaneously calling for seizing power in Bosnian Serbs claimed territories which would result in the population movements which he envisaged. The Chamber finds that the Accused was not simply foreshadowing what he thought could happen, he was outlining the pattern which was actually put into practice. The Chamber also finds that the Accused and Bosnian Serb leadership were aware and put on notice that the objective of ethnic separation would result in violence given the extent to which the population in BiH was intermixed and yet still proceeded to pursue this objective.

2847. The Chamber finds that in international settings and press conferences, the Accused defended the actions of Bosnian Serbs and spoke in favour of the interests of minorities and denied the suggestion that people would be forced from their homes. However, despite these public statements, the Chamber finds that the evidence demonstrates that the Accused and the Bosnian Serb leadership were informed when municipalities were taken over by Serb Forces and were also aware that their territorial claims and the military manner in which those claims were asserted resulted in the displacement of thousands of non-Serbs. The Bosnian Serb leadership was also informed about the drastic demographic changes which resulted in Serbs becoming a majority in a number of municipalities. The Accused himself acknowledged the new demographic and territorial realities which they had created and that in undertaking military operations to expand their territory the Bosnian Muslim population had been concentrated in small areas. This demonstrates yet again the difference between the public statements made by the Accused and the Bosnian Serb leadership and the reality on the ground, of which they were fully aware.

2848. The Chamber also finds that the Accused and the Bosnian Serb leadership were aware that some of the territory which they took over and controlled were areas where Serbs had not been a majority but the Accused emphasised that these municipalities had to be taken for strategic and/or historic reasons.

2849. The Chamber notes that there were some speeches, statements, and announcements by the Accused which placed the blame on the Bosnian Muslims and Bosnian Croats for the separation of people and claimed that in contrast the Bosnian Serbs were not creating "an ethnically clean state". However, the Chamber finds that these statements and announcements were used as a means of creating a narrative, particularly for the international audience in which the Bosnian Serbs would not be blamed for the separation and the movement of people. In this regard the Chamber notes for example that the Accused made it clear that the Bosnian Serbs were making preparations for their own "ethnic space" in BiH regardless of the tone of negotiations between the parties to the conflict at that time. The Chamber finds that this is indicative of the position taken by the Accused and the Bosnian Serb leadership and that their public statements often directly contradicted the plans which they had for ethnic separation.

2850. The Accused also issued public announcements which promised respect for the rights of all citizens, promised the free movement of people, prohibited the forcible detention or movement of people, and guaranteed the right of return of refugees. However, the Chamber finds that these public announcements were also in stark contrast to the reality on the ground which was marked by

the unlawful detention and forced movement of thousands of people.⁹³⁵⁸ The Chamber finds that these public announcements were also issued by the Accused following repeated protests at an international level about the treatment of non-Serbs in Bosnian Serb controlled territory. The Chamber finds these announcements were issued as means of easing that political pressure but did not translate into a real improvement in the situation on the ground given that the pattern of mistreatment, detention, and forcible transfer continued. The Chamber also finds that these expulsions were discussed at Bosnian Serb Assembly sessions by deputies who warned that they could only talk about these issues amongst themselves but could not speak about it to the rest of the world.

2851. The Chamber also finds that these announcements were inconsistent with the Accused's continued emphasis and rhetoric on the importance of a division of BiH along ethnic lines and the dangers and impossibility of living with Bosnian Muslims. The Chamber finds that while the Accused did envisage some minorities in the state the Bosnian Serbs were creating, his position was that this number should be kept at a minimum and that the Bosnian Muslims and Bosnian Croats should have their own entities in BiH and should be moved out of Bosnian Serb territory. The Chamber finds that the Accused disseminated propaganda about demographics and the Bosnian Muslim birth-rate as a further justification for ethnic separation even after he had issued public announcements guaranteeing that nobody would be forced to leave Bosnian Serb territory.

2852. The Chamber also finds that the Bosnian Serb policy on refugees was connected with its goal of achieving ethnic geographic continuity of the Serb population and did not make provision for the return of Bosnian Muslims and Bosnian Croats. The Chamber finds that with respect to the right of refugees to return, the Accused was aware that from a legal perspective they could not declare a ban on their return but that they should insist that it occur on a reciprocal basis. The Chamber finds that this is instructive in terms of interpreting statements or declarations which ostensibly guaranteed the right of return of refugees. It demonstrates that the Accused and the Bosnian Serb leadership were conscious of making public statements which were in accordance with international expectations and obligations, but which were at odds with the reality on the ground.

2853. The Chamber finds that there was a clear disjuncture between the public announcements and statements made to international representatives and the continued speeches and policy of the Accused and the Bosnian Serb leadership which advocated ethnic separation and the creation of an ethnically homogeneous Bosnian Serb state. In this regard the Chamber finds that the Accused

⁹³⁵⁸ See Section IV.A.2.b. (in relation to deportation, forcible transfer, and unlawful detention).

spoke about the importance of the Strategic Goals to the creation of their state and how they had succeeded in forcing acceptance of the division of BiH along ethnic lines. The Chamber also finds that the Accused continued to advocate a military solution to achieving the Bosnian Serb objectives and issued orders in this regard towards creating a unified Serbian state.

2854. The Chamber also finds that the Bosnian Serb leadership was conscious of the international attention and were warned by Jovanović that they should be conscious of taking steps which would be construed as “ethnic cleansing” but that they should still persist with ensuring that their territory was as ethnically homogeneous as possible. It was also clear from these meetings and speeches that the Accused and the Bosnian Serb leadership were not only aware of but also supported the demographic changes and ethnic homogenisation which had occurred in Bosnian Serb claimed territory. The Accused and the Bosnian Serb leadership in 1994 and 1995 continued to speak about removing Bosnian Muslims and Bosnian Croats from the state they had created and the continued importance of the unification of all Serbian lands.

2855. In the course of international negotiations into 1993, 1994, and 1995, the Accused continued to emphasise the territorial objectives of the Bosnian Serbs and the territories which were still in dispute but were vital to the Bosnian Serb interests. The Accused also adhered to the basic position that the Bosnian Serbs wanted a separate Serb entity in BiH. The Chamber also finds that in speeches before the Bosnian Serb Assembly the Accused and the Bosnian Serb leadership spoke strongly against having “enemies” in their state and also indicated that they would not allow certain areas to be allocated to Bosnian Muslims. The Chamber finds that the Accused and the Bosnian Serb leadership adhered to a primary objective of partition and separation from Bosnian Muslims and Bosnian Croats who would have their own entities in BiH and that the Bosnian Serbs would control territory which was “nearly 100% Serbian”.

2856. Even until 1995 the Bosnian Muslims and Bosnian Croats continued to be portrayed as the enemies of the Bosnian Serbs and their state. The evidence also shows the importance that the Bosnian Serb leadership and the Accused placed on territorial acquisition and control.

(E) Strategic Goals

(1) Analysis of evidence

2857. The Chamber recalls that during the 16th session of the Bosnian Serb Assembly on 12 May 1992, the Accused presented the Strategic Goals.⁹³⁵⁹ The Strategic Goals were adopted by the Bosnian Serb Assembly at the same session.⁹³⁶⁰ These goals were:

- a. separation from the other two national communities and the separation of states;
- b. creation of a corridor between Semberija and Krajina;
- c. creation of a corridor in the Drina Valley thus eliminating the Drina as a border between Serbian states;
- d. creation of a border on the Una and Neretva Rivers;
- e. division of the city of Sarajevo into Serbian and Muslim parts;
and
- f. access of the SerBiH to the sea.⁹³⁶¹

2858. The Accused stated that the Assembly of BiH had neglected all other tasks and moved towards “gaining independence for Bosnia and Herzegovina as a unitarist state under Muslim domination” and that the Muslim and Croatian national communities with the assistance of opposition parties “decided to enclose us in their own state, to make us wake up in a foreign state”, which forced the Serbian people to exercise their “right to self-determination and set up our own state”.⁹³⁶² The Accused also stated that they would finally “finish the job of the freedom struggle of the Serbian people. That job is not finished. Anything in history that is not properly finished

⁹³⁵⁹ See para. 57. See also Branko Đerić, T. 28067–28068 (25 April 2012) (testifying that the Strategic Goals were presented by the SDS leadership and that the Bosnian Serb Government was not involved in developing these goals).

⁹³⁶⁰ P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992). Prstojević was evasive as to whether the Bosnian Serb leadership had established a goal of division from Bosnian Muslims and why. In addition his evidence was marked by indicators that he was trying to mislead the Chamber. The Chamber therefore does not find his evidence with respect to this issue to be reliable. Nedeljko Prstojević, T. 13244, 13247 (11 March 2011), T. 13619–13620 (17 March 2011), T. 13748, 13850–13851 (21 March 2011).

⁹³⁶¹ P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court pp. 8–10; P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992); P2561 (Map of BiH re six strategic objectives). See also P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 14–15.

⁹³⁶² P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court p. 4.

does not die but it returns to the agenda again, each time with many more casualties.”⁹³⁶³ The Accused also cautioned against the “Serbian megalomania of trying to include as many of our enemies in our areas as possible”, and that while their brave people had taken as much as they could, this “could put us in danger of including in our state too many of our enemies, who will again work against that state”.⁹³⁶⁴

2859. With respect to the first of the Strategic Goals, the separation of the national communities, the Accused emphasised that separation from their “enemies” was necessary and that their goal was the “separation of states”.⁹³⁶⁵ In this regard the Accused stated that their enemies had attacked them at every opportunity in the last century and would continue to do so if they lived in the same state.⁹³⁶⁶

2860. In a similar fashion the Accused explained the importance of each of the Strategic Goals by reference to the interests of the Serbian people.⁹³⁶⁷ The second Strategic Goal outlined by the Accused was the importance of a corridor between Semberija and Krajina to allow for an integration of Serbian lands with unimpeded flow from one part of the state to another.⁹³⁶⁸ With respect to the Strategic Goal of creating a corridor, Krajišnik stated that the “size of the corridor depends on you. Whether it will reach to the Sava river or be five kilometres wide, if it is five kilometres wide we will not be able to defend it, but if it is 30 km we will defend it”.⁹³⁶⁹

2861. With respect to the third Strategic Goal the Accused stated that the belt along the Drina must belong to the SerBiH and that this would not only be strategically useful to them but also damaging to the “interests of our enemy” and would prevent the Muslims from connecting to the

⁹³⁶³ P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court p. 10.

⁹³⁶⁴ P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court pp. 10–11. *See also* Ewan Brown, T. 21720 (22 November 2011).

⁹³⁶⁵ P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court p. 9. The Chamber places no weight on Brown’s opinion that the implementation of the first Strategic Goal would involve the creation of a Serb state and the movement of a significant part of the non-Serb population out of that state. P3914 (Ewan Brown’s expert report entitled “Military Developments in the Bosanska Krajina – 1992”, 27 November 2002), para. 1.43. *See also* Patrick Treanor, T. 14052 (1 June 2011); P2561 (Map of BiH re six strategic objectives). The Chamber places no weight on Treanor’s opinion as to the reasons behind the Strategic Goals or the way in which the Strategic Goals formed part of the objectives of the Bosnian Serb leadership. For example, *see* Patrick Treanor, T. 14019, 14051, 14054, 14067–14068 (1 June 2011), T. 14378 (7 June 2011). The Chamber also does not rely on Bulatović’s understanding that the first Strategic Goal did not involve physical separation of people or his belief that the expulsions did not result from any policy. D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 19–20.

⁹³⁶⁶ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 9. For further evidence and discussion on this issue, *see* Section IV.A.3.a.i.B: Identification of historic enemies.

⁹³⁶⁷ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 9.

⁹³⁶⁸ P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court p. 9; P2561 (Map of BiH re. six strategic objectives). *See also* Patrick Treanor, T. 14052 (1 June 2011).

⁹³⁶⁹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 45.

“Muslim International”.⁹³⁷⁰ Part of the fear of the Bosnian Serbs was to prevent the creation of the so called “green transversal”.⁹³⁷¹ The Accused also spoke about the “elimination of the Drina as a border between two worlds. We are on both sides of Drina, and our strategic interest and our living space are there”.⁹³⁷² This objective was also reflected at a municipal level, where in Foča for example, Stanić stated the Bosnian Serb position that “the Drina would never become a border but a windpipe between two lungs”.⁹³⁷³

2862. The Accused concluded that the achievement of the Strategic Goals would allow them to finish the freedom struggle of the Serbian people and that they should avoid including too many “enemies” in their state.⁹³⁷⁴

2863. At this session, Mladić advocated a path which would involve fighting and waging war.⁹³⁷⁵ Mladić stressed that there would be victims, but that the other option was one of chaos, passivity and empty talk and would be the “path to our extinction”.⁹³⁷⁶ Mladić also stated that “we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay, or that the Serbs would fall through and the rest leave” and that he did not know how the Accused and Krajišnik would be able to explain this to the world and it would be “genocide”.⁹³⁷⁷

2864. Mladić stated that there are ways of neutralising the Muslims which do not mean that they have to be expelled or drowned.⁹³⁷⁸ In this regard, Mladić identified a common enemy and described them as Muslim and Croatian “hordes” and that they had to determine whether “to throw both of them out employing political and other moves, or to organise ourselves and throw out one by force of arms, and we will be able to deal somehow with the other”.⁹³⁷⁹ At the same session, Mladić also spoke about the importance of defining their goals and the territory of SerBiH and having the forces to achieve this.⁹³⁸⁰ He also said that their goal should be to have “a state of our own where we have left our mark, the bones of our fathers, and that is the goal we must fight

⁹³⁷⁰ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 9.

⁹³⁷¹ Radomir Nešković T. 14378 (7 June 2011). Bosnian Serbs also expressed fear about Izetbegović’s Islamic Declaration. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 4, 25–26, 30. *See also* D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 28; Milorad Dodik, T. 36834–36835 (9 April 2013).

⁹³⁷² P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 9.

⁹³⁷³ P3476 (Video clip of interview with Miroslav Stanić, with transcript), p. 2; KDZ379, T. 18831–18834 (15 September 2011).

⁹³⁷⁴ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 10–11.

⁹³⁷⁵ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 31.

⁹³⁷⁶ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 31–33.

⁹³⁷⁷ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 35.

⁹³⁷⁸ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 35.

⁹³⁷⁹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 41.

⁹³⁸⁰ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 32–33.

for”.⁹³⁸¹ Mladić stated that if “we have taken something in this war that was not ours, we need to keep hold of it so that in political negotiations we can get those things that were ours, and that we cannot get in any other way”.⁹³⁸² Mladić advocated that the actions of the Bosnian Serbs should remain secret and recommended that they adopt a common rhetoric towards the public.⁹³⁸³ He also stressed the importance of identifying enemies and that on this basis, “we must make our move and eliminate them, either temporarily or permanently”.⁹³⁸⁴

2865. Towards the end of the same session on 12 May 1992, Krajišnik acknowledged that “we will surely go to war” and that “it will be possible to solve this thing with Muslims and Croats only by war” but that they should select the political solution because it would not look good if the conclusion of Assembly was that they had chosen the option of war.⁹³⁸⁵

2866. Other deputies supported the Strategic Goals and indicated that in order for them to be realised they could be “developed further and presented as variations” and that the borders would be established “when we make them a fact” and that peace could “only be achieved by war”.⁹³⁸⁶ They also emphasised the importance of finding a way to “keep in peace what we have won in war” and in areas where they were a minority there would need to be a resettlement of the population.⁹³⁸⁷

2867. At this session, Brđanin explained that in areas where Serbs were a majority, “most of them are still asking whether they should injure the Muslims, whether they can hold certain posts, whether loyal Muslims and loyal Croats exist”.⁹³⁸⁸ Brđanin was one of the Bosnian Serb leaders who engaged in anti-Muslim rhetoric and this rhetoric created a great deal of animosity, mistrust and hatred towards the Bosnian Muslim population.⁹³⁸⁹ For example, Brđanin said that he did not know why the Muslims were pickling cabbage for the winter because they would not be there to eat it.⁹³⁹⁰ Brđanin at a meeting for Serb unity in August 1994 attended by Krajišnik said “[t]hose leftist forces which are offering us co-existence again must know that it is the obligation of Serbs over the

⁹³⁸¹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 39.

⁹³⁸² P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 32.

⁹³⁸³ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 33–34 (stating “[t]he thing that we are doing needs to be guarded as our deepest secret” and “[o]ur people must know how to read between the lines”, and suggesting that they “adopt such a wisdom that we are against the war but that we will fight if attacked, and that we do not want a war against the Muslims as a people, or against the Croats as a people, but against those who steered and pitted these peoples against us”).

⁹³⁸⁴ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 33.

⁹³⁸⁵ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 45, 47.

⁹³⁸⁶ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 27. This speech was delivered by Velibor Ostojić.

⁹³⁸⁷ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 29–30.

⁹³⁸⁸ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 25.

⁹³⁸⁹ [REDACTED].

⁹³⁹⁰ [REDACTED].

next hundred years to wipe their feet from the foul non-Christians who have befouled this soil of ours”.⁹³⁹¹ Krajišnik then took the stand and praised the words and patriotism of those who had spoken before him.⁹³⁹²

2868. On 7 May 1992, a week before being presented before the 16th session of the Bosnian Serb Assembly, the Strategic Goals were discussed in the presence of the Accused, Mladić, and Krajišnik.⁹³⁹³ Krajišnik acknowledged that he had taken part in adopting the Strategic Goals and that the first goal was the most important and that the remaining goals were sub-items of this goal.⁹³⁹⁴ Mladić also stated that he had “read, mulled over for a long time and discussed with the most select circle of comrades whom we convened, the strategic goals that are of substance”.⁹³⁹⁵

2869. At this same session a deputy from Brčko referred to the tasks set by the Accused, and noted that one of the first priorities “is establishing communication between Semberija and the Bosnian Krajina” and that while military operations had been completed to some extent, there were still Bosnian Muslim forces in Brčko, and that Brčko “remains uncompleted”.⁹³⁹⁶ He noted that in order to have “definitive clearing of the area it will be necessary to have many more forces there” and called on the Accused and Krajišnik to promote general mobilisation of the Serbian people and referred to the “conquests that are currently necessary”.⁹³⁹⁷

2870. At this same session, Dragan Kalinić, the health minister, spoke in favour of choosing the “option of war” and that their enemy was perfidious and “cannot be trusted until they are physically, militarily destroyed and crushed, which, of course, implies eliminating and liquidating their key people”.⁹³⁹⁸ He further noted that “only what has been conquered militarily can be really and truly ours” and that there was no point in making maps until they had “succeeded in defining and marking our territory militarily”.⁹³⁹⁹

2871. Kalinić also noted that since they were in closed session, he could make it clear that when they called for cease-fires this was only done to demonstrate that they were in favour of negotiations and a peaceful solution but these statements were for “external, public use” and that

⁹³⁹¹ P14 (TV footage of Serb unity meeting in Banja Luka, 21 August 1994, with transcript), pp. 5–6.

⁹³⁹² P14 (TV footage of Serb unity meeting in Banja Luka, 21 August 1994, with transcript), p. 8.

⁹³⁹³ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), pp. 262–263.

⁹³⁹⁴ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 45.

⁹³⁹⁵ P956 (Transcript of 16th session of Assembly of SerBiH, 12 May 1992), e-court p. 32.

⁹³⁹⁶ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 12.

⁹³⁹⁷ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 12–13.

⁹³⁹⁸ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 17.

⁹³⁹⁹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 18.

cease-fires could be used to consolidate their armed forces.⁹⁴⁰⁰ Kalinić also spoke in favour of the destruction of radio and television facilities and medical facilities “so that the enemy has nowhere to go for medical help”.⁹⁴⁰¹ Bosnian Serb leaders often proposed cease-fires at times when they already controlled a large percentage of the territory in BiH.⁹⁴⁰²

2872. A deputy who spoke in favour of the Strategic Goals noted that in Bosanka Krupa, “there are no more Muslims in the Serbian Municipality of Bosanska Krupa” and that they had been “evacuated” and that it was unlikely that they would have a place to return to given that the Accused told them “the happy news that the right bank of the Una is the border”.⁹⁴⁰³

2873. These Strategic Goals were also communicated to and discussed during Crisis Staff meetings at a municipal level.⁹⁴⁰⁴ On 18 May 1992, the SDS Municipal Board in Prijedor was informed about developments at the Bosnian Serb Assembly and informed about the main guidelines for future activities which related to the Strategic Goals.⁹⁴⁰⁵

2874. The Strategic Goals were more than mere theoretical objectives and they were concretely discussed at meetings. For instance, at a meeting of 1st Krajina Corps commanders and Banja Luka leaders on 2 June 1992, the implementation of the second goal, *i.e.* creating a corridor between Semberija and Krajina,⁹⁴⁰⁶ was discussed.⁹⁴⁰⁷ At the same meeting which was attended by the Accused and Mladić, Brđanin stated that “everything in the ARK is done at the [Crisis Staff] level”.⁹⁴⁰⁸ The Accused also referred to the Strategic Goals at a meeting with Bosnian Serb representatives on 10 June 1992 at which he said that “[w]e have full control of many of our

⁹⁴⁰⁰ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 18.

⁹⁴⁰¹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 19.

⁹⁴⁰² Herbert Okun, T. 1779 (28 April 2010). *See also* Anthony Banbury, T. 13397 (15 March 2011); D1146 (International Conference on Former Yugoslavia report, 8 June 1994).

⁹⁴⁰³ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 20–21. While the Chamber notes that the events in Bosanka Krupa are not charged in the Indictment, the Chamber has had regard to this evidence as it supports the pattern of the Accused’s involvement in setting objectives which were implemented at the municipal level.

⁹⁴⁰⁴ *See* P3431 (Handwritten diary of KDZ192), p. 14 (under seal); KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11526–11527 (under seal). *See also* Nedeljko Prstojević, T. 13245–13246 (11 March 2011); Nedeljko Prstojević, T. 13564–13565 (17 March 2011). The Chamber places no weight on Donia’s opinion that the Strategic Goals were published again in 1993 given an “assessment of the leaders that these were important goals that should be publicly known and that they had not changed”. It also places no weight on his assessment about the significance of and the ideological basis for the Strategic Goals. Robert Donia, T. 3073–3075 (31 May 2010).

⁹⁴⁰⁵ P6589 (Minutes of Prijedor Municipal Board meeting, 18 May 1992), p. 1. *See* Boško Mandić, T. 45774–45775 (21 January 2014); Simo Mišković, T. 45382–45383 (18 December 2013).

⁹⁴⁰⁶ P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992).

⁹⁴⁰⁷ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 53, 60.

⁹⁴⁰⁸ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 53–54. *See* P6514 (Excerpt from military diary), pp. 2–3 (under seal); Radoslav Brđanin, T. 43679–43684 (18 November 2013), T. 43685–43689 (18 November 2013) (private session). *See also* D4056 (News report on Ratko Mladić and Radovan Karadžić visit to Banja Luka, 2 June 1992) (confirming that the Accused was on a short working visit on 2 June 1992).

territories”, that Bosnian Serbs had strong support from the Serbian DB, and that they had formed their own army.⁹⁴⁰⁹

2875. At another meeting in June 1992 of the Bosnian Serb military and political leadership, the Accused noted that the Bosnian Serb Assembly had defined the strategic aims and further reiterated the importance of those objectives and that the Bosnian Serbs had to protect their territories militarily.⁹⁴¹⁰ He also noted that “the birth of a state and the creation of borders does not occur without war” and that according to the map they had 66% of the territory in BiH.⁹⁴¹¹ At this same meeting, Ostojić reported that there were no Muslims in Bratunac.⁹⁴¹²

2876. On 17 June 1992, Mladić issued an order raising the combat readiness of the Birač Brigade and emphasising that the order was to allow for full control over Birač, to secure the corridor between Romanija and Semberija, and maintain a link with Serbia.⁹⁴¹³ In November 1992, Mladić issued Directive 4 to “cleanse the free territory of RS of the remaining enemy groups and paramilitary formations”.⁹⁴¹⁴ One of the tasks of Directive 4 was addressed to the Drina Corps which was instructed “to inflict the heaviest possible losses” on the “enemy” and force them to leave certain areas such as Birač, Žepa, and Goražde with the Bosnian Muslim population.⁹⁴¹⁵

2877. On 8 November 1992 at a meeting of Corps Commanders attended by the Accused and Mladić, Krajišnik expressed his admiration for the military successes and noted that they had a “disproportionate engagement of the army in relation to the strategic objectives”.⁹⁴¹⁶ Krajišnik also reminded the attendees of the progress made in relation to the Strategic Goals and noted that the most important objective had been assigned to Milenko Živanović, namely to mop up the Drina and repeated that the most important task was the “separation from the Muslims” and that the “Muslims must not stay with us”.⁹⁴¹⁷

⁹⁴⁰⁹ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 130, 132–133.

⁹⁴¹⁰ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 93–95.

⁹⁴¹¹ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 97.

⁹⁴¹² P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 101.

⁹⁴¹³ P3238 (Order of the VRS Main Staff, 17 June 1992), p. 1.

⁹⁴¹⁴ P976 (Directive 4, 19 November 1992), pp. 3–4.

⁹⁴¹⁵ P976 (Directive 4, 19 November 1992), p. 5. While Krajišnik had in his own case testified that this was an “order for ethnic cleansing” he somewhat qualified this during his testimony in this case. The Chamber therefore does not find his evidence to be reliable in this regard. Momčilo Krajišnik, T. 43823–43824 (19 November 2013).

⁹⁴¹⁶ P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 141, 146–147.

⁹⁴¹⁷ P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), p. 147. Živanović acknowledged that separation from the Bosnian Muslims was discussed but testified that his task was not to engage in “ethnic cleansing” and there was no mention of killing. Milenko Živanović, T. 42585–42590 (30 October 2013).

2878. At a session of the Bosnian Serb Government on 20 March 1993, a debate on the draft law on the territorial organisation of municipalities was held, during which the criteria for the establishment of municipalities was decided.⁹⁴¹⁸

2879. At a meeting of 19 June 1993 in Pale with members of the Supreme Command with, *inter alios*, Krajišnik, Koljević, Lukić, Mladić, and Milovanović in attendance, the Accused gave an update as to developments in relation to the Strategic Goals and the territorial situation in BiH.⁹⁴¹⁹ In June 1993, Mladić issued Directive 5 and noted that given the developments, a unified BiH was no longer an option.⁹⁴²⁰ Directive 6 was issued by the Accused in November 1993 and included specific instructions with respect to the strategic goals of the VRS.⁹⁴²¹ Directive 6 referred to the goals of (i) liberating Sarajevo; (ii) defining the borders of RS on the Neretva River and gaining access to the sea; (iii) defining the borders of RS in the Una River basin; and (iv) expanding the borders of RS in the north-east and establishing firmer ties with Serbia.⁹⁴²²

2880. Bosnian Serb leaders, including the Accused, discussed the Strategic Goals openly with international representatives who were told that RS would be ethnically “pure”⁹⁴²³ and that their aim was to redistribute the population in BiH to allow Bosnian Serb control of a “single continuous block of territory” which also included “traditionally Serb-inhabited areas”.⁹⁴²⁴

2881. The Chamber also recalls that during the negotiation process at the ICFY, Bosnian Serbs pushed for an agenda consistent with the Strategic Goals and identified the areas of BiH they wanted to be under Bosnian Serb control while the Bosnian Muslims maintained their position for the creation of a unitary state with centralised powers.⁹⁴²⁵ The position of the Bosnian Croats was to take BiH out of the FRY, to declare independence, and to establish their own state called the Community of Herceg-Bosna with territorial contiguity with Croatia.⁹⁴²⁶

⁹⁴¹⁸ P3129 (Minutes of the 66th session of RS Government, 20 March 1993), p. 5.

⁹⁴¹⁹ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 212–213.

⁹⁴²⁰ P843 (Directive 5, 25 June 1993), p. 1.

⁹⁴²¹ P3039 (Directive 6, 11 November 1993), pp. 1, 6.

⁹⁴²² P3039 (Directive 6, 11 November 1993), p. 6.

⁹⁴²³ Herbert Okun, T. 1474–1475 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4157–4158, 4169.

⁹⁴²⁴ P820 (Witness statement of David Harland dated 4 September 2009), paras. 267–270. While Harland also stated that this required the removal of very large numbers of Bosnian Muslims as they were a majority in certain areas, this appears to be his own assessment and not to be what the Bosnian Serb leadership said. The Chamber therefore does not place any weight on this aspect of his evidence. *See also* P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 33.

⁹⁴²⁵ *See* paras. 354–356.

⁹⁴²⁶ *See* para. 355.

2882. In January 1993, the Accused reported to the Bosnian Serb Assembly on disputes the Bosnian Serb leadership had at international negotiations with respect to disputed territories in municipalities including Prijedor, Sanski Most, Ključ, Rogatica, and Srebrenica.⁹⁴²⁷ The Accused also noted that in municipalities including Zvornik, Vlasenica, and Rogatica the municipal authorities agreed to the legitimate division of those municipalities before the war with the effect that “there are areas that are [i]ndisputably Serb, Croat or Muslim”.⁹⁴²⁸

2883. At a meeting held at the Presidency of Serbia on 8 November 1993, with *inter alios* Slobodan Milošević, the Accused, Krajišnik, Martić, Mladić, and Perišić in attendance, the following common objectives were discussed: (i) unconditionally strengthen the integrity of Serbia, (ii) set up the RS as a completely independent state; and (iii) ensure Serbs have complete power in the Krajina.⁹⁴²⁹ Emphasis was placed on reinforcing co-operation between the armies and unity in the Krajina.⁹⁴³⁰ At the end of the meeting, conclusions were presented, one of which was to “work out offensive moves to correct frontlines in the RS, but go quietly and without noise as soon as possible”.⁹⁴³¹

2884. On 1 October 1993, the Accused held a meeting with VRS generals, during which he declared: “Our fundamental ideology is Serbdom and the Serbian state”.⁹⁴³² Mladić asked that further goals of the war and tasks of the army be defined at the level of the state and the Supreme Command.⁹⁴³³

2885. In December 1993, Krajišnik noted that at the beginning of the war the Strategic Goals were “one of the most important documents” and that the Bosnian Serb Assembly endorsed these objectives and “organised the people to implement them”.⁹⁴³⁴ He also noted that the first and most important objective had been achieved and that the RS now existed with its own state organisation and territory.⁹⁴³⁵ Krajišnik noted that in the first months of the war, efforts were directed towards “establishing full unity throughout the territory of [RS]” and that they had created the organisational and personnel conditions to allow the state to function normally and to allow “a more stable defence and the liberation of Serbian ethnic spaces”.⁹⁴³⁶ Krajišnik noted that in

⁹⁴²⁷ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 8.

⁹⁴²⁸ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 9.

⁹⁴²⁹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 19–20.

⁹⁴³⁰ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 28.

⁹⁴³¹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 27.

⁹⁴³² P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 369.

⁹⁴³³ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 372.

⁹⁴³⁴ P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), p. 12.

⁹⁴³⁵ P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), pp. 12–13.

⁹⁴³⁶ P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), p. 13.

defining the borders of the RS in accordance with their strategic objectives they “did not violate the like rights of the Muslim and Croat communities” and what remained was to struggle for “just borders of our Republic, to be internationally recognised”.⁹⁴³⁷

2886. At a meeting in Belgrade on 13 December 1993 with the Bosnian Serb and Serbian leadership in attendance,⁹⁴³⁸ the Accused stated that the end of the conflict was close and that the Bosnian Serbs were holding 75% of the territory, some of which he noted would have to be returned as the international community would not allow it.⁹⁴³⁹ The Accused then listed the Strategic Goals.⁹⁴⁴⁰

2887. At the 37th Bosnian Serb Assembly Session on 10 January 1994, the Accused stated: “We can consider ourselves as winners after occupying this land, since the land is 100% Serbian now. Therefore, even if we come down to around 50%, we should be more than happy and satisfied, it is Dušan’s empire.”⁹⁴⁴¹ In this speech the Accused also stated that their first Strategic Goal was separation and not the occupation of 60% of the land and they had also achieved their second objective, which was to have a contiguous territory connected by a corridor.⁹⁴⁴² The Accused later that month delivered a speech in which he stressed that they had not lost any vital territories and had “kept everything that was important for the Serbian people”.⁹⁴⁴³ During a meeting with VRS leaders, the Accused recalled the substance of the six Strategic Goals and declared that “they have been defined with the highest level possible of brazenness”.⁹⁴⁴⁴

2888. At a meeting with VRS commanders held on 29 January 1994, the Accused stated that the “plan” was, *inter alia*, the following: (i) do everything to maintain the Croat/Muslim schism; (ii)

⁹⁴³⁷ P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), p. 13.

⁹⁴³⁸ From Serbia, *inter alios*, Slobodan Milošević, General Perišić, and Jovića Stanišić were present. From the RS, *inter alios*, the Accused, Krajišnik, Mladić, Milovanović, Miletić, Salapura, and Mićo Stanišić were present. P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 53.

⁹⁴³⁹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 53.

⁹⁴⁴⁰ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 53. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9064–9067 (confirming that the ethnic division of Sarajevo, drawn along the Miljacka River, was one of the political objectives of the Bosnian Serb leadership).

⁹⁴⁴¹ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 107.

⁹⁴⁴² P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 108. *See also* P5748 (Intercept of conversation between Radovan Karadžić and Lukić, 13 February 1992), pp. 1–2; P5723 (Intercept of conversation between Jovan Tintor and Žika LNU, 7 March 1992), p. 5. Brđanin testified that the second Strategic Goal was absolutely necessary, otherwise, those in the ARK would not have survived; the separation was an unavoidable consequence and the Accused insisted that the Bosnian Serbs should only defend the regions where they were the majority; and that the Accused never wanted to take any territory that did not belong to Bosnian Serbs. Radoslav Brđanin, T. 43687 (18 November 2013) (private session). The Chamber does not find his evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that Brđanin’s testimony was marked by evasiveness and in addition the witness had a self-interest in portraying these measures in a positive light.

⁹⁴⁴³ P1387 (Transcript of 38th session of RS Assembly, 17 January 1994), p. 75.

⁹⁴⁴⁴ P5593 (Video footage of Radovan Karadžić speech).

separate from the Croats and the Muslims; (iii) let the boundaries of the territory of the Muslims be clearly “detained” if they do not want to stay in Yugoslavia;⁹⁴⁴⁵ and (iv) be in conflict everywhere with the Muslims and the Croats.⁹⁴⁴⁶ The following day, at a meeting of the Supreme Command, the Accused reiterated that their task was to defeat the Muslims and that they should be careful that the Muslims do not end up in the Bosnian Serb state.⁹⁴⁴⁷

2889. At a conference in Vlasenica on 29 January 1994, the Accused delivered a speech in which he spoke about conquering the

entire territory in which there is probably about a million or a million and two hundred thousand Muslims, if there are still so many out there. Here I mean not only those who were killed but also those who fled; in order that we achieve and realize it. It is very hard to imagine. [...] We must defeat them everywhere we can and keep the territory. If possible, we should try to expand the territory; [...] and we should force them to agree to a kind of political and military capitulation [...] the starting point will be the actual situation on the ground.⁹⁴⁴⁸

2890. The Accused further stated “[f]rom the very beginning, I accepted entirely the view of all the commanders and [G]eneral Mladić. We must change the rhetoric. We must speak on TV, we must participate in live TV shows; we must motivate people for chivalry and prepare them for victories; and, of course, we must nurture their anger toward the enemy”.⁹⁴⁴⁹ With respect to the Bosnian Muslims, the Accused also said:

We prepared ourselves better during the time of peace than they. We knew what they are doing but they did not know what we are doing. They were astonished by the way we organized defense of the municipalities. We were organized; [G]eneral Kovačević knows that, because we were supported by [G]eneral Adžić. He worked on distribution of ammunition, he knew about. General Subotić also knew about it.⁹⁴⁵⁰

The Accused also stated that he was certain that no territory except in Sarajevo would have to be returned.⁹⁴⁵¹

2891. At a meeting of Bosnian Serb and Serbian officials in Belgrade on 27 February 1994, the Accused initially declared that the Bosnian Serbs might agree for the Muslims to have 33.3% of the

⁹⁴⁴⁵ The Chamber notes the reference to a policy of “immigration” with a question mark in the English version of exhibit P1485. Having gone back to the original version, the Chamber cannot be satisfied that this is indeed the term referred to since this part of the original document is not sufficiently legible.

⁹⁴⁴⁶ P1485 (Ratko Mladić notebook, 9 January–21 March 1994), pp. 51, 77. The part of the plan related to Sarajevo will be discussed further below.

⁹⁴⁴⁷ P1485 (Ratko Mladić notebook, 9 January–21 March 1994), pp. 88–89.

⁹⁴⁴⁸ P5581 (Radovan Karadžić’s speech at a conference in Vlasenica, 29 January 1994), p. 1.

⁹⁴⁴⁹ P5581 (Radovan Karadžić’s speech at a conference in Vlasenica, 29 January 1994), p. 2.

⁹⁴⁵⁰ P5581 (Radovan Karadžić’s speech at a conference in Vlasenica, 29 January 1994), p. 4.

⁹⁴⁵¹ P5581 (Closing Remarks by Radovan Karadžić at a Conference in Vlasenica, 29 January 1994), p. 4.

territory, the Croats 14 or 15%, and the Bosnian Serbs 52 or 53%; he then stated that the Bosnian Serbs could be satisfied with 49% of the territory.⁹⁴⁵²

2892. At a Bosnian Serb Assembly session in March 1994, Ostojić identified four areas which he described as extremely sensitive in terms of establishing “geographic continuity of the Serbian population” in the RS.⁹⁴⁵³ The areas included Rogatica, Vlasenica, Bratunac, Prijedor, Ključ, and Sanski Most.⁹⁴⁵⁴ The Accused at this session again emphasised the importance of the actual physical control of territory and that there would be a division of BiH into three based on ethnicity and that he had been discussing before the war and making plans about which areas would form part of their state.⁹⁴⁵⁵

2893. At a meeting on 8 May 1994 with members of the Supreme Command, including Krajišnik, Koljević, Mićo Stanišić, and Mladić, Plavšić stressed the importance of Posavina—that the percentage is less important but that it could not “exist in two parts”.⁹⁴⁵⁶ Mićo Stanišić responded: “49–51%, there is importance, especially if an association is to be entered in with them”.⁹⁴⁵⁷ The strategic goals referred to in Directive 6, including the operations to reach the Neretva River and gaining access to the sea, as well as reaching the right bank of the Una River, were also discussed at this meeting.⁹⁴⁵⁸

2894. Even into 1995 the Accused continued to emphasise the Strategic Goals and stated that the “Drina should be clean” and that the “corridor must be wide”.⁹⁴⁵⁹ Krajišnik also shared this objective about a clear Drina.⁹⁴⁶⁰ In another interview in May 1995, the Accused maintained that they had not given up and would never give up on the Strategic Goals and that they would “seek to achieve them either through political or military means”.⁹⁴⁶¹

⁹⁴⁵² P1485 (Ratko Mladić notebook, 9 January–21 March 1994), pp. 134, 137–141 (wherein Mladić opposed the Accused’s position and commented that the Accused was denying the actual state of affairs).

⁹⁴⁵³ P1388 (Transcript of 39th session of RS Assembly, 24–25 March 1994), p. 168.

⁹⁴⁵⁴ P1388 (Transcript of 39th session of RS Assembly, 24–25 March 1994), p. 168.

⁹⁴⁵⁵ P1388 (Transcript of 39th session of RS Assembly, 24–25 March 1994), e-court pp. 86, 88.

⁹⁴⁵⁶ P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994), p. 2.

⁹⁴⁵⁷ P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994), p. 2.

⁹⁴⁵⁸ P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994), pp. 3–5.

⁹⁴⁵⁹ P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), p. 68; P5144 (Interview with Radovan Karadžić on Banja Luka Srpska Televizija, 23 August 1995), p. 1. *See also* D1934 (Video interview with Radovan Karadžić and Momčilo Krajišnik, undated, with transcript), p. 5.

⁹⁴⁶⁰ P1377 (Transcript of 33rd session of RS Assembly, 20–21 July 1993), p. 49. *See also* Herbert Okun, T. 1822 (28 April 2010).

⁹⁴⁶¹ P2562 (Radovan Karadžić’s interview in Nevesinje), p. 1–4; Patrick Treanor, T. 14055–14056 (1 June 2011).

(2) Conclusion

2895. The Chamber finds that the Accused played a central role in formulating, promoting, and disseminating the Strategic Goals. In promoting the Strategic Goals, the Accused continued to emphasise not only the interests of the Serbs to self-determination but also the threat they faced from the Bosnian Muslims and Bosnian Croats who he continued to identify as their historic enemies. Through these speeches, the Accused continued to disseminate propaganda against the Bosnian Muslims and Bosnian Croats which allowed him to promote the measures envisaged by the Strategic Goals. The Accused's rhetoric was also picked up by other deputies in the Bosnian Serb Assembly who similarly spoke about the danger posed by their enemies and used this to advocate taking military measures to protect their interests.

2896. The Chamber further finds that the Accused promoted the implementation of the Strategic Goals as a means of creating a Bosnian Serb state and warned against including "too many of our enemies" in the state which they would create. In doing so the Accused emphasised the first Strategic Goal and the importance of separation from the other two ethnic communities in BiH. The Accused was adamant that this ethnic separation was necessary and acknowledged that the "freedom struggle" of the Serbs had not been finished and would result in many casualties and again made reference to the historic crimes committed against the Serbs. The Chamber finds that the first Strategic Goal and the separation of the national communities was the most important to the Bosnian Serb leadership and their objectives.

2897. The Accused, in promoting the Strategic Goals, and more specifically the third Strategic Goal, emphasised the importance of eliminating the Drina as a border between Serbian states. The Chamber finds that this Strategic Goal was a practical elucidation of the ideology of Serbian unity and the non-separation of Serbs which was repeatedly promoted by the Accused.

2898. The speeches of other Bosnian Serb deputies and Bosnian Serb leaders demonstrate that they supported the Strategic Goals and the approach advocated by the Accused. It is also clear that war, the military conquest of territory, and the movement and resettlement of the population were envisaged by the Bosnian Serb leadership in the implementation of the Strategic Goals. The Accused promoted and shared the objective of creating a Bosnian Serb state which was ethnically pure and creating contiguous Serb areas which would require a redistribution of the population.

2899. The Chamber also finds that the Strategic Goals not only reflected the objectives of the Accused and Bosnian Serb leadership but were also viewed as instructions to be followed at a municipal level in order to achieve those objectives. In this regard, the Strategic Goals were

communicated to and discussed by municipal bodies and also formed the basis for military operations by the VRS. The Accused, in meetings with Bosnian Serb military and political leaders, continued to emphasise the importance of their Strategic Goals and that the creation of their Serb state required war and the military protection of territories.

2900. The Chamber also finds that there was a clear difference between what the Accused and the Bosnian Serb leadership were willing to say about the Strategic Goals in closed or confidential settings versus what they generally said to international representatives. The Accused in private meetings was far more candid about their willingness to pursue their territorial objectives even at the cost of lives and the displacement of thousands of people. The Accused went so far as to say that they had to motivate their people and “nurture their anger toward the enemy”.

2901. The Chamber also finds that the Accused received and also gave updates about developments and progress made towards the achievement of their Strategic Goals, including territorial control and the separation of people. He welcomed these territorial gains and spoke about the victory of the Bosnian Serbs in achieving their objectives and how they had retained control of all vital territories and continued to emphasise that they did not want Bosnian Muslims in their state.

2902. The Chamber therefore finds that the Accused and the Bosnian Serb leadership not only formulated and promoted the Strategic Goals, they also took steps to ensure they were implemented through military operations and that organisational structures were created to allow for the creation of a Serb state.

2903. The Chamber finds that the Strategic Goals continued to be the central element with respect to the Bosnian Serb objectives for the duration of the conflict in BiH and the Accused continued to emphasise their importance into 1995.

ii. *Bosnian Serb political and governmental structures*

2904. The Prosecution alleges that the Bosnian Serb political and governmental organs played a crucial role in the implementation of the alleged common criminal purpose of the Overarching JCE, that the Accused had a pivotal role in establishing and maintaining these organs, and exercised authority and control over them.⁹⁴⁶² In this regard, the Prosecution argues that the Accused as the leader of the Bosnian Serbs exercised ultimate authority over these organs.⁹⁴⁶³ In this section the Chamber will consider the creation of the political and governmental organs and the extent of the

⁹⁴⁶² Prosecution Final Brief, para. 208.

Accused's involvement in this process as well as the manner in which those organs were used towards achieving the objectives of the Accused and the Bosnian Serb leadership.

(A) Authority over political and governmental structures

(1) Analysis of evidence

(a) SDS

2905. The SDS party had a hierarchical structure and, from 1990 to 1995, the Accused was at the head of this structure as the *ex officio* president of the SDS Main Board.⁹⁴⁶⁴ The Accused implemented his policies and the policies of the Bosnian Serb leadership through, *inter alia*, the structures of the SDS.⁹⁴⁶⁵ The SDS policies were communicated to the SDS Municipal Boards through members of the Main Board.⁹⁴⁶⁶ SDS Municipal Boards were obligated to implement the instructions issued by the Main Board or Executive Board.⁹⁴⁶⁷ While municipal organs had some independence with respect to local issues they were obliged and expected to obey and implement the policies and decisions of the SDS at the higher level and the Accused insisted on respect for his own personal authority.⁹⁴⁶⁸ It was difficult for other Bosnian Serb officials, particularly at a municipal level to openly contradict the Accused who had "undisputed authority".⁹⁴⁶⁹ For example, the Accused said that he would "dismiss the idiots [...] who are not implementing the SDS

⁹⁴⁶³ Prosecution Final Brief, para. 206.

⁹⁴⁶⁴ See Section II.B.1: Serbian Democratic Party (SDS).

⁹⁴⁶⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16844.

⁹⁴⁶⁶ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16630–16632.

⁹⁴⁶⁷ See Section II.B.1: Serbian Democratic Party (SDS). See also Milorad Dodik, T. 36872–36873, 36877–36880, 36887–36888 (9 April 2013); Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5071, 5075; P2571 (Intercepts of conversations between (i) Radovan Karadžić and Radomir Nešković; (ii) Radovan Karadžić and Mišković; and (iii) Radovan Karadžić and Srdo Srdić, 20 December 1991), p. 3; P2529 (Letter from Radovan Karadžić to SDS Municipal Boards, 15 August 1991); P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 3, 5, 8, 13, 16; P5550 (Report of the SDS Executive Board, 24 February 1993).

⁹⁴⁶⁸ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16623–16625, 16672–16676, 16751; P2572 (Intercept of conversation between Radovan Karadžić and Miroslav Stančić, 26 September 1991), p. 2; Radomir Nešković T. 14235 (6 June 2011); P2571 (Intercepts of conversations between (i) Radovan Karadžić and Radomir Nešković; (ii) Radovan Karadžić and Mišković; and (iii) Radovan Karadžić and Srdo Srdić, 20 December 1991), pp. 3–4; D1277 (Minutes of joint meetings of SDS's General and Executive Committees and Political Council, 11 March 1992), p. 2; P3118 (Minutes of meeting of the Club of Deputies from the SDS and SPO, 14 October 1991), p. 1.

⁹⁴⁶⁹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16625–16626, 16689–16690; P2557 (Intercept of conversation between Radovan Karadžić and Goran Babić, 24 June 1991), pp. 3–5; P2559 (Intercept of conversation between Radovan Karadžić and Radoslav Brdamin, 18 October 1991), pp. 2–3.

policy”.⁹⁴⁷⁰ The Accused issued express instructions to the SDS Municipal Boards including a mandatory directive with respect to the structure and activities of all SDS Municipal Boards.⁹⁴⁷¹

2906. Top and local levels in the SDS communicated in both directions, and municipal leaders, members of Executive and Municipal Boards of the SDS would frequently visit, write to or phone the Accused to speak about municipal matters.⁹⁴⁷² For example, the Chamber found that there was a very close relationship between the Bijeljina branch of the SDS and the SDS party in Pale, and that the SDS leadership, including the Accused and Krajišnik, often visited Bijeljina.⁹⁴⁷³ Similarly, the Chamber found that a line of communication existed between the Municipal Board of the Bratunac SDS and the SDS leadership, including the Accused.⁹⁴⁷⁴ Another example can be found in Sanski Most where the SDS was extremely well-structured and disciplined, so that orders came from the top and were implemented without any objections.⁹⁴⁷⁵ When there were problems in Banja Luka for example, the Accused told Krajišnik that they, along with Koljević, needed to visit to “establish some order there, separate the soldiers from the people, and appoint some sort of command for these soldiers and some sort of board for the people”.⁹⁴⁷⁶

2907. The Accused also emphasised the importance of local SDS boards⁹⁴⁷⁷ and in an interview, he indicated that the political life of Serbs in BiH “had been fully revived and established, which was the main purpose of setting up the party”, and that in all places where Serbs lived they had set up municipal organisations with municipal and local boards.⁹⁴⁷⁸ The Accused also took an active role in determining the organisational structure of the SDS at a municipal level and the appointment of personnel.⁹⁴⁷⁹ On 31 October 1991, the Accused emphasised the importance of strong SDS leaders who would implement directions from the leadership, stating that whoever is “not able to be

⁹⁴⁷⁰ P2572 (Intercept of conversation between Radovan Karadžić and Miroslav Stančić, 26 September 1991), p. 3.

⁹⁴⁷¹ P2529 (Letter from Radovan Karadžić to SDS Municipal Boards, 15 August 1991). See also D4658 (Instructions from Radovan Karadžić to all Municipal Boards of BiH SDS, 11 September 1991).

⁹⁴⁷² See para. 71; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16632. See also D2265 (Srdo Srdić’s interview with OTP), pp. 50–51. See also P5827 (Intercept of conversation between Radovan Karadžić and Trifko Komad, 2 November 1991); D4038 (Conclusions of ARK Crisis Staff, 18 May 1992).

⁹⁴⁷³ See para. 606. See also P2929 (Witness statement of KDZ531 dated 25 June 2011) p. 4.

⁹⁴⁷⁴ See para. 690. See also P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), e-court pp. 9, 13; Dževad Gušić, T. 17804 (24 August 2011); P1357 (Transcript of 18th session of SerBiH Assembly, 11 August 1992), pp. 5–6; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 101.

⁹⁴⁷⁵ P3634 (Witness statement of KDZ490, undated), pp. 6-8, 12 (under seal).

⁹⁴⁷⁶ P5798 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 15 December 1991), p. 1.

⁹⁴⁷⁷ P3431 (Handwritten diary of KDZ192), p. 4 (under seal).

⁹⁴⁷⁸ P2539 (Radovan Karadžić’s interview in NIN, 9 November 1990), p. 1.

⁹⁴⁷⁹ P2570 (Book of minutes of Prijedor’s SDS Municipal Board meetings, 1991), p. 40.

the boss in the municipality, to carry out the mobilisation and even to the full if necessary, should resign immediately”⁹⁴⁸⁰.

2908. The Chamber recalls that as early as February 1991, the SDS had considered specific actions to be taken should BiH move towards independence.⁹⁴⁸¹ The SDS envisaged that in such a case municipal authorities were to ensure that only Yugoslav (federal) law would apply, suspending the implementation of republican regulations.⁹⁴⁸² This policy was adopted by the SDS Deputies’ Club and was made public in a document dated 10 June 1991.⁹⁴⁸³ The Accused in a conversation with Žepinić in September 1991, stated that “[e]verything we did so far and everything we are doing now is strictly according to the Law.”⁹⁴⁸⁴ At a meeting of the SDS Municipal Board on 12 April 1991, it was agreed that instructions would be requested from the SDS headquarters “regarding the referendum, our behaviour and functioning” and that the regional redrawing of municipal borders, which was occurring in Banja Luka, was “fully supported, and those questions should be posed in our areas as well”.⁹⁴⁸⁵ It was also noted that the Presidency of Bratunac should meet with the Accused urgently with respect to the questions raised.⁹⁴⁸⁶ The Accused and Krajišnik took a leading role in using the SDS structures to call on all Serbs in BiH to boycott the referendum on the independence of BiH as it was against their interests.⁹⁴⁸⁷

2909. The Accused led the SDS deputies out of the SRBiH Assembly on 15 October 1991; the HDZ and SDA delegates then reconvened without the Šerb delegates and passed a declaration of sovereignty.⁹⁴⁸⁸ Subsequently there was a meeting of the SDS Political Council, at which statements were made that it was necessary to “shed the illusion that a form of coexistence with the Muslims and the Croats can be found”.⁹⁴⁸⁹ Koljević stated that they could not lose the momentum and had to announce their plebiscite the next day and that they should emphasise this was a peaceful act in contrast to the decision on the sovereignty of BiH, which was described as an act of

⁹⁴⁸⁰ P5830 (Intercept of conversation between Radovan Karadžić and Veljko Džakula, 31 October 1991), pp. 2–3.

⁹⁴⁸¹ See para. 73.

⁹⁴⁸² See para. 73.

⁹⁴⁸³ See para. 73.

⁹⁴⁸⁴ D2926 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 18 September 1991), p. 3. Both Žepinić and KDZ020 testified that the subsequent measures taken, including the formation of the Bosnian Serb Assembly and a separate republic, were unconstitutional. D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), para. 51; KDZ020, T. 12575 (28 February 2011).

⁹⁴⁸⁵ P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), e-court p. 13.

⁹⁴⁸⁶ P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), e-court p. 13.

⁹⁴⁸⁷ See para. 1931. See also P3431 (Handwritten diary of KDZ192), p. 4 (under seal); P942 (ECMM report re the BiH Assembly meeting held on 24–25 January 1992), p. 1.

⁹⁴⁸⁸ See paras. 46, 76. See also Vitomir Žepinić, T. 33654 (14 February 2013).

⁹⁴⁸⁹ D294 (Minutes of SDS Council meeting, 15 October 1991), p. 1. See also Adjudicated Facts 1937, 1938.

“political violence”.⁹⁴⁹⁰ The Accused and other Bosnian Serb leaders, including Krajišnik, emphasised the illegal and unconstitutional nature of the declaration of sovereignty by BiH and the threat it posed to Serb interests.⁹⁴⁹¹ At this meeting, the following items were also discussed: (i) the aim of creating a Greater Serbia; (ii) the activation of parallel government bodies such as a Serb Assembly; (iii) the intensification of the process of regionalisation; and (iv) the military organisation at a local level.⁹⁴⁹²

2910. With respect to the referendum the Accused said in an intercepted conversation that not only was this an illegal decision but through this action, the Bosnian Muslims “set everything up for us just perfectly; it’s all fallen right in place”.⁹⁴⁹³ In this regard the Accused said they would be strong and establish their own state and that BiH would consist of three sovereign nations.⁹⁴⁹⁴

2911. On 16 October 1991, the SDS issued its “Announcement to the Serbian people” in which it stated that the SDA and HDZ had breached the constitutional order and reiterated its support for federal institutions, including the JNA.⁹⁴⁹⁵ In an intercepted telephone conversation that day, the Accused assured SDS officials in Banja Luka: “We’ve worked out a scenario. We won’t make a single move today. If necessary, we’ll do it tomorrow, [...] it would be very useful. Everything’s been worked out. You don’t need to worry. [...] They can only start fighting us, killing us, but everyone knows what’s gonna happen then!”⁹⁴⁹⁶

2912. The SDS Deputies’ Club met again on 18 October 1991, and the Accused rejected the decision of the BiH Assembly because the Bosnian Serb deputies had not participated.⁹⁴⁹⁷ The

⁹⁴⁹⁰ D294 (Minutes of SDS Council meeting, 15 October 1991), pp. 1–2; P2581 (Minutes of meeting of SDS Deputies’ Club, 18 October 1991), p. 3. *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 11; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 7; D4212 (Intercept of conversation between Radovan Karadžić and Simo Mišković, 15 November 1991), p. 4.

⁹⁴⁹¹ D294 (Minutes of SDS Council meeting, 15 October 1991), p. 2; P5631 (Intercept of conversation between Radovan Karadžić and Božidar Vučurević, 19 October 1991), pp. 2, 5; P5622 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 25 January 1992), p. 2; P5621 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 25 January 1992), p. 2; P5615 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 11 December 1991), p. 4; P5776 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 5 January 1992), p. 11.

⁹⁴⁹² D294 (Minutes of SDS Council meeting, 15 October 1991), pp. 2–3. *See also* P2581 (Minutes of meeting of SDS Deputies’ Club, 18 October 1991), pp. 2–3; *see* para. 46. Čeklić stated that regionalisation was not a secret grouping of Serb municipalities, nor was its goal to join Serbia and the Serbian Krajina, and in fact it was done in an effort to decentralise BiH. D3854 (Witness Statement of Savo Čeklić dated 7 July 2013), para. 15.

⁹⁴⁹³ P5622 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 25 January 1992), p. 2. *See also* P5754 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 9 February 1992), p. 4.

⁹⁴⁹⁴ P5621 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 25 January 1992), pp. 2–3.

⁹⁴⁹⁵ *See* Adjudicated Fact 1939.

⁹⁴⁹⁶ P2555 (Intercepts of conversation between (i) Radovan Karadžić and Anđelko Vukić, and (ii) between Radovan Karadžić and Boro Sendić, 16 October 1991), p. 6. *See also* P5842 (Intercept of conversation between Radovan Karadžić and Vukić, 15 October 1991), p. 1 (in which the Accused tells Vukić to summon all members of the Executive Board from the Banja Luka region to make a very important declaration).

⁹⁴⁹⁷ P2581 (Minutes of meeting of SDS Deputies’ Club, 18 October 1991), p. 1.

Accused noted that a “team made up of the leading men of the party, the Government and the Political Council has been working day and night” and that he had decided to impose a state of emergency in the SDS.⁹⁴⁹⁸ This state of emergency, which was declared by the Accused, was binding on all its members, bodies and officials.⁹⁴⁹⁹ The Accused emphasised that there needed to be maximum discipline that they had to listen to their leaders and there was no room for a “single wrong step”.⁹⁵⁰⁰ As part of this state of emergency, the Accused ordered that there should be daily meetings of the municipal boards and that they would receive daily instructions on the measures to be taken.⁹⁵⁰¹ Following the Accused’s order, an emergency meeting of the SDS Municipal Board of Bratunac was held where Miroslav Deronjić informed those present about the SDS Main Board instructions and said that they imposed a duty to “act accordingly”.⁹⁵⁰² The next day, Jovan Tintor from Vogošća stated in a telephone conversation that following the plenary session, only Serb Assembly decisions would be binding on the Serb population and that parallel institutions would be formed.⁹⁵⁰³

2913. The Accused was the undisputed authority within the SDS for the duration of the war.⁹⁵⁰⁴ Some people who resisted the Accused were expelled from the Main Board.⁹⁵⁰⁵ On 24 June 1991, the Accused told a Bosnian Serb leader in Prijedor that if the party could not organise themselves, he will do it for them by introducing new people into the Prijedor SDS party leadership.⁹⁵⁰⁶ In September 1991, the Accused intervened to replace the local SDS President in Prijedor, Srdo Srdić, with Simo Mišković, who promised to follow the policies of the SDS Main Board.⁹⁵⁰⁷ The

⁹⁴⁹⁸ P2581 (Minutes of meeting of SDS Deputies' Club, 18 October 1991), p. 4. See also P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 8–9; P5837 (Intercept of conversation between Miro Galić and Peda, 19 October 1991), p. 1.

⁹⁴⁹⁹ P6238 (Radovan Karadžić's Decision, 18 October 1991). See also P5831 (Intercept of conversation between Radovan Karadžić and Miljana LNU, 17 October 1991), pp. 1–2.

⁹⁵⁰⁰ P2581 (Minutes of meeting of SDS Deputies' Club, 18 October 1991), p. 4. See also P2716 (Notebook of Radovan Karadžić), p. 30; P5643 (Intercept of conversation between Radovan Karadžić and an unidentified male, 8 July 1991); P5749 (Intercept of conversation between Radovan Karadžić and Božidar Vučurović, 13 February 1992), pp. 3, 5; P5747 (Intercept of conversation between Radovan Karadžić and Gojko Đogo, 15 February 1992), pp. 3–4; P5730 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 1 March 1992), p. 2.

⁹⁵⁰¹ P6238 (Radovan Karadžić's Decision, 18 October 1991), p. 1.

⁹⁵⁰² See para. 701.

⁹⁵⁰³ P5836 (Intercept of conversation between Jovan Tintor and Krnić, 19 October 1991), pp. 1–3.

⁹⁵⁰⁴ Radomir Nešković T. 14218 (6 June 2011). See also Nedeljko Prstojević, T. 12963 (8 March 2011); P5730 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 1 March 1992), p. 1; P5722 (Intercept of conversation between Jovan Tintor and Žika LNU, 11 March 1992), p. 4.

⁹⁵⁰⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16626–16627.

⁹⁵⁰⁶ P2557 (Intercept of conversation between Radovan Karadžić and Goran Babić, 24 June 1991), pp. 3–5.

⁹⁵⁰⁷ P3706 (Minutes of meeting of Prijedor Municipal Assembly, 11 September 1991), pp. 3–4; P2571 (Intercepts of conversations between (i) Radovan Karadžić and Radomir Nešković; (ii) Radovan Karadžić and Mišković; and (iii) Radovan Karadžić and Srdo Srdić, 20 December 1991); Simo Mišković, T. 45351–45361 (18 December 2013). See P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 17.

Accused spoke with an SDS member in Banja Luka on 11 January 1992. When the Accused was faced with the suggestion that there were some individuals in the Krajina who wanted to act independently on certain issues, he insisted on party discipline and stated “they cannot. We have all of that in the plans. We have all moves in the envelopes. They must not do it before we do it in the whole of Bosnia. Why are they playing smart? They’re explaining my policy to me”.⁹⁵⁰⁸ The Accused also insisted that he would expel and discipline those who did not follow the SDS policies or acted without his approval or the approval of the Bosnian Serb Assembly.⁹⁵⁰⁹ The Accused also spoke about having a council of ministers, and said “we have plans for everything” and that in the Krajina they had to “synchronise their work with the party”.⁹⁵¹⁰ He also spoke about the importance of pursuing the Serbian policy in a synchronised fashion otherwise “the Serbs would not have a state”.⁹⁵¹¹

(b) Bosnian Serb Assembly and governmental structures

2914. The Chamber found that on 24 October 1991, the Bosnian Serb deputies of the SRBiH Assembly met and decided to establish a separate assembly, which was constituted the same day.⁹⁵¹² Krajišnik explained that the Bosnian Serb deputies in the SRBiH Assembly were prompted to form the Bosnian Serb Assembly due to what they saw as a violation of the sovereignty of the Bosnian Serbs and a threat to their existence in BiH “where they had lived from time immemorial”.⁹⁵¹³ Krajišnik also expressed the right of the Serbs to self-determination and remaining in their “historical and ethnic territories”.⁹⁵¹⁴

⁹⁵⁰⁸ P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 2, 6, 10, 12. See also P6228 (Intercept of conversation between Radovan Karadžić and Božidar Vučurević, 2 September 1991), p. 3; P6229 (Intercept of conversation between Radovan Karadžić and Božidar Vučurević, 3 September 1991), pp. 6–8; P6230 (Intercept of conversation between Radovan Karadžić and Božidar Vučurević, 9 September 1991), pp. 3–6, 8–13.

⁹⁵⁰⁹ P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 2–5, 10–12, 15–18; P5732 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 25 February 1992), pp. 1–2; D4536 (Intercept of conversation between Nikola Koljević and Radovan Karadžić, 26 July 1991), pp. 1–2; P5841 (Intercepts of conversations between (i) Ljubo Grković and Radoslav Brđanin; (ii) Radovan Karadžić and Radoslav Brđanin, 16 October 1991), pp. 3–5. See also P5639 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 13 December 1991), pp. 2–4.

⁹⁵¹⁰ P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 6–7, 13–14.

⁹⁵¹¹ P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), p. 8.

⁹⁵¹² See paras. 47, 77.

⁹⁵¹³ P3121 (Stenograph of the session of the Club of Deputies from the SDS, 24 October 1991), pp. 5–7, 18; P1343 (Transcript of 1st Session of SerBiH Assembly, 24 October 1991), p. 6. See also Milorad Dodik, T. 36841–36842 (9 April 2013).

⁹⁵¹⁴ P3121 (Stenograph of the session of the Club of Deputies from the SDS, 24 October 1991), p. 5.

2915. Krajišnik was elected as the first president of the Bosnian Serb Assembly.⁹⁵¹⁵ On the same day the Bosnian Serb Assembly decided that the Bosnian Serbs would remain in the joint state of Yugoslavia and called for the conduct of a plebiscite to confirm this decision.⁹⁵¹⁶ In November 1991, Brđanin was quoted in a newspaper article as having stated that all directors and managers in the ARK who did not participate in the plebiscite should be urgently dismissed from their positions.⁹⁵¹⁷ Following the publication of this article, the Accused said that Brđanin was “out of order” in his statement about the dismissals of directors, but that he “wanted to get [him] off the hook” for the statement and ultimately told Brđanin that “it has to be done, but you mustn’t say that” out loud.⁹⁵¹⁸

2916. The Accused was also involved in organising steps to be taken to carry out the plebiscite.⁹⁵¹⁹ After the decision of the Constitutional Court of BiH and the Bosnian Serb Presidency declaring the plebiscite of Serb people unconstitutional and illegal, the plebiscite was launched and the Accused stated that the Serbs no longer had any duties towards the BiH Constitution, that they had obligations towards the Constitution of Yugoslavia which guaranteed their right to self-determination and the right for the people to organise themselves.⁹⁵²⁰

2917. The Chamber recalls that on 9 and 10 November 1991, a plebiscite was held to determine whether Serbs in BiH wished to remain in a joint state of Yugoslavia with the overwhelming majority of Serbs voting in favour of remaining in Yugoslavia.⁹⁵²¹ On 21 November 1991, the Bosnian Serb Assembly proclaimed as part of the territory of federal Yugoslavia all those municipalities, communes, and settlements where a majority of registered Serb citizens had voted in favour of remaining in Yugoslavia.⁹⁵²² In an intercepted conversation on 23 December 1991, the Accused said: “A political principle is being introduced. In principle, everywhere where Serbs live and where they have voted against secession, or to remain in Yugoslavia, no one can break away

⁹⁵¹⁵ P3121 (Stenograph of the session of the Club of Deputies from the SDS, 24 October 1991), p. 12. *See also* para. 77.

⁹⁵¹⁶ P3121 (Stenograph of the session of the Club of Deputies from the SDS, 24 October 1991), pp. 13–14, 16. *See also* Adjudicated Fact 1940; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4187–4188.

⁹⁵¹⁷ P1632 (Article from *Oslobodenje*, entitled “After the Plebiscite: You should better give yourselves up”, 12 November 1991); Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7373–7377.

⁹⁵¹⁸ P4 (Intercepts of conversations between (i) Radovan Karadžić and Vukić; (ii) Radovan Karadžić and Predrag Radić; (iii) Radovan Karadžić and Radoslav Brđanin), pp. 4–5, 10–11; Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7375–7377.

⁹⁵¹⁹ P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 63; P5840 (Intercept of conversation between Radovan Karadžić and Vukić, 16 October 1991).

⁹⁵²⁰ P6249 (Excerpt from video of Radovan Karadžić's statement, with transcript), p. 1.

⁹⁵²¹ *See* para. 47. *See also* D83 (Shorthand Record of 2nd Session of SerBiH Assembly, 21 November 1991), pp. 19–23; P5733 (Intercept of conversation between Jovan Tintor and unidentified male, 17 March 1992), p. 2; P3456 (Decision of SerBiH Assembly, 21 November 1991).

⁹⁵²² P5412 (Decision of SerBiH Assembly, 21 November 1991), pp. 1–2. *See also* Adjudicated Facts 1946, 1947; D3989 (Minutes of the SDS Main Board, 21 November 1991), p. 1.

there. [...] However, we don't want to stop the Croatian and Muslim peoples from reorganising themselves, meaning that their links to Yugoslavia would be weaker than ours."⁹⁵²³

2918. The Bosnian Serb Assembly functioned as the central body representing Bosnian Serbs and was the mechanism through which other institutions and political structures were set up.⁹⁵²⁴ This included a Council of Ministers, which was established on 21 December 1991 and replaced by the Bosnian Serb Government on 24 March 1992.⁹⁵²⁵ In January 1992 the Accused spoke about how their republic had already started functioning, had its own authorities, structures organs and a Council of Ministers and that all Yugoslav institutions including the JNA "will back us up [...] Nobody can do anything about that. They cannot do anything, because that is 60% of the territory they would not be able to control as an independent state".⁹⁵²⁶

2919. In addition, the National Security Council ("SNB") was established on 27 March 1992.⁹⁵²⁷ The Accused described the SNB as an advisory body to the Bosnian Serb Assembly which would be composed of "all the important organs and institutions" of the Serbian people.⁹⁵²⁸ The SNB was responsible for military matters during the war and matters relating to security.⁹⁵²⁹ The SNB served, until the creation of the Presidency in May 1992, as the *de facto* Presidency of the SerBiH. The Accused was the *ex officio* president of the SNB,⁹⁵³⁰ and the decisions of the SNB were made under the control of the Accused.⁹⁵³¹

2920. At a meeting held in the Presidency of the SFRY in Belgrade on 9 December 1991, the Accused stated that Europe "does not accept legality but the factual status. Therefore we have to be wise enough and prepare both legality and the factual status".⁹⁵³² The Accused declared: "We

⁹⁵²³ D4555 (Intercept of conversation between Radovan Karadžić and Maristela Lučić, 23 December 1991), p. 1.

⁹⁵²⁴ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16778–16779; Radomir Nešković T. 14274–14275 (6 June 2011). See also P5749 (Intercept of conversation between Radovan Karadžić and Božidar Vučurović, 13 February 1992), p. 2.

⁹⁵²⁵ See paras. 87, 103.

⁹⁵²⁶ P5620 (Intercept of conversation between Radovan Karadžić and an unidentified male, 21 January 1992), pp. 2–4. See also P5618 (Intercept of conversation between Radovan Karadžić and Slobodan Vidović, 27 December 1991), p. 5 (where the Accused spoke about the importance of only having the JNA in BiH); P5746 (Intercept of conversation between Radovan Karadžić and Dobrica Ćosić, 15 February 1992), p. 5.

⁹⁵²⁷ See para. 88.

⁹⁵²⁸ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 14. See also Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9124–9125.

⁹⁵²⁹ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9125.

⁹⁵³⁰ See para. 89.

⁹⁵³¹ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 28.

⁹⁵³² P2554 (Notes from SFRY's Presidency meeting, 9 December 1991), p. 78.

have made a list of moves. Ten moves in the direction we want, so that there are results. [...] But we don't do anything until Alija messes something up.”⁹⁵³³

2921. On 11 December 1991, the Bosnian Serb Assembly adopted a recommendation that SDS deputies in municipal assemblies in BiH in which the SDS did not have a majority establish “municipal assemblies of the Serbian people”.⁹⁵³⁴ The recommendation stated that the assemblies would be composed of SDS deputies and “other deputies of Serb nationality who make a statement on joining the Assembly”.⁹⁵³⁵ Attached to the recommendation was a model decision on the establishment of “municipal assemblies of the Serbian people” to be adopted by individual municipalities.⁹⁵³⁶ These decisions were to be verified by the Bosnian Serb Assembly.⁹⁵³⁷

2922. Municipal level leaders reported to the municipal bodies on developments at a republican level including the formation of the Bosnian Serb Assembly and noted that the assembly had been created as a means of resisting attempts to divide the Serbian people.⁹⁵³⁸ The SDS Municipal Board in Prijedor, for example, was informed on 28 October 1991, that Serb assemblies had to be formed in all the municipalities, that they were establishing their own state with their own forces and preparations had to be made for the plebiscite of the Serb people and military organisation.⁹⁵³⁹ The SDS Municipal Board in Prijedor also referred to the position of the Accused that given the secession of BiH arranged by the SDA, they were forced “to form ethnic communities in our ethnic territories”.⁹⁵⁴⁰ They also discussed the importance of establishing control over their territories.⁹⁵⁴¹

2923. The Chamber found that on 20 December 1991 the SRBiH Presidency, Koljević and Plavšić dissenting, voted to apply to the Badinter Commission for the recognition of SRBiH as an independent state.⁹⁵⁴² Members of the Bosnian Serb Assembly met on 21 December 1991, expressed their strong opposition to the Badinter Commission process, and approved preparations for the formation of a Serb Republic.⁹⁵⁴³ On 5 January 1992, the Badinter Commission recommended that SRBiH be required to hold a referendum to determine the will of its people

⁹⁵³³ P2554 (Notes from SFRY's Presidency meeting, 9 December 1991), p. 78. *See also* Patrick Treanor, T. 14038–14039 (1 June 2011). *See also* P5774 (Intercept of conversation between Radovan Karadžić and Vladislav Jovanović, 5 January 1992), p. 2.

⁹⁵³⁴ *See* para. 131.

⁹⁵³⁵ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 11.

⁹⁵³⁶ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 11, 18–20.

⁹⁵³⁷ D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 29.

⁹⁵³⁸ P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 60.

⁹⁵³⁹ P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), pp. 62, 64, 73.

⁹⁵⁴⁰ P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 90.

⁹⁵⁴¹ P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 91.

⁹⁵⁴² *See* para. 48.

⁹⁵⁴³ *See* para. 50.

regarding independence and the SRBiH Assembly voted to hold such a referendum on 29 February and 1 March 1992.⁹⁵⁴⁴

2924. On 9 January 1992, the Bosnian Serb Assembly proclaimed the SerBiH.⁹⁵⁴⁵ This proclamation noted that the territory of the SerBiH was composed of the SAOs and “additional territories, not precisely identified but to include areas where the Serbs had been in a majority before the genocide of World War II”.⁹⁵⁴⁶ The area which would comprise the territory of the SerBiH would include all areas where a majority of Bosnian Serbs had voted in the plebiscite to remain in Yugoslavia.⁹⁵⁴⁷ On 13 January 1992, the Council of Ministers identified the priorities emerging from the declaration of the promulgation of the SerBiH of 9 January 1992, which included defining the ethnic territory and the establishment of government organs in the territory.⁹⁵⁴⁸ The Accused and Krajišnik participated in the discussion on the execution of these tasks.⁹⁵⁴⁹

2925. In an intercepted conversation on 13 January 1992, the Accused informed Kuprešanin, President of the ARK Assembly, that “[w]e have a complete concept of a polycentric development. Therefore, centres must exist, and the centres will be developed more powerfully” and that “not a single move should be made which will not be a hundred percent agreed on”.⁹⁵⁵⁰ In another conversation, the Accused also spoke of the territorial claims of the Bosnian Serbs and in particular that regionalisation should not disrupt the authority of the Bosnian Serb state, namely that “I want Serbs to organise themselves in those Krajinas [...] but that the unified Serbian [BiH] still exist”.⁹⁵⁵¹

2926. On 17 January 1992, at a session of the Council of Ministers, a draft programme of its work was presented.⁹⁵⁵² It called for the adoption of the Constitution and for the organisation of the territory in such a way so as to “enlarge the territory of the regions and encompass a larger number of inhabitants wherever possible in order to consolidate the regions both ethnically and

⁹⁵⁴⁴ P971 (Robert Donia’s expert report entitled “The Origins of Republika Srpska”, 1990-1992, 30 July 2003), e-court p. 36. See also P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992), p. 16.

⁹⁵⁴⁵ See para. 50; Robert Donia, T. 3564 (9 June 2010); P1346 (Minutes of 5th session of SerBiH Assembly, 9 January 1992), pp. 2–3. See also Adjudicated Fact 394.

⁹⁵⁴⁶ Patrick Treanor, T. 14027 (1 June 2011).

⁹⁵⁴⁷ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4188.

⁹⁵⁴⁸ P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), p. 2.

⁹⁵⁴⁹ P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), p. 2.

⁹⁵⁵⁰ P5678 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 13 January 1992), p. 2. See also P5803 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 11 December 1991), p. 1.

⁹⁵⁵¹ P5819 (Intercept of conversation between Radovan Karadžić and Gojko Đogo, 11 November 1991), p. 11.

⁹⁵⁵² See Adjudicated Fact 1964.

economically.”⁹⁵⁵³ At that same session it was decided that draft legislation to enable the SerBiH to start functioning would be prepared by 15 February 1992.⁹⁵⁵⁴ The Bosnian Serb Assembly also authorised the Council of Ministers and other Bosnian Serb representatives, including Krajišnik, to prepare a Constitution and “other relevant documents in order to regulate further state organisation of the Serbian people” in BiH.⁹⁵⁵⁵ Krajišnik was elected to the commission appointed to prepare a Constitution.⁹⁵⁵⁶ The Accused and Krajišnik discussed the timing of the announcement of the Bosnian Serb Constitution.⁹⁵⁵⁷

2927. On 26 January 1992, during an extraordinary session convened to discuss how to respond to the moves towards the independence of BiH,⁹⁵⁵⁸ the Bosnian Serb Assembly adopted a series of conclusions. This included a conclusion that the decision to hold the referendum on the independence of BiH was brought about illegally and that it was therefore not mandatory for the Serb people.⁹⁵⁵⁹ The Chamber recalls that the referendum on the question of independence was held on 29 February and 1 March 1992. It was largely boycotted by the Bosnian Serbs and yielded an overwhelming majority of votes in favour of independence.⁹⁵⁶⁰

2928. One of the Bosnian Serb deputies spoke about the immense duties they had “because we are setting up our own state” and called on the Bosnian Serb Assembly to set deadlines for the completion of this plan.⁹⁵⁶¹ The Accused was also asked to “give us an order [...] that the Serbs should occupy their territories so that no other forces could enter them”.⁹⁵⁶²

2929. In February 1992, before the Bosnian Serb Assembly, the Accused spoke about the Bosnian Serb strategic aims beginning to materialise and the importance of establishing internal borders “as wide as possible”, and that if those internal borders are wider than the external borders of BiH they would be able to say “[w]ho cares about external borders”.⁹⁵⁶³ In March 1992, the Accused called

⁹⁵⁵³ Adjudicated Fact 1965. The Council of Ministers placed “particular stress [...] on the need for political and territorial organization of the regions by the formation of new municipalities in border areas of these regions. See Adjudicated Fact 1966.

⁹⁵⁵⁴ See Adjudicated Fact 1967.

⁹⁵⁵⁵ D1185 (Conclusions of SerBiH Assembly session, 26 January 1992). See Adjudicated Fact 1951.

⁹⁵⁵⁶ See Adjudicated Fact 1951.

⁹⁵⁵⁷ P5744 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 23 February 1992), p. 2.

⁹⁵⁵⁸ Momčilo Krajišnik, T. 43870–43871 (20 November 2013).

⁹⁵⁵⁹ See para. 53.

⁹⁵⁶⁰ See para. 54; see Adjudicated Fact 395.

⁹⁵⁶¹ P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992), p. 12.

⁹⁵⁶² D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 39.

⁹⁵⁶³ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 20.

for frequent sittings of the Bosnian Serb Assembly to “accelerate our preparations for the events that will follow”⁹⁵⁶⁴ and “because we are now entering the final stage of a process”.⁹⁵⁶⁵

2930. The Bosnian Serb Assembly also concluded that the “[p]lace of the Republic of the Serbian People in [BiH] is in the common state of all Serbian people. Democratic transformation of Yugoslavia must be [a] parallel process with the state organisation of the Serbian people into the Serbian federation or alliance of the Serbian states.”⁹⁵⁶⁶ On 15 February 1992, the Bosnian Serb Assembly discussed a draft constitution, according to which the SerBiH would become part of federal Yugoslavia, and not BiH.⁹⁵⁶⁷ On 28 February 1992, the SDS Deputies’ Club recommended that the Bosnian Serb Assembly pass the constitution that day as “a form of protection against the referendum”; the Bosnian Serb Assembly then unanimously adopted the Bosnian Serb Constitution.⁹⁵⁶⁸ The Constitution provided for equal rights and freedoms before the law for all citizens of the republic regardless of, *inter alia*, their race, ethnicity and beliefs.⁹⁵⁶⁹

2931. On 24 March 1992, the Bosnian Serb Assembly elected Branko Đerić as the Prime Minister, Aleksa Buha as Minister of Foreign Affairs, and Mićo Stanišić as Minister of Internal Affairs in the Bosnian Serb Government.⁹⁵⁷⁰ As recalled earlier, while the Bosnian Serb Constitution provided that the prime minister propose candidates for ministerial positions to the Assembly, in fact it was the SDS and the SDS President that chose the nominees.⁹⁵⁷¹ For instance, the Accused, as president of the SDS, asked that Đerić nominate Mićo Stanišić and Buha.⁹⁵⁷²

2932. With regard to Ministers Mićo Stanišić and Mandić, Đerić testified that they kept visiting the Accused and failed to attend government’s sessions as they felt that “the government could be

⁹⁵⁶⁴ P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992), p. 8.

⁹⁵⁶⁵ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 4.

⁹⁵⁶⁶ D1185 (Conclusions of SerBiH Assembly session, 26 January 1992).

⁹⁵⁶⁷ See Adjudicated Facts 1989, 1996.

⁹⁵⁶⁸ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), pp. 15, 17. See also para. 53; D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992), p. 14; P1351 (Transcript of 7th Session of SerBiH Assembly, 15 February 1992) (containing lengthy discussions on the draft constitution); Adjudicated Fact 414.

⁹⁵⁶⁹ See Adjudicated Fact 1997.

⁹⁵⁷⁰ P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 4–7; P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 223.

⁹⁵⁷¹ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 7–9; P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 12. The SDS and the Accused exercised control over personnel appointments more generally, including to assistant minister positions and in public enterprises, though the Government could propose candidates. See Vladimir Lukić, T. 38760–38764 (23 May 2013); P6338 (Letter from RS Government to SDS Executive Board, 29 August 1993); P6339 (Letter from SDS Executive Board to RS Government, 28 December 1993); P6340 (Letter from RS Government to SDS Executive Board, 12 March 1994).

⁹⁵⁷² Branko Đerić, T. 27942–27943 (24 April 2012); P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 9.

pushed aside” and “thought themselves as belonging to the top leadership”.⁹⁵⁷³ As described by Đerić, the SerBiH was a “party state” where the Accused as the president of the SDS held all the power, took control of all functions of the SDS and was practically the government too.⁹⁵⁷⁴ Đerić added that “the government was there just as a kind of technical attachment, not a body that should create policies” and that it was a state in which the government did not have any opposition.⁹⁵⁷⁵ The Accused himself said: “But, believe me, the Government is mine. I am responsible for its functioning. I appoint and propose”.⁹⁵⁷⁶

2933. On 28 February 1992, Koljević proposed that the Assembly be convened immediately after the referendum and “divide up the Television” and steps be taken to establish a Bosnian Serb newspaper.⁹⁵⁷⁷ These proposals were accepted by the SDS Deputies’ Club.⁹⁵⁷⁸ Similar measures had already been taken to establish a separate structure for Bosnian Serb propaganda and the media. For example in September 1991 the SDS Executive Board adopted the decision on the appointment of the Commission for Information and Propaganda.⁹⁵⁷⁹ On 27 September 1991, in an intercepted phone conversation, the Accused issued an instruction to replace the Bosnian Muslim director of Radio Banja Luka, stating “replace him immediately. Appoint a man of yours. These are war times.”⁹⁵⁸⁰ In October 1991, the Accused advocated the creation of their own radio television network which would unite Serbian information as well as their own news agency.⁹⁵⁸¹

2934. On 7 April 1992, the Bosnian Serb Assembly declared the independence of the SerBiH and Plavšić and Koljević resigned from their positions in the Presidency of BiH.⁹⁵⁸² The Ministry of Defence was set up around April 1992.⁹⁵⁸³

⁹⁵⁷³ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 22

⁹⁵⁷⁴ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 13–14. *See also* Milorad Dodik, T. 36877–36880 (9 April 2013).

⁹⁵⁷⁵ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 13–14. *See also* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16844. Skoko stated that he never noticed that the Accused attempted to influence on the work of the Government and the decision-making that was within his power. D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 30. However, the Chamber does not find his evidence to be reliable in this regard given that his testimony was marked by multiple contradictions and indicators of partiality and bias. Krajišnik testified that it was inaccurate to say that the Bosnian Serb Government and the Ministerial Council were subordinated to him or the Accused and that these structures were answerable to the Bosnian Serb Assembly. Momčilo Krajišnik, T. 43358–43359 (13 November 2013). While the Chamber accepts that these structures may not have been formally subordinated to the Accused, the evidence demonstrates that he did play a significant and influential role in the way in which they operated.

⁹⁵⁷⁶ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 255.

⁹⁵⁷⁷ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 7.

⁹⁵⁷⁸ P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), p. 15. *See also* Adjudicated Fact 1952.

⁹⁵⁷⁹ P6486 (Decision of SDS Executive Board, 9 September 1991), p. 1.

⁹⁵⁸⁰ P6509 (Intercept of conversation between Radovan Karadžić and Vukić, 27 September 1991), p. 2.

⁹⁵⁸¹ D3988 (Minutes of the 1st meeting of Committee for Mass Communication, 8 October 1991), p. 2.

⁹⁵⁸² *See* Adjudicated Fact 2011.

2935. On 8 May 1992, the Bosnian Serb Government established a Central Commission for the Exchange of Prisoners of War and Arrested Persons.⁹⁵⁸⁴ At a session of the Bosnian Serb Government on 20 March 1993, it decided to dissolve the Central Commission for the Exchange of Prisoners, due to problems including “private arrangements and smuggling in the exchange of prisoners”.⁹⁵⁸⁵ The Bosnian Serb Government decided to form a new Commission for the Exchange and Release of Prisoners of War and Civilians which would answer directly to the government and would be more systematic and organised and would co-operate with other relevant government bodies in order to address the accommodation of exchanged prisoners in the RS.⁹⁵⁸⁶

2936. A three-member Presidency was established on 12 May 1992, composed of Plavšić, Koljević, and the Accused, with the Accused elected the President of the Presidency. On or around 2 June 1992, the Presidency was enlarged to five members to include the Prime Minister, Đerić, and the President of the Bosnian Serb Assembly, Krajišnik. On 6 July 1992 the members of the Presidency allocated tasks among themselves and the Accused was charged with military issues.⁹⁵⁸⁷ On 17 December 1992, the Bosnian Serb Assembly replaced the structure of the Presidency by establishing a single president structure. The Accused was elected to the position of President of the SerBiH. Plavšić and Koljević were elected as Vice-Presidents.⁹⁵⁸⁸ During its operations in 1992, the Accused exercised the most authority in the Presidency.⁹⁵⁸⁹ When international observers met with the top level of the Bosnian Serb leadership, including Krajišnik, Koljević and Plavšić, they all deferred to the Accused, and he was seen as “undoubtedly and indisputably the leader of the Bosnian Serbs”.⁹⁵⁹⁰

2937. The Accused attended and addressed almost every session of the Bosnian Serb Assembly.⁹⁵⁹¹ The Accused’s speeches were often met with explicit approval and praise by

⁹⁵⁸³ See para. 115.

⁹⁵⁸⁴ See para. 125.

⁹⁵⁸⁵ P3129 (Minutes of the 66th session of RS Government, 20 March 1993), p. 10. See also P3113 (Minutes of the 73rd session of RS Government, 29 June 1993), p. 16.

⁹⁵⁸⁶ P3129 (Minutes of the 66th session of RS Government, 20 March 1993), pp. 10–11. See also P3138 (Minutes of the 67th session of RS Government, 6 April 1993), pp. 8–9.

⁹⁵⁸⁷ See paras. 96–98.

⁹⁵⁸⁸ See paras. 96–98.

⁹⁵⁸⁹ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8618; Colm Doyle, T. 2677–2678 (21 May 2010); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16844. See also Robert Đurđević, T. 25908 (7 March 2012); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), Anthony Banbury, T. 13313 (15 March 2011); Patrick Treanor, T. 14043 (1 June 2011).

⁹⁵⁹⁰ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25256–25257; Colm Doyle, T. 2677–2678 (21 May 2010). See also D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 65.

⁹⁵⁹¹ See, e.g., P1343 (Transcript of 1st session of SerBiH Assembly, 24 October 1991), pp. 56–60; D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 12–14; D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), pp. 37–42; D87 (Transcript of 9th session of SRBiH Assembly, 24–25 January 1992), pp. 103–104; D90 (Shorthand Record of 11th session of SerBiH Assembly, 18

Bosnian Serb representatives.⁹⁵⁹² For example, at a session on 25 February 1992, Kuprešanin said that the Accused “as the President of the SDS, is truly the leading figure among the Serbian people. And five of his sentences are enough to change the entire course of the session”.⁹⁵⁹³ On another occasion, after the Accused spoke about the need to centralise the authority, a deputy said “things that are ordered by [the Accused], the Assembly, the Presidency, the Minister of Defence and the Army General, must be carried out to the last man”.⁹⁵⁹⁴ Mladić also spoke after the Accused and stated: “I support everything he said [...] I am much more optimistic now than I was ever before”.⁹⁵⁹⁵

2938. While the Bosnian Serb Assembly operated in a democratic fashion, the Accused was described as “the greatest authority”, who had “the best ideas and the best solutions for all issues crucial to the Serbian people in BiH.”⁹⁵⁹⁶ The Accused emphasised the supremacy of the Bosnian Serb Assembly but at the same time stated that he would not allow a few people to “jeopardise the entire project” and that once the SDS had adopted a policy, anything outside of that policy would be treason and that maximum discipline was needed.⁹⁵⁹⁷

2939. Defence witnesses testified that (i) the Accused was a weak president with very little power; (ii) the Accused did not have “unquestionable power”; (iii) the Accused was a democrat who did not dominate the state or the SDS; and (iv) the local SDS leadership was completely autonomous.⁹⁵⁹⁸ However, the Chamber notes that the evidence of Zametica, Kondić and Sojić in

March 1992), pp. 4–10; D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 85–86; D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), pp. 51–57; D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), pp. 3–9; P1373 (Transcript of 31st session of RS Assembly, 9 May 1993), pp. 1, 18–19, 22; P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 9–16.

⁹⁵⁹² P1347 (Shorthand record of 5th session of SerBiH Assembly, 9 January 1992), pp. 57–58; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 23.

⁹⁵⁹³ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 65. See Vojislav Kuprešanin, T. 43486 (14 November 2013) (further testifying that “[q]uite simply, [the Accused]’s five sentences meant more than who knows how many speeches of mine”). See also para. 2962.

⁹⁵⁹⁴ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 31.

⁹⁵⁹⁵ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 58.

⁹⁵⁹⁶ Anđelko Grahovac, T. 44053 (26 November 2013). See also D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 28 (describing the democratic atmosphere in the Assembly).

⁹⁵⁹⁷ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 45–47; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17. Dodik testified that the Accused’s role in the Bosnian Serb Assembly was to present the situation and that he never requested that certain decisions be taken. Milorad Dodik, T. 36857–36858 (9 April 2013). The Chamber notes, however, that Dodik’s evidence was marked by contradictions, indicators of insincerity and partisanship which undermined the reliability of his evidence in this regard.

⁹⁵⁹⁸ John Zametica, T. 42453–42457 (29 October 2013); D2683 (Witness statement of Dragan Šojić dated 15 December 2012), paras. 9, 17; D4163 (Witness statement of Boro Tadić dated 1 December 2013), paras. 27, 30; D3854 (Witness Statement of Savo Čeklić dated 7 July 2013), paras. 4, 6; Savo Čeklić, T. 41239–41240 (11 July 2013); D4063 (Witness statement of Novak Kondić dated 23 November 2013), paras. 6–7; D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 21; D4166 (Witness statement of Mikan

this regard is expressed in general terms and is based on their own feeling, impression, opinion, and in some cases incomplete information. The Chamber does not therefore find their evidence to be of much weight in this regard. In addition the evidence of Šojić, Poplašen, and Tadić was marked by contradictions, evasiveness or indicators of partisanship and bias. The Chamber therefore does not find their evidence to be reliable in this regard. In addition the Chamber finds that this evidence is outweighed by the volume of reliable evidence discussed above which on the contrary demonstrates the power and control of the Accused.

(2) Conclusion

2940. Having considered the evidence above, the Chamber finds that the Accused, as the president of the SDS Main Board, had *de jure* and *de facto* authority over the SDS party and its members. From 1990 to 1995 the Accused was at the head of the SDS and he exerted great control and authority over its institutions and direction. In addition, as the President of the SNB, President of the Presidency and subsequently President of the RS, the Accused was the highest civil servant within the SerBiH and later the RS. The Accused had great authority over the Presidency, the Government and its key members and, as a result of his position and gravitas, had great influence at the Bosnian Serb Assembly. The SDS operated with strict respect for the hierarchical structures which ran from the Main Board and Executive Board to the Municipal Board structures. The Chamber also finds that the Accused enforced discipline within the party and was the most powerful and influential authority within the party. These SDS party structures facilitated communication between the higher level leaders including the Accused and the municipal SDS leaders.

2941. The Chamber further concludes that from 1991 the Accused, the SDS, and the Bosnian Serb leadership planned for and developed measures to be taken should BiH move toward independence. When the SRBiH Assembly passed a declaration of sovereignty on 15 October 1991 in the absence of the Serb delegates, these plans were further developed and ultimately put into practice.

2942. The Accused and the Bosnian Serb leadership responded vehemently to what they viewed as an illegal and unconstitutional move towards independence. The Chamber finds that the Accused and SDS structures played a crucial role in this period in developing a response to further the objectives and interests of the Bosnian Serbs. When confronted with the possibility of BiH independence, the SDS discussed the objective of Serb unity, activating parallel government

Davidović dated 1 December 2013), paras. 5–6, 8–9, 12–14; D3861 (Witness statement of Radovan M. Karadžić dated 14 July 2013), para. 3.

structures, intensifying the process of regionalisation, and furthering military organisation at a local level.

2943. The Accused's intercepted conversation on 16 October 1991 in which he reassured municipal leaders that they had "worked out a scenario. We won't make a single move today [...] Everything's been worked out" is instructive. The Chamber, having considered the context in which this conversation took place, finds that it demonstrates the central role played by the Accused during this period and that the Bosnian Serbs had already made careful preparations to respond to any move towards independence by BiH. This conclusion is further supported by the evidence that the Accused declared a state of emergency in the SDS on 18 October 1991, and in so doing emphasised that leaders of the SDS had been working towards developing the measures which would have to be taken at a municipal level. This declaration also made it clear that the steps to be taken were meticulously planned and that the Accused insisted on the highest level of discipline to ensure that there would not be a "single wrong step".

2944. The Accused and the Bosnian Serb leadership were also instrumental in the formation of the Bosnian Serb Assembly. The establishment of the Bosnian Serb Assembly was one of the first steps towards creating parallel structures, which formed the basis for the formation of a separate Serb state in BiH. The Chamber finds that from the date of its creation on 24 October 1991 throughout the duration of the conflict in BiH, this body played a central role in organising the Bosnian Serb people and forming a separate state. The Chamber finds that the Bosnian Serb Assembly was the formal means through which the ideology and objectives of the Accused and the Bosnian Serb leadership were officially sanctioned and disseminated. It was also one of the bodies used to communicate instructions down to the municipal representatives regarding these objectives.

2945. For example, the Bosnian Serb Assembly passed decisions which reflected the position of the Accused and the Bosnian Serb leadership that the Serb people would remain in the joint state of Yugoslavia. It also organised a plebiscite of the Bosnian Serb people to confirm that decision and then endorsed the result of that plebiscite and declared that areas where Serbs had voted to remain in Yugoslavia would remain part of the territory of Yugoslavia. When Brđanin threatened dismissal of directors and managers who did not participate in the plebiscite, the Accused cautioned him against making such statements publicly but did not condemn the substance of the statements themselves. The Chamber finds that this evidence demonstrates that the Accused worked towards full participation in the plebiscite as a means of showing public support for the policies of the Bosnian Serb leadership.

2946. The Chamber finds that when it became apparent that the objective of remaining in a joint state with Yugoslavia was no longer possible, the Bosnian Serb Assembly approved preparations for the formation of a separate Serb Republic. In this regard, the Chamber also finds that from late 1991 through until mid-1992, the Bosnian Serb Assembly played a central role in forming other parallel Bosnian Serb institutions and structures, such as the Council of Ministers and the SNB. It also worked towards the drafting of a constitution for the Serb State they wanted to create. The Chamber finds that the creation of parallel structures at a municipal level was also propagated by the Bosnian Serb Assembly, which called for example the establishment of "municipal assemblies of the Serbian people". The Chamber finds that the Accused led the discussions during the Bosnian Serb Assembly sessions where these decisions were made. The Accused directly promoted the measures which corresponded with his objectives.

2947. The Chamber finds that the Accused was at the forefront in explaining and promoting the policies which led to the conclusions taken by the Bosnian Serb Assembly and other Bosnian Serb political structures. He also promoted the importance of the Bosnian Serb Assembly itself and explained that it needed to sit often in order to accelerate their preparations for the creation of a Bosnian Serb state. The Chamber also finds that the Accused took on a very active role in the creation of the structures which would support the existence of a separate Bosnian Serb state. For example, the Accused and the SDS played the central role in the selection of ministers in the SerBiH. In addition the Chamber finds that the evidence demonstrates that the Accused exercised a high degree of control over the Bosnian Serb Government and its key members.

2948. The Chamber also finds that the Accused took the leading role in terms of identifying the measures which had to be taken in order to take control of territory and forming the Serb municipalities in BiH with their own structures of power. For instance, he spoke about the importance of taking over power at a municipal level. He was also pivotal in emphasising the level of contact and co-ordination there needed to be and entrusted Bosnian Serb Assembly deputies to be in permanent contact with municipal leaders to create the structures necessary in order to assume control at a municipal level in accordance with the plans which he had prepared. The Bosnian Serb Assembly was also one of the means through which the policies of the Bosnian Serb leadership were communicated to a municipal level.

2949. The proclamation of the SerBiH in January 1992 by the Bosnian Serb Assembly was confirmation of the territorial objectives and ideology of the Bosnian Serb leadership which sought the creation of a separate Serb state. This proclamation also made reference to historic crimes committed against the Bosnian Serbs which has been discussed above. The Chamber finds that the

territorial delimitation of Bosnian Serb claimed territories was also intimately linked to this discourse on these historic crimes, given the view that the Bosnian Serbs had only become a minority in certain areas because of the crimes committed against them in World War II.

2950. From late 1991, it was clear that the Accused and the Bosnian Serb leadership had prepared “moves” which they would implement in order to achieve their objectives and had clearly calculated when they would take action. The Accused made it clear that there needed to be agreement and uniformity in the timing of these moves. He also emphasised the importance of SDS structures at a local level, including SDS municipal and local boards.

2951. The Accused was also the leading figure and authority in the Bosnian Serb Assembly and insisted on the greatest discipline in following the policies of the SDS in order to achieve their objectives. The evidence demonstrates that the deputies in the Bosnian Serb Assembly showed a high level of respect and adherence to the policies and measures which were promulgated by the Accused and that the Accused also exercised considerable influence over the Bosnian Serb governmental organs.

(B) Regionalisation and creation of SAOs

(1) Analysis of evidence

2952. The Chamber recalls its discussion on the process of regionalisation which began with the establishment of communities of municipalities organised by the SDS in early 1991.⁹⁵⁹⁹ In January 1991, SDS presidents of municipal assemblies in Bosnian Krajina began preparations for the formation of the ZOBK which was approved by the SDS regional board in April 1991.⁹⁶⁰⁰ On 11 April 1991, the SRBiH Assembly recommended municipal assemblies to stop issuing decisions in connection with regionalisation.⁹⁶⁰¹ However, municipalities with large Serb majorities voted to affiliate with the ZOBK, which held its founding assembly on 25 April 1991.⁹⁶⁰² At the constitutive session of the ZOBK, it was said that this community had been established “regardless of ethnic affiliation” and that unity of Yugoslavia was affirmed as one of their objectives in creating this community of municipalities.⁹⁶⁰³

⁹⁵⁹⁹ See paras. 40, 43, 72–75.

⁹⁶⁰⁰ See paras. 40, 129.

⁹⁶⁰¹ D284 (SRBiH Assembly recommendation on regionalisation, 11–12 April 1991).

⁹⁶⁰² See para. 42.

⁹⁶⁰³ D1890 (Transcript from Krajina Assembly Meeting), pp. 3, 11–13, 53. See also P5896 (Intercept of conversation between Radovan Karadžić and an unidentified female journalist, 24 June 1991).

2953. In May 1991 two other communities of municipalities were created in Romanija and in Eastern and Old Herzegovina.⁹⁶⁰⁴ In September 1991, these communities of municipalities were renamed SAOs.⁹⁶⁰⁵ The Chamber recalls that the SAOs Semberija-Majeвица, Northern Bosnia, and Birač were formed between September and November 1991.⁹⁶⁰⁶ On 21 November 1991, the Bosnian Serb Assembly certified the proclamation of the SAOs in BiH.⁹⁶⁰⁷

2954. On 30 September 1991 the SDS Deputies' Club held a session which was attended by Krajišnik and the Accused.⁹⁶⁰⁸ At this meeting the Accused declared that he wanted to ask the representatives from the Krajina to inform their municipalities that all those who could report to the army do so and that the Serbs were preparing for regionalisation.⁹⁶⁰⁹ On 7 October 1991, the Accused referred to the SAOs as assisting "so that there is no tension, and that each is the master of his own, and that there is peaceful co-existence among the peoples here".⁹⁶¹⁰ The Accused had discussed the issue of regionalisation with Izetbegović, but Izetbegović's position was that regionalisation could not be carried out because the population in BiH was intermixed.⁹⁶¹¹ The Chamber recalls that while the SDA opposed these moves towards regionalisation in BiH, the Accused and SDS leaders spoke in favour of it for economic reasons, by reference to their view that there was a concentration of power in Sarajevo.⁹⁶¹² The Chamber took judicial notice that despite these justifications, among the functions the SDS assigned to the ZOBK was the organisation of its defence in times of war or imminent threat of war.⁹⁶¹³

2955. The Accused also took an active role in instructing authorities regarding decisions to be implemented and measures to be taken in the Bosnian Krajina area.⁹⁶¹⁴ For example, on

⁹⁶⁰⁴ See para. 42.

⁹⁶⁰⁵ See paras. 42, 75. The Chamber does not place any weight on the assessment of Treanor and Donia as to the motives and objectives of the Bosnian Serb leadership with respect to this process of regionalisation. Patrick Treanor, T. 14011, 14015–14016, 14027, 14035–14036, 14069–14070 (1 June 2011), T. 14381 (7 June 2011); Robert Donia, T. 3407–3410 (7 June 2010).

⁹⁶⁰⁶ See para. 75. See also Milorad Dodik, T. 36881 (9 April 2013).

⁹⁶⁰⁷ See Adjudicated Fact 1950.

⁹⁶⁰⁸ P2543 (Minutes of meeting of SDS Deputies' Club, 30 September 1991).

⁹⁶⁰⁹ P2543 (Minutes of meeting of SDS Deputies' Club, 30 September 1991).

⁹⁶¹⁰ P5849 (Intercept of conversation between Radovan Karadžić and Goran Đukić, 7 October 1991), pp. 3–4.

⁹⁶¹¹ D1278 (Transcript of Radomir Nešković's interview with Karadžić's legal associate, 8 October 2009), p. 14. Nešković also testified that the SDS objectives with respect to the regionalisation was to first keep BiH within Yugoslavia but if that was impossible, to keep one part of BiH in Yugoslavia and that regionalisation was a means of countering centralisation. Radomir Nešković T. 14259–14260 (6 June 2011), T. 14355, 14357–14360 (7 June 2011).

⁹⁶¹² See para. 41. See also P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 10.

⁹⁶¹³ See Adjudicated Fact 1915.

⁹⁶¹⁴ D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), paras. 20–21; P747 (Co-operation agreement between SAO Krajina and Bosanska Krajina, 24 June 1991); P5892 (Intercept of conversation between Radovan Karadžić, Nenad, and Vojo Kuprešanin, 24 June 1991); P5894 (Intercept of conversation between Radovan Karadžić and Anđelko Grahovac, 24 June 1991); P5891 (Intercept of conversation between Radovan Karadžić and Vukić, 24 June 1991), pp. 1–2; P5895 (Intercept of conversation between Radovan

12 October 1991, in a conversation with Mišković in Prijedor, the Accused instructed that the party should be in “full mobile state” and that units should be on duty 24 hours a day.⁹⁶¹⁵

2956. The Chamber found that in late 1991, the SDS started implementing a policy of “regionalisation”, which involved taking steps towards the creation of “regions” in which Serbs were the relative majority.⁹⁶¹⁶ In September 1991, in a conversation with Slobodan Milošević, the Accused expressed that the goal of the Bosnian Serb leadership was regionalisation, or cantonisation, and that their aim was to take half of Sarajevo and to have strong links with Yugoslavia.⁹⁶¹⁷ On 16 September 1991, the SDS Executive Board approved the appointment of a Regionalisation Staff.⁹⁶¹⁸ This body was tasked with monitoring the implementation of the decision on the proclamation of autonomous regions and this decision was distributed to the municipal boards of the SDS.⁹⁶¹⁹ For example on 25 September 1991, the Sarajevo SDS Main Board decided to implement the decision and conclusions of the republican levels SDS organs with respect to regional organisation and appointed individuals who would co-ordinate the implementation of the decision.⁹⁶²⁰ This included the promulgation of autonomous regions as part of Yugoslavia and the separation of settlements in some municipalities and their integration into another municipality.⁹⁶²¹ The Accused also convened a plenary of Bosnian Serb officials in September 1991 to discuss these issues.⁹⁶²²

2957. At a meeting of the SDS Executive Board in November 1991, attended by the Accused, there was discussion of a report on “regionalisation” and that conditions should be created which

Karadžić and Vukić, 24 June 1991), pp. 1–2; P5885 (Intercept of conversation between Radovan Karadžić and Željko, 9 July 1991); P5846 (Intercept of conversation between Radovan Karadžić and an unidentified male, 12 October 1991); P5799 (Intercept of conversation between Radovan Karadžić, Mičević, and Radić, 15 December 1991).

⁹⁶¹⁵ P5845 (Intercept of conversation between Radovan Karadžić and Mišković, 12 October 1991), p. 1.

⁹⁶¹⁶ See para. 74.

⁹⁶¹⁷ P5867 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), pp. 2–3.

⁹⁶¹⁸ See para. 75. Sejmenović testified that in his assessment the SDS pursued regionalisation in order to create ethnically Serb regions in BiH and that the position taken at a Republic level by the SDS with respect to ethnic separation were also mirrored at a municipal level. However, the Chamber considers this to be his own opinion and therefore does not consider this evidence to be of much weight. Mevludin Sejmenović, T. 20457, 20464 (27 October 2011).

⁹⁶¹⁹ P2584 (Minutes of 3rd meeting of SDS Executive Board, 16 September 1991), p. 1; P6484 (Information from Đukić Rajko to SDS, 13 September 1991). See also P3431 (Handwritten diary of KDZ192), p. 3 (under seal); Radomir Nešković T. 14357–14360 (7 June 2011). While Treanor testified about the territorial objectives of the Bosnian Serb leadership and the reasons for the steps taken towards regionalisation, the Chamber considers these conclusions and opinions to fall outside the scope of his expertise and will thus not rely on it in this regard. Patrick Treanor, T. 14015–14016 (1 June 2011).

⁹⁶²⁰ P2530 (SDS decision on appointment of staff, 25 September 1991). See also Patrick Treanor, T. 14017 (1 June 2011), T. 14450–14451 (8 June 2011).

⁹⁶²¹ P2530 (SDS decision on appointment of staff, 25 September 1991).

⁹⁶²² P2544 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 6 September 1991), p. 3. See also Patrick Treanor, T. 14018 (1 June 2011).

would allow every region to “include and incorporate the national and territorial treasures” with the aim of creating a Serb BiH within Yugoslavia.⁹⁶²³ The pursuit of regionalisation, according to Krajišnik, was used by the SDS in response to the attempts of the HDZ and SDA to discuss independence of BiH.⁹⁶²⁴ Regionalisation was leverage, in his view, to suggest to the SDS’s coalition partners that the three parties should reach an overall agreement on the whole of BiH: its status within Yugoslavia as well as its internal organisation.⁹⁶²⁵

2958. The Chamber recalls that on 16 September 1991, the ZOBK was transformed into the ARK.⁹⁶²⁶ The ARK was vested with both executive and legislative powers within its area of jurisdiction and acted as an intermediate level of authority between the SerBiH and the municipalities.⁹⁶²⁷ As the ARK was a voluntary association, the ARK Statute made provision for other municipalities to join, and typically these decisions were taken only by Bosnian Serb delegates at a municipal level.⁹⁶²⁸ In addition while the ARK was established as a multi-ethnic institution, in practice the ARK Assembly was a Serb body.⁹⁶²⁹ Brđanin was chosen by the Accused to lead the ARK and held this position until the ARK was abolished.⁹⁶³⁰ The Accused was in regular contact with Brđanin and instructed him that he should not call him about “every trivial matter” but that he could call about issues which he could not resolve.⁹⁶³¹ The Accused instructed Brđanin “You have power in your hands, and you have presidents of municipalities through whom you can exercise this power, until we achieve autonomy [...] You should execute power vigorously and to the fullest. Not a single bird should be allowed to fly over Krajina [...] You must establish all that. I’ve seen what was written and sent. All of that must be implemented. Take care of that. Call each and every municipality president and keep checking if it has been implemented and accomplished”.⁹⁶³²

⁹⁶²³ P2585 (Minutes of 5th meeting of SDS Executive Board, 7 November 1991), p. 5. *See also* P2586 (Minutes of session of SDS Deputies' Club, 3 December 1991), p. 1; P794 (Excerpt from expanded session of the Council for Harmonising State Policy Positions, 21 January 1993), e-court p. 6; Radomir Nešković T. 14358 (7 June 2011).

⁹⁶²⁴ *See* Adjudicated Fact 1926. *See also* D4551 (Intercept of conversation between Radovan Karadžić and Salko Ališehić, 21 December 1991), p. 3.

⁹⁶²⁵ *See* Adjudicated Fact 1926.

⁹⁶²⁶ *See* para. 42.

⁹⁶²⁷ *See* Adjudicated Fact 520.

⁹⁶²⁸ *See* paras. 2041–2042.

⁹⁶²⁹ *See* para. 2042.

⁹⁶³⁰ *See* para. 2045 (referring to the ARK being abolished as a territorial unit of the RS on 15 September 1992).

⁹⁶³¹ P2549 (Intercept of conversation between Radovan Karadžić and Radoslav Brđanin, 31 October 1991), p. 5; P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 3–5, 8. *See also* P5640 (Intercept of conversation between Radovan Karadžić and Trifko Komad, 18 September 1991), p. 1; P5889 (Intercept of conversation between Radovan Karadžić and Radoslav Brđanin, 2 July 1991).

⁹⁶³² P2549 (Intercept of conversation between Radovan Karadžić and Radoslav Brđanin, 31 October 1991), p. 5.

2959. On 18 October 1991, three days after the SRBiH Assembly session at which the SDA and HDZ adopted a declaration of sovereignty of BiH, the Accused informed the leaders of the Krajina municipalities, including Grahovac and Brđanin, to come urgently as very important decisions were going to be made.⁹⁶³³ On 21 October 1991, Grahovac, as President of the ARK Executive Council, initiated a meeting with the Accused, Krajišnik, Koljević, and Babić in Banja Luka to discuss the situation following the 15 October 1991 SRBiH Assembly session.⁹⁶³⁴ Following the plebiscite of the Serbian people on 9 and 10 November 1991, the Bosnian Serb Assembly issued a decision which verified the declared SAOs as part of BiH, a federal entity in Yugoslavia.⁹⁶³⁵

2960. The Chamber recalls that the Bosnian Serb Assembly approved on 21 December 1991 the appointment of Jovan Čizmović as the co-ordinator of activities of the executive bodies of the SAOs.⁹⁶³⁶ In addition on 24 February 1992, the SDS Executive Board assigned “coordinators” for the SAOs.⁹⁶³⁷ The SAOs had their own governmental, institutional, and political structures.⁹⁶³⁸

2961. At a meeting on 5 February 1992, attended by municipal leaders from the Bosanska Krajina, Semberija and Northern Bosnia SAOs, there was discussion about the SDS position with respect to regionalisation, the establishment and definition of Serb territories in BiH, and Serbia’s objective of preserving Yugoslavia and ensuring Serbs live in a single state.⁹⁶³⁹ In February 1992, at a meeting with Mladić, Adžić discussed the preparations that needed to be carried out in the Krajina but stressed that these plans were to be kept “strictly secret” and that “trustworthy people” were to be used to implement them.⁹⁶⁴⁰

⁹⁶³³ P5838 (Intercept of conversation between Radovan Karadžić and Boško, 18 October 1991). See D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 28.

⁹⁶³⁴ D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 29; D4082 (Article from Glas entitled “Resolutely in a United State”, 21 October 1991).

⁹⁶³⁵ D83 (Shorthand Record of 2nd session of SerBiH Assembly, 21 November 1991), pp. 33–34. See also Adjudicated Fact 1950.

⁹⁶³⁶ See para. 130; D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), p. 34.

⁹⁶³⁷ See para. 75. See Adjudicated Fact 2181. Radislav Vukić, a member of the SDS Executive Board, was appointed as co-ordinator for SAO Krajina. His duties were, *inter alia*, to co-ordinate the activities of SDS municipal boards in SAO Krajina, to work in co-operation with the Assembly president and the SAO Krajina prime minister to implement the decisions of the Bosnian Serb Assembly and Council of Ministers, and to take part in the work of the SAO Krajina Crisis Staff. P6530 (Decision of SDS Executive Board, 24 February 1992).

⁹⁶³⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9101.

⁹⁶³⁹ P3431 (Handwritten diary of KDZ192) (under seal), p. 3. See also KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11437–11442, 11452–11455, 11485–11487 (under seal); P3474 (News report re meeting of Derventa SDS Executive Board, 13 February 1992), p. 1. The Chamber notes KDZ192’s evasiveness with respect to who attended this meeting and what precisely was discussed and is satisfied that both the Accused and Krajišnik attended this meeting.

⁹⁶⁴⁰ P1476 (Ratko Mladić’s notebook, 30 December 1991–14 February 1992), pp. 163–167 (referring more specifically to the setting up of a police force, and the legal and illegal armament of individuals).

2962. By early 1992, there was increasing tension between the leadership in Pale and the ARK authorities.⁹⁶⁴¹ The ARK authorities were moving towards independence and wished to establish the Krajina as a state within a state, or a “constituent entity” of Yugoslavia; the Accused strongly opposed this position, maintaining that Yugoslavia should be preserved and that the Kraljinas should not advocate for changes to the borders.⁹⁶⁴² On 23 February 1992, the Accused told Kuprešanin to remind the representatives of the Krajina who wanted an independent state “of their loyalty to the initial Assembly”.⁹⁶⁴³ Kuprešanin also opposed the independence of the ARK and urged the Accused to attend an ARK Assembly session to resolve the issue.⁹⁶⁴⁴ The Accused agreed and attended an ARK Assembly session on 29 February 1992, during which he stated that “it would be a crime against the Krajina if it were declared a republic. Those who advocate such childish ideas are exposing the Serbian people to trouble”.⁹⁶⁴⁵ At the same session, all 148 of the ARK deputies in attendance voted to accept the Bosnian Serb Constitution in full, and the status of

⁹⁶⁴¹ P2552 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 16 January 1992), pp. 2–7; D424 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 10 February 1992), pp. 5–7; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 37; P5784 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 27 December 1991), pp. 4–5; D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 26, 29, 40. Kuprešanin stated that individuals in Krajina did not respect the Accused or the SDS, before or during the course of the war. D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 29. While the Chamber finds that there were certainly tensions between the Accused and Krajina leaders, the Chamber does not find Kuprešanin’s evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that his testimony was marked by multiple contradictions, evasiveness, indicators that he was trying to mislead the Chamber and lacked sincerity. His demeanour and testimony also indicated partiality and bias through his attempts to protect the Accused and distance him from any responsibility.

⁹⁶⁴² D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), paras. 35–38; D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 7; D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 27, 29–33; D4081 (Intercept of conversation between Radovan Karadžić and Anđelko Grahovac, 7 January 1992), pp. 4–5 (wherein the Accused states that the Krajina had not implemented the wishes of the SDS, including carrying out its elections); D4021 (Agenda and Minutes of 11th session of ARK Assembly, 8 January 1992), pp. 3–6; P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992); P2552 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 16 January 1992); D4085 (Intercept of conversation between Anđelko Grahovac and Radovan Karadžić, 15 January 1992); D4025 (Excerpt of SDS Main Board meeting, 14 February 1992), pp. 3–7, 15–19; D4015 (Excerpt of Minutes of 13th session of ARK Assembly, 24 February 1992). *See also* P5784 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 27 December 1991), pp. 4–7; D424 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 10 February 1992).

⁹⁶⁴³ P5745 (Intercept of conversation between (i) Radovan Karadžić and an unidentified male; and (ii) Radovan Karadžić and Vojo Kuprešanin, 23 February 1992), pp. 5–7. *See also* P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992), pp. 36–37 (during which the Accused asserted that presidents of municipal boards from Krajina “should implement the policy of the party that has given them their posts, not to veer away from it”).

⁹⁶⁴⁴ D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 65; D4025 (Excerpt of SDS Main Board meeting, 14 February 1992), pp. 14–15 (wherein Kuprešanin emphasised that Serb territories cannot be divided and “our goal is to finally live in one country”); P938 (Minutes from SDS Deputies’ Club meeting, 28 February 1992); D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), paras. 33–34; Vojislav Kuprešanin, T. 43470–43471 (14 November 2013) (further testifying on cross-examination that the “holy mission” was that Serbian people be equal in BiH).

⁹⁶⁴⁵ P5452 (Extract from minutes of 14th session of ARK Assembly, 29 February 1992), p. 2.

the ARK was incorporated therein accordingly.⁹⁶⁴⁶ A separate Krajina state never resulted because ultimately the leadership opted for the integration of all of the Krajinas.⁹⁶⁴⁷

2963. At a Bosnian Serb Assembly session in September 1992, a deputy stated: “Since we are at war, we must adopt a system which will best defend ourselves and create our own state. At a time when we had to destroy a unitary Bosnia, the SAO regions and districts were politically and territorially the best solution”.⁹⁶⁴⁸ The Accused also spoke about the creation of SAOs as one of the ten measures which were taken before the war which they had “brainstormed” together and which were carried out after “Alija made a mistake”.⁹⁶⁴⁹ The Accused spoke on multiple occasions about his responsibility for developing the process of regionalisation.⁹⁶⁵⁰ At a Bosnian Serb Assembly session, Kuprešanin stated that the reason for the creation of regions was to “destroy Alija’s state”.⁹⁶⁵¹ In an interview in January 1995, the Accused confirmed that the SDS played the greatest role in “introducing Serbian awareness and discarding the inferior position of a dignified nation with its own sovereignty and state”.⁹⁶⁵² He went on to state that “[w]e had a list of the actions and steps to take, but we always waited for the Muslims to make a mistake and after they made one, we created a union of municipalities and the Serbian autonomous areas next, followed by the regions and eventually our assembly, and finally Republic”.⁹⁶⁵³

(2) Conclusion

2964. The Accused argues that the concept of regionalisation and division of municipalities was something envisaged and provided for by the constitution.⁹⁶⁵⁴ Having considered the evidence above, the Chamber finds that the process of regionalisation was a precursor towards creating and identifying Bosnian Serb claimed territory in BiH, whether or not this was provided for by a

⁹⁶⁴⁶ P5452 (Extract from minutes of 14th session of ARK Assembly, 29 February 1992). *See also* Anđelko Grahovac, T. 44052 (26 November 2013); D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 34.

⁹⁶⁴⁷ Anđelko Grahovac, T. 44051–44052 (26 November 2013); D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 45. *See also* D4034 (Witness statement of Radoslav Brđanin dated 8 November 2013), para. 8; D3970 (Article from Glas entitled “There are Differences, But No Divisions”, 15 March 1992).

⁹⁶⁴⁸ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 68.

⁹⁶⁴⁹ P1387 (Transcript of 38th session of RS Assembly, 17 January 1994), pp. 74–75. *See also* P6510 (Excerpt of Vojo Kuprešanin’s interview with OTP), p. 9.

⁹⁶⁵⁰ P5619 (Intercept of conversation between Radovan Karadžić and Miroslav Toholj, 13 January 1992), p. 3; P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 6, 11; P1084 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 23 July 1991), p. 4; D424 (Intercept of conversation between Radovan Karadžić and Vojo Kuprešanin, 10 February 1992), p. 8.

⁹⁶⁵¹ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), pp. 68, 70. *See also* P1377 (Transcript of 33rd session of RS Assembly, 20–21 July 1993), p. 175.

⁹⁶⁵² P953 (Article from *Oslobodenje* entitled “Happy Birthday Republic”, 6 January 1995), p. 3.

⁹⁶⁵³ P953 (Article from *Oslobodenje* entitled “Happy Birthday Republic”, 6 January 1995), p. 3. *See also* Patrick Treanor, T. 14036–14037 (1 June 2011).

constitutional provision. This process of regional organisation along ethnic lines was a means of responding to and opposing the proposed independence of BiH. Regionalisation, and specifically the delineation of the SAOs, was a means of identifying which Bosnian Serb territories and settlements in BiH could be separated and remain a part of Yugoslavia in the event of BiH independence. This process of regionalisation was also an early means of identifying strategically significant territorial areas. Structures were also created in order to have co-ordination between the SAOs and the higher authorities within the SDS.

2965. The Chamber finds that the Accused and the SDS played a leading role in this process. The Accused himself spoke about the creation of SAOs as one of the measures which the Bosnian Serb leadership had “brainstormed” and implemented before the war to respond to moves towards independence by BiH. He emphasised that regionalisation and the creation of SAOs were the first steps which eventually led to the creation of the Bosnian Serb Assembly and the RS. The Chamber also finds that the Accused opposed the independence of the ARK and was successful in ensuring that the authorities in the ARK adhered to the SDS policies and supported the creation of the RS and the unity of the Bosnian Serbs.

(C) Split in the MUP and creation of a Bosnian Serb MUP

(1) Analysis of evidence

2966. In July 1991, at a meeting of SDS Deputies’ Club attended by the Accused, Mićo Stanišić and Mandić took the floor and focused on the Serbs being thrown out of the MUP; they complained that some people in charge were not doing their jobs as required.⁹⁶⁵⁵ After these speeches the Accused reacted forcefully, and said it was necessary for there to be a balance in the personnel of the MUP and that developments at the MUP should not be permitted without his knowledge.⁹⁶⁵⁶ In 1991, there were also problems with Bosnian Muslim personnel clandestinely being sent to Croatia for training without the knowledge of the official MUP.⁹⁶⁵⁷

⁹⁶⁵⁴ Defence Final Brief, paras. 194–204.

⁹⁶⁵⁵ D3917 (Witness Statement of Čedomir Kljajić dated 30 July 2013), para. 15. See also Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8656, 9319.

⁹⁶⁵⁶ D3917 (Witness Statement of Čedomir Kljajić dated 30 July 2013), para. 15.

⁹⁶⁵⁷ Momčilo Mandić, T. 4734–4739 (6 July 2010); D360 (SDA recommendation for training by Croatian MUP, 11 July 1991), p. 1; D361 (CSB Banja Luka’s letter to Biljana Plavšić, 25 July 1991), p. 1; D362 (CSB Banja Luka report re training by Croatian MUP, 25 July 1991).

2967. In July 1991, the Accused had also warned Izetbegović that if the Bosnian Serb demands were not met, they would establish a parallel state which would include a parallel police.⁹⁶⁵⁸

2968. The Accused was in regular contact with Mandić and other Bosnian Serb leaders and discussed personnel issues at the MUP and in September 1991, the Accused told Mandić that they had to be in touch almost daily.⁹⁶⁵⁹ The Accused insisted that all nominations had to come from the party level and took an active role in identifying those SDS members who should be nominated.⁹⁶⁶⁰ The Accused was also informed about personnel problems and warned that this could lead to conflict.⁹⁶⁶¹

2969. At the municipal level, a division of the police structures based on personnel disagreements was already envisaged by Bosnian Serb leaders as early as September 1991.⁹⁶⁶² On or around 6 September 1991, the Accused informed Brđanin that there would be a meeting the following day where important decisions would be made and that he or someone from the Krajina should attend.⁹⁶⁶³ On 17 September 1991, the Accused instructed Simović to relay an important message to Žepinić regarding the separation of the MUP, stating that “as of tomorrow, we are withdrawing all our ministers and all our officials in [the MUP]”; further the Accused stated that he was going to confront Izetbegović that evening and said “we are going to [...] break apart and then we are going to establish our own [SUP] [...] and we’ll make the government separately, we’ll make everything separately”.⁹⁶⁶⁴

2970. Around 21 September 1991, the Accused wrote a letter to all Municipal Boards of the SDS informing them that there were rumours about the mobilisation of Bosnian Muslim police, which

⁹⁶⁵⁸ D364 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 24 July 1991), p. 9; P5625 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 8 July 1991), p. 1. *See also* D365 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, undated); P5806 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 3 December 1991).

⁹⁶⁵⁹ P1081 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 30 September 1991), pp. 2–3. *See also* P2999 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 23 July 1991); D262 (Radovan Karadžić’s letter to Presidency of SRBiH, 28 July 1991).

⁹⁶⁶⁰ P1080 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 26 August 1991), pp. 1–2. *See also* P2222 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 17 June 1991).

⁹⁶⁶¹ P2360 (Intercept of conversation between Radovan Karadžić and Rajko Koprivica, 23 September 1991), pp. 1–2; D4287 (Intercept of conversation between Radovan Karadžić and Avdo Hebib, 17 September 1992), p. 6.

⁹⁶⁶² P2347 (Intercept of conversation between Jovan Tintor and Milan Plakalović, 7 September 1991), p. 9.

⁹⁶⁶³ P5886 (Intercept of conversation between Radovan Karadžić and Rađoslav Brđanin, 6 September 1991), pp. 2–3 (wherein the Accused stated further that “now they are looking for any way to mess that Conference” to suggest that Serbs do not want peace). *See* P6513 (Press release on Yugoslavia Peace Conference, 7 September 1991).

⁹⁶⁶⁴ P5868 (Intercept of conversation between Radovan Karadžić and Miodrag Simović, 17 September 1991), p. 1.

would result in a Bosnian Muslim police force and would create conditions for a civil war.⁹⁶⁶⁵ The Municipal Boards were instructed by the Accused to follow developments closely in this regard.⁹⁶⁶⁶

2971. In an intercepted conversation on 8 October 1991 the Accused was informed about problems in Višegrad.⁹⁶⁶⁷ The Accused spoke about the option of establishing “our public security station” and that in negotiations “[w]e will say, here you are, if you can solve it within that deadline, if you cannot we have our own in our area”.⁹⁶⁶⁸ The Accused also gave an instruction to give “seven days to bring things to an end and punish the culprits” and “[i]f not, we shall proceed to organise parallel organs of power...[w]ith a view to protecting the Serbian people”.⁹⁶⁶⁹ The Accused also inquired whether the towns were separated and whether the mixed town centre could not be separated.⁹⁶⁷⁰ In December 1991, Mandić and the Accused discussed the preparations for the creation of a separate Serb MUP.⁹⁶⁷¹

2972. The Chamber recalls that from early January 1992, employees of the SJB in Zvornik were instructed by the SDS to gather support and prepare for the formation of a Serb SJB.⁹⁶⁷²

2973. On 11 February 1992, at a meeting in Banja Luka, Mićo Stanišić, Mandić, and other Bosnian Serb leaders were informed that the Bosnian Serb Assembly had decided to form a separate Serb MUP.⁹⁶⁷³ This was a means of ensuring that Bosnian Serb authority was felt in territories which they claimed.⁹⁶⁷⁴ Stanišić at this meeting spoke about the need to work towards organising a Serb MUP starting at the municipal and regional levels and moving towards a Serb ministry.⁹⁶⁷⁵ At this meeting there were also discussions about the problems in the MUP of the

⁹⁶⁶⁵ D369 (Radovan Karadžić’s instructions to SDS municipal boards, 21 September 1991); Momčilo Mandić, T. 4789–4790 (7 July 2010).

⁹⁶⁶⁶ D369 (Radovan Karadžić’s instructions to SDS municipal boards, 21 September 1991).

⁹⁶⁶⁷ P2558 (Intercept of conversation between Brane and Radovan Karadžić, 8 October 1991), p. 1.

⁹⁶⁶⁸ P2558 (Intercept of conversation between Brane and Radovan Karadžić, 8 October 1991), p. 2. *See also*, Patrick Treanor, T. 14045–14046 (1 June 2011).

⁹⁶⁶⁹ P2558 (Intercept of conversation between Brane and Radovan Karadžić, 8 October 1991), p. 3.

⁹⁶⁷⁰ P2558 (Intercept of conversation between Brane and Radovan Karadžić, 8 October 1991), p. 2.

⁹⁶⁷¹ P5806 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 3 December 1991), p. 2 (wherein Mandić informs the Accused “[i]t’s not your police, you’re going to get ours” and the Accused responds “[w]e’re going to get ours that wouldn’t tap”).

⁹⁶⁷² *See para.* 1234. *See also* Adjudicated Facts 1963, 1981, 1982.

⁹⁶⁷³ P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), pp. 1, 4–5; Čedomir Kljajić, T. 42192–42196 (30 July 2013); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8646–8648, 8676. *See also* P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992); P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mićo Stanišić, 5 May 1992), p. 25; D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), para. 55.

⁹⁶⁷⁴ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8645.

⁹⁶⁷⁵ P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 1.

SRBiH.⁹⁶⁷⁶ Župljanin indicated that with respect to the Banja Luka CSB not a single new Muslim or Croat employee would be hired until the status of Serb police who had fled from Croatia had been resolved.⁹⁶⁷⁷ Mićo Stanišić claimed that the MUP was being divided by the Muslims, through the actions of the SDA, and not the Serbs.⁹⁶⁷⁸

2974. At this meeting a resolution was passed to create a steering committee, a “Serbian advisory board” within the MUP under the direction of Mandić “to carry out all preparations necessary for the functioning of the Serbian MUP” following the adoption of the Bosnian Serb constitution.⁹⁶⁷⁹ Part of the preparation for separation included the arming of Serb police officers and Serb police stations.⁹⁶⁸⁰ The CSBs and SJBs reassigned stockpiled weapons belonging to the reserve police force to the new Serb MUP.⁹⁶⁸¹ A separate Serb MUP would be organised at state, regional, and municipal levels.⁹⁶⁸²

2975. Following this meeting, Mandić wrote to the CSBs and SJBs and asked them to act in accordance with the conclusions reached at the meeting in Banja Luka and to set up and have a meeting of senior MUP executives in their areas.⁹⁶⁸³ After this order, each centre distributed the stockpile of weapons for the reserve police force to members of the Serb MUP.⁹⁶⁸⁴ In Bijeljina for example, following the 11 February 1992 meeting, the SJB in Bijeljina was instructed by Mandić to begin preparations for the purpose of creating a Bosnian Serb MUP.⁹⁶⁸⁵

2976. This was the second of two meetings on this topic, the first having taken place in Sarajevo.⁹⁶⁸⁶ The meeting was not held secretly and Mandić personally informed Delimustafić about it.⁹⁶⁸⁷ The minutes and conclusions of the meeting were forwarded to Delimustafić.⁹⁶⁸⁸

⁹⁶⁷⁶ Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9663; Momčilo Mandić, T. 4471–4473 (1 July 2010), T. 4838–4841 (7 July 2010); P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992); P1112 (Order of SRBiH MUP to all CSBs and SJBs, 13 February 1992).

⁹⁶⁷⁷ P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 1.

⁹⁶⁷⁸ P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 1.

⁹⁶⁷⁹ See Adjudicated Fact 1983.

⁹⁶⁸⁰ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8655. See also Adjudicated Fact 1984.

⁹⁶⁸¹ Adjudicated Fact 1985.

⁹⁶⁸² See Adjudicated Fact 1982.

⁹⁶⁸³ P1112 (Order of SRBiH MUP to all CSBs and SJBs, 13 February 1992); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8649–8650. See also Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2869–2870.

⁹⁶⁸⁴ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8652–8653, 8655. See also P1113 (Interview with Momčilo Mandić in Slobodna Bosna, 10 April 1998), p. 2.

⁹⁶⁸⁵ See para. 604. See also Čedomir Kljajić, T. 42192, 42194–42915, 42197 (30 July 2013).

⁹⁶⁸⁶ Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9663.

⁹⁶⁸⁷ Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9663, 9667.

⁹⁶⁸⁸ Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9663–9664.

2977. By March 1992, there were further problems given the failure to carry out the 1990 coalition agreement regarding personnel issues in the MUP which resulted in proposals for its re-organisation.⁹⁶⁸⁹ The Accused on 6 March 1992 emphasised the Bosnian Serb demands with respect to the re-organisation of the MUP and protested about appointments where the legal procedure had not been followed.⁹⁶⁹⁰ There were also complaints received from a municipal level about the divisions in the SJB which were blamed on the SDA⁹⁶⁹¹ The Accused wanted the Serb collegium in the MUP to reach agreement on its own personnel.⁹⁶⁹² In March 1992, the Accused spoke about announcing their withdrawal from the MUP and that they had already obtained the badges.⁹⁶⁹³

2978. On 24 March 1992, the Accused spoke at the Bosnian Assembly about following forthcoming instructions so that the sovereign authority of the “Serbian Assembly and Serbian people be established on the ground as soon as possible”.⁹⁶⁹⁴ In this regard the Accused spoke about having their own separate MUP and that the then newly established municipalities should set up police stations and their organs as soon as possible.⁹⁶⁹⁵ Mićo Stanišić was also in contact with municipal level leaders in March 1992 and discussed the splitting of police structures.⁹⁶⁹⁶ He also reported on steps taken to establish “police stations in our parts” to Đerić.⁹⁶⁹⁷

2979. The law on the establishment of the Serbian MUP was passed on 27 March 1992.⁹⁶⁹⁸ The Law on Internal Affairs provided for the structure and duties of the organs of the MUP.⁹⁶⁹⁹ The Chamber recalls that at the end of March 1992, a decision was adopted by the Bosnian Serb Assembly, calling on the Bosnian Serb police to separate by 1 April 1992.⁹⁷⁰⁰ On 30 March 1992, Mićo Stanišić addressed the members of the police unit of the SAO Romanija stating that as of that

⁹⁶⁸⁹ Momčilo Mandić, T. 4876–4877, 4881–4882 (8 July 2010); D214 (Minutes of 56th SRBiH Presidency session, 2 March 1992), p. 4;

⁹⁶⁹⁰ D380 (Radovan Karadžić’s letter to SR BiH organs, 6 March 1992) p. 1; Momčilo Mandić, T. 4830–4833 (7 July 2010), T. 4877 (8 July 2010).

⁹⁶⁹¹ D386 (Letter from Serb employees of Stari Grad SJB to SR BiH MUP, 5 March 1992), p. 1; Momčilo Mandić, T. 4889 (8 July 2010).

⁹⁶⁹² Momčilo Mandić, T. 4758–4759 (6 July 2010); D364 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 24 July 1991), p. 5.

⁹⁶⁹³ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 45.

⁹⁶⁹⁴ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 16.

⁹⁶⁹⁵ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 16–17.

⁹⁶⁹⁶ P5598 (Intercept of conversation between Mićo Stanišić and Miroslav Toholj, 2 March 1992), p. 3.

⁹⁶⁹⁷ P5698 (Intercept of conversation between Branko Đerić and Mićo Stanišić, 1 May 1992), p. 4; P5716 (Intercept of conversation between Branko Đerić and Mićo Stanišić, 18 April 1992), p. 5.

⁹⁶⁹⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9322.

⁹⁶⁹⁹ P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992).

⁹⁷⁰⁰ See para. 1237; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2869–2870; P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992). See also Adjudicated Fact 2729; KDZ555, T. 17263–17264 (16 August 2011) (private session), T. 17346–17347 (17 August 2011).

day, the SerBiH had their own police force.⁹⁷⁰¹ On 31 March 1992, Mandić sent a dispatch to all SJBs and CSBs indicating that the Bosnian Serb Assembly had promulgated the Law on Internal Affairs.⁹⁷⁰²

2980. Mandić's dispatch indicated that when this law came into force on 1 April 1992, all CSBs and SJBs on the territory of the SerBiH would be abolished and their functions taken over by organisational units of the Bosnian Serb MUP.⁹⁷⁰³ Mandić in a later intercepted conversation said "when I sent that dispatch and fucked the MUP to pieces" and "[y]ou have your state, we have ours. The Muslims should work on their own, fuck them".⁹⁷⁰⁴ Mandić sent this dispatch following the instructions of the Bosnian Serb political leadership.⁹⁷⁰⁵

2981. On 31 March 1992, Delimustafić, in response to Mandić's dispatch of 31 March 1992,⁹⁷⁰⁶ wrote a letter to the MUP administrations of all SDBs, CSBs, and SJBs stating that the dispatch reflected problems in the leadership and appealed to all MUP workers to continue to work responsibly and noted that the greatest number of MUP workers wish to remain in a united MUP.⁹⁷⁰⁷ Žepinić was also opposed to the split in the MUP given his view that the split would "inevitably lead to an armed conflict" in BiH.⁹⁷⁰⁸ Žepinić at a meeting attended by the Bosnian Serb leadership was criticised by Mićo Stanišić for "destroying" their idea of dividing the MUP and Žepinić said that the division could not be done peacefully.⁹⁷⁰⁹

⁹⁷⁰¹ D4271 (Video footage of Mićo Stanišić's speech, 30 March 1992, with transcript).

⁹⁷⁰² P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992), p. 1; P2964 (SerBiH Decree on the promulgation of the Law of Internal Affairs, 23 March 1992).

⁹⁷⁰³ P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992), p. 1.

⁹⁷⁰⁴ P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mićo Stanišić, 5 May 1992), pp. 25–26.

⁹⁷⁰⁵ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8702. Mandić later testified that the political leadership was not aware of his dispatch and he was simply following the decisions of the Assembly, the Law on Internal Affairs, and the Cutileiro Plan. Momčilo Mandić, T. 4474 (1 July 2010) The Chamber does not find this evidence to be reliable and notes that this is directly contradicted by his prior testimony that this dispatch was sent following instructions from the political leadership. The Chamber noted that Mandić in his testimony in this case was evasive and was marked by indicators of bias. Similarly the Chamber does not rely on Mandić's evidence about the effect or motivation for the division of the MUP given that this evidence was marked by efforts by Mandić to distance himself from responsibility for the events in BiH. Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8687–8688; C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9681–9683, 9664. The Chamber does not find Samouković's evidence with respect to the extent to which municipal level divisions followed instructions from the central authorities to be reliable. Nevenko Samouković, T. 34602 (1 March 2013). In reaching that conclusion the Chamber noted that his testimony was marked by contradictions, and evasiveness which undermined his evidence in this regard.

⁹⁷⁰⁶ P1117 (Letter from SRBiH Minister of Interior to all MUP administrations, 31 March 1992).

⁹⁷⁰⁷ P1117 (Letter from SRBiH Minister of Interior to all MUP administrations, 31 March 1992), p. 2. See also Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9685–9686.

⁹⁷⁰⁸ Vitomir Žepinić, T. 33582–33583 (13 February 2013). See also Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21394.

⁹⁷⁰⁹ Vitomir Žepinić, T. 33601–33602 (13 February 2013).

2982. The BiH MUP was then divided and allowed for the creation of the Bosnian Serb MUP. Employees of the abolished CSBs and SJBs who wished to work in the Bosnian Serb MUP were obliged to swear an oath of allegiance before taking up employment.⁹⁷¹⁰ After the dispatch of 31 March 1992, Mandić issued a further explanation on how the new MUP would be organised across the territory of the BiH.⁹⁷¹¹

2983. On 1 April 1992, it was reported that Mandić had invited all Serb police officers to put themselves at the disposal of a “MUP of Serbian Republic” pursuant to the Constitution of the SerBiH.⁹⁷¹² On 1 April 1992, the SRBiH MUP collegium issued a dispatch that in order to prevent a further deterioration of the security situation that the existing MUP “should be transformed peacefully and without any excesses” and that equipment of the SJB and SDB should not be seized by any nation unilaterally and that employees should not be dismissed because of their national or political affiliations.⁹⁷¹³ On 3 April 1992, Župljanin sent a dispatch indicating that the reorganisation of the MUP organs and their security services had begun in line with the dispatch from the Bosnian Serb MUP Collegium dated 2 April 1992.⁹⁷¹⁴

2984. On 5 April 1992, Mandić sent a dispatch to Zvornik, noting that the MUP was being divided into Serb and Muslim components and ordered the movement of the Bosnian Serb institutions to Karakaj.⁹⁷¹⁵ Following this instruction, the police stations in the municipality, were divided into Serb and Muslim parts.⁹⁷¹⁶ With respect to the division of the police, the Accused stated that the “[p]olicemen simply do not work together any more” and that this situation had been “forced upon us”.⁹⁷¹⁷ The Chamber also found that in Bratunac at the beginning of April 1992, in a meeting between SDS and SDA representatives, Deronjić reiterated that the police should be divided and that separate Bosnian Muslim and Bosnian Serb police units should be formed.⁹⁷¹⁸ When the SDA representatives opposed the idea as it would lead to greater tensions, Deronjić threatened that if they did not comply “Muslims would disappear”.⁹⁷¹⁹

⁹⁷¹⁰ Momčilo Mandić, T. 4473–4474 (1 July 2010); P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992), p. 2.

⁹⁷¹¹ Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9687–9688.

⁹⁷¹² P1118 (Article from *Oslobođenje*, entitled “April Fool Reality”, 1 April 1992), p. 1.

⁹⁷¹³ D390 (SRBiH MUP dispatch to MUP Ministers, all CSBs, and all SJBs, 1 April 1992), p. 2. *See also* Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9688–9689.

⁹⁷¹⁴ D391 (CSB Banja Luka dispatch to SerBiH MUP, 3 April 1992), p. 1. *See also* Momčilo Mandić, T. 4912–4913 (8 July 2010).

⁹⁷¹⁵ *See* para. 1237.

⁹⁷¹⁶ *See* para. 1237.

⁹⁷¹⁷ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 16.

⁹⁷¹⁸ *See* para. 705.

⁹⁷¹⁹ *See* para. 705.

2985. The Chamber further recalls that Bosnian Serb SJBs were formed in municipalities including Bijeljina,⁹⁷²⁰ Bratunac,⁹⁷²¹ Brčko,⁹⁷²² Foča,⁹⁷²³ Rogatica,⁹⁷²⁴ Vlasenica,⁹⁷²⁵ Zvornik,⁹⁷²⁶ Ključ,⁹⁷²⁷ Prijedor,⁹⁷²⁸ Sanski Most,⁹⁷²⁹ Hadžići,⁹⁷³⁰ Iliđža,⁹⁷³¹ Pale,⁹⁷³² and Vogošća.⁹⁷³³

2986. In a decision issued on 25 April 1992, Mićo Stanišić ordered that CSB heads were allowed to take over the employees from the former MUP and assign jobs within the CSBs and SJBs, however, they had to inform the Minister of the Interior of all such decisions. Furthermore, all heads of CSB had to obtain prior approval from the MUP before assigning posts at the higher levels, such as the head of the SJBs.⁹⁷³⁴

2987. In May 1992, there was a meeting between the Accused, RS MUP officials and the Chiefs of the CBSs at which the existing situation, the problems on the ground, and the work of the MUP were discussed.⁹⁷³⁵ The Chiefs of the CSBs were informed that a MUP had been formed and of the applicable procedure, and the Accused used this opportunity to inform those present about the general situation and issues, emphasising that the MUP had to function according to the legal provisions.⁹⁷³⁶ A bulletin of daily events was compiled on the work between April and December 1992 in order to provide the Accused and the RS Prime Minister with information on the security situation. In addition, the Accused received 80 reports on security issues.⁹⁷³⁷

2988. The Accused, as President, also had the power to issue orders for the deployment of the police during the war.⁹⁷³⁸

⁹⁷²⁰ See paras. 627, 629.

⁹⁷²¹ See paras. 703, 707–709.

⁹⁷²² See para. 797.

⁹⁷²³ See para. 846.

⁹⁷²⁴ See paras. 958, 960–961.

⁹⁷²⁵ See para. 1124.

⁹⁷²⁶ See paras. 1234, 1237.

⁹⁷²⁷ See para. 1502.

⁹⁷²⁸ See para. 1597.

⁹⁷²⁹ See para. 1936.

⁹⁷³⁰ See para. 2076.

⁹⁷³¹ See para. 2125. The Chamber recalls its finding that the ten SJBs in Sarajevo were divided and that the SJB in Novo Sarajevo remained under Bosnian Muslim control. See para. 2250.

⁹⁷³² See para. 2307.

⁹⁷³³ See paras. 2364, 2373, 2373.

⁹⁷³⁴ P6379 (Decision of SerBiH MUP, 25 April 1992; Request of Banja Luka CSB, 4 May 1992; Decision of Banja Luka CSB, 30 July 1992, Decision of Banja Luka CSB, 13 June 1992), p. 1.

⁹⁷³⁵ D3917 (Witness Statement of Čedomir Kljajić dated 30 July 2013), para. 16.

⁹⁷³⁶ D3917 (Witness Statement of Čedomir Kljajić dated 30 July 2013), para. 16.

⁹⁷³⁷ P2761 (RS MUP report on work for period April to December 1992), p. 23.

⁹⁷³⁸ P2602 (SerBiH Defence Act, 1 June 1992), art. 7.

(2) Conclusion

2989. The Accused's argues that there were multiple factors which contributed to the ultimate division of the MUP, particularly personnel disagreements with the SDA.⁹⁷³⁹ He also argues that the Cutileiro Plan envisaged all constituent entities having their own police forces.⁹⁷⁴⁰

2990. Having considered the evidence above, the Chamber finds that prior to the conflict in BiH there were already disputes, personnel issues and divisions between the Bosnian Serb and Bosnian Muslim personnel in the MUP.⁹⁷⁴¹ The Chamber finds that the Accused himself had warned that if the Bosnian Serb demands were not met, a parallel police structure could be created. The Chamber finds that the Accused closely monitored developments in the MUP. The Chamber concludes however that, even if such a division was also influenced by personnel disagreements or was provided for by the Cutileiro Plan, the ultimate split in the MUP structures was precipitated by a decision of the Bosnian Serb leadership and formed a core part of their objective to create a separate Bosnian Serb state with parallel structures. The Chamber finds that Mandić took a leading role in ensuring that this division was carried out at a municipal level and in detailing how this new Bosnian Serb MUP was to be structured. It also finds that the creation of a separate Bosnian Serb MUP was a means of undermining the proposed independence of BiH. The Chamber finds that the directives with respect to the division of the MUP structures and the creation of the Bosnian Serb MUP were communicated to and implemented at a municipal level.

2991. The Chamber further finds that the separation of the BiH MUP and creation of a Bosnian Serb MUP was also a crucial step in the take-over of municipalities as it created a separate police structure which would allow Bosnian Serb authority to be maintained in those municipalities. The Chamber also finds that the Accused spoke in favour and promoted the creation of this separate police structure as a means of achieving their objective of sovereignty of the Serb people in the territories which they claimed. Following the division of the BiH MUP, the Accused was informed about developments and the functioning of the Bosnian Serb MUP. The Chamber recalls its finding that the separate Bosnian Serb MUP, as a component of the Serb Forces, were involved in

⁹⁷³⁹ Defence Final Brief, paras. 111–124, 134–154.

⁹⁷⁴⁰ Defence Final Brief, paras. 176–179.

⁹⁷⁴¹ While the Chamber finds that these disputes did play a role in the decision to ultimately divide the MUP, the Chamber does not find Mandić's evidence that it was the SDA and these personnel issues which contributed most to the division of the MUP to be reliable: Momčilo Mandić, T. 4917 (8 July 2010); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9406. See also P1115 (Video footage of interview with Momčilo Mandić, July-August 1994, with transcript). In reaching that conclusion the Chamber found that Mandić's evidence was marked by evasiveness, inconsistencies and indicators of bias. In addition it was clear that he had an interest in downplaying his own role and the real reason for the division of the MUP.

the violent take-over of Municipalities and in crimes committed against Bosnian Muslims and Bosnian Croats upon which the Chamber has entered findings above.

(D) Variant A/B Instructions and take-over of power

(1) Analysis of evidence

(a) Distribution and contents of the Instructions

2992. Above, the Chamber found that the Variant A/B Instructions were issued by the SDS Main Board on 19 December 1991.⁹⁷⁴² They were distributed by the Accused at a meeting on or around 20 December 1991.⁹⁷⁴³ This meeting was held in Sarajevo and attended by hundreds of high ranking Bosnian Serbs, including Krajišnik, Plavšić, Koljević, members of the Main Board and Executive Board, deputies, municipal representatives, and members of the government.⁹⁷⁴⁴

2993. This document was adopted without any discussion, vote, or amendment and was presented as a set of measures which were to be practically implemented.⁹⁷⁴⁵ The stated purpose of these instructions was to “carry out the results of the plebiscite at which the Serbian people in Bosnia and Herzegovina decide to live in a single state” and to “increase mobility and readiness for the defence of the interests of the Serbian people”.⁹⁷⁴⁶ The Chamber further recalls that Serb-majority municipalities were designated Variant A, while Serb-minority municipalities were designated Variant B.⁹⁷⁴⁷ The instructions were a means of creating Serb authority in both Variant A and Variant B municipalities.⁹⁷⁴⁸ According to the instructions, the tasks laid out therein were to be

⁹⁷⁴² See paras. 49, 132; P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991); Patrick Treanor, T. 14027–14028 (1 June 2011); Dorothea Hanson, T. 14502 (9 June 2011).

⁹⁷⁴³ See paras. 49, 132. The Chamber also notes that on cross-examination Grujić was confronted with his prior testimony where he claimed the Variant A/B instructions came directly from the Accused, but he retracted from this and said he did not know whether the Accused was directly involved or not. Branko Grujić, T. 40369–40371, 40405–40407, 40417–40418 (25 June 2013); P6415 (Excerpt from Branko Grujić’s testimony before Belgrade District Court, 30 November 2005), p. 3.

⁹⁷⁴⁴ Radomir Kezunović T. 13938–13939 (31 May 2011); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16651, 16654–16656, 16795–16796. See para. 132. See also Nedeljko Prstojević, T. 12934–12935, 12939–12941, 12942 (3 March 2011).

⁹⁷⁴⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*, Case No. IT-00-39), T. 16647–16650, 16657–16659; Radomir Nešković T. 14215, 14264, 14272 (6 June 2011), 14325–14327, 14352–14353 (7 June 2011); D1278 (Transcript of Radomir Nešković’s interview with Karadžić’s legal associate, 8 October 2009), pp. 28–29; Radomir Kezunović T. 13939 (31 May 2011). But see KDZ192, T. 19508–19509, 19516–19517 (27 September 2011). KDZ192 agreed with the Accused’s suggestion that the Variant A/B Instructions were not binding but then distanced himself from his answer when questioned by the Chamber. The Chamber notes that KDZ192’s evidence was marked by contradictions and indicators of bias and partiality and does not rely on his evidence in this regard.

⁹⁷⁴⁶ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), paras. 1–2.

⁹⁷⁴⁷ See paras. 49, 132. See also Dorothea Hanson, T. 14504 (9 June 2011). The Chamber does not rely on Hanson’s opinion that in practice, the instructions essentially mapped out the take-over of power.

⁹⁷⁴⁸ Radomir Nešković T. 14326–14327 (7 June 2011). The Chamber places no weight on Nešković’s own assessment that the instructions were a means of subjugating the Bosnian Muslims and Bosnian Croats to Serb

implemented over the entire territory of the SRBiH or in every municipality where Serbs lived, in their entirety in Variant A municipalities and partially in Variant B municipalities.⁹⁷⁴⁹

2994. Before the Accused distributed the document, he spoke about the position of the Bosnian Serbs, the threat posed by Bosnian Muslims and Bosnian Croats, the secession and the disintegration of Yugoslavia, but did not actually go into the details of the document.⁹⁷⁵⁰ The fear of Bosnian Muslim and Croat dominance “was a key element that contributed to the emotional atmosphere” which prevailed during the meeting and nobody wanted to be seen as a traitor by questioning the instructions.⁹⁷⁵¹ The Accused called out individuals on a list and distributed copies of the instructions and approximately 100 people were given these instructions to read and return.⁹⁷⁵² The instructions were numbered as they knew which Bosnian Serb municipal leaders were supposed to be given copies of the document.⁹⁷⁵³ The Accused also discussed these instructions at a meeting of the SDS Deputies’ Club, which was attended by municipal representatives.⁹⁷⁵⁴ On 18 December 1991, the day before the Variant A/B Instructions were distributed, the Accused told Krajišnik in an intercepted phone conversation that he was “working on something”; “some measures and so on”.⁹⁷⁵⁵

2995. The Variant A/B Instructions required SDS municipal boards in the first level to “establish immediately Crisis Staffs of the Serbian People in the municipality”.⁹⁷⁵⁶ The instructions also specified that the composition of these Crisis Staffs should include all members of the SDS municipal board secretariat, SDS candidates in certain municipal organs (for Variant A municipalities) or SDS candidates in every municipal organ (for Variant B municipalities), deputies of the Bosnian Serb Assembly, and members of the SDS Main Board from the municipality.⁹⁷⁵⁷ The Chamber recalls that instructions also provided that the Commander of the Crisis Staff was, in

power. See also P4634 (Witness statement of KDZ145 dated 22 February 2012), para. 14 (under seal); KDZ145, T. 26516 (21 March 2012) (closed session).

⁹⁷⁴⁹ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 2.

⁹⁷⁵⁰ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16657, 16793.

⁹⁷⁵¹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16659–16660; Radomir Nešković, T. 14215 (6 June 2011).

⁹⁷⁵² Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16648, 16788. See also P6550 (Excerpt from Rajko Kalabić’s testimony in *Prosecutor v. Brđanin*), T. 22576–22577.

⁹⁷⁵³ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16648, 16651, 16656.

⁹⁷⁵⁴ P6369 (Excerpts from KW317’s statement to OTP, 14 June 2002), e-court p. 2 (under seal); KW317, T. 39337 (5 June 2013).

⁹⁷⁵⁵ P5793 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 18 December 1991), p. 1.

⁹⁷⁵⁶ See para. 139. Kosta Čavoški testified that the Variant A/B Instructions were purely precautionary in nature. Kosta Čavoški, T. 37059–37060 (11 April 2013). The Chamber places no weight on Čavoški’s opinion in this regard given that it falls outside the scope of his expertise. In addition the Chamber also found his testimony was marked by contradictions, evasiveness and clear indicators of partiality and bias which undermined his evidence as an expert and does not find his evidence in this regard to be reliable.

⁹⁷⁵⁷ See para. 139.

Variant A municipalities, the president of the municipal assembly or the chairman of the municipal executive board and, in Variant B municipalities, the president of the SDS municipal board.⁹⁷⁵⁸

2996. The Variant A/B Instructions also called for, in the first level, convening and proclaiming an assembly of the Serbian people to be composed of Serbian representatives in the municipal assembly and presidents of SDS local boards.⁹⁷⁵⁹ In this phase, preparations were to be undertaken for the establishment of municipal government organs such as an executive committee, administration organs, a misdemeanour court and an SJB and for the preparation of a list of nominees to take on duties in these organs.⁹⁷⁶⁰ This first level also required preparations for the take-over of “staff, buildings and equipment of security services centres and their integration” into newly established organs.⁹⁷⁶¹

2997. The first level of the instructions also required an estimate of the number of active and reserve police, TO units, and civilian protection units and to bring these units “to full manpower” and take necessary action for their engagement depending on developments.⁹⁷⁶² The instructions also provided that these units would be activated by order of the municipal Crisis Staffs and also called for a replenishment of wartime units.⁹⁷⁶³ The instructions also required preparations to be taken to allow for the protection and evacuation of children, pregnant women, the elderly and sick.⁹⁷⁶⁴

2998. The Variant A/B Instructions also contained provisions to establish “constant communication and cooperation” between the SDS municipal boards and local boards and to provide for daily meetings of the SDS municipal board to constantly monitor the situation on the ground.⁹⁷⁶⁵

2999. The second level of the Variant A/B Instructions called for, *inter alia*, convening a session of the Serb municipal assembly, establishing a municipal executive board and municipal state or government organs, mobilising and re-subordinating all Serb police forces in co-ordination with JNA command and staff, and ensuring the implementation of the order for mobilisation of JNA

⁹⁷⁵⁸ See para. 139.

⁹⁷⁵⁹ See para. 133.

⁹⁷⁶⁰ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 3–4.

⁹⁷⁶¹ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 4, 7.

⁹⁷⁶² P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 4, 8.

⁹⁷⁶³ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 4–5, 8.

⁹⁷⁶⁴ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 4, 8.

⁹⁷⁶⁵ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 2, 6.

reserve and TO units.⁹⁷⁶⁶ This second level also provided for the take over of “staff, buildings and equipment of security services centres and [to] place them at the disposal of the newly established organs of the interior”.⁹⁷⁶⁷ In Variant B municipalities, the Crisis Staff was tasked with organising the defence of Serbs and to constantly monitor the political, military and security situation and to respond in a timely fashion.⁹⁷⁶⁸

3000. For Variant B municipalities there was a further provision which required that members of the “other nations” who had expressed loyalty to Yugoslavia be “proportionately represented in government organs”.⁹⁷⁶⁹ Also in Variant B municipalities there was an additional instruction for predominantly Serb local communes and settlements to establish “secret warehouses and depots” to store food, raw materials and manufacturing components.⁹⁷⁷⁰

3001. The second level of the Variant A/B Instructions was to be activated pursuant to an order of the Accused “in accordance with a specifically defined secret procedure”.⁹⁷⁷¹

(b) Implementation of the Instructions at the municipal level

3002. The Variant A/B Instructions were communicated from SDS leaders to municipal leaders and SDS municipal boards which discussed and implemented the variant which was applicable to their respective municipality.⁹⁷⁷² The Chamber also recalls its finding that the implementation of these instructions were viewed by the recipients as mandatory.⁹⁷⁷³ Those who received the document had to decide the best way to implement the instructions at a municipal level.⁹⁷⁷⁴ There are also municipal decisions on the record which specifically reference the Variant A/B Instructions.⁹⁷⁷⁵ The Chamber recalls that after the Variant A/B Instructions were distributed by the

⁹⁷⁶⁶ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 5–6, 9–10. See para. 134.

⁹⁷⁶⁷ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 5–6.

⁹⁷⁶⁸ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 9–10.

⁹⁷⁶⁹ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 6–7.

⁹⁷⁷⁰ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 7, 9.

⁹⁷⁷¹ P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 10.

⁹⁷⁷² See para. 132.

⁹⁷⁷³ See para. 2245. KW317 testified that the Variant A/B Instructions were not orders and that nobody had to report on whether they were implemented or not. KW317, T. 39333–39334, 39337–39338 (5 June 2013), T. 39412 (6 June 2013). However, the Chamber notes that when KW317 was confronted with a prior interview where he confirmed that he did attend a meeting where they were instructed to implement the second phase of the Variant A/B Instructions. In light of this qualification the Chamber does not find KW317’s evidence in this regard to be of much weight.

⁹⁷⁷⁴ Ra00domir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16806. For evidence on the manner in which the Variant A/B Instructions were implemented in Brčko for example, see P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 51–59, 73–76, 94–95.

⁹⁷⁷⁵ See, e.g., P2593 (Decision on the establishment of the Serbian Municipality of Tuzla, 3 March 1992), p. 1; P2594 (Decision on the establishment of the Serbian Municipality of Donji Vakuf, 15 February 1992), p. 1;

Accused they were conveyed, discussed and implemented through SDS structures at a municipal level in municipalities including Bratunac,⁹⁷⁷⁶ Brčko,⁹⁷⁷⁷ Rogatica,⁹⁷⁷⁸ Vlasenica,⁹⁷⁷⁹ Zvornik,⁹⁷⁸⁰ Bosanski Novi,⁹⁷⁸¹ Ključ,⁹⁷⁸² Prijedor,⁹⁷⁸³ Ilidža,⁹⁷⁸⁴ and Novo Sarajevo.⁹⁷⁸⁵

3003. The Chamber further recalls that the implementation of the Variant A/B Instructions resulted in the formation of municipal Crisis Staffs and Serb municipal assemblies, and the declaration of Serbian municipalities.⁹⁷⁸⁶ For example, the Chamber recalls that the decision to form the Serbian Municipality of Zvornik directly cited to the Variant A/B Instructions.⁹⁷⁸⁷ From late 1991, municipalities established Crisis Staffs and some were re-established or re-formed in around April or May 1992.⁹⁷⁸⁸ These Crisis Staffs were formed and in existence between 1991 and 1993 in the Municipalities.⁹⁷⁸⁹

3004. In other municipalities such as Bijeljina,⁹⁷⁹⁰ Foča,⁹⁷⁹¹ Sokolac,⁹⁷⁹² Banja Luka,⁹⁷⁹³ Sanski Most,⁹⁷⁹⁴ Hadžići,⁹⁷⁹⁵ Novi Grad,⁹⁷⁹⁶ Pale,⁹⁷⁹⁷ and Vogošća,⁹⁷⁹⁸ while the Chamber did not receive

P975 (Decision of Serbian Municipal Assembly of Ilidža, 3 January 1992), p. 1; P2591 (Decision regarding the formation of the Serbian Municipality of Zvornik, 27 December 1991), p. 1.

⁹⁷⁷⁶ See para. 698.

⁹⁷⁷⁷ See para. 796.

⁹⁷⁷⁸ See para. 955.

⁹⁷⁷⁹ See para. 1109.

⁹⁷⁸⁰ See paras. 1231, 1233.

⁹⁷⁸¹ See para. 1439.

⁹⁷⁸² See para. 1497.

⁹⁷⁸³ See para. 1578. See also P2570 (Book of minutes of Prijedor's SDS Municipal Board meetings, 1991), p. 75.

⁹⁷⁸⁴ See para. 2123.

⁹⁷⁸⁵ See paras. 2245.

⁹⁷⁸⁶ See paras. 698, 796, 955, 1109, 1231, 1233, 1439, 1497, 1578, 2123. *But see* Radojica Mladenović, T. 36626–36630, 36680–36682 (5 April 2013). Mladenović testified that the Serbian Municipality of Foča was not formed pursuant to instructions from the Accused and tried to characterise the Variant A/B document as a recommendation rather than an instruction. However, the Chamber notes that his evidence was marked by multiple contradictions and indicators of extreme evasiveness and does not find his evidence to be reliable in this regard. See also para. 137.

⁹⁷⁸⁷ See para. 1233; P2591 (Decision regarding the formation of the Serbian Municipality of Zvornik, 27 December 1991), pp. 1–2.

⁹⁷⁸⁸ See para. 137.

⁹⁷⁸⁹ See para. 146.

⁹⁷⁹⁰ See paras. 605–606.

⁹⁷⁹¹ See para. 845.

⁹⁷⁹² See para. 1051.

⁹⁷⁹³ See paras. 1371–1372. *But see* D4063 (Witness statement of Novak Kondić dated 23 November 2013), paras. 8–9, 11 (stating that he did not remember seeing or hearing about the Variant A/B Instructions in Banja Luka and that there was only one session of the Crisis Staff in that municipality).

⁹⁷⁹⁴ See para. 1934.

⁹⁷⁹⁵ See para. 2080.

⁹⁷⁹⁶ See paras. 2173, 2180 (referring to creation of the Rajlovac Crisis Staff).

⁹⁷⁹⁷ See para. 2303.

⁹⁷⁹⁸ See para. 2361.

direct evidence about the discussion of the Variant A/B Instructions *per se*, it found that Crisis Staffs and other Bosnian Serb municipal structures were created in late 1991 or early 1992. The Chamber is satisfied given the timing and pattern of events in these municipalities, that these structures were also created pursuant to the Variant A/B Instructions.

(c) Monitoring of developments and implementation of Instructions

3005. The Accused also followed up on the implementation of the Variant A/B Instructions. For example in an intercepted conversation on 21 December 1991, the Accused asked Krajišnik “who will implement what we issued last night?” and Krajišnik replied that it would be the Council of Ministers.⁹⁷⁹⁹ When the Accused observed that the Council of Ministers would not be able to “run from municipality to municipality and say do this, do that”, Krajišnik replied: “He won’t run either” and the Accused countered with “[B]ut he must run.”⁹⁸⁰⁰ From the context of the conversation the Chamber finds that the Accused and Krajišnik were speaking about Jovan Čizmović. His role is discussed in further detail below.

3006. On 26 December 1991, Krajišnik informed the Accused that he had been to a Novi Grad Municipal Assembly session in which voting had been blocked.⁹⁸⁰¹ In an intercepted conversation on 27 December 1991, the Accused was asked by Bjelica whether he would come to Sokolac and was informed: “We’re doing the job here, everything is normal” and the Accused asked whether Tupajić was doing a good job in the municipality.⁹⁸⁰²

3007. In January 1992, in an intercepted conversation, the Accused asked Miroslav Stanić, the president of the SDS in Foča, about the situation there.⁹⁸⁰³ The Accused specifically asked Stanić “[c]an they introduce independence in Foča”, to which Stanić replied that they would not and they had told journalists who visited them that “we’ll never allow that”.⁹⁸⁰⁴ Stanić proceeded to tell the Accused that they had formed a “Serb municipality and you have that information” and that if “things should go differently on the fifteenth, we’ll have a public promotion”.⁹⁸⁰⁵ The Accused expressed his agreement and said: “Yes, yes, and take complete control over your affairs”; to which

⁹⁷⁹⁹ P2550 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991), p. 3; See also Momčilo Krajišnik, T. 43857 (20 November 2013); P5792 (Intercept of conversation between Radovan Karadžić and Milan Novaković, 19 December 1991), p. 2; Radimir Nešković T. 14272–14273 (6 June 2011).

⁹⁸⁰⁰ P2550 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991), p. 3.

⁹⁸⁰¹ P5785 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 26 December 1991), p. 1.

⁹⁸⁰² P5783 (Intercept of conversation between Radovan Karadžić and Bjelica, 27 December 1991), p. 2.

⁹⁸⁰³ P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2; KDZ239, T. 18909 (15 September 2011).

⁹⁸⁰⁴ P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2; KDZ239, T. 18909–18910 (15 September 2011).

Stanić agreed and said that “everything [is] as it is in the instructions”.⁹⁸⁰⁵ The Accused expressed his satisfaction and said: “Good, good. That’s very important [...] never again in history will they [...] if we give in now, we’ll never have a chance and if, if we succeed, we will have succeeded for all times”.⁹⁸⁰⁷

3008. The Accused was kept informed of the implementation of the instructions. As such, in an intercepted conversation on 10 February 1992 between the Accused and Vitomir Žepinić, the plan to divide the Bratunac municipality and establish a separate Serb municipality was discussed and encouraged by the Accused.⁹⁸⁰⁸ Similarly, the previous day, Krajišnik informed the Accused of a meeting he had recently attended in Novi Grad, and the discussions he had about forming the Rajlovac municipality.⁹⁸⁰⁹

3009. There was direct communication between the municipal Boards and their representatives and the Accused with respect to the implementation of the Variant A/B Instructions and people came from the field to see the Accused.⁹⁸¹⁰ Municipal leaders would frequently visit the Accused or would communicate in writing or by phone with respect to municipal issues.⁹⁸¹¹ The Accused also had regular contact with Bosnian Serb municipal leaders and made frequent visits to municipalities.⁹⁸¹²

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- ⁹⁸⁰⁵ P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2.
- ⁹⁸⁰⁶ P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2. The Chamber finds that considering the timing of this conversation and the context, the reference to “the instructions” is a reference to the Variant A/B Instructions which were distributed in December 1991. P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 6, 10. *See also* P5617 (Intercept of conversation between Radovan Karadžić and Predrag Radić, 25 December 1991), p. 4.
- ⁹⁸⁰⁷ P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2.
- ⁹⁸⁰⁸ D381 (Intercept of conversation between Radovan Karadžić and Vitomir Žepinić, 10 February 1992), p. 2. KDZ605 stated that he heard that Deronjić went to Pale, met with the Accused to “discuss and organise the takeover of Bratunac”. However, the Chamber is not satisfied that it can rely on this unsourced second hand-hear say to establish that this meeting did take place or what was discussed at this meeting.
- ⁹⁸⁰⁹ P5753 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, February 1992), p. 1. Also, sometime in February 1992, Krajišnik informed Koljević about a meeting he was going to attend in Rajlovac “in connection with this one municipality.” P5758 (Intercept of conversation between Momčilo Krajišnik and Nikola Koljević, February 1992), p. 1. On 11 May 1992, the Bosnian Serb Assembly adopted a law according to which the municipality of Rajlovac included certain areas. P2315 (Law on Establishment of Rajlovac Municipality, 11 May 1992 and corresponding Decree on promulgation), p. 1; Stojan Džino, T. 29865, 29901 (7 November 2012). *See also* Adjudicated Fact 2580; P967 (Intercept of conversation between Radovan Karadžić and Ljubo Grković, 22 February 1992).
- ⁹⁸¹⁰ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16758–16759.
- ⁹⁸¹¹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16632, 16641.
- ⁹⁸¹² D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 44 (the Accused stated he had been to Banja Luka 27 times to deal with some problems with the local leadership). *See also* P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 41 (stating that municipal leaders often visited the Accused and Krajišnik on municipal business); P2332 (Intercept of conversation between Čedo and Radovan Karadžić, 30 May 1992), p. 3; P2534 (Intercepts of conversations between (i) Duško and Radovan Karadžić and (ii) Ljubo Grković and Radovan Karadžić, 19 February 1992, pp. 1, 4–5; P5749 (Intercept of conversation between Radovan Karadžić and Božidar Vučurović, 13 February 1992); P5733 (Intercept of conversation

3010. The Accused invited representatives of Crisis Staffs to report on their work.⁹⁸¹³ He was in contact with municipal leaders and questioned them on how the local authorities and structures were functioning.⁹⁸¹⁴ The Accused was regularly informed about, and gave instructions with respect to, specific developments at a municipal and regional level.⁹⁸¹⁵ When there were problems in a specific municipality, Nešković or other Bosnian Serb officials would be sent by the Accused or by the Main Board. Nešković would then provide a brief verbal report on the work he had done even though the Accused had already been informed from municipal sources about these developments.⁹⁸¹⁶

3011. The Accused sometimes intervened personally to resolve problems which arose at a municipal level.⁹⁸¹⁷ For example, in around February 1992, the Accused and Krajišnik were involved in resolving an internal conflict in Novo Sarajevo.⁹⁸¹⁸ The Accused and Krajišnik attended at least one meeting of the Novo Sarajevo SDS Municipal Board.⁹⁸¹⁹ In June 1992, in a letter from Novo Sarajevo Crisis Staff, the Accused was informed about developments in the Serbian Municipality of Novo Sarajevo, including the mobilisation of the population, the formation

between Jovan Tintor and unidentified male, 17 March 1992), p. 1; P2556 (Intercept of conversation between Radovan Karadžić and Nenad Stevandić, 11 January 1992), pp. 5, 12; P5738 (Intercept of conversation between Momčilo Krajišnik and Momčilo Mandić, 4 April 1992), p. 1; P6688 (Interview with Radovan Karadžić in Duga Magazine, 23 May 1992), p. 4; P3104 (Minutes of the 59th session of RS Government, 19 November 1992), pp. 4–5.

⁹⁸¹³ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16685.

⁹⁸¹⁴ P2572 (Intercept of conversation between Radovan Karadžić and Miroslav Stančić, 26 September 1991).

⁹⁸¹⁵ P5603 (Intercept of conversation between Mirko Čabrilo and Radovan Karadžić, 3 March 1992); P5741 (Intercept of conversation between Momčilo Mandić and Milenko Kepeš, 5 April 1992), pp. 2, 5; P5730 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 1 March 1992), p. 1; P5729 (Intercept of conversation between Biljana Plavšić, Rajko Dukić, and Radovan Karadžić, 2 March 1992), p. 4; P5747 (Intercept of conversation between Radovan Karadžić and Gojko Đogo, 15 February 1992), p. 3.

⁹⁸¹⁶ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16618–16619, 16621–16622, 16628–16629, 16738–16739, 16748, 16760, 16762; Radomir Nešković T. 14217 (6 June 2011). See also P2572 (Intercept of conversation between Radovan Karadžić and Miroslav Stančić, 26 September 1991), p. 2; P2571 (Intercepts of conversations between (i) Radovan Karadžić and Radomir Nešković; (ii) Radovan Karadžić and Mišković; and (iii) Radovan Karadžić and Srdo Srdić, 20 December 1991), pp. 1–2. See also D1278 (Transcript of Radomir Nešković's interview with Karadžić's legal associate, 8 October 2009), pp. 12, 46.

⁹⁸¹⁷ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641. See also D1276 (Minutes of meeting of Novo Sarajevo SDS local boards, 3 February 1992), p. 8.

⁹⁸¹⁸ See para. 2246. There was a debate about the role of the SDS Municipal Board versus other municipal institutions, and a conflict emerged between Prijčić, the president of the Municipal Board, and Đurović, the president of the executive board. D1276 (Minutes of meeting of Novo Sarajevo SDS local boards, 3 February 1992), pp. 1–3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16672–16679. The Accused and Krajišnik used their authority to defuse the conflict and Đurović held onto his position as “president of the municipal authorities”. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16673. See also Zdravko Šalipur, T. 31640 (18 December 2012).

⁹⁸¹⁹ P2576 (Minutes of 13th session of Novo Sarajevo's SDS Municipal Board, 28 February 1992), p. 3; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16641, 16675; Zdravko Šalipur, T. 31640, 31657 (18 December 2012); Branko Radan, T. 31092–31093 (6 December 2012).

of a Crisis Staff, Executive Board and Municipal Assembly, and was requested to provide further instructions with respect to the formation of war presidencies.⁹⁸²⁰

3012. The Accused sent commissioners to various locations when the municipal authorities were not functioning.⁹⁸²¹ Jovan Čizmović, who was a member of the Council of Ministers, was appointed as republic level co-ordinator of the activities of the SAOs and the ARK and had the duty of monitoring the implementation of the Variant A/B Instructions.⁹⁸²² In an intercepted conversation on 21 December 1991 the Accused gave Čizmović the “full authorisation to visit all our municipalities” and indicated that the municipalities would identify the problems they were facing and that it would be good to hear advice from Čizmović.⁹⁸²³

3013. In another intercepted conversation on 16 January 1992, Čizmović reported to the Accused that he had spoken to Bijeljina and that they were “prepared for full-cooperation” and that he had prepared a questionnaire for Northern Bosnia to allow them to identify what they had managed to do and how far they had come and to what extent they were prepared to “implement the first level of the instruction” and any problems they were facing or needed help with.⁹⁸²⁴ Čizmović indicated that he was prepared to form a team with the help of the Accused to provide professional help with any problems the municipalities faced.⁹⁸²⁵

3014. In another intercepted conversation on 22 January 1992 between the Accused and Čizmović, there was discussion on sending experts and teams to assist municipalities to deal with problems and Čizmović said: “It’s the same situation with Bijeljina [...] I’ve finished with them, too”.⁹⁸²⁶ Čizmović reported about measures taken in Doboj and Bijeljina and indicated that he still

⁹⁸²⁰ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1, 3–4 (indicating that “mobilisation was carried out in various ways personally and directly, through SDS [...] local boards and local communes, with the help of police, etc.”). See also P2575 (Excerpt from session of Novo Sarajevo’s Crisis Staff, 23 December 1991).

⁹⁸²¹ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8633–8634.

⁹⁸²² D86 (Shorthand Record of 4th Session of SerBiH Assembly, 21 December 1991), p. 34; P1345 (Minutes of 4th session of SerBiH Assembly, 21 December 1991), p. 6. See also P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990–1992”, 30 July 2002), p. 162; Patrick Treanor, T. 14030–14031 (1 June 2011).

⁹⁸²³ P2551 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 21 December 1991), p. 3. See also P5770 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 10 January 1992), p. 4.

⁹⁸²⁴ P2552 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 16 January 1992), p. 7. See also Patrick Treanor, T. 14031 (1 June 2011).

⁹⁸²⁵ P2552 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 16 January 1992), p. 7.

⁹⁸²⁶ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 5.

had to “see about Birač, Romanija and Herzegovina. [...] But I’ll see to it that that should be finished within this short time, too”.⁹⁸²⁷

3015. In another phone conversation, Čizmović indicated, and the Accused, agreed that “movements which are taking place here shouldn’t be seen as some sort of secession” but as an alternative “to a situation, if there should be a need for a reaction, that everything should be on a hair-trigger”.⁹⁸²⁸ The Accused said that it would allow them to react within two hours.⁹⁸²⁹ The Accused responded positively to Čizmović’s reports that: “Tonight we also established the Crisis Staff, which will act when nobody can get together, when they can assemble more quickly [...] So, that’s working. Because the objective must be carried out, instructions must be carried out”.⁹⁸³⁰ At the 6th session of the Bosnian Serb Assembly on 26 January 1992, Čizmović spoke and called for the urgent operationalisation and declaration on the establishment of the SerBiH and stated that the “[t]asks set out in the instructions of 19 December 1991 should be carried out”.⁹⁸³¹

3016. In February 1992, the Accused addressed the Bosnian Assembly and stressed the importance of co-operation with regional structures and leaders and the development of their strategic objectives.⁹⁸³² This included creating a questionnaire to be used to check the progress of municipalities with respect to “preparations”.⁹⁸³³ The Accused spoke about Čizmović visiting municipalities, including Bijeljina and Banja Luka, with a questionnaire to check on preparations at the municipality level and to check on their loyalty.⁹⁸³⁴

3017. In March 1992, the Accused wrote to all the presidents of the municipalities to inform them that a Republic Operations Centre had been established and that the task of the municipalities was to urgently connect their own information centres with district centres, to provide personnel and ensure that other requirements were met so as to monitor the situation on the ground.⁹⁸³⁵ The Accused noted that the district centres were already connected by telephone and radio communication with the republic centres and it was also necessary to co-operate with the SJBs

⁹⁸²⁷ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), pp. 5–6; Patrick Treanor, T. 14034–14035 (1 June 2011).

⁹⁸²⁸ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 6.

⁹⁸²⁹ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 6.

⁹⁸³⁰ P2553 (Intercept of conversation between Radovan Karadžić and Jovan Čizmović, 22 January 1992), p. 7.

⁹⁸³¹ P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992), p. 14.

⁹⁸³² P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992), pp. 58–59; D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 19–20, 45; D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 43; D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), pp. 9, 20.

⁹⁸³³ P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992), p. 59.

⁹⁸³⁴ P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992), p. 59.

⁹⁸³⁵ P5575 (Letter from Radovan Karadžić to Presidents of all Municipalities, 23 March 1992).

continuously to allow for the transmission and receipt of information 24 hours a day.⁹⁸³⁶ The Accused stated that consultative meetings would soon be held to go over technical and organisational issues related to the work of municipal and district centres.⁹⁸³⁷

3018. Municipal leaders also requested assistance from the higher level Bosnian Serb institutions. For example, in July 1992, the President of the Executive Committee in Foča informed Đerić that the political and security situation in Foča remained critical and requested assistance to find the best solution.⁹⁸³⁸ Similarly, in September 1992 the Command of the 2nd Romanija Motorised Brigade reported to the Accused about disputes and difficulties in co-operation with the civilian authorities in Sokolac.⁹⁸³⁹ The Accused was also informed of the situation with regard to the institutions in Bratunac and, for example, in a speech to the Bosnian Serb Assembly in September 1992 he spoke about the need to ensure the functioning of authorities.⁹⁸⁴⁰

3019. The Chamber received evidence that described disruptions of road systems at different locations or breakdown of telecommunications between the RS institutions and the local levels, from March until December 1992.⁹⁸⁴¹

3020. However, the consistent communications between different levels of the SDS party and RS institutions, both regional and municipal, as depicted above, including other evidence,⁹⁸⁴² clearly

⁹⁸³⁶ P5575 (Letter from Radovan Karadžić to Presidents of all Municipalities, 23 March 1992) p. 1.

⁹⁸³⁷ P5575 (Letter from Radovan Karadžić to Presidents of all Municipalities, 23 March 1992) p. 2.

⁹⁸³⁸ P2809 (Foča Municipal Assembly dispatch to SerBiH Prime Minister, 26 July 1992).

⁹⁸³⁹ D3232 (Letter from 2nd Romanija Motorised Brigade to Radovan Karadžić, 3 September 1992), p. 1.

⁹⁸⁴⁰ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 18. *See also* D1643 (Intercept of conversation between Radovan Karadžić and Zvonko Bajagić, 4 September 1991), pp. 1–4, 6–7.

⁹⁸⁴¹ *See, e.g.*, Momčilo Mandić, T. 4962–4963, 4969–4971 (8 July 2010), T. 5194–5195 (15 July 2010); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 9; D4147 (Information of RS MUP, 7 September 1993), p. 1; D3917 (Witness statement of Čedomir Kljajić dated 30 July 2013), para. 12; Čedomir Kljajić, T. 42231 (30 July 2013); Goran Mačar, T. 39518 (7 June 2013); D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 20; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 57, 92; Momčilo Krajišnik, T. 43314–43315 (12 November 2013); D3750 (Intercept of conversation between Tomislav Kovač and Milenko Karišik, 4 May 1992), p. 1; Cvijetin Simić, T. 35713 (20 March 2013); KW317, T. 39412 (6 June 2013).

⁹⁸⁴² *See, e.g.*, D4147 (Information of RS MUP, 7 September 1993), p. 1 (stating that “with a great deal of work and effort [breakdown of every form of communication] was gradually overcome and remedied”); D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), para. 20 (stating that since there was a communication breakdown a dispatch was conveyed in person to Bratunac); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 86, 91–92 (while stating that they had poor communication, Subotić also mentioned efforts to remedy it and that “ministers were reduced to telephones or written communications sent by messengers or couriers”); Slobodan Avlijaš, T. 35149–35153 (11 March 2013); P6194 (SerBiH Government request to Foča Crisis Staff, 23 May 1992); Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7530–7536; D414 (Minutes of 19th session of Government of SerBiH, 2 June 1992), p. 2; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 246 (showing that the Accused and Mladić met with civilian and military representatives from municipalities including Zvornik, Vlasenica, and Bratunac); P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 105 (while deputies acknowledged that there were periods when telephone lines were down and that mail did not function, during those periods “it was necessary to go to the municipalities to see what the situation was like and report to the Presidency”); Momčilo Mandić, T. 5109 (14 July 2010) referring to D440 (Minutes of 15th session of Presidency of SerBiH, 6 July 1992), p. 2

demonstrate that notwithstanding disruptions in telecommunications from March until December 1992, it was still possible for the leadership of the SDS, including the Accused, and RS institutions to communicate with lower levels and that generally obstacles were overcome.⁹⁸⁴³ More specifically, with respect to the RS MUP, CSBs, and SJBs, there were always communication channels with most communication by fax and telephone and daily communication between the CSB and SJBs. If there were limited interruptions, for example if the telephone lines were down, there would be communication by courier.⁹⁸⁴⁴

(d) Activation of second level of the Instructions

3021. In January 1992, in an intercepted conversation, the Accused spoke about “level two” of “that paper of ours” and the importance of quickly taking over “real functions”.⁹⁸⁴⁵

(commissioners were introduced to establish a link between the central organs and the municipalities and as a way of exercising “control over the municipal organs on the ground”); Momčilo Krajišnik, T. 43314 (12 November 2013) (while testifying about the communication problems in 1992, the witness stated that throughout 1992 telephones, faxes and printers “worked with lots of difficulties”); P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 8, 21 (indicating that the Accused was aware of developments in municipalities such as Foča, Zvornik and Višegrad, and a deputy of the Bosnian Serb Assembly reported on his visit to Bosanski Novi the day before and stated that it was “sealed off”); Radomir Nešković T. 14364–14365 (7 June 2011) (testifying about different modes of communication when there was an absence of telephone contact in Novo Sarajevo between 10 April and 10 May 1992); P2752 (SerBiH MUP order, 17 May 1992), p. 1 (indicating that Mićo Stanišić issued an order to the Security Service Centres in Banja Luka, Bijeljina, Doboj, Sarajevo and Trebinje municipalities to send reports via “courier or coded”); Nedeljko Prstojević, T. 13261, 13264 (11 March 2011) (describing a meeting in or around September 1992 in Jahorina to which the state and political leadership, including the Accused, and all municipal presidents and presidents of Executive Boards attended); P2794 (Witness statement of Ranko Vuković dated 24 May 2011), pp. 3–5 (testifying that following the establishment of the Republican Communications Centre in Pale in April 1992, there was communication between the municipalities, the MUP, and the VRS, which included telephone, short wave and ultra-short wave radio, fax machines, teleprinters, radio relay communications, wire communications, and, when other systems were not working, a courier system. The Chamber notes that Mladenović testified that communications with Pale were non-existent, however, it does not find his evidence to be reliable in this regard. In reaching this conclusion the Chamber notes multiple contradictions and extreme evasiveness in Mladenović's evidence. More specifically Mladenović testified that while communication was non-existent they did receive some communication including orders and warnings from the Accused to adhere to the Geneva Conventions. Radojica Mladenović, T. 36612 (4 April 2013).

⁹⁸⁴³ See for example P2240 (Intercept of conversation between Momčilo Krajišnik, Branko Derić, and Milenko Karišik, 7 May 1992); P2220 (Intercept of conversation between Milinković and Momčilo Krajišnik, 21 April 1992); P5708 (Intercept of conversation between Momčilo Krajišnik and unidentified male, 21 April 1992); P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992), p. 3; D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), p. 3; P2625 (Minutes of 11th session of SerBiH Government, 18 May 1992), p. 2; P3109 (Minutes of the 8th extraordinary session of RS Government, 1 September 1995), pp. 2–3. The Chamber notes evidence suggesting that there were few or no telephone lines available for communication between Novo Sarajevo and Pale during the war. Zdravko Šalipur, T. 31656–31657 (18 December 2012); D1278 (Transcript of Radomir Nešković's interview with Karadžić's legal associate, 8 October 2009), p. 32. However, considering the communications above, the Chamber finds that even if there was some disturbance in the telephone lines during the war, it was still possible to establish a line of communication between Novo Sarajevo and Pale.

⁹⁸⁴⁴ Milorad Davidović, T. 15460–15463 (24 June 2011). See also P2850 (Fax of Bijeljina CSB, 29 April 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 92; P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 1; P2851 (Fax of Bijeljina CSB, 24 April 1992); P2752 (SerBiH MUP order, 17 May 1992), p. 1.

⁹⁸⁴⁵ P2596 (Intercept of conversation between Radovan Karadžić and “Miroslav”, 7 January 1992), p. 7.

3022. The Chamber recalls that on 14 February 1992, the Accused at an extended session of the SDS Main Board and Executive Board activated the second level of the Variant A/B Instructions.⁹⁸⁴⁶ The presidents of SDS municipal boards, presidents and members of regional boards, presidents of assemblies, and executive boards of municipalities were invited to this meeting.⁹⁸⁴⁷ This discussion and instruction to implement level two were conveyed to SDS structures at a municipal level.⁹⁸⁴⁸

3023. The Accused called for the “second level” to be introduced and to “intensify the functioning of the government at any cost and on every single millimetre of our territory”.⁹⁸⁴⁹ At this meeting, the Accused said that they needed to be wise and united “in order to take the last drop of the power into our hands, in a humane way of course, carry it out in a humane way, a just way towards both Muslims and Croats who live there, that is particularly important, that there would be no fleeing from our areas”.⁹⁸⁵⁰ The Accused in this regard noted that “our image with foreign monitors” had to change and if Bosnian Serbs defended themselves too aggressively they would “lose an awful lot of points”.⁹⁸⁵¹ The Accused said that “stage number two should also be converted, the one we’ve talked about, the one you have [...] in order to have authorities in the field functioning, that a bird cannot fly over really.”⁹⁸⁵²

3024. At this session, the Accused spoke about the Bosnian Serb strategic objectives.⁹⁸⁵³ He also noted the importance of international opinion and sympathy and that they should not be the aggressors, and stated that they “seek nothing that belongs to somebody else” and that they should defend what was theirs but not “in an aggressive way, in a combat way” but defend it with firm

⁹⁸⁴⁶ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 5–7, 17, 24; Simo Mišković, T. 45373–45374 (18 December 2013); P5516 (Minutes of Meeting of SDS Prijedor Municipal Board, 17 February 1992), p. 1. See also P6588 (Receipt of Holiday Inn Hotel, 14–15 February 1992); Adjudicated Fact 1010.

⁹⁸⁴⁷ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 1. Vučurević stated that he does not remember any reference made by the Accused to the Variant A/B Instructions. The only variants that he knew of were: first, “[i]f we cannot live together, we should split in peace”, and the second “if everything else fails” to “defend ourselves”. Božidar Vučurević, T. 35985–35986 (25 March 2013). See D3146 (Witness statement of Božidar Vučurević, 22 March 2013), para. 25. However, the Chamber does not find his evidence to be reliable in this regard. In reaching this conclusion the Chamber concluded that the evidence of the witness was marked by insincerity, contradictions, and bias.

⁹⁸⁴⁸ Simo Mišković, T. 45373–45374 (18 December 2013); P5516 (Minutes of Meeting of SDS Prijedor Municipal Board, 17 February 1992); P6587 (Excerpts from Simo Mišković’s testimony from *Prosecutor v. Stanišić & Župljanin*), T. 15187–15188; P2597 (Minutes of meeting of Bratunac’s SDS Municipal Board, 24 February 1992), p. 1; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 18; KW317, T. 39337 (5 June 2013).

⁹⁸⁴⁹ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 24. See also Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7364–7366.

⁹⁸⁵⁰ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 5.

⁹⁸⁵¹ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 13.

⁹⁸⁵² P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 17.

⁹⁸⁵³ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 11–12.

conviction that their rights had been repeatedly violated and that they would be dominated in a unitary BiH.⁹⁸⁵⁴ In contrast the Accused also stated that he and the Serbs wanted to “let everything go to fucking hell and that we take the express way” but that they needed to find a balance between power and tactfulness in order to achieve their goal.⁹⁸⁵⁵ For example he noted that for international political reasons they could not organise their assembly “without a major provocation” and that they knew exactly where they were heading.⁹⁸⁵⁶

3025. The Accused emphasised that he, Koljević and Krajišnik were of the opinion that “it would be more important to gain the real situation, the factual situation on the ground” for the purposes of international negotiations.⁹⁸⁵⁷ The Accused also emphasised that they would have a right to “introduce the stage number two in functioning of your areas and, relying on your own forces, to absolutely defend yourselves from the independent BiH”.⁹⁸⁵⁸ He also explained that according to their “scheme” there would be a municipal board and a local board structure so that not “a single Serbian house should be left without contacts with the party”.⁹⁸⁵⁹ The Accused explained that they had their “moves ready”, that the deputies knew about it and that whenever the Bosnian Muslims did something foolish they would “disclose our next move, which is ten times more powerful than theirs”.⁹⁸⁶⁰

3026. Mladenović at this meeting spoke on behalf of the Bosnian Serb Executive Committee of Foča and reported that “we did everything that the centre had requested us to do, and considering the instructions we received in this field when setting up the Serbian Assembly and Executive Committee”.⁹⁸⁶¹ Mladenović continued by saying that “we wish to finally round up the Serbian territory of Foča Municipality” within the SAO of Herzegovina and that he found it necessary to “establish Serbian municipalities regardless of the borders of existing municipalities”.⁹⁸⁶²

3027. Following the activation by the Accused of the second level of the Variant A/B Instructions, the Chamber recalls that, for example, on 24 February 1992 the SDS Municipal Board in Bratunac

⁹⁸⁵⁴ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 14. Ristanić testified that the Strategic Goals were only put in a document form later, but these objectives were to be achieved in peaceable conditions. Đorđe Ristanić, T. 16761–16762 (18 July 2011). *See also* Milorad Dodik, T. 36846 (9 April 2013).

⁹⁸⁵⁵ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 26.

⁹⁸⁵⁶ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 26.

⁹⁸⁵⁷ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 5.

⁹⁸⁵⁸ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 7.

⁹⁸⁵⁹ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 10.

⁹⁸⁶⁰ P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 25.

⁹⁸⁶¹ P6264 (Excerpt from transcript of extended session of SDS Main Board and Executive Board, 14 February 1992, with audio), p. 1; Radojica Mladenović, T. 36631–36632 (5 April 2013).

⁹⁸⁶² P6264 (Excerpt from transcript of extended session of SDS Main Board and Executive Board, 14 February 1992, with audio), p. 2.

discussed the implementation of this second level.⁹⁸⁶³ On 2 March 1992, the SDS Municipal Board of Foča sent a letter addressed to the office of the President of the SDS Crisis Staff in Sarajevo indicating that they were facing pressure in Foča but they were “ready to carry out any order”.⁹⁸⁶⁴ The Chamber also recalls that the Serbian Municipality of Zvornik was proclaimed on 15 March 1992 and decided to join the SAO Majevisa-Semberija.⁹⁸⁶⁵ On 13 March 1992, the President of the Executive Board of the SDS required all SDS Municipal Board to assess the possibility of establishing Serbian municipalities and the projected territory that would become part of these Serbian municipalities.⁹⁸⁶⁶

(e) Activation of Crisis Staffs and other structures

3028. On 4 April 1992, the Accused, as President of the SNB, issued an announcement that the Crisis Staffs should be activated.⁹⁸⁶⁷ The Accused, made an announcement that the “rump” presidency of BiH, operating without any Serbs, issued highly irresponsible and illegal instructions to raise the TO, civilian protection, and reserve police and that by doing so, the “rump” Presidency acknowledged the collapse of the constitutional and legal order and instigated chaos, violence, and civil war.⁹⁸⁶⁸ He called upon the population to disregard these moves by the BiH Presidency and ordered that Crisis Staffs and Serb TO be activated in response to Bosnian Muslim mobilisation in specified areas with the purpose of maintaining peace, order, and safety of civilians of all nationalities.⁹⁸⁶⁹

⁹⁸⁶³ See para. 701.

⁹⁸⁶⁴ P5515 (Letter from SDS Municipal Board of Foča to SDS Crisis Staff in Sarajevo, 2 March 1992).

⁹⁸⁶⁵ See para. 1235; D1693 (Decision of Zvornik Assembly, 15 March 1992), p. 1. See also Marinko Vasilčić, T. 39920–39922 (13 June 2013); D3654 (Witness statement of KW317 dated 26 September 2012), paras. 28–29 (under seal); D3656 (Decision of Zvornik Municipal Assembly, 15 March 1992).

⁹⁸⁶⁶ D1187 (Letter from SDS Executive Board to all SDS Municipal Boards, 13 March 1992).

⁹⁸⁶⁷ D394 (Announcement of SNB, 4 April 1992). See also Dorothea Hanson, T. 14525 (9 June 2011); P2589 (Dorothea Hanson’s expert report entitled “Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995”, 10 September 2009), para. 36. See para. 141. Šojić testified that Crisis Staffs were only established following the example of the SDA and HDZ and not pursuant to any instructions and that they were formed spontaneously at the initiative of local authorities and they were not controlled at the republican level. Dragan Šojić, T. 31752-31754 (19 December 2012). However, the Chamber notes that the evidence of Šojić was marked by evasiveness, contradictions, and indicators that he was trying to mislead the Chamber. The Chamber therefore does not find his evidence to be reliable in this regard.

⁹⁸⁶⁸ D394 (Announcement of SNB, 4 April 1992), p. 1; Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9705–9706. See also D392 (Conclusions of SRBiH Presidency, 4 April 1992); D393 (Minutes of 65th session of SRBiH Presidency, 4–8 April 1992).

⁹⁸⁶⁹ D394 (Announcement of SNB, 4 April 1992), p. 2; Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9707. Subotić stated that TO units were also “self-organised” and nobody had an overview of how many local TO units had been formed and they were not under anyone’s command until the VRS was formed. Subotić also stated that the Accused did not have effective command and control over the TO in the period from 1 April to 12 May 1992. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 52–54, 57–59, 68, 118; Bogdan Subotić, T. 40125–40126 (20 June 2013). However, the Chamber notes that the evidence of Subotić was marked by evasiveness, contradictions, and indicators of partisanship and bias. The Chamber therefore does not find his evidence to be reliable in this regard. For further discussion on the

3029. On 26 April 1992, Đerić on behalf of the Bosnian Serb Government issued instructions for the work of Crisis Staffs in the SerBiH.⁹⁸⁷⁰ These instructions provided that in wartime conditions the Crisis Staffs would take over “all the prerogatives and functions of the municipal assemblies” when they were not in a position to meet.⁹⁸⁷¹ The Chamber recalls that the 26 April 1992 instructions provided that the Crisis Staffs “shall co-ordinate governmental functions for the purpose of the defence of territory, safety of the population and its property, establishment of authority and organisation of all other aspects of life and work”.⁹⁸⁷² They also provided that the Crisis Staff was to create conditions to allow the municipal executive board to exercise power.⁹⁸⁷³ The Crisis Staffs were also required to work in accordance with the Constitution, law and decisions of the Bosnian Serb Assembly, the Bosnian Serb Government and the Presidency.⁹⁸⁷⁴

3030. According to the 26 April 1992 instructions, the Crisis Staffs were “obliged to gather information on the situation in the field and notify and consult the competent authorities in [SerBiH], i.e. commissioners of the Government appointed for the areas and regions especially threatened by war”.⁹⁸⁷⁵ These same instructions obligated the Crisis Staff to ensure the safe passage of humanitarian aid convoys and to act humanely towards non-combatants, the wounded, and POWs.⁹⁸⁷⁶

3031. The Accused gave explicit instructions on how the Crisis Staffs and the TO would be structured, including who would be the highest ranking officials in these structures namely the presidents of municipalities and executive boards.⁹⁸⁷⁷ For example at a meeting of the SNB on 27 April 1992, it was concluded that “comprehensive instructions for crisis staffs should be drafted in which the manner of political work on the ground and organisation of the functioning authorities will be presented”.⁹⁸⁷⁸ The SNB also concluded that material and equipment would be provided for

Accused’s involvement with mobilisation of the TO, *see* Section IV.A.3.iii: Authority over military and police forces acting in BiH.

⁹⁸⁷⁰ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992).

⁹⁸⁷¹ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 1.

⁹⁸⁷² *See* para. 143. P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 3. In these instructions, the Bosnian Serb Government mandated that all Crisis Staffs include the commander of the TO Staff. P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 2. The instructions also stated that the Crisis Staffs were to “create all the conditions for the life and work of members of the JNA”. P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 8.

⁹⁸⁷³ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 3.

⁹⁸⁷⁴ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 6.

⁹⁸⁷⁵ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 11.

⁹⁸⁷⁶ D407 (Excerpts from instructions of SerBiH Government for municipal crisis staffs, 26 April 1992), p. 2.

⁹⁸⁷⁷ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), pp. 20–21. *See* para. 140.

⁹⁸⁷⁸ D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 2. *See* para. 142. Subotić stated that Crisis Staffs were operating independently and that this decision related to the provision of instructions relating to respect for international humanitarian law and the laws and customs of war. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 270. The Chamber does not find Subotić’s

the defence of the SerBiH and that the Crisis Staffs needed to inform the government about developments.⁹⁸⁷⁹ The Accused emphasised that these steps were for defensive purposes and that peace was in their interests and would benefit them politically.⁹⁸⁸⁰ He also stressed that the Bosnian Muslims did not have the forces required to take-over the extensive territory held by Bosnian Serbs and these “Serbian areas” would never be incorporated in their state.⁹⁸⁸¹

3032. Crisis Staffs operated to some extent independently in each municipality, but ultimately they had direct contact with the Presidency and followed the SDS party line.⁹⁸⁸² For example in Hadžići, the Crisis Staff President, Ratko Radić had a very good relationship with the Accused—he often visited Pale and got instructions from the Accused.⁹⁸⁸³ The Chamber also recalls that all important decisions of the SDS Main Board that needed to be implemented in Sokolac were sent to the SDS Municipal Board of Sokolac and the Crisis Staff was informed of these decisions.⁹⁸⁸⁴ The Chamber also recalls that the Rogatica Crisis Staff for example had direct, oral and written contact with the Presidency and ministries of the SerBiH, the Government, the army, and the police.⁹⁸⁸⁵

3033. Similarly in Sanski Most, policy formulated by the SDS leadership at the republican level would come down to the municipal Crisis Staff to implement.⁹⁸⁸⁶ The Sanski Most Crisis Staff was directly subordinated to the ARK Crisis Staff, which was subordinated to the Bosnian Serb leadership, including the Accused.⁹⁸⁸⁷ The Chamber notes that Vlado Vrkeš, the deputy president of the Crisis Staff, was in charge of implementing policies from the Republic level⁹⁸⁸⁸ and was close to the Accused.⁹⁸⁸⁹ In April 1992, Kuprešanin said in an intercepted conversation to General Kukanjac that they were waiting for the Accused to return from Europe to tell them what to do next

characterisation of this conclusion to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 9869.

⁹⁸⁷⁹ P2627 (Minutes of meeting of SNB and SerBiH Government, 28 April 1992), p. 1.

⁹⁸⁸⁰ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 21.

⁹⁸⁸¹ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 20.

⁹⁸⁸² P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 40.

⁹⁸⁸³ P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 25; Tihomir Glavaš, T. 11976–11978 (16 February 2011). The Chamber notes however, that Radić sometimes would push ideas by exaggerating the extent to which the Accused had agreed to them. Tihomir Glavaš, T. 11796 (14 February 2011), T. 11949 (16 February 2011). The Chamber places no weight on Glavaš’s impression that the Accused left the municipalities of Ilidža and Hadžići to care for themselves.

⁹⁸⁸⁴ See para. 1051.

⁹⁸⁸⁵ See para. 957.

⁹⁸⁸⁶ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3340–3341 (under seal). See, e.g., P3399 (Conclusions of meeting of Sanski Most Crisis Staff, 20 April 1992).

⁹⁸⁸⁷ KDZ490, T. 20282 (20 October 2011) (closed session); P3634 (Witness statement of KDZ490, undated), pp. 81–83, 103 (under seal); P3634 (Witness statement of KDZ490, undated), pp. 11, 57, 66, 81–83 (under seal).

⁹⁸⁸⁸ P3634 (Witness statement of KDZ490, undated) (under seal), pp. 103–104.

⁹⁸⁸⁹ KDZ490, T. 20282 (20 October 2011) (closed session); P3634 (Witness statement of KDZ490, undated), p. 9 (under seal).

and “when [the Accused] comes whatever he tells us we will do. He is now for us the supreme commander and we have no other commander”.⁹⁸⁹⁰

3034. As found above, by early April 1992 the SNB was issuing instructions to, and receiving reports from, municipal Crisis Staffs and TOs.⁹⁸⁹¹ On 28 April 1992, Branko Đerić and the Accused attended a meeting of the SNB where the reports on the work of Crisis Staffs and municipal organs of government were adopted. At this same meeting there was also discussion of the need to keep the Crisis Staffs more fully informed about developments and for the Crisis Staffs to also inform the Bosnian Serb Government about developments.⁹⁸⁹²

3035. In this regard the Chamber found that the Bijeljina Crisis Staff kept the SDS Main Board informed of its activities.⁹⁸⁹³ In addition the Chief of the Bijeljina SJB reported to Mićo Stanišić on the situation in the municipality,⁹⁸⁹⁴ and an almost daily report system was operating between the Bijeljina CSB and the Bosnian Serb MUP.⁹⁸⁹⁵ Similarly the Chamber found that the Rogatica Crisis Staff had direct, oral, and written contact with the Presidency and ministries of the SerBiH, the Government, the army, and the police.⁹⁸⁹⁶ For example, during negotiations in April and May 1992 between the Rogatica Crisis Staff and the Bosnian Muslim leadership regarding the demarcation of territory and division of power within the municipality, the SDS representatives said they would report to the Main Board of the SDS in Pale.⁹⁸⁹⁷ The Chamber also found that in

⁹⁸⁹⁰ P987 (Intercept of conversation between Milutin Kukanjac and Vojo Kuprešanin, 27 April 1992), p. 2.

⁹⁸⁹¹ See para. 92.

⁹⁸⁹² P2627 (Minutes of meeting SNB and SerBiH Government, 28 April 1992), p. 1. See also Dorothea Hanson, T. 14558 (9 June 2011). The Chamber notes that Hanson testified about the involvement and role of Crisis Staffs in take-overs and the arming of the population, connections between the Crisis Staffs and the military and police and detention of non-Serbs: However, the Chamber considers that these conclusions fall outside the scope of her expertise and will not rely on her evidence in this regard. Dorothea Hanson, T. 14563–14564, 14566–14567, 14577–14579, 14582 (9 June 2011).

⁹⁸⁹³ See para. 606. For example, see P2626 (Report of Bijeljina Crisis Staff, 1 April 1992) (in which the Bijeljina Crisis Staff reported to the SDS Main Board on the situation in the municipality).

⁹⁸⁹⁴ P2629 (Report of Bijeljina SJB, undated).

⁹⁸⁹⁵ P2851 (Fax of Bijeljina CSB, 24 April 1992); Milorad Davidović, T. 15462–15463 (24 June 2011); P2752 (SerBiH MUP order, 17 May 1992), p. 1. The Chamber notes the evidence of Kezunović that, considering power cuts and continuous interruption in communication, he did not know whether the CSB from locations such as Bijeljina were able to deliver daily reports to the ministry. Dragan Kezunović, T. 15067–15069 (21 June 2011). However, considering the evidence presented and Kezunović’s unsubstantiated speculation, the Chamber gives little weight to his evidence in this regard. Cvijetin Simić testified that because of the conflicts the whole area of Bijeljina did not have telephones working for several months and that it was cut off from the outside world until May 1992. Cvijetin Simić T. 35713 (20 March 2013). The Chamber finds that it stands in contradiction with accepted evidence that demonstrates that communication existed. Further, the Chamber found that Simić’s evidence was marked by indicators which led to the conclusion that he withheld information from the Chamber, was evasive, and lacked sincerity. The Chamber shall therefore no rely on this portion of this evidence.

⁹⁸⁹⁶ See para. 957.

⁹⁸⁹⁷ P2835 (Report of Rogatica Crisis Staff, April – June 1992), p. 2; KDZ606, T. 18265–18267 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 71 (under seal); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 14. The Chamber received Defence evidence that the Bosnian Serb authorities wanted to avoid the conflicts which had already broken out in the

Sokolac, all important decisions of the SDS Main Board that needed to be implemented in Sokolac were sent to the SDS Municipal Board of Sokolac and the Crisis Staff was informed of these decisions.⁹⁸⁹⁸

3036. In addition Crisis Staffs were also established in SAOs, including the SAO Semberija and Majevisa, ARK, and SAO Birač.⁹⁸⁹⁹ The Chamber recalls that the ARK Crisis Staff was formally established on 5 May 1992 by a decision of the ARK Executive Council; however, it had been functioning since January 1992.⁹⁹⁰⁰ On 9 July 1992, the ARK Crisis Staff was renamed the ARK War Presidency.⁹⁹⁰¹

3037. The Chamber recalls its finding that the ARK Crisis Staff acted as an intermediary regional body between the republican-level authorities and the ARK Municipalities by co-ordinating the implementation of instructions sent by the republic-level authorities in the ARK Municipalities.⁹⁹⁰² In addition, municipal Crisis Staff presidents in the ARK regularly gave reports to the ARK Crisis Staff with respect to events within their area of responsibility and received directives from the ARK Crisis Staff.⁹⁹⁰³ The Chamber also found that decisions and conclusions of the ARK Crisis Staff were binding on the ARK Municipalities and were implemented by the municipal Crisis Staffs.⁹⁹⁰⁴

3038. On 11 June 1992, the ARK Crisis Staff issued a statement setting forth the composition of municipal Crisis Staffs/War Presidencies in the ARK and placing responsibility on these structures for leading the defence and establishing co-operation with organs in other municipalities and the command of armed units.⁹⁹⁰⁵ In addition members of the ARK Crisis Staff were regularly briefed about military developments.⁹⁹⁰⁶ The ARK Crisis Staff was also involved in organising contact with Pale to discuss defining territory.⁹⁹⁰⁷ The Chamber also recalls its findings with respect to the involvement of the ARK Crisis Staff in the dismissal and movement of Bosnian Muslims and Bosnian Croats from ARK municipalities and the implementation of ARK Crisis Staff policy at a

neighbouring municipalities and continued with negotiations until 22 May 199. Mile Ujjć, T. 33438–33439 (12 February 2013). *See also* KDZ606, T. 18317 (5 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011) (under seal), para. 84.

⁹⁸⁹⁸ *See* para. 1051.

⁹⁸⁹⁹ *See* para. 146.

⁹⁹⁰⁰ *See* para. 2045.

⁹⁹⁰¹ *See* para. 2045.

⁹⁹⁰² *See* para. 2047.

⁹⁹⁰³ *See* para. 2047.

⁹⁹⁰⁴ *See* para. 2048.

⁹⁹⁰⁵ *See* para. 2049.

⁹⁹⁰⁶ *See* para. 2050.

⁹⁹⁰⁷ D4038 (Conclusions of ARK Crisis Staff, 18 May 1992). *See also* D4035 (Conclusions of ARK Crisis Staff, 14 May 1992).

municipal level.⁹⁹⁰⁸ For example, the ARK Crisis Staff issued a decision that all leading positions, involving access to information, protection of public property and other positions of importance for the functioning of the economy could be occupied exclusively by persons of Serb nationality.⁹⁹⁰⁹

3039. On 29 May 1992, the ARK Crisis Staff concluded that all Muslims and Croats would be able to move out of the ARK on the condition that Serbs living outside the SAOs be allowed to move into SerBiH and the ARK.⁹⁹¹⁰ This would help carry out the exchange of population or resettlement of people in an organised manner.⁹⁹¹¹ The ARK Crisis Staff also decided to oppose the forceful movement of population and to prevent any such attempts.⁹⁹¹² However, the Chamber finds that the wording of this conclusion was completely at odds with the forcible nature of the movement of the non-Serb population from municipalities in the ARK.⁹⁹¹³

3040. After receiving the Bosnian Serb government instructions on the work of the Crisis Staffs, the Bosanski Novi Crisis Staff re-organised itself on 20 May 1992 to “take over the prerogatives and functions” of the Municipal Assembly.⁹⁹¹⁴ Similarly on 5 June 1992, the Novo Sarajevo Crisis Staff wrote to the President of the SerBiH Presidency and stated: “The Crisis Staff has performed the function of Municipal Assembly in war conditions.”⁹⁹¹⁵ The letter also indicated that the Crisis Staff co-ordinated and organised a variety of municipal services, including accommodation for “all refugees from the occupied territory and people who were left homeless”, mobilisation, and accommodation of fighters from other areas.⁹⁹¹⁶

3041. From 1993 onwards, when municipal authorities acted autonomously and failed to follow regulations, these issues were discussed and addressed by the Bosnian Serb Government.⁹⁹¹⁷ The

⁹⁹⁰⁸ See paras. 2054–2061.

⁹⁹⁰⁹ D4040 (Article entitled “Leaders - Only Loyal Serbs”, 22 June 1992), pp. 1–2; D4039 (Decision of ARK Crisis Staff, 22 June 1992).

⁹⁹¹⁰ D4045 (Conclusions of ARK Crisis Staff, 29 May 1992).

⁹⁹¹¹ D4045 (Conclusions of ARK Crisis Staff, 29 May 1992).

⁹⁹¹² D4045 (Conclusions of ARK Crisis Staff, 29 May 1992). See also D4194 (Witness statement of Sveto Kovačević dated 7 December 2013), para. 37. Kovačević stated that the leadership in Pale had no influence on decisions of the ARK. The Chamber found that Kovačević’s evidence was marked by contradictions, evasiveness and indicators of insincerity which undermined the reliability of his evidence in this regard.

⁹⁹¹³ See Section IV.A.2.b.iii: Deportation and inhumane acts (forcible transfer): Counts 7 and 8.

⁹⁹¹⁴ P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992); P2632 (Report of Bosanski Novi’s Crisis Staff, undated), p. 7. Hanson testified to seeing evidence of these instructions of 26 April 1992 being implemented in several municipalities including Bosanski Novi, Ključ, Prijedor, and Bijeljina. Dorothea Hanson, T. 14533, 14539 (9 June 2011).

⁹⁹¹⁵ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1, 4. Nešković stated that the police, TO and later the VRS were responsible for protecting the territory and defending the population. Radomir Nešković, T. 14277–14278 (6 June 2011).

⁹⁹¹⁶ D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992), pp. 1–3. See also Radomir Nešković, T. 14288–14290 (6 June 2011).

⁹⁹¹⁷ P3142 (Minutes of 80th session of RS Government, 7 September 1993), pp. 5–6. See also P3139 (Minutes of the 74th session of RS Government, 11 July 1993), p. 6; P3135 (Minutes of the 97th session of RS Government,

Bosnian Serb Government was also conscious of controlling the parallel organs of government at a municipal level to ensure that the Bosnian Serb Government was the only authorised executive organ in RS.⁹⁹¹⁸

3042. In 1994, the Accused reminded the Bosnian Serb Assembly about the Variant A/B Instructions, and said “remember how we used to work before the war. Not everything was as clear as day in the municipalities where we were majority and in those where we were minority. Do you remember the Instruction A and instruction B? We had Crisis Staffs, and it was clear that they were the authority”.⁹⁹¹⁹ In 1995, the Accused recalled that pursuant to the Variant A/B Instructions in areas where the Bosnian Serbs were a majority they controlled everything at a municipal level and that when they were in a minority they “set up secret government, municipal boards, municipal assemblies, presidents of executive boards” and also established military units.⁹⁹²⁰ The Accused recalled that the JNA had been involved in the distribution of weapons to Serbian areas and that the SDS had “organised the people and created the army” and that with the help of the police “liberated and created the space”, sometimes with the help of the JNA.⁹⁹²¹

(f) War Presidencies / War Commissions

3043. At a joint session of the SNB and the Bosnian Serb Government, on 22 April 1992, it was concluded that the Government was to appoint a war presidency and war executive boards in all municipalities where executive boards “are not functioning”.⁹⁹²² On 23 May 1992, the Bosnian Serb Government decided to abolish the Crisis Staffs.⁹⁹²³ The Chamber recalls that the Bosnian Serb Government concluded that “the conditions for functioning of the regular governing organs should be created as soon as possible” and War Presidencies established in municipalities.⁹⁹²⁴ After

27 April 1994), pp. 13–14; P3129 (Minutes of the 66th session of RS Government, 20 March 1993), p. 5; P3124 (Minutes of the 30th session of RS Government, 22 September 1995), pp. 3–4; P3112 (Minutes of the 71st session of RS Government, 26–27 May 1993), pp. 15, 20–21.

⁹⁹¹⁸ P3112 (Minutes of the 71st session of RS Government, 26–27 May 1993), pp. 20–21.

⁹⁹¹⁹ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), pp. 347–348.

⁹⁹²⁰ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 316.

⁹⁹²¹ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 316. *But see* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 63–66 (stating that no organised part of the JNA took part in the defence of areas and those JNA commanders who were involved were acting on their own and their actions were purely defensive). The Chamber refers to its credibility assessment in fn. 9869 in concluding that it does not find Subotić’s evidence to be reliable in this regard.

⁹⁹²² P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2.

⁹⁹²³ *See* para. 147; P3082 (Minutes of the 13th session of SerBiH Government, 23 May 1992), para. 4; P2589 (Dorothea Hanson’s expert report entitled “Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991–1995”, 10 September 2009), para. 46.

⁹⁹²⁴ *See* para. 147; P3082 (Minutes of the 13th session of SerBiH Government, 23 May 1992), para. 4; P2589 (Dorothea Hanson’s expert report entitled “Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991–1995”, 10 September 2009), para. 46. *See also* D3715 (Article from Glas entitled “Crisis Staffs Abolished”, 7 July 1992), p. 1.

the Crisis Staffs were disbanded, they were transformed into War Presidencies or War Commissions.⁹⁹²⁵

3044. On 31 May 1992, the Presidency issued a decision constituting War Presidencies and provided for the structure of these bodies including who would be members, including a republican commissioner.⁹⁹²⁶ The Chamber further recalls that the republican commissioner, who would be a member of the War Presidencies, was to be appointed by the SerBiH Presidency and have the “right and duty [...] to ensure permanent coordination and implementation of the policies and measures that are established and adopted by the republican state organs and the Main Staff of the [VRS]”.⁹⁹²⁷

3045. This decision also stated that the War Presidency “shall organise, coordinate and adjust activities for the defence of the Serbian people and the establishment of legal organs of authority in the municipality”; “shall perform all the functions of the assembly and the executive organ until there is a possibility for these organs to convene and work”; and “shall create and secure conditions for the work of military organs and units on the defence of the Serbian people”, *inter alia*.⁹⁹²⁸ This decision also provided that Crisis Staffs in municipalities were to cease operating when the War Presidencies were constituted.⁹⁹²⁹

3046. On 31 May 1992, the SDS Executive Board informed the SAOs that the Crisis Staffs were to be abolished and that War Commissions/Presidencies were being established instead and instructed the SAOs to ensure the implementation of this decision.⁹⁹³⁰ On 2 June 1992, at a meeting of commanders of the 1st Krajina Corps and ARK leaders, the Accused referred to the need to immediately introduce a threat of war and referred to the issuance of the decree on War Presidencies.⁹⁹³¹

3047. The Chamber recalls that on 10 June 1992, the Presidency issued a decision establishing War Commissions in SerBiH municipalities “which are either affected by war or are facing

⁹⁹²⁵ See paras. 138, 155; Radomir Nešković T. 14280 (6 June 2011); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 287; Bogdan Subotić, T. 40037–40038 (19 June 2013). See also D3715 (Article from Glas entitled “Crisis Staffs Abolished”, 7 July 1992), pp. 1–2.

⁹⁹²⁶ See para. 148.

⁹⁹²⁷ See para. 150; P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), art. 4; P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), art. 4.

⁹⁹²⁸ See para. 149; P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), art. 3.

⁹⁹²⁹ See para. 151.

⁹⁹³⁰ See para. 151. See also P3060 (Minutes of the 2nd session of the SerBiH Presidency, 31 May 1992).

⁹⁹³¹ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 53.

imminent threat of war”.⁹⁹³² These War Commissions were to supersede Crisis Staffs and War Presidencies.⁹⁹³³ The War Commissions were tasked with maintaining very close co-operation with the legal authorities, to convey directives issued by the War Presidency of the Republic, to convey information about problems and the work of the municipal bodies and to co-operate with the authorities to create military organs and units.⁹⁹³⁴ The Chamber notes for example that War Presidencies existed at least in Bijeljina, Vogošća, Brčko, Ključ, Zvornik, Sanski Most, Ilidža, Hadžići, and Prijedor.⁹⁹³⁵ War Commissions existed at least in Foča, Pale, Zvornik, Vlasenica, Bratunac, Novo Sarajevo, Vogošća, and Ilidža.⁹⁹³⁶

3048. From June 1992 onwards, the Accused confirmed the appointment of or himself appointed members of the War Presidency or War Commission in municipalities including Bijeljina,⁹⁹³⁷ Foča,⁹⁹³⁸ Ilidža,⁹⁹³⁹ Rogatica,⁹⁹⁴⁰ Novo Sarajevo,⁹⁹⁴¹ Vlasenica,⁹⁹⁴² and Zvornik.⁹⁹⁴³ With respect to

⁹⁹³² See para. 153; P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), art. 1; P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992); P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 262.

⁹⁹³³ See para. 155.

⁹⁹³⁴ See para. 154; P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), art. 3.

⁹⁹³⁵ P1142 (Letter from Ministry of Justice of SerBiH to Vogošća War Presidency, 10 August 1992); P2391 (Vogošća War Presidency order, 6 November 1992); P2874 (Freedom of movement pass issued by Brčko War Presidency, 7 May 1992); P3025 (Travel permit issued by Brčko’s War Presidency, 9 May 1992); P2888 (Brčko War Presidency Summary of events in Brčko Municipality); P3452 (Extract from Minutes of Ključ War Presidency, 10 July 1992); P3453 (Decision of Ključ War Presidency, 13 July 1992); P3462 (Decision of Ključ War Presidency, 30 July 1992); D4365 (Report from Ključ War Presidency to Banja Luka SJB dated 22 August 1992); P5205 (Minutes from 3rd session of the Zvornik Municipality War Presidency, 2 August 1995); P5536 (Decision of the War Presidency of Sanski Most Municipality, 14 July 1992); D2563 (Radovan Karadžić’s Decision on appointment of Ilidža War Presidency, 20 June 1995); D2920 (Decision of Bosanski Hadžići War Presidency, 23 October 1993); D4472 (Conclusions of Prijedor War Presidency, 6 August 1995); P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal). See also D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 11; Dragomir Ljubojević, T. 35899–35901 (22 March 2013) (testifying that while he was not aware of the Crisis Staff, he was aware that the War Presidency had an active role in decision making in Bijeljina and acted openly).

⁹⁹³⁶ P2642 (Report of Foča War Commission, 18 June 1992); P5417 (Confirmation of a decision of the Pale SDS, 25 June 1992); P5479 (Radovan Karadžić’s confirmation of appointment of Zvornik War Commission members, 17 June 1992); D1623 (Order of Zvornik War Commission, 1 July 1992); P5486 (RS Presidency Confirmation of Appointment of Members of the War Commission in Vlasenica, 17 June 1992); P5491 (RS Presidency Confirmation of Appointment of Members of the War Commission in Bratunac, 17 June 1992); P5543 (Radovan Karadžić’s Decision appointing a War Commission in Novo Sarajevo, 21 July 1992); D4031 (Decision of Vogošća War Commission, 18 June 1992); P6001 (Request of Vogošća Municipality War Commission, 27 June 1992); P6059 (Order of Vogošća War Commission, 29 July 1992); P2390 (Vogošća War Commission order, 6 November 1992); D1244 (Ilidža War Commission Decision, 4 April 1993).

⁹⁹³⁷ D1428 (Radovan Karadžić’s decision, 17 September 1992).

⁹⁹³⁸ P6266 (Radovan Karadžić’s Decision, 17 September 1992).

⁹⁹³⁹ D1228 (Radovan Karadžić’s order, 21 August 1992), p. 1.

⁹⁹⁴⁰ P3413 (Radovan Karadžić’s Order confirming appointment of Rogatica officials, 20 July 1992), p. 1.

⁹⁹⁴¹ P5543 (Decision of Radovan Karadžić appointing a War Commission in Novo Sarajevo, 21 July 1992); D3654 (Witness statement of KW317 dated 26 September 2012), paras. 67–68, 73 (under seal) (stating that this appointment was not implemented until August 1992).

⁹⁹⁴² P5486 (RS Presidency Confirmation of Appointment of Members of the War Commission in Vlasenica, 17 June 1992); P5399 (Notification by the Vlasenica Serb Municipality, 16 June 1992). Considering the evidence regarding communication that existed between the municipality and republic institutions, the Chamber sees no

Brčko, the War Presidency was formed following the instructions of the Accused and as a body would directly approach the government in Pale or the Bosnian Serb Assembly or Presidency if they had requests.⁹⁹⁴⁴

3049. On 17 December 1992, the Bosnian Serb Assembly declared that the decision on forming War Commissions ceased to be valid.⁹⁹⁴⁵

3050. In November 1994, the Accused spoke about introducing a state of war, and stressed that this did not mean that military rule would be introduced; rather, civilian powers would be concentrated and implemented through operational bodies in the municipalities, thereby “ensuring more effective functioning of the state”.⁹⁹⁴⁶

(g) Take-over of power in the Municipalities

3051. As mentioned above, in March 1992 the Accused advocated that Bosnian Serbs take power into their own hands in Bosnian Serb claimed territories and that the structure of BiH would depend on the conditions they could establish on the ground.⁹⁹⁴⁷ The Accused emphasised that their right to self-determination “will happen according to the actual conditions which are up to you to create”.⁹⁹⁴⁸ In this regard the Accused spoke about when to “reveal our next move” and that it “will all be happening in a flash and the set up of the *de facto* situation based on our documents”.⁹⁹⁴⁹ He explained that there would be “no signing before we have achieved what we want, and you all know our strategic plans. [...] The ultimate strategic goal must still remain a secret”.⁹⁹⁵⁰ The Accused said they did not “plan to attack anybody but our plan is to defend ourselves and the army is at our disposal for that purpose”; they had the “right to use the army for the final countdown and

basis for the Accused’s assertion that the chaos created by Bosnian Muslim attacks led the Vlasenica Crisis Staff to make decisions independent of the authorities in Sarajevo and Pale. *See* Defence Final Brief, para. 2838.

⁹⁹⁴³ P5479 (Radovan Karadžić’s confirmation of appointment of Zvornik War Commission members, 17 June 1992). *See also* D1716 (Decision of Zvornik Interim Government, 28 July 1992), p. 1; Petko Panić, T. 19210 (20 September 2011); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16592–16593

⁹⁹⁴⁴ P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 17, 29, 144–145, 149; P2888 (Brčko’s War Presidency Summary of events in Brčko Municipality), p. 1.

⁹⁹⁴⁵ *See* para. 158; P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court pp. 83–84; D1229 (RS National Assembly Decision, 17 December 1992).

⁹⁹⁴⁶ P3147 (Minutes of 9th session of RS Government, 8 November 1994), pp. 3–4. The draft decision to establish War Presidencies during a state of war was adopted. P3147 (Minutes of 9th session of RS Government, 8 November 1994), p. 5.

⁹⁹⁴⁷ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 43. *See also* D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 87.

⁹⁹⁴⁸ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), pp. 44–45.

⁹⁹⁴⁹ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 45.

⁹⁹⁵⁰ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 46.

for the final establishment of authority” and that if a border was established unjustly they would “establish a just border”.⁹⁹⁵¹

3052. The Accused also warned against the perception that Bosnian Serbs were taking “other people’s land through war” and that they should not mention war, but establish their authority and defend that and state that they did not plan to attack anybody.⁹⁹⁵² The Accused spoke about “[p]eace at any cost, wherever it is possible”.⁹⁹⁵³ The Accused stated that they did not need war, and they could accomplish what they wanted by political means but once they had achieved their goals if they were attacked they would defend themselves, including against genocide, and had “the right to use the army for the final countdown and for the final establishment of authority”.⁹⁹⁵⁴

3053. On 15 April 1992, the Accused attended a meeting of the SNB in which it was proposed that a state of imminent threat of war be declared.⁹⁹⁵⁵ The imminent threat of war was declared on 15 April 1992.⁹⁹⁵⁶ On 24 April 1992, the SNB met with the Bosnian Serb Government and adopted a decision to form a TO Staff composed of current municipal TO commanders with the Accused responsible for its realisation.⁹⁹⁵⁷ In addition, it was decided to compile instructions on the use of national symbols and to procure uniforms and insignia for the TO.⁹⁹⁵⁸ At this meeting it was concluded that a group of lawyers would be tasked with preparing the basic laws in order to set up a legal system for the SerBiH.⁹⁹⁵⁹ On 17 April 1992, the Accused issued a decision that all Serb employees who had been appointed from an SDS list be withdrawn from their positions in bodies and organisations of the “former Republic of BiH” and the City of Sarajevo.⁹⁹⁶⁰ This decision also provided that all these employees be appointed to bodies and organisations in the SerBiH.⁹⁹⁶¹

⁹⁹⁵¹ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17.

⁹⁹⁵² P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 16–17. *See also* D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), p. 6; P1371 (Transcript of 30th session of RS Assembly, 5–6 May 1993), p. 9.

⁹⁹⁵³ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17.

⁹⁹⁵⁴ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17. *See also* P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court p. 8 (where the Accused continue to speak about the defensive nature of the war which had been imposed on them); D115 (Transcript of 25th session of RS Assembly, 19–20 January 1993), pp. 3, 7; P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 5; P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993, e-court p. 8).

⁹⁹⁵⁵ P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 1.

⁹⁹⁵⁶ P3922 (Decision of SerBiH Presidency, 15 April 1992); D3703 (Decision of SerBiH Ministry of Defence, 18 April 1992), p. 2.

⁹⁹⁵⁷ P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992).

⁹⁹⁵⁸ P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1.

⁹⁹⁵⁹ P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 2.

⁹⁹⁶⁰ P5413 (Decision of the SDS, 17 April 1992).

⁹⁹⁶¹ P5413 (Decision of the SDS, 17 April 1992).

3054. While the Accused called on leaders at the Bosnian Serb Assembly to “do whatever is necessary on the ground to establish the de facto situation” he also stated that there should be “full respect for citizens of other nationalities” and that “no one must be harmed, regardless of their religion, nation”.⁹⁹⁶² The Accused also acknowledged that there would probably be resettlement but that “none of it should occur under pressure”.⁹⁹⁶³ When the SerBiH was proclaimed, this proclamation provided that the constitution of this entity would “guarantee the full equality of peoples and citizens before the law and their full protection against any form of discrimination”.⁹⁹⁶⁴ Krajišnik had also spoken previously about creating a state which would be the home for the entire Serbian people and “for all others who so wish”.⁹⁹⁶⁵

3055. Bogdan Subotić also made an announcement that Bosnian Muslims who wished to remain in RS would have the same rights, and those who did not wish to should go to their own people of their own free will.⁹⁹⁶⁶ He spoke in favour of clear borders between ethnic communities.⁹⁹⁶⁷ Đerić testified that the Bosnian Serb leadership took into account that a certain percentage of Serbs, Croats and Muslims would live in each constituent unit in BiH and worked towards “preserving the equality of people who remained in their original places of residence” on a reciprocal basis and that the Accused in his speeches did not question the rights or freedoms of other ethnic communities to live in RS.⁹⁹⁶⁸ The Accused also spoke about ensuring that Muslims and Croats have equal rights and privileges in the state they were building on the “condition that they are not hostile and that they leave the weapons”.⁹⁹⁶⁹ The Accused continued to emphasise that Muslims and Croats living in the RS would always have their rights protected as a minority group.⁹⁹⁷⁰ He also emphasised the enormous responsibility of the SDS to defend the “Serbian Republic” and that their state should

⁹⁹⁶² D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 45; Branko Đerić, T. 28018 (24 April 2012).

⁹⁹⁶³ D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 46.

⁹⁹⁶⁴ P6444 (Declaration of the Assembly of Serbian people in BiH, 9 January 1992), p. 2. *See also* P5558 (Declaration on Constitutional and Political Arrangements of the SerBiH Assembly, 3 September 1992), pp. 2–4 (which provided for the equality of citizens of SerBiH before the law and for freedom of religion).

⁹⁹⁶⁵ P3121 (Stenograph of the session of the Club of Deputies from the SDS, 24 October 1991), p. 8.

⁹⁹⁶⁶ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 49; D3715 (Article from Glas entitled “Crisis Staffs Abolished”, 7 July 1992), p. 3.

⁹⁹⁶⁷ D3715 (Article from Glas entitled “Crisis Staffs Abolished”, 7 July 1992), p. 3.

⁹⁹⁶⁸ Branko Đerić, T. 28017 (24 April 2012), T. 28073 (25 April 2012).

⁹⁹⁶⁹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 86–87. *See also* D2852 (Witness statement of Srdan Šehovac dated 27 January 2013), para. 41; John Zametica, T. 42470–42471 (29 October 2013) (testifying that in his opinion the Accused did not appear to have any ethnic hatred and the Accused did appoint some Bosnian Muslims and Bosnian Croats to certain positions within the RS including himself). The Chamber does not find Čeklić and Bajagić’s evidence that the Accused never proposed removing Bosnian Muslims and Bosnian Croats and always insisted on co-existence to be reliable. D3854 (Witness Statement of Savo Čeklić dated 7 July 2013), para. 21; D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), paras. 36C, 40. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 9231, 11086.

⁹⁹⁷⁰ P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993, e-court p. 8.

“rest on rule of rights and humanity”.⁹⁹⁷¹ The Accused called on the SDS members to “constantly monitor our behaviour, so that the glory of our just battle would not be tarnished by inhumane actions” with special attention to “just behaviour towards civilians of other nationalities”.⁹⁹⁷² In practice these words were not carried out or followed.⁹⁹⁷³

3056. The Chamber notes that Krajišnik stated at one of the sessions: “I have discussed this [the creation of a unified Serb state] openly, even though this is being recorded and even though the journalists might write it down”.⁹⁹⁷⁴ Similarly when the Accused invited Mladić to brief the Bosnian Assembly on the military situation and their intentions, he qualified that by asking that he present “what can be said at a place like this”.⁹⁹⁷⁵ This is indicative that what was said at these sessions was often for public consumption and included rhetoric which the Chamber has approached with caution and weighed in light of the other evidence received.

3057. The Accused said that in certain municipalities, such as Bijeljina and Pale, where Bosnian Muslims accepted co-existence and were “not showing the will to fight against the Serbs and against their state”, they were living peacefully and well.⁹⁹⁷⁶ The Accused stated that Muslims in Bijeljina and Pale were not being bothered or considered second-class citizens and that the government officials were trying to convince them that they had nothing to fear.⁹⁹⁷⁷ In this regard, the Accused also mentioned that in Sanski Most, Ključ, and Prijedor, while there was some fighting caused by “Muslim extremists”, once they were eliminated those who remained were not willing to fight the Serbs.⁹⁹⁷⁸ However, the Accused characterisation of what was happening in those municipalities does not accord with the Chamber’s factual findings in section IV.A.1 about the conditions which Bosnian Muslims faced in those municipalities at the time.

3058. The Accused also visited Rogatica in March 1992 and met with municipal level leaders.⁹⁹⁷⁹ On 25 March 1992, the Accused was informed that Rajko Kušić had threatened to attack Rogatica unless the municipality and SJB were unconditionally divided into Serb and Muslim parts within two hours.⁹⁹⁸⁰ This letter further indicated that in accordance with the Accused’s instructions, “the

⁹⁹⁷¹ D94 (Radovan Karadžić’s letter to SDS members, 11 July 1992).

⁹⁹⁷² D94 (Radovan Karadžić’s letter to SDS members, 11 July 1992).

⁹⁹⁷³ Herbert Okun, T. 1740 (27 April 2010).

⁹⁹⁷⁴ P1357 (Transcript of 18th session of SerBiH Assembly, 11 August 1992), p. 18.

⁹⁹⁷⁵ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), pp. 17–18.

⁹⁹⁷⁶ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), pp. 15, 21, 86. *See also* Branko Đerić, T. 28022–28023 (24 April 2012).

⁹⁹⁷⁷ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 21.

⁹⁹⁷⁸ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 15.

⁹⁹⁷⁹ P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 43, 45 (under seal); KDZ606, T. 18310–18311 (5 September 2011) (closed session).

⁹⁹⁸⁰ P6105 (Notice of resignation, 25 March 1992), p. 1.

factual division on the ground should be and is already there, however the official division must be accompanied by laws issued by relevant Serbian Ministries, as well as party agreements at the highest level”.⁹⁹⁸¹ The Accused was informed that it would be dangerous to “be the originator of the war situation when the Serbian people are not sufficiently prepared”.⁹⁹⁸²

3059. On 24 March 1992 the Bosnian Serb Assembly adopted a decision which verified the decisions of municipal assemblies which had proclaimed newly established Serbian Municipalities.⁹⁹⁸³ These municipalities included Vogošća, Srebrenica, Bratunac, Prijedor, Višegrad, Foča, Brčko, and Zvornik.⁹⁹⁸⁴ The SAOs were also required to report on the establishment of Serbian Municipalities.⁹⁹⁸⁵ At the same session the Accused said:

at a desired moment, and this will be very soon, we can form whatever we want. There are reasons why this could happen in two or three days. Such are the forecasts but I cannot tell you the reasons now. At that moment, all the Serbian municipalities, both the old ones and the newly established ones, would literally assume control of the entire territory of the municipality concerned. The Zvornik municipality takes control of everything that constitutes the Serbian Municipality of Zvornik. Then at a given moment, in the next three or four days, there will be a single method used and you will be able to apply it in the municipalities you represent, including both things that must be done as well as how to do them. How to separate the police force, take the resources that belong to the Serbian people and take command. The police must be under the control of the civilian authority, it must obey it, there is no discussion about that – that’s the way it must be.⁹⁹⁸⁶

3060. The Accused also stated: “Newly established municipalities must establish their organs as soon as possible, have their stamps made and start to work. The police, that is, our organs must be positioned at the border.”⁹⁹⁸⁷ At this session, the Bosnian Serb Assembly instructed the Government to prepare and submit to the Assembly for adoption an operational plan “of assuming power and rendering operational the authorities in the territory of the Serbian Republic of Bosnia and Herzegovina”.⁹⁹⁸⁸

⁹⁹⁸¹ P6105 (Notice of resignation, 25 March 1992), p. 1.

⁹⁹⁸² P6105 (Notice of resignation, 25 March 1992), p. 1. *See also* Tomislav Batinić, T. 33675–33678 (14 February 2013).

⁹⁹⁸³ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24. *See also* Adjudicated Fact 2010.

⁹⁹⁸⁴ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24. *See also* P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 8–9; P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 223.

⁹⁹⁸⁵ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 24.

⁹⁹⁸⁶ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 22. The Chamber places no weight on KW317’s opinion that what prompted these actions was not the will of the Accused or the SDS but was the result of the actions of Bosnian Muslims. KW317, T. 39338–39339 (5 June 2013).

⁹⁹⁸⁷ *See* para. 136; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17.

⁹⁹⁸⁸ P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 8–9. *See also* P2536 (Patrick Treanor’s expert report entitled “The Bosnian Serb Leadership 1990-1992”, 30 July 2002), para. 223; Adjudicated Fact 2009.

3061. The Accused also emphasised that in the period when the State was being created, the deputies would have to be the “pillars of our power” in their locations and “remain in permanent contact with presidents of municipalities and work on the establishment of local government”.⁹⁹⁸⁹ The Accused also acknowledged that the president of the municipality was who “carried out our plans”.⁹⁹⁹⁰

3062. On 27 March 1992 when the Bosnian Serb Assembly promulgated the Constitution of SerBiH, the Accused delivered a speech in which he addressed criticism that they had taken steps “with undue haste” and stated that “we are clean before God, because we have not made a single move which was not provoked”.⁹⁹⁹¹ He also stated that the Serbs had responded to “non-democratic measures democratically” and formed its state unit legitimately based on the law exercising their right to self-determination.⁹⁹⁹² The Accused also spoke about the possibility that all three peoples in BiH may flourish “if [the declaration of BiH independence] passes without bloodshed”.⁹⁹⁹³ The Accused also said that a war in BiH would not solve anything but that if war did break out “you will get the plans”.⁹⁹⁹⁴

3063. There was a break in the Bosnian Serb Assembly sessions and the 16th session was held on 12 May 1992 and was described by Krajišnik as the “first war session”.⁹⁹⁹⁵ The Accused spoke about how the Bosnian Serbs had tried to avoid war, that they had no need to organise themselves militarily because their policies were being realised politically.⁹⁹⁹⁶ He explained that the political maneuvering of the Bosnian Muslims and the recognition of BiH resulted in war, and that Serbs had been attacked in Sarajevo, Zvornik and Bijeljina.⁹⁹⁹⁷ He went further and stated that the Bosnian Serbs in “areas bordering other national communities, it has to fight for its survival against genocide”.⁹⁹⁹⁸ The Accused also claimed that Serbs had been “very cautious not to take what is not ours, not to fight more than is necessary”, that they would mark their borders and “defend them

⁹⁹⁸⁹ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 15. The Accused also met with some municipal leaders and discussed the functioning of municipal organs of authority. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 61.

⁹⁹⁹⁰ P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17.

⁹⁹⁹¹ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 8; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 4. *See also* D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992).

⁹⁹⁹² D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 8; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 4.

⁹⁹⁹³ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 8.

⁹⁹⁹⁴ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 20.

⁹⁹⁹⁵ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 1.

⁹⁹⁹⁶ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 5, 9; D3697 (Article from Glas entitled “Own Army”, 13 May 1992), p. 1.

⁹⁹⁹⁷ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 5–6, 8.

until they are recognised” and that the “factual situation will be decisive”.⁹⁹⁹⁹ In addition, at a session in September 1992, he emphasised that without publicly saying so, their internal borders between Muslims and Croats “are to be thicker” than their borders with Serbia and Serbian Krajina.¹⁰⁰⁰⁰

3064. The Chamber recalls that on 18 May 1992, the Rogatica Serb Municipal Assembly abrogated the original agreement on the division of the municipality alleging that the Bosnian Muslim side had avoided attempts to implement that agreement.¹⁰⁰⁰¹ This was one day after the Accused, Mladić, and Krajišnik held a meeting with representatives of municipalities, including Rogatica, and discussed the creation of a Bosnian Serb state in BiH, stating that the time had come for the demarcation of areas between the national groups.¹⁰⁰⁰²

3065. At a meeting held in Belgrade on 11 July 1992, the Minister of the Interior noted that the government was “preparing a new political and territorial division of the Serbian Republic which will replace the previous necessary forms, such as autonomous Serb areas and regions, with districts”.¹⁰⁰⁰³ The Accused at a meeting of the Presidency of SerBiH August 1992 said that the European Community would accept the “factual state of affairs” and that therefore they “should not make a single concession in military terms”.¹⁰⁰⁰⁴

3066. The Accused in September 1992 acknowledged the responsibility of municipal authorities in defining borders and the importance of the government and the Presidency visiting municipalities in order to restore order.¹⁰⁰⁰⁵ Krajišnik acknowledged the presence of presidents of executive boards and presidents of local SDS branches who attended Bosnian Assembly sessions as it was the “best way to keep our people aware of what is going on. We have seen that the people were leaving Assembly sessions with a clear vision of what they are supposed to do.”¹⁰⁰⁰⁶

3067. On 20 December 1992, at a meeting of the Supreme Command attended by the Accused, Koljević, Krajišnik, Mladić, and Stanišić, Koljević addressed the issue of the truce, claiming that

⁹⁹⁹⁸ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 6. *See also* P5492 (Record of speech by Radovan Karadžić, 9 January 1994), pp. 6–7.

⁹⁹⁹⁹ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court pp. 6–7. *See also* D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), pp. 53–55, 57; P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 109.

¹⁰⁰⁰⁰ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 55.

¹⁰⁰⁰¹ *See para.* 963; P2835 (Report of Rogatica Crisis Staff, April – June 1992), p. 3.

¹⁰⁰⁰² P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), pp. 349–351; P6254 (Article from Tanjug entitled “Serb Leaders Promote Ethnic Demarcation”, 17 May 1992).

¹⁰⁰⁰³ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 3.

¹⁰⁰⁰⁴ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 22.

¹⁰⁰⁰⁵ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 15.

¹⁰⁰⁰⁶ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 7.

they should refrain from offensive operations to earn the world's trust, to which the Accused responded that nothing is over yet, that they must strengthen the army, reinforce and reorganise their borders, and prove that the Muslims do not want peace to be established.¹⁰⁰⁰⁷

3068. In April 1993, the Accused stated that as a result of the war they had created new entities which would have to be recognised and noted for example that nobody could now "return the 50,000 Serbs from Zvornik to Zenica, or to central Bosnia".¹⁰⁰⁰⁸ The Accused continued to speak about the RS as something they had "created by our own strength, own weapons, own politics".¹⁰⁰⁰⁹ In January 1994, the Accused acknowledged the contribution of the SDS party as the "main political force", the army, police, TO, SDS members, municipal level structures and leadership to the preservation of the RS.¹⁰⁰¹⁰

3069. In November 1994, the Accused continued to speak about this reality on the ground which had to be retained.¹⁰⁰¹¹ This sentiment was also reflected in statements made by Mladić that they would "impose by the force of arms the final settlement of the war on the enemy" which would then mean the international community had to recognise the actual situation on the ground.¹⁰⁰¹² The Accused stated that their strategic goal was to separate themselves and not to take the whole of BiH but insisted that they should be prepared to resist attempts to take back as much Serb territory as possible and to establish new borders.¹⁰⁰¹³

3070. The Accused continued to speak about their right to claim territories on the basis that "[w]e have created new realities". He then cited to the example of Zvornik, where there had previously been a Bosnian Muslim majority, but he noted that Serbs from other locations had arrived and occupied the municipality while the Bosnian Muslims had left "for Europe and I do not know where else".¹⁰⁰¹⁴ He noted that in this scenario they would claim Zvornik "based on the right which comes out of a new reality" which had been created through the war and that if they wanted "to give Zvornik to the Muslims then you have to wage a new war in order to expel these Serbs back to

¹⁰⁰⁰⁷ P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992), pp. 1, 4.

¹⁰⁰⁰⁸ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), pp. 109–110.

¹⁰⁰⁰⁹ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 9.

¹⁰⁰¹⁰ P5492 (Record of speech by Radovan Karadžić, 9 January 1994), pp. 8–9.

¹⁰⁰¹¹ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 155. *See also* P1390 (Transcript of 40th session of RS Assembly, 10–11 May 1994), pp. 36, 43.

¹⁰⁰¹² P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), pp. 21–21.

¹⁰⁰¹³ P1390 (Transcript of 40th session of RS Assembly, 10–11 May 1994), pp. 41–42.

¹⁰⁰¹⁴ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 157.

Zenica. We request Zvornik according to this right. We use the same right to ask for our state. And we will get it.”¹⁰⁰¹⁵

3071. The Accused also observed that the SDS “endured the armed struggle in a superior manner. [...] With such, well organised defence, the majority of our people has been saved. [...] We should always remember that the people themselves and the SDS fought and set up the frontlines in 45 days, from 5 April to 20 May”.¹⁰⁰¹⁶

(2) Conclusion

3072. The Prosecution argues that the Variant A/B Instructions established the bodies which were the primary instruments through which the Accused and the Bosnian Serb leadership were able to assert control over territories and remove non-Serbs.¹⁰⁰¹⁷ It also alleges that the Accused supervised the implementation of the Variant A/B Instructions and issued specific guidelines in that regard.¹⁰⁰¹⁸ With respect to the Variant A/B Instructions, the Accused contends that there was “absolutely nothing wrong with this document” and that it only envisaged defensive measures in response to moves towards the independence of BiH.¹⁰⁰¹⁹

3073. Having considered the evidence above, the Chamber finds that the Variant A/B Instructions was a core document in terms of furthering the objectives of the Accused and the Bosnian Serb leadership from December 1991 onwards. The instructions reduced to writing the practical measures and steps which had to be taken at a municipal level in order to achieve those objectives. The Chamber finds that the Variant A/B Instructions reflected the ideology and objectives of the Accused and the Bosnian Serb leadership which have been discussed above.

3074. The Chamber finds that the Accused played the leading role in the distribution and promotion of the Variant A/B Instructions. In doing so the Accused re-emphasised the interests of the Bosnian Serbs and also repeated the threats which Bosnian Muslims and Bosnian Croats and the independence of BiH posed to those interests. The manner in which the Variant A/B Instructions were distributed demonstrates a high level of organisation, planning, and co-ordination to ensure that all key Bosnian Serb leaders at a municipal level received those instructions.

¹⁰⁰¹⁵ P1403 (Transcript of First Part of 46th session of RS Assembly, 9–11 November 1994), p. 157.

¹⁰⁰¹⁶ P953 (Article from *Oslobođenje* entitled “Happy Birthday Republic”, 6 January 1995), p. 3–4.

¹⁰⁰¹⁷ Prosecution Final Brief, para. 122.

¹⁰⁰¹⁸ Prosecution Final Brief, paras. 123, 129.

¹⁰⁰¹⁹ Defence Final Brief, paras. 75–78. The Accused also makes a suggestion that there are inconsistencies “that may bring into question its authenticity or origin, and dispute its conspiratorial nature”. Defence Final Brief, para. 75.

3075. The Chamber also finds that accepted evidence demonstrates that not only were the Variant A/B Instructions distributed, they were subsequently discussed and implemented at a municipal level and were considered mandatory. The instructions formed the basis on which Bosnian Serb Crisis Staffs, Bosnian Serb municipal assemblies, and other parallel municipal structures were established in the Municipalities. These instructions provided the basis for the declaration of Serb municipalities and not only called for the creation of Crisis Staffs, it also specified their structure, composition, and functions.

3076. The Chamber notes that in Variant B municipalities, the instructions did make provision for the proportional representation of "other nations" in government organs, but this included a proviso that this only applied to those who expressed loyalty to Yugoslavia. The Chamber finds that this is a reflection of the position taken at the time by the Bosnian Serb leadership and that such statements promising protection of the rights of other ethnicities were highly conditional on them accepting and following the objectives of the Bosnian Serb leadership.

3077. The Chamber also finds that in addition to forming the basis for the creation of parallel political structures, the Variant A/B Instructions also included provisions directed towards the military organisation of the Bosnian Serb population at a municipal level. This involved taking steps to ensure that police, reserve, and TO structures were prepared and ready to be engaged depending on developments. The Crisis Staff was tasked with taking a central role in making these military preparations.

3078. The Chamber also finds that the content of the Variant A/B Instructions included preparations for the physical take-over and maintenance of power in Bosnian Serb claimed territory, which ultimately took place. The Chamber refers to its factual findings with respect to the pattern of take-overs in the Municipalities. It recalls the involvement of the structures created pursuant to the Variant A/B Instructions in preparing for and carrying out these take-overs. It also recalls the central role that these structures played in maintaining power and regulating the functioning of the municipalities after the take-overs were completed.

3079. The Chamber finds that while municipalities had some autonomy in terms of the precise manner in which they implemented the Variant A/B Instructions, they were considered to be mandatory. The Accused took an active role in monitoring the implementation of the Variant A/B Instructions and also following developments which occurred at a municipal level and difficulties municipal authorities faced. In this regard the Accused not only was in direct contact with municipal leaders he also specifically tasked Bosnian Serb officials with monitoring developments and problems at a municipal level in general and the implementation of the Variant A/B

Instructions in particular. He co-ordinated efforts to ensure the implementation of the Variant A/B Instructions and sent Bosnian Serb officials to provide assistance to municipalities in this regard. The evidence also demonstrates that this system of monitoring was also a means of ensuring discipline and checking loyalty to the party leadership and programme of action which they had developed.

3080. The Chamber also finds that a direct and regular line of communication existed between the Bosnian Serb authorities at a municipal level and the Bosnian Serb leadership or RS authorities, including the Accused. This line of communication allowed the Bosnian Serb leadership and the Accused to monitor developments at a municipal level and to issue precise directions with respect to the establishment and maintenance of Bosnian Serb authority.

3081. The evidence above also demonstrates that the Accused took very seriously the precise implementation of these instructions at a municipal level. The evidence, including intercepted conversations, also shows that municipal level leaders were in contact with the Accused and reported on progress in developments in the municipalities and how they were following the Variant A/B Instructions. The Accused emphasised the importance of these instructions in achieving the objectives of the Bosnian Serb leadership, namely the creation of a separate Bosnian Serb state.

3082. The Chamber also finds that the SDS structures were the core mechanism through which the SDS policies which had to be implemented were communicated from the SDS Main Board to the SDS Municipal Boards. The Accused played a leading role in insisting on party discipline and the imperative to implement SDS policy and the importance of following the timing of the measures which had to be taken. The Chamber finds that these moves were designed and implemented to ensure that Bosnian Serb structures were created and these structures could be quickly activated when necessary in order to take-over power in the municipalities.

3083. The Chamber finds that when the Accused activated the second level of the Variant A/B Instructions this was the signal that the structures which had been created pursuant to the first level had to be activated in order to take-over power. The evidence demonstrates that the second level of the Variant A/B Instructions was intrinsically linked to the physical control of territory and the activation of the second level of the Variant A/B Instructions was also communicated to and acted upon at a municipal level.

3084. While the Chamber notes that the Accused spoke in terms of taking power in a "humane way" with respect to the Bosnian Muslims and Bosnian Croats, it is clear that he said this in the

context of trying to “change [the Bosnian Serbs’] image with foreign monitors”.¹⁰⁰²⁰ In addition instructions which were given to Crisis Staffs also required the humane treatment of civilians and respect for POWs. Despite these statements and orders, the Accused also clearly stated that he was prepared to “let everything go to fucking hell and that we take the express way”¹⁰⁰²¹ but he spoke about taking a tactful approach in order to achieve their goals given the importance of international opinion and not being seen as the aggressors. The Chamber finds that this is indicative of the approach taken by the Accused that while he envisaged the use force and violence to take-over power he was cautious about the way in which this would be portrayed at an international level. The international image and ensuring political points were not lost were very important to the Accused, but the Chamber does not find that there was a genuine concern about the manner in which power was taken.

3085. On the contrary, the Chamber refers to its factual findings in section IV.A.1, which demonstrates that the manner in which Serb Forces and Bosnian Serb Political and Governmental Organs took over power in the Municipalities and the way in which Bosnian Muslims and Bosnian Croats were treated during and after the take-overs was anything but humane. The Chamber recalls its legal finding that Serb Forces were involved in a widespread and systematic attack directed against the Bosnian Muslim and Bosnian Croat civilian populations of BiH which was characterised by a widespread and systematic campaign of violence, including through acts of murder, persecution, and forcible displacement. While the Accused was making these public statements about the protection of minorities, Bosnian Muslims continued to be forced out of municipalities in BiH where Bosnian Serbs had taken-over the territory. The Chamber also finds a disjuncture between the Accused’s public statements and his private discourse in this regard.

3086. The Chamber also finds that by April 1992, the work and function of Crisis Staffs were further elaborated by instructions which provided for them to take on the central role in wartime conditions at a municipal level, particularly with respect to defence. It was also clear that the Crisis Staffs were to work in accordance with decisions of the higher level authorities, including the Presidency, the Bosnian Serb Assembly and Bosnian Serb Government and were also a crucial structure in ensuring that the higher level authorities were informed about developments on the ground.

3087. The Chamber finds that the Accused played a central role in instructing how the Crisis Staffs would function and be structured and this demonstrates one of the ways in which the

¹⁰⁰²⁰ See para. 3023.

¹⁰⁰²¹ See para. 3024.

Accused exercised his authority over the Crisis Staffs. The Chamber does not find that isolated and limited acts of insubordination at the municipal level negated the Accused's overall clear authority over Crisis Staffs. In this regard, the Chamber notes that, in September 1992, the Accused acknowledged that "some municipal officials behaved unlawfully" and that the Bosnian Serb Assembly needed to point out these incidents and to take measures to arrest and punish them.¹⁰⁰²² The Accused added "we must visit municipalities and restore order even at the risk of introducing extraordinary measures, making replacement, arrests, appointments and naming others who, with the help of deputies, will be able to pull the municipality out of a crisis".¹⁰⁰²³ The Chamber finds this shows that on the limited occasions where municipal officials failed to follow directions, the Accused had the authority and the means to rectify such situations.

3088. From May 1992, War Presidencies and War Commissions took over the functions of the Crisis Staffs and the leading role at a municipal level and were the link to the higher level authorities. The Accused himself in 1994 and 1995 recalled the central role which the Variant A/B Instructions and the Crisis Staffs played during the conflict in order to create parallel Serb structures and military units, which ultimately took control of territory and power at a municipal level.

3089. Based on the above, the Chamber finds that the Variant A/B Instructions were formulated, distributed, and ultimately followed at a municipal level. The Accused was intimately involved in this process through his distribution of the instructions and his subsequent involvement in monitoring the implementation of those instructions. The Chamber further finds that the Variant A/B Instructions were used to create parallel Bosnian Serb structures and bodies at a municipal level. The instructions also provided for the military organisation of the Bosnian Serbs at a municipal level. The Variant A/B Instructions were a crucial initial step towards establishing Bosnian Serb authority in Bosnian Serb claimed territory. As discussed in Section IV.A.1 of this Judgement, following the creation of these parallel structures, Serb Forces were able to take-over power in the Municipalities. Following these take-overs, the parallel structures including the Crisis Staffs and Bosnian Serb municipal assemblies were able to maintain power in the Municipalities.

3090. The Chamber finds that one of the first steps in the Bosnian Serb objective of creating a separate state was the expansion and delineation of territory. The parallel municipal structures which were created pursuant to the Variant A/B Instructions, played a pivotal role in this process of territorial expansion and delineation of territory.

¹⁰⁰²² D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 15.

¹⁰⁰²³ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 15.

3091. The Chamber finds that the Accused played a central role in promoting this territorial delineation and the steps that needed to be taken in order to establish the borders of the SerBiH in accordance with their territorial and strategic aspirations. The Accused actively encouraged and supported the division of municipalities on ethnic lines. He also emphasised the importance of taking control and power of territory in establishing the *de facto* situation which would form the basis for the creation of their state. The Chamber also finds that the Accused played a leading role in the separation of municipal structures and the establishment of parallel Serb structures which would allow this objective to be achieved. The steps taken with respect to the creation of the SerBiH were also informed by the objectives of the unity and non-separation of the Serb people which has been previously discussed.

3092. The Chamber finds that what the Accused said at the Bosnian Serb Assembly on 18 March 1992 is particularly instructive as it underscores that he and the Bosnian Serb leadership had clearly made plans which would allow for the rapid seizing of power at a municipal level when the time was right.¹⁰⁰²⁴ This speech also demonstrates that the Accused was adamant that the Bosnian Serbs would achieve what they wanted, that they clearly had strategic objectives which had to remain secret but which would be realised. The Chamber finds that this objective was the seizure and control of Bosnian Serb claimed territory in a manner which would allow for the creation of an ethnically homogeneous state.

3093. The Chamber also finds that while the Accused expressed caution and emphasised that the steps they would take were defensive for the purposes of international opinion, he clearly envisaged that if their objectives could not be achieved politically they would use military means and if there was war he would issue plans about how to proceed. The Chamber notes that when war did break out the Accused repeated his emphasis on the need to protect the Bosnian Serbs from genocide and characterised their fight as one which was defensive in order to achieve their objectives.

3094. The Chamber notes textual provisions, including the Bosnian Serb Constitution, included protections for the rights of all people. The Accused also spoke about the full respect for the rights of other nationalities and that the probable resettlement of people should not occur under pressure. Other Bosnian Serb leaders also spoke about respecting the rights of non-Serbs who decided to remain in the SerBiH. However, the Chamber finds that there was a clear disjuncture between what was written on paper, what the Accused and the Bosnian Serb leadership said in public, and the way in which Bosnian Muslims and Bosnian Croats were treated in practice following the formation of the SerBiH. In this regard the Chamber refers to its extensive factual findings with

¹⁰⁰²⁴ See para. 3051.

respect to the crimes which were committed against Bosnian Muslims and Bosnian Croats in the Municipalities and which resulted in the creation of a largely ethnically homogeneous state.

3095. The Chamber finds that these public announcements, speeches, and decisions were often for the consumption of international public opinion and to show that the Bosnian Serb state which was being created was one which respected the law and the rights of all people. The Chamber does not find that either the statements of the Accused or the Bosnian Serb leadership in this regard were genuine; in fact, they were completely disingenuous, having regard to the reality of what was happening on the ground in the Municipalities. The Chamber also refers to its findings below with respect to the Accused's knowledge of crimes which were being committed in BiH. The Chamber notes for example its finding above, that while the Accused made these public statements about the protection of minorities, Bosnian Muslims continued to be forced out of municipalities in BiH. In addition, the Chamber finds the evidence above demonstrates that the Bosnian Serbs were aware that some of their speeches were being recorded and could be reported on by journalists and in that context were cautious in terms of what was said.

3096. The Accused and the Bosnian Serb leadership continued to emphasise that they wanted to create a reality on the ground, which then in negotiations could be used to claim territory which they viewed as belonging to them. The Accused used this factual control of territory and the creation of a "new reality" as a means of securing international recognition for the RS. It was also clear that the Accused acknowledged the military manner in which this "reality" was created and gave credit to the Serb Forces for their role in achieving this objective of territorial control.

iii. *Authority over military and police forces acting in BiH*

(A) VRS

3097. The Chamber noted above that the Army of SerBiH was established on 12 May 1992 and was renamed the VRS on 12 August 1992.¹⁰⁰²⁵ It was formed from parts of the JNA, TO, and volunteer units.¹⁰⁰²⁶ It inherited both officers and soldiers from the JNA, many of whom were of Bosnian Serb origin, as well as a substantial amount of weaponry and equipment.¹⁰⁰²⁷

¹⁰⁰²⁵ See para. 160. For ease of reference the acronym "VRS" will be used throughout this section to also cover the period prior to 12 August 1992, when the Army of SerBiH was renamed the VRS.

¹⁰⁰²⁶ See para. 161.

¹⁰⁰²⁷ See para. 161.

(1) Supreme commander

3098. As noted above, whether in the three-member or the five-member Presidency, the Accused was in charge of military affairs.¹⁰⁰²⁸ As the RS President the Accused was the Supreme Commander of the VRS,¹⁰⁰²⁹ a position that he held until July 1996.¹⁰⁰³⁰ The Accused's position as the Supreme Commander of the VRS was clearly recognised by the civilian and military Bosnian Serb leadership.¹⁰⁰³¹ During the time period relevant to the Indictment, the Accused was the highest authority in the VRS chain of command.¹⁰⁰³²

3099. In an interview on 6 January 1995, the Accused stated that "all speculations about the army not obeying the civilian authority are out of place. As the supreme commander, I get all the respect from the officers and soldiers. [...] I want them to 'argue' with me about various solutions because it helps me to make the right decision, but when I make a decision, they carry it out brilliantly".¹⁰⁰³³ The Accused cited the example of an order he gave to "cut the territories taken by the Muslims on the Bihać battlefield, and to pursue and destroy them, I was absolutely sure that our army would comply. [...] Whatever the Supreme Command decides gets fully done".¹⁰⁰³⁴

¹⁰⁰²⁸ See paras. 96–97; Momčilo Mandić, T. 5107 (14 July 2010); D440 (Minutes of 15th session of SerBiH Presidency, 6 July 1992), p. 3.

¹⁰⁰²⁹ P2603 (SerBiH Law on the Army, 1 June 1992), art. 174; Manojlo Milovanović, T. 25441 (28 February 2012); Mićo Stanišić, T. 46360 (3 February 2014), T. 46577 (5 February 2014); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9108.

¹⁰⁰³⁰ See para. 167.

¹⁰⁰³¹ See, e.g., D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 19; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9436–9440; P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 49; P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 313; Bogdan Subotić, T. 40061 (19 June 2013); P5053 (Conclusions from a meeting attended by the highest representatives of RS, 7 October 1993), pp. 4–5. See also P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 112, 208, 211 (stating that he never sensed that the Accused lost control of the military; instead "at all times the military was responsive to the political leadership" and that the military and political leadership were not always in agreement and there were occasional reticent or divergent views, however, "the chain of command remained intact"); Anthony Banbury, T. 13349–13350 (15 March 2011).

¹⁰⁰³² P2603 (SerBiH Law on the Army, 1 June 1992), art. 174; D422 (Transcript of 19th session of SerBiH Assembly, 12 August 1992), pp. 63–64; P5578 (Amended Text of the Constitution of the RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 106; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9108; KDZ088, T. 6357 (8 September 2010) (private session); Jovan Šarac, T. 47162–47163 (14 February 2014). See also P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992); P1388 (Transcript of 39th session of RS Assembly, 24–25 March 1994), pp. 85–86; Ljubomir Obradović, T. 25108–25109 (22 February 2012); P3041 (VRS Main Staff Report, 31 March 1994), p. 5; P4493 (VRS Main Staff Order, 7 February 1994); P4447 (Radovan Karadžić's Order, 24 April 1994); P4495 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 29 March 1995); Rupert Smith, T. 11326–11328 (8 February 2011); Manojlo Milovanović, T. 25444–25445 (28 February 2012), T. 25484–25486 (29 February 2012); Dušan Kovačević, T. 39657 (11 June 2013); Jovan Šarac, T. 47162–47163 (14 February 2014); Petar Škrbić, T. 26024–26026 (8 March 2012); P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992); P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995); Milan Ninković, T. 40505–40506 (26 June 2013).

¹⁰⁰³³ P953 (Article from *Oslobodenje* entitled "Happy Birthday Republic", 6 January 1995), p. 9.

¹⁰⁰³⁴ P953 (Article from *Oslobodenje* entitled "Happy Birthday Republic", 6 January 1995), pp. 9–10.

(2) Command and control system

3100. The Chamber notes that, on 15 June 1992, in his capacity as the President of the Presidency, the Accused established a system of command and control in the VRS, which included a Main Staff—directly subordinated to him—that had command and control over the operative groups.¹⁰⁰³⁵

3101. During the first months of the conflict, the Accused, Krajišnik, Koljević, and Plavšić did not deal with issues that related to military affairs and warfare and Mladić enjoyed freedom in devising and executing military operations while claiming that he was fully subordinate to the Bosnian Serb political leadership.¹⁰⁰³⁶ However, this restraint on the part of the Bosnian Serb political leadership waned starting in June 1992 when they began to gradually limit Mladić and eventually the “political power was on top”.¹⁰⁰³⁷

3102. On 30 November 1992, the Accused established the Supreme Command for the purpose of co-ordinating and improving the efficiency of the command system of the VRS.¹⁰⁰³⁸

3103. In a report, prepared by the Main Staff, analysing the combat readiness of the VRS in 1992, it is noted that the VRS had evolved into the “highest strategic organisational formation of the Serbian people in the former [BiH], capable of realising the strategic and other tasks assigned to it by the Supreme Command.”¹⁰⁰³⁹ It further stated that the VRS

has been under a single control and command structure, despite the fact that initially we had a large number of different armies and paramilitary formations. This unity has been attained by following well-known principles, such as: unity, continuity, flexibility, efficiency,

¹⁰⁰³⁵ P3035 (Decision on Army of SerBiH, 15 June 1992), p. 3; P4917 (Richard Butler’s expert report entitled “VRS Main Staff Command Responsibility Report”, 9 June 2006), paras. 2.0–2.1. In 1992, the Main Staff was subordinated to the Presidency. The Chamber recalls that on 17 December 1992, the Bosnian Serb Assembly replaced the structures of the Presidency by establishing a single President and two vice-Presidents; from then on the VRS Main Staff was subordinated to the President of the RS. See para. 98. The Chamber also notes the evidence that while the formal conditions for establishing the army were created on 19 May 1992, it took a while to pass the bylaws and implement regulations on the ground. See Momčilo Mandić, T. 5202 (15 July 2010). However, the Chamber notes that already on 14 May 1992 the Accused was involved in discussions as to the establishment of the command and control system. P3079 (Minutes of joint session of the National Security Council and the SerBiH Government, 14 May 1992), p. 2. See also D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 276. A similar conclusion was reached to place members of the Cabinet on duty. D414 (Minutes of 19th session of Government of SerBiH, 2 June 1992), p. 3

¹⁰⁰³⁶ [REDACTED]. John Wilson stated that he attended a meeting on 25 May 1992, in relation to opening the Sarajevo airport and in the presence of Plavšić, Mladić stated that he was subordinated to the political leadership. P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), para. 7; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 74.

¹⁰⁰³⁷ [REDACTED]. See also D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), paras. 91, 96 (stating that since the founding of the VRS there was an “ideological conflict” between the civilian authorities and the Main Staff).

¹⁰⁰³⁸ See para. 165.

¹⁰⁰³⁹ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 7. See also P976 (Directive 4, 19 November 1992), p. 2 (wherein Mladić reported that the SRK “has fully stabilised command and control in the Corps and subordinate units”).

operationability [sic] and security, with subordination and a single command having a crucial bearing on relations in the control and command process.¹⁰⁰⁴⁰

3104. The strategic level of command was within the remit of the Supreme Command and the Main Staff whereas the operative level of command was at the corps level.¹⁰⁰⁴¹ However, as shown below, the Accused's involvement went beyond planning strategy and in several cases he was involved in the operational level as well.

3105. The military chain of command went from the Accused to the Commander of the Main Staff and then down to the corps commands and brigades.¹⁰⁰⁴² The Main Staff would prepare proposals for operations for the Accused; he would then consider them and issue instructions.¹⁰⁰⁴³ In the context of the SRK, Stanislav Galić testified that he could receive orders from both the Accused, as the Supreme Commander, and Mladić, as commander of the Main Staff.¹⁰⁰⁴⁴ Similarly, in a meeting between Milovanović and Bogdan Subotić, the former confirmed to the latter that the Accused, as the Supreme Commander, had the ultimate say and that in a situation where there is a standing order by Mladić the military subordinates had to obey it unless and until they received an order from the Accused.¹⁰⁰⁴⁵

3106. The Accused stated in 5 April 1993 that:

¹⁰⁰⁴⁰ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 7.

¹⁰⁰⁴¹ Stanislav Galić, T. 37593–37597 (23 April 2013).

¹⁰⁰⁴² D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 60, 69; Bogdan Subotić, T. 40061 (19 June 2013). Subotić also stated that this chain of command was only formed after 12 May 1992 and that before this date the Accused had no formal control of the military. *See also* Petar Škrbic, T. 25971–25972 (7 March 2012); P1029, (Witness statement of John Wilson 4 November 2008), para. 127. The Chamber notes that according to Kuprešanin there was no co-ordination or subordination between the civilian authorities and the military authorities, as they each operated independently with their own chains of command, whereas, according to KDZ490 the SDS party in Sanski Most had enormous influence over the VRS, especially after October 1992, since the VRS Light Brigades were directly financed by the municipality budgets, except for former JNA officers who were still paid by the JNA. Vojislav Kuprešanin, T. 43518–43520 (14 November 2013); P3634 (Witness statement of KDZ490, undated), pp. 13, 38 (under seal) (testifying, *inter alia*, that when the SDS wanted to remove Colonel Basara, Commander of the 6th Sana Brigade, because he was “too soft for the SDS”, the SDS in Sanski Most exercised pressure on General Talić to remove him). *See also* P6510 (Excerpt of Vojislav Kuprešanin's interview with OTP), e-court p. 7. However, the Chamber notes that the Main Staff of the VRS, when it found it necessary, reminded the commanders of corps and brigades that they could receive assignments and orders only from the Main Staff of the VRS and the Accused, as the Supreme Commander. P3041 (VRS Main Staff Report, 31 March 1994), p. 5. *See also* Manojlo Milovanović, T. 25632 (1 March 2012); P4494 (Eastern Bosnia Corps Order, 1 April 1994), pp. 5–6.

¹⁰⁰⁴³ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 72, 84, 89–90. *See also* Stanislav Galić T. 37594 (23 April 2013); John Zametica, T. 42457, 42517 (29 October 2013); P1029 (Witness statement of John Wilson 4 November 2008), para. 136. The Chamber places no weight on Subotić's opinion that until the formation of the Supreme Command, Mladić did not report to anyone or if he did report to anyone it was to the Accused.

¹⁰⁰⁴⁴ Stanislav Galić, T. 37593–37597 (23 April 2013). However, the Chamber notes that Galić could not remember any “immediate combat orders” received from the Supreme Command. Stanislav Galić, T. 37602–37603 (23 April 2013). *See also* paras. 3129, 4755–4756, 4762.

¹⁰⁰⁴⁵ Bogdan Subotić, T. 40061 (19 June 2013).

The Main Staff of the Army of Republika Srpska has performed the functions of the Staff of the Supreme Command and at the same time that of the superior command for operational and some joint tactical formations, which presupposed the agreement of the Supreme Command in respect of all tasks and objectives of the armed struggle. This relationship between the command structures and the organs of the government and the Supreme Command made it impossible for the Main Staff to make decisions absolutely on its own, rather every operational battle was politically endorsed on the basis of interests of the Serbian people, and approved by the highest authorities of Republika Srpska.¹⁰⁰⁴⁶

3107. The military reporting chain in the VRS followed a hierarchical structure with the information originating from the lower military units being reported, up the chain of command, to the Accused.¹⁰⁰⁴⁷ The Chamber recalls its finding that while there were disruptions in telecommunications in 1992, the RS authorities were still able to communicate,¹⁰⁰⁴⁸ and notes that the VRS had at its disposal a superior communication system.¹⁰⁰⁴⁹ In its report analysing the combat readiness of the VRS in 1992, the Main Staff concluded with “a high degree of certainty” that the existing communication system met the needs of command co-ordination and reporting at all levels, from the Supreme Command, the Supreme Commander, the Main Staff to lower levels.¹⁰⁰⁵⁰ The Chamber also observes that Mladić and other members of the Main Staff had direct telephone contact with the Accused,¹⁰⁰⁵¹ and that Mladić also visited the Accused frequently.¹⁰⁰⁵²

3108. The Accused received regular reports from the army¹⁰⁰⁵³ and even during 1992, while the communication was more limited he received reports based on the modes of communication which

¹⁰⁰⁴⁶ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 153. *See also* Manojlo Milovanović, T. 25632 (1 March 2012) (stating that the army remained under the Accused’s personal command and that “no one from the Supreme Command could issue orders to the Main Staff other than [the Accused]”). *See also* para. 3129.

¹⁰⁰⁴⁷ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11973–11974. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); Ljubomir Obradović, T. 25092–25093 (22 February 2012); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 31 (referring to an interview with the Accused in Geneva in the winter of 1992–1993 during which the Accused spoke of the “disciplined” Bosnian Serb police and army).

¹⁰⁰⁴⁸ *See paras.* 3019–3020. *See also, e.g.,* para. 2293; Dragomir Milošević, T. 32871–32879 (29 January 2013) (testifying about difficulties in the communication system in the SRK but added that the system of command is always repaired and improved, and towards the end it functioned meticulously); P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 6, 106 (testifying that in the period of October 1992 until March 1993 “the Bosnian Serb Army had very efficient and comprehensive communications” and “[w]henver General Mladić wanted to speak with someone or find something out from someone, It always happened quickly.”); P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 228 (Colonel Živanović reporting that he had established communications with several municipalities, including Bratunac, Zvornik and Vlasenica, and that “Motorola hand-held radios are in companies-platoons in those sectors.”)

¹⁰⁰⁴⁹ P1029, (Witness statement of John Wilson 4 November 2008), para. 130. *See also* P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 6, 106; P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 4.

¹⁰⁰⁵⁰ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 8–9.

¹⁰⁰⁵¹ Ljubomir Obradović, T. 25103–25104 (22 February 2012).

¹⁰⁰⁵² P4358 (Witness statement of Mira Mihajlović, 6 February 2012), para. 30.

¹⁰⁰⁵³ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 86, 91–92. *See also* P3061 (Minutes of the 3rd session of the SerBiH Presidency, 8 June 1992) (summarising a session in which the Presidency was briefed on the situation at the front and agreed on a plan of daily activities); D428 (Minutes of 4th expanded meeting of SerBiH War Presidency, 9 June 1992) (briefing the Accused in detail about the overall situation in

were available.¹⁰⁰⁵⁴ [REDACTED] testified that the Accused “was exceptionally well informed about the complete situation in Bosnia-Herzegovina” and the army sent him regular written or oral reports.¹⁰⁰⁵⁵

3109. The Accused received, for example, military intelligence information reports,¹⁰⁰⁵⁶ reports about the situation in Rogatica in May 1992,¹⁰⁰⁵⁷ reports concerning military formations in the ARK following a visit of Bogdan Subotić there in September 1992,¹⁰⁰⁵⁸ and a report from the Command of the 2nd Romanija Motorised Brigade about disputes and difficulties in co-operation with the civilian authorities in Sokolac.¹⁰⁰⁵⁹

3110. The level of knowledge of the Accused regarding military issues was also apparent when he informed Bosnian Serb institutions about military developments in RS.¹⁰⁰⁶⁰

3111. Occasionally, the Accused visited VRS units in the field.¹⁰⁰⁶¹ For example, the Accused was in the SRK command post at the time of the operation to take over Dobrinja in June 1992,

the VRS, including figures on the quantities of weapons, ammunition, spare parts and reserves and a reporting on the situation in the area of Banja Luka Corps); P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992); P3063 (Minutes of the 7th session of the SerBiH Presidency, 16 June 1992); P3064 (Minutes of the 8th session of the SerBiH Presidency, 17 June 1992); P3072 (Minutes of the 27th session of RS Presidency, 31 August 1992) p. 2; P1465 (Minutes of 19th session of SerBiH Presidency, 13 July 1992); P1467 (Minutes of 21st session of SerBiH Presidency, 2 August 1992), p. 2; P1508 (VRS Main Staff Order, 1 June 1992); P1786 (VRS Main Staff Report, 14 April 1994).

¹⁰⁰⁵⁴ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 86, 91–92.

¹⁰⁰⁵⁵ [REDACTED].

¹⁰⁰⁵⁶ John Zametica, T. 42443 (29 October 2013). *See also* P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992); D3685 (RS President's Office request to VRS Main Staff, 3 October 1995); D4780 (VRS Main Staff Intelligence Report, 14 July 1993); D4785 (VRS Main Staff Intelligence Report, 10 August 1993); P5086 (Report of RS Main Staff, 19 March 1995). *But see* D3682 (Witness statement of Gordan Milinić dated 8 June 2013), para. 31, referring to D3685 (RS President's Office request to VRS Main Staff, 3 October 1995). The Chamber does not accept Milinić's suggestion that the RS President's Office request to the VRS Main Staff showed that the Main Staff ignored the Accused and did not inform him about developments. The Chamber notes that the testimony of Milinić was marked by contradictions, bias, and indicators that he lacked candour. The Chamber therefore does not find his evidence to be reliable in this regard. Rather, the Chamber finds that this request is indicative of the extent to which the Accused was kept informed by the VRS about developments.

¹⁰⁰⁵⁷ *See* P3265 (Report of Rogatica Battalion, 23 May 1992); D2965 (Rogatica Brigade report, 29 May 1992); D3037 (Rogatica Brigade report, 9 June 1992); P3414 (Report of the Rogatica Brigade Command, 11 June 1992); P3266 (Report of 2nd Romanija Motorised Brigade, 15 August 1992).

¹⁰⁰⁵⁸ P3073 (Minutes of the 27th session of RS Presidency, 1 September 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 291.

¹⁰⁰⁵⁹ D3232 (Letter from 2nd Romanija Motorised Brigade to Radovan Karadžić, 3 September 1992), p. 1.

¹⁰⁰⁶⁰ *See, e.g.*, P3114 (Minutes of the 32nd session of RS Government, 13 October 1995), p. 4 (stating that the Accused informed the Government about the military and political situation in the RS, especially in Krajina). *See also* D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 25; P956 (Transcript of 16th Session of Assembly of SerBiH, 12 May 1992), e-court p. 8.

¹⁰⁰⁶¹ P1466 (Herzegovina Corps combat report, 4 June 1992); P5522 (Communication of Drina Corps Command re Meeting with Radovan Karadžić, 2 July 1993); P2845 (Report of Bratunac Brigade, 4 August 1995).

given the importance of the operation, and, as consequence, the Accused was aware of developments in this operation.¹⁰⁰⁶²

3112. Considering the above, the Chamber rejects the Accused's arguments that there was no communication with VRS units in the field and finds that such communications did exist.¹⁰⁰⁶³ As will be discussed in further detail below, the Chamber also rejects the Accused's argument that Mladić did not report to him.¹⁰⁰⁶⁴ With regard to the argument that there was a phenomenon of false reporting in the VRS,¹⁰⁰⁶⁵ the Chamber notes a few instances, in late 1994 and 1995, in which the issue was raised,¹⁰⁰⁶⁶ but is not satisfied that the evidence demonstrates a phenomenon of false reporting within the VRS, nor that such alleged false reports could affect the Chamber's finding regarding the authority of the Accused over the VRS.

(3) Relationship between the Accused and Mladić

3113. The Prosecution argues that the Accused had firm control over Mladić by virtue of his *de jure* powers as President and Supreme Commander.¹⁰⁰⁶⁷ While the Prosecution admits tensions existed between Mladić and the Accused, it asserts that their disagreement did not concern the common purpose of the Overarching JCE but emerged from Mladić's complaints about the Accused undercutting the chain of command.¹⁰⁰⁶⁸ The Prosecution ultimately argues that the heated discussions and arguments between the Accused and Mladić were not a sign of an existing

¹⁰⁰⁶² [REDACTED].

¹⁰⁰⁶³ Defence Final Brief, paras. 523–529. The Chamber notes, for example, the Accused's reference in fn. 1123 to D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 39, concerning the problem of understaffing in respect of officers and critical specialities in communications which affected the communication system and the battle readiness. However, the Chamber also notes that it was stated afterwards in the analysis that “[d]espite its being undermanned the signals corps has on the whole efficiently performed its tasks of providing good quality and uninterrupted communications links, whereby it has contributed to more successful control and command in all our units and commands.”

¹⁰⁰⁶⁴ Defence Final Brief, paras. 560–563.

¹⁰⁰⁶⁵ Defence Final Brief, paras. 565–567.

¹⁰⁰⁶⁶ P1487 (Ratko Mladić's notebook, 4 September 1994–29 January 1995), p. 142 (noting that the Accused talked about “[i]nstances of false reporting”); P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), pp. 328–329, 336 (wherein the Accused said: “I have realised that I do not have control over the Army” and mentioned misinformation regarding the supply of the VRS and the need to monitor and inspect; he further talked about false reports with regard to military casualties and “war losses”, and concluded that “[a]ll this, gentlemen, could be tolerated while things were going well for us, while it had no dangerous consequences”); John Zametica, T. 42443–42444 (29 October 2013). See also P3872 (UNPROFOR report, 10 June 1995), p.1 (reporting that “Stanisic appeared certain, on the basis of information supplied by the UN, that Mladic was withholding a few things from him about the situation with the [UN] hostages”); para. 4860. In the Chamber's view, the Accused's statement to Zametica that “[t]hey just send me lies”, following reading an intelligence report from Tolimir, was to indicate the Accused's dissatisfaction with the quality of the report. Zametica recalled in this context that the Accused said that in his view Tolimir was using only newspapers articles for his intelligence report. John Zametica, T. 42443–42444 (29 October 2013).

¹⁰⁰⁶⁷ See Prosecution Final Brief, paras. 380, 383–384, 390–391.

¹⁰⁰⁶⁸ See Prosecution Final Brief, paras. 434–443.

rift, but were rather healthy and constructive conversations within a superior-subordinate relationship.¹⁰⁰⁶⁹

3114. In response, the Accused argues that he had no control over the VRS, and that there were *de facto* two commanders throughout the war: Mladić, who retained operative command of the military authorities as the commander of the VRS, and himself, who retained political and strategic command of the civilian authorities as the Supreme Commander.¹⁰⁰⁷⁰ The Accused further argues that from the beginning, there was a lack of co-operation, mistrust, and a chasm between Mladić and him and as a result, the Accused had little to no control over VRS operations.¹⁰⁰⁷¹

3115. As discussed earlier, on 12 May 1992, the VRS was established pursuant to a decision adopted unanimously at the 16th Session of the Bosnian Serb Assembly; Mladić who had assumed command of the JNA 2nd Military District two days earlier, was appointed as its Commander.¹⁰⁰⁷² The Accused himself explained in April 1995 how he had sought out Mladić and supported his appointment:

I asked for Mladić. General Ninković, then a colonel, and General Perišić had visited me before that, and I had noticed Mladić's blunt statements in the newspapers. He was already in Knin then. I took an interest in him, and together with Mr. Krajišnik, I went to General Kukanjac's office and listened to him issuing orders and commanding around Kupres and Knin. We spent countless nights in the office of General Kukanjac at that time. President Krajišnik was already President of the Assembly, and I was just the president of the Party, I did not have any state function. We asked for Mladić and said that they should set up the headquarters as they saw fit, we wouldn't interfere.¹⁰⁰⁷³

3116. From the outset of their relationship, the Accused had authority to control the VRS, including over Mladić as its commander.¹⁰⁰⁷⁴ During the same 12 May 1992 Bosnian Serb Assembly session at which he was appointed Commander of the Main Staff, Mladić affirmed that "the President of the [SerBiH] should have command and control over the army".¹⁰⁰⁷⁵ Mladić himself referred to the Accused as the "Supreme Commander".¹⁰⁰⁷⁶

¹⁰⁰⁶⁹ See Prosecution Final Brief, paras. 434–438, 443.

¹⁰⁰⁷⁰ See Defence Final Brief, paras. 1268–1271.

¹⁰⁰⁷¹ See Defence Final Brief, paras. 1251–1285.

¹⁰⁰⁷² See paras. 160–161, fn. 424.

¹⁰⁰⁷³ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 317. See also P1477 (Ratko Mladić's notebook, 14 February–28 May 1992), p. 292 (showing that during a meeting with Mladić on 11 May 1992, Perišić had indicated that he and Ninković together proposed to the Accused that Mladić should come to the BiH). See also paras. 160, 169.

¹⁰⁰⁷⁴ See paras. 3099, 3105.

¹⁰⁰⁷⁵ P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 41.

¹⁰⁰⁷⁶ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 19. See also P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 255 (wherein the Accused affirmed his role as Supreme Commander and in particular over the "strategic usage of the army, but only in situations when things go wrong [...]"). See also para. 3098.

3117. International observers noted that while Mladić did what the Accused or the Bosnian Serb Assembly directed him to do with respect to the VRS, there were occasions where Mladić did not necessarily do what he was ordered to do.¹⁰⁰⁷⁷ While Mladić sometimes expressed different opinions in the context of international meetings, the Accused often took the lead and Mladić allowed himself to be persuaded by the Accused or deferred to him in the context of these meetings and indicated that he would do what the Accused said.¹⁰⁰⁷⁸ International observers noted that there was a “moderately healthy” relationship between the Accused and Mladić.¹⁰⁰⁷⁹

3118. According to Harland and Rupert Smith, the Accused and Mladić, as well as other members of the Bosnian Serb leadership, acted like a collective leadership; despite the existence of some tension between the political and military leadership, this tension was not destructive and they were “joined at the hip” and conducted themselves in a single direction.¹⁰⁰⁸⁰

3119. Michael Rose, who spent much of his time in Sarajevo meeting with the Accused and Mladić, testified that “it was clear” that they were at the peak of the pyramid of control of the Bosnian Serb forces.¹⁰⁰⁸¹ He also testified that the relationship between the Accused and Mladić “was, as one would expect in a confused and brutal situation, of varying intensity” but that “generally speaking, the military were in support of the civil power, and they did not replace it”.¹⁰⁰⁸² Throughout his time in BiH, he observed nothing to suggest there was disunity between the

¹⁰⁰⁷⁷ Pyers Tucker, T. 23226 (18 January 2012); P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 277–278. *See also* D4483 (UNPROFOR report, 4 August 1993); D3876 (Letter from Radovan Karadžić to Ratko Mladić, 15 March 1995).

¹⁰⁰⁷⁸ David Harland, T. 2029–2030 (6 May 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 133–134; Pyers Tucker, T. 23226 (18 January 2012); D2026 (Excerpt from Pyers Tucker’s diary, 13 March 1993), p. 26; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 68, 72, 277–278.

¹⁰⁰⁷⁹ P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 68, 72.

¹⁰⁰⁸⁰ P820 (Witness statement of David Harland dated 4 September 2009), paras. 283–284 (stating further that when the Accused and Mladić were together, usually the Accused was the protagonist); Rupert Smith, T. 11302–11304, 11326 (8 February 2011); T. 11671–11672 (11 February 2011); T. 11848 (15 February 2011) (on cross-examination, Smith could not confirm the Accused’s contention that Slobodan Milošević, the UN, and UNPROFOR were trying to sow discord between the Accused and Mladić but acknowledged that the political and military leadership were not always in agreement).

¹⁰⁰⁸¹ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 207.

¹⁰⁰⁸² P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 211–212. Rose recounted, however, an incident where Mladić rejected an agreement Rose had earlier made with the Accused, concerning the re-opening of the Tuzla airport. *See* P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 32. During his time in Sarajevo, Bell heard that there was tension between the Accused and Mladić, which increased towards the latter part of the war when the Accused began wearing a military uniform. Bell was told by an UNPROFOR source that, especially in the final year of the war, the military was less inclined to take orders from the political leadership and supported Mladić more. *See* P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 113–114.

military and political arms of the Bosnian Serb leadership; thus, according to Rose, the hierarchy was functioning adequately.¹⁰⁰⁸³

3120. Wilson also testified that there seemed to be a very comfortable relationship between the Bosnian Serb civilian leadership and Mladić.¹⁰⁰⁸⁴ While Mladić was a strong personality, and capable of independent action, he would repeatedly say that he was a soldier with no political ambitions and ultimately he did “what his political masters told him to do”.¹⁰⁰⁸⁵

3121. At the end of 1992, Mladić also stressed that he and the Accused had a “natural relationship” and there were no differences between them; they were united and struggling for the same objectives.¹⁰⁰⁸⁶ Whenever it was considered necessary, the Presidency would call on Mladić or his deputy to brief them on developments.¹⁰⁰⁸⁷ Mladić visited the Accused frequently.¹⁰⁰⁸⁸ He and other members of the Main Staff had direct telephone contact with the Accused.¹⁰⁰⁸⁹

3122. However, during the same period, international observers noted that Mladić was increasingly powerful and they speculated that the Accused might “be on the way out”.¹⁰⁰⁹⁰ At this time, the Accused had informed international observers that he wanted to move Mladić but this was unlikely to succeed.¹⁰⁰⁹¹

3123. Mladić also gave the impression to international observers that nothing of military significance could or would happen in Bosnian Serb-controlled BiH without his specific

¹⁰⁰⁸³ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 164. (opining that the Accused’s insistence on wearing a camouflage uniform suggested that the Bosnian Serb leaders were at pains to demonstrate unity).

¹⁰⁰⁸⁴ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 127, 132, 134.

¹⁰⁰⁸⁵ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 132–134 (citing, as another example, an incident during the Sarajevo airport negotiations where the Accused took Mladić into an adjoining room and engaged in a heated argument, after which Mladić changed his position and accepted the proposal to hand over the airport).

¹⁰⁰⁸⁶ P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court p. 105. *But see* D3682 (Witness statement of Gordan Milinić dated 8 June 2013), paras. 11–12, 24–25, 28, 31; D3687 (RS President’s Office request to VRS Main Staff, 7 August 1994); Gordan Milinić, T. 39724–39725, 39727 (11 June 2013), T. 39799–39800 (12 June 2013). Milinić stated that the Accused did not have control of the VRS and that he was not viewed as their supreme commander and that neither the Main Staff of the VRS nor Mladić respected the Accused and the Accused was powerless. However, the Chamber notes that the testimony of Milinić was marked by contradictions, bias, and indicators that he lacked candour. The Chamber therefore does not find his evidence to be reliable in this regard. *See also* fn. 10056.

¹⁰⁰⁸⁷ Bogdan Subotić, T. 40050–40051 (19 June 2013).

¹⁰⁰⁸⁸ P4358 (Witness statement of Mira Mihajlović, 6 February 2012), para. 30 (stating further that as the Accused’s secretary between January 1993 and January 1996, she could not recall any confrontations between Mladić and the Accused in her presence).

¹⁰⁰⁸⁹ Ljubomir Obradović, T. 25103–25104 (22 February 2012).

¹⁰⁰⁹⁰ P787 (Fourth notebook of Herbert Okun’s ICFY diary), e-court pp. 67–68, 72.

¹⁰⁰⁹¹ P787 (Fourth notebook of Herbert Okun’s ICFY diary), e-court p. 77.

approval.¹⁰⁰⁹² At a meeting with Mladić on 4 May 1993, General Panić and Bulatović suggested that Mladić take the floor after the Accused at the Bosnian Serb Assembly session the following day where the Vance-Owen Plan was scheduled to be discussed and put to a vote, as “Mladić has the greatest influence on the Serbian people”, greater even than the Accused.¹⁰⁰⁹³

3124. In 1993 and 1994, the Accused and Mladić denied any rift between them. In August 1993, Mladić emphasised that he had never taken a decision by himself and that “all claims about some rift in military and political leadership are untrue”.¹⁰⁰⁹⁴ In June 1993, Plavšić attempted to “inflict damage” on the Accused by referring to a conflict between him and Mladić in public, however, according to Milovanović, there were never any open conflicts between the Accused and Mladić, “not even then or after that”.¹⁰⁰⁹⁵ They may have had “harsh exchanges of opinion” when discussing major joint tasks, but for him, this was a normal aspect of the relationship between the military and political leadership.¹⁰⁰⁹⁶ Further, the Accused wrote to Mladić in April 1994 and emphasised the importance of the VRS respecting his authority and the decisions of the political leadership.¹⁰⁰⁹⁷ At a 4 August 1994 briefing by commanders of the VRS, the Accused was recorded as saying: “Everyone is looking to find a rift among individuals in the leadership, especially between me and Mladić. They will fail at that, because Mladić and I talk about things as brothers [...] and our aim is to move together towards the same goal.”¹⁰⁰⁹⁸

3125. However, the Chamber received evidence of disagreements between the Accused and Mladić in 1993 and 1994. On 4 August 1993, in relation to a concern that Mladić would not withdraw from Mt. Igman and Bjelašnica in Sarajevo and a “fall-out” between UNPROFOR and Mladić the day before, the Accused told Milovanović, “if I give him some orders, he has to carry them out. He has the right to say that they are not useful and that they are damaging, but if I later make a decision, he has to carry that out to the end”.¹⁰⁰⁹⁹ In another conversation later on the same

¹⁰⁰⁹² P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 59, 282 (wherein Tucker states that Mladić referred to himself as the Napoleon of the Balkans and that “he and he alone” would decide on issues pertaining to the safety of Serbs in BiH).

¹⁰⁰⁹³ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 86–87.

¹⁰⁰⁹⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 72.

¹⁰⁰⁹⁵ D2149 (Aide mémoire of Manojlo Milovanović), p. 26.

¹⁰⁰⁹⁶ D2149 (Aide mémoire of Manojlo Milovanović), p. 26. *See also* P5237 (Video footage of interview with Radovan Karadžić by CNN, undated).

¹⁰⁰⁹⁷ D1590 (Radovan Karadžić’s letter to Chief of VRS Main Staff, 27 April 1994).

¹⁰⁰⁹⁸ P1486 (Ratko Mladić’s notebook, 31 March 1994–3 September 1994), pp. 252, 269.

¹⁰⁰⁹⁹ D3871 (Intercept of conversation between Radovan Karadžić and Milovanović, 4 August 1993). *See also* D4483 (UNPROFOR report, 4 August 1993), para. 1 (reporting that Mladić made strong statements to UNMOs the day before that he had no intention of withdrawing Bjelašnica and noting generally that Mladić does not always follow political directions); D4508 (Intercept of conversation between Radovan Karadžić and Manojlo Milovanović, 3 August 1993), p. 3 (during which the Accused told Milovanović to tell Mladić that “only one

day, the Accused told Milovanović not to come between him and Mladić, namely that he should not “be between the hammer and the nail, I am the supreme commander and I am ordering; order them to withdraw and tell Mladić to report to me from the airport”.¹⁰¹⁰⁰ In the same conversation, the Accused told Milovanović that if Mladić was preventing him from executing his orders, “you are then obliged to inform me and I will replace him [...] you are to carry out my executive orders because I am your supreme commander. Mladić has to carry out every one of my orders; if he hasn’t, I will replace him and arrest him.”¹⁰¹⁰¹

3126. The Accused suggested that Milovanović replace Mladić as commander of the Main Staff on a number of occasions.¹⁰¹⁰² On 6 August 1993, the Accused presented Milovanović with a “*fait accompli*” in front of a large group of journalists, stating that he would hand over the army to Milovanović as commander of the Main Staff in place of Mladić; however, Milovanović said he would deny it without an Assembly decision to that effect.¹⁰¹⁰³ In December 1993, the Accused was openly critical of Mladić to Milovanović because he was upset that he never knew Mladić’s whereabouts; he asked Milovanović to meet with him in Pale and stated again that it would be better if Milovanović were in command of the VRS.¹⁰¹⁰⁴ Milovanović refused and stood by Mladić, who remained as commander of the Main Staff until the end of the war.¹⁰¹⁰⁵

3127. In September 1993, there were clear tensions between the Accused and Mladić, including during their exchanges in Bosnian Serb Assembly sessions in relation to a number of issues.¹⁰¹⁰⁶ The Accused’s authority remained clear, however, and the Accused himself emphasised the authority he held, stating: “I have issued an order to the general who is under my command, that is not testing, that is an order”, “I am the Commander-in-Chief and I am ordering necessary measures

wrong move he might make could wreck the entire country, the entire nation. He must be cautious now and not fall for their provocations”).

¹⁰¹⁰⁰ P4786 (Intercept of conversation between Radovan Karadžić and General Milovanović, 4 August 1993), p. 2. See also D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993).

¹⁰¹⁰¹ P4786 (Intercept of conversation between Radovan Karadžić and General Milovanović, 4 August 1993), p. 3.

¹⁰¹⁰² Manojlo Milovanović, T. 25632, 25642–25643 (1 March 2012). See also para. 3135.

¹⁰¹⁰³ Manojlo Milovanović, T. 25632, 25642–25643 (1 March 2012). See also para. 3135.

¹⁰¹⁰⁴ Manojlo Milovanović, T. 25642–25643 (1 March 2012). The Accused requested that this conversation remain private but Milovanović told him that he was obliged to inform Mladić of their conversation pursuant to the law. Manojlo Milovanović, T. 25643 (1 March 2012).

¹⁰¹⁰⁵ Manojlo Milovanović, T. 25642–25643, 25670 (1 March 2012); D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 35. See also P1489 (Ratko Mladić’s notebook, 28 August 1995–15 January 1996), p. 135 (noting that Mladić was at a meeting of the RS Supreme Command on 1 December 1995 with the Accused, Krajišnik, Plavšić, and others).

¹⁰¹⁰⁶ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 270–272, 274–275, 306; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 124–125, 127–129, 140.

to be taken”.¹⁰¹⁰⁷ The Accused also stated that of the civilian authorities, only he had the possibility of controlling the army and the army had to get “used to the fact that they are under the command and control of the civilian authority”.¹⁰¹⁰⁸ The Accused further stressed at this meeting that if he did not continue to trust Mladić, he could and would have dismissed him, describing him as “the glorious fighter from Krajina”.¹⁰¹⁰⁹

3128. In November 1993, UNPROFOR reported that the Serbs seemed to be “directionless”, noting that the Accused is “blocked by Serbia and by the international community at large” and Mladić is “frustrated and is becoming increasingly bellicose”.¹⁰¹¹⁰ They observed that Mladić was more dangerous as he was feeling ineffective as a military commander and marginalised as an individual.¹⁰¹¹¹

3129. There were similar disagreements and tension between the Accused and Mladić during meetings in 1994.¹⁰¹¹² On 26 April 1994, Milovanović spoke with Gvero over the phone in relation to an agreement with UNPROFOR whereby heavy weapons were to be withdrawn, or put under the control of UNPROFOR, and the Accused had ordered the weapons to be withdrawn; Milovanović told Gvero, “[f]uck it, pardon my French, you put my balls in a vice. [...] Well, because [the Accused] has ordered weapons to be withdrawn, Mladić doesn’t allow it”.¹⁰¹¹³ Milovanović further stressed that “here’s what’s important, it’s important that [the Accused] is making me pull out heavy weapons 20 km”.¹⁰¹¹⁴ In May 1994, Mladić proposed to the SDC that some generals who he believed to support the Accused be pensioned off.¹⁰¹¹⁵ In September 1994, Gvero complained about not having enough “real contacts with the state leadership”,¹⁰¹¹⁶ and that the Accused was

¹⁰¹⁰⁷ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 278–279, 281. *See also* P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 283 (stating that in meetings, the Accused “always held himself up as the Head of State” and stated a number of times that the VRS reported to the Government and referred to “my soldiers” and “my army”).

¹⁰¹⁰⁸ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 428.

¹⁰¹⁰⁹ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 316.

¹⁰¹¹⁰ P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 1.

¹⁰¹¹¹ P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 6.

¹⁰¹¹² *See* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 148.

¹⁰¹¹³ D4526 (Intercept of conversation between Milan Gvero, Manojlo Milovanović and “Tosa” a.k.a Zdravko Tolimir, 26 April 1994), p. 1. Gvero responded it was impossible to implement and that there was a NATO ultimatum. D4526 (Intercept of conversation between Milan Gvero, Manojlo Milovanović and “Tosa” a.k.a Zdravko Tolimir, 26 April 1994), p. 1.

¹⁰¹¹⁴ D4526 (Intercept of conversation between Milan Gvero, Manojlo Milovanović and “Tosa” a.k.a Zdravko Tolimir, 26 April 1994), p. 2.

¹⁰¹¹⁵ D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 44.

¹⁰¹¹⁶ P1487 (Ratko Mladić’s notebook, 4 September 1994–29 January 1995), pp. 38–39.

taking decisions without the approval of the Main Staff.¹⁰¹¹⁷ In October 1994, Mladić was informed that the Accused did not know what to do with him.¹⁰¹¹⁸

3130. The Chamber notes that although the Accused and Mladić may have had their differences, in the spring of 1995, they maintained their superior and subordinate relationship within the chain of command.¹⁰¹¹⁹ At a session of the Supreme Command on 31 March 1995, Mladić stated that he and the Accused had the greatest responsibility for the army, with the Accused “as the Supreme Command” and Mladić as “[his] right hand in the army.”¹⁰¹²⁰ While Mladić also complained that the Accused had stripped him of his authority to make unilateral promotions of lower-ranking officers,¹⁰¹²¹ Mladić affirmed that the Accused, as the Supreme Commander, had the right to give orders.¹⁰¹²²

3131. Furthermore, in a speech at the 50th Bosnian Serb Assembly session on 15 and 16 April 1995, the Accused reassured the attendees that despite rumours of a split between he and Mladić: “How can there be a split between the Supreme Commander and his subordinate commander? There is no split”, but further stated “[i]f there is a split, it is clear who will have to go”.¹⁰¹²³ The Accused further stated he had not resorted to firing Mladić or any of his assistants, and that on the whole, he had a good personal relationship with Mladić and that “he and his Main Staff members [...] respect and recognise me”.¹⁰¹²⁴ Mladić responded later that despite the Accused’s public statements about replacing Mladić “at the stroke of a pen”, Mladić had made a commitment when he was sworn in and he requested that the Assembly and the deputies “take a vote of confidence in me and the Main Staff” and reassured them that “we’ll work together”.¹⁰¹²⁵

¹⁰¹¹⁷ P1487 (Ratko Mladić’s notebook, 4 September 1994–29 January 1995), p. 51.

¹⁰¹¹⁸ P1487 (Ratko Mladić’s notebook, 4 September 1994–29 January 1995), pp. 123, 125.

¹⁰¹¹⁹ P953 (Article from *Oslobođenje*, entitled “Happy Birthday Republic”, 6 January 1995), p. 9 (wherein the Accused states in an interview that “as the supreme commander, I get all the respect from the officers and soldiers, and I wouldn’t even want our officers to be obedient or soft like an old woman. I want them to ‘argue’ with me about various solutions because it helps me to make the right decision”); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), pp. 13, 15, 20, 21, 57; P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 315.

¹⁰¹²⁰ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 49.

¹⁰¹²¹ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 9 (during which Mladić stated “[w]e have never proposed anything that you have done outside your jurisdiction; we have proposed everyone to you, that is correct. [...] You have taken all operational powers from us and from the Main Staff”). A few days earlier on 28 March 1995, Mladić wrote to the Accused asking him to order the Minister of Defence to annul an order he issued without consulting the Main Staff regarding promotions and that the Minister of Defence not take away the Main Staff commanders’ “right to approve promotions up to the rank and authority which they have so far had”. D4062 (Request of VRS Main Staff to Radovan Karadžić, 28 March 1995). *See also* Momčilo Krajišnik, T. 43978–43979 (21 November 2013).

¹⁰¹²² P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), pp. 8–14, 32.

¹⁰¹²³ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 315.

¹⁰¹²⁴ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 315.

¹⁰¹²⁵ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), pp. 361–362.

3132. However, further tensions between the VRS and the Bosnian Serb leadership were apparent during meetings in the spring of 1995.¹⁰¹²⁶ On 29 April 1995, the Accused addressed a letter to the VRS Main Staff accusing them of preparing a *coup d'état*, and summoned them to a meeting in Pale.¹⁰¹²⁷ On 1 May 1995, the Accused met with the officers of the Main Staff and Corps commanders in Pale and complained about the actions and Mladić's recent behaviour and the tension between the military and political leadership.¹⁰¹²⁸

3133. In the summer of 1995, the Accused communicated directly with Milovanović on a few occasions and forwarded him reports he received and decisions he made; this caused suspicion among the other generals.¹⁰¹²⁹ Milovanović reported this to Mladić, and cautioned the Accused that the "system of command was being duplicated"; however, Milovanović never refused any of the Accused's orders and merely forwarded them to Mladić.¹⁰¹³⁰ If no response was received, then Milovanović would act on the Accused's order.¹⁰¹³¹ By August 1995, Mladić was more vocal and arrogant in his interactions with the Accused, and Mladić claimed that he was in charge.¹⁰¹³² The Accused complained about the army, the difficulties in influencing the Main Staff and stated that the army, as a state organ, needed to be under the command of the state and not Mladić.¹⁰¹³³ There were also fears of a military coup but the Accused continued to speak in the capacity of the Supreme Commander of the VRS and in the interests of Serb unity.¹⁰¹³⁴

3134. During a meeting with journalist Robert Đurđević on 14 July 1995, the Accused told him that he had heard in April 1995 that Mladić was planning a *coup d'état* in compliance with

¹⁰¹²⁶ P1473 (Ratko Mladić's notebook, 24 January–5 September 1995), pp. 130–131, 146–147. Piers Tucker had the impression that there were also attempts by Mladić and others to sideline Plavšić. P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 36. See also P820 (Witness statement of David Harland dated 4 September 2009), paras. 285–286 (stating that as time passed, the Accused seemed to have less control and there was a rift in the relationship in 1995 which appeared to be due to policy differences).

¹⁰¹²⁷ Manojlo Milovanović, T. 25659 (1 March 2012); D2155 (Letter from Radovan Karadžić to Supreme Command, 29 April 1995).

¹⁰¹²⁸ P1473 (Ratko Mladić's notebook, 24 January–5 September 1995), pp. 123, 127–129 (wherein the Accused is recorded as stating that the most recent behaviour, especially that of Mladić, resembles a "putsch" and furthermore, that "[i]t is impermissible to lecture the head of state on the state"); Manojlo Milovanović, T. 25658, 25661 (1 March 2012); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 163.

¹⁰¹²⁹ Manojlo Milovanović, T. 25647–25648 (1 March 2012); D2149 (Aide mémoire of Manojlo Milovanović), p. 57. See D3512 (UNPROFOR report, 17 July 1995), pp. 1–2 (wherein Akashi refers to the possibility of Mladić being a "free operator" and states that, "[f]or the past several months, the military commanders in Pale had been challenging the authority of the civilian colleagues").

¹⁰¹³⁰ Manojlo Milovanović, T. 25648 (1 March 2012).

¹⁰¹³¹ Manojlo Milovanović, T. 25648 (1 March 2012).

¹⁰¹³² D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 166, 168–169.

¹⁰¹³³ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 169. See also P2683 (Radovan Karadžić's request to SRK commander, 5 August 1995).

¹⁰¹³⁴ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 173–177; Momčilo Mandić, T. 5340 (16 July 2010).

instructions from Slobodan Milošević, so the Accused had to act to prevent it.¹⁰¹³⁵ The Accused told Đurđević that he had called a meeting of all senior officers, including Mladić, and had confronted them with the plan; afterwards the Accused had a one-on-one conversation with Mladić where, according to the Accused, the two of them had patched up their differences, at least so as to be civil and respectful of each other.¹⁰¹³⁶ The Accused told Đurđević that Mladić had promised to work together with the Accused and other RS political leaders.¹⁰¹³⁷ However, according to Đurđević, the Accused still did not seem to be “speaking very warm terms about Mladić” and he told Đurđević that he would have to pension Mladić off.¹⁰¹³⁸ The next day, on 15 July, in a meeting with Slobodan Milošević and Mladić, Akashi remembered Mladić being “under very tense pressure”.¹⁰¹³⁹ Akashi recalled that the absence of the Accused at this meeting gave rise to some speculation about the relationship between the Accused and Mladić, but Akashi had no actual knowledge of what was taking place.¹⁰¹⁴⁰

3135. On 2 August 1995, pursuant to a decision issued by the Accused, in his capacity as President and Supreme Commander, the Main Staff was renamed as the VRS General Staff and would be called the Supreme Command Staff in “times of war”.¹⁰¹⁴¹ According to this decision, on 4 August 1995, Mladić was appointed as Special Advisor to the Supreme Commander, and removed as VRS commander.¹⁰¹⁴² In response, on 5 August 1995, Mladić sent a notice to the corps commands, stating that the Accused’s decision to rename the Main Staff and to take over the authority of direct leadership and command of the VRS was unconstitutional and highly dangerous and could bring into question the results they had already achieved; he further stressed that such a decision could lead to the collapse of the VRS.¹⁰¹⁴³

¹⁰¹³⁵ Robert Đurđević, T. 25939 (7 March 2012). *See also* P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court p. 10; P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 29–30. *See also* para. 5778.

¹⁰¹³⁶ P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 29–30; Robert Đurđević, T. 25939 (7 March 2012). *See* P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court pp. 10–11.

¹⁰¹³⁷ P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court p. 11.

¹⁰¹³⁸ P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court p. 31; Robert Đurđević, T. 25939–25940 (7 March 2012).

¹⁰¹³⁹ Yasushi Akashi, T. 37746 (25 April 2013).

¹⁰¹⁴⁰ Yasushi Akashi, T. 37747–37749 (25 April 2013); D3512 (UNPROFOR report, 17 July 1995), p. 2.

¹⁰¹⁴¹ *See* para. 174.

¹⁰¹⁴² *See* para. 174. On 6 August 1995, an extraordinary government session was held, where the RS Government decided to support the Accused’s proposal to remove Mladić as General of the VRS. P3108 (Minutes of the 7th extraordinary session of RS Government, 6 August 1995); D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 26.

¹⁰¹⁴³ D2158 (Statement by Ratko Mladić, forwarded by Novica Simić, 5 August 1995), pp. 1–2. *See also* D4858 (Communique of VRS Main Staff, 5 August 1995). *See also* D3882 (SRNA news report, 5 August 1995).

3136. On 5 or 6 August 1995, Milovanović authored a petition that was sent to the Bosnian Serb Assembly and the Accused in his capacity as RS President on behalf of 18 generals.¹⁰¹⁴⁴ The petition stated the generals' unanimous refusal to implement the Supreme Command's order to reorganise the Main Staff.¹⁰¹⁴⁵

3137. However, even following Mladić's removal as Main Staff commander, both the Accused and Mladić re-affirmed their subordinate-superior relationship. In an interview on 16 August 1995, the Accused stated that "[t]here is no conflict, the competence is very clear"; he was the President and Commander-in-Chief of the army and that Mladić was the second in the hierarchy, despite mutual criticism and disagreements.¹⁰¹⁴⁶ Furthermore, at an SDC session on 23 August 1995 with the FRY leadership, during which Slobodan Milošević attempted to pressure Mladić to support peace and issue a statement which was contrary to the Accused's position at the time, Mladić refused and instead stated that he would leave this to the politicians as he was "only a soldier of the people" and "not an elected representative".¹⁰¹⁴⁷

3138. On 27 August 1995, the Accused abrogated his decision of 2 August 1995 to re-organise the Main Staff, including the decree appointing Mladić as Special Advisor to the Supreme Commander.¹⁰¹⁴⁸ Following the annulment of his decision, the Accused sent a letter to the VRS Main Staff generals, requesting that they "trust the state leadership" and the importance "finally for us to respect each other" and establish a relationship based on mutual respect.¹⁰¹⁴⁹

¹⁰¹⁴⁴ D2159 (Letter from VRS Main Staff to RS National Assembly, 5–6 August 1995); Manojlo Milovanović, T. 25674–25676 (1 March 2012); D2149 (Aide mémoire of Manojlo Milovanović), p. 57; D2843 (Telegram from VRS Main Staff, 7 August 1995); Petar Skrbić, T. 26028–26030 (8 March 2012). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6700 (testifying that he had signed a document in support of Mladić on 6 or 7 August 1995, not because he wanted to but because all generals had signed it).

¹⁰¹⁴⁵ D2159 (Letter from VRS Main Staff to RS National Assembly, 5–6 August 1995), p. 1; Manojlo Milovanović, T. 25676 (1 March 2012). See D2843 (Telegram from VRS Main Staff, 7 August 1995); Dragomir Milošević, T. 32888–32892 (30 January 2013); Stanislav Galić, T. 37606 (23 April 2013). See also D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 99 (stating that he and Dušan Kovačević were the only generals who chose not to sign the petition).

¹⁰¹⁴⁶ P6407 (Radovan Karadžić's interview with Telegraf, 16 August 1995), pp. 3–4.

¹⁰¹⁴⁷ P2567 (Note from FRY's SDC 42nd session, 23 August 1995), pp. 2, 5–6. See also D3681 (Intercept of conversation between Slobodan Milošević and Ratko Mladić, undated), p. 4 (during which Milošević tells Mladić that "unfortunately you have a completely mad political leadership, which is dragging you to death", to which Mladić responds that he cares about people and not "about a certain individual from any leadership here").

¹⁰¹⁴⁸ D2844 (Radovan Karadžić's Decision, 27 August 1995), p. 2; Manojlo Milovanović, T. 25678 (1 March 2012) (testifying that he later learned from Gvero that the Assembly had adopted the petition and annulled the Accused's decision to reorganise the Main Staff). See also para. 174. At a Bosnian Serb Assembly session held on 22 August 1995, the Accused reported on the conflict between the military and RS state organs, stating that if it was not resolved, it may have a "huge negative impact on the safeguarding of the [RS] territory and state". P3146 (Minutes of 28th session of RS Government, 22 August 1995), p. 9. See also D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 27.

¹⁰¹⁴⁹ D4861 (Letter from Radovan Karadžić to VRS Main Staff, 27 August 1995), p. 1.

3139. However, on 5 September 1995, Akashi reported further miscommunication and discord between the Accused and Mladić, stating that “the pronouncements of the ‘RS’ civilian leadership and the [VRS] military leadership are clearly at odds” and that there had been a noticeable rupture in the RS power structure.¹⁰¹⁵⁰

3140. The Chamber received evidence from Defence witnesses that the relationship between the Accused and Mladić was always one of intolerance and that the Accused had *de jure* control over Mladić, but that he did not have control over him in fact.¹⁰¹⁵¹ Furthermore, Defence witnesses testified that within the VRS structure, there was always a duality of command between Mladić and the Accused, starting with Mladić’s appointment as commander of the Main Staff and throughout the conflict.¹⁰¹⁵² According to Mandić, there was a lack of trust and co-operation between the Accused and Mladić from the beginning and that Mladić did not respect orders issued by the Accused or other members of the Presidency.¹⁰¹⁵³

3141. However, the Chamber notes that the evidence of these witnesses, namely of Kuprešaniin, Zametica, Kozić, Kovač, and Ninković, in this regard is expressed in general terms and is often based on their own impression or opinion. The Chamber does not therefore find their evidence to be of much weight in this regard. In addition the Chamber finds that this evidence is outweighed

¹⁰¹⁵⁰ D3353 (UNPROFOR report, 5 September 1995), pp. 1–2 (referring to a letter from Mladić sent to UNPROFOR on 4 September 1995 regarding his position on conditions established by NATO and the UN for the cessation of NATO air attacks which conflicted with the position of the Bosnian Serb leadership; Koljević reassured UNPROFOR of the position of the Bosnian Serb leadership and that Mladić’s letter was not valid, which Mladić ultimately accepted). See Prvoslav Davinić, T. 45529–45531 (16 January 2014) (testifying about a conversation between the Accused and Mladić on 4 September 1995, in which Mladić stated: “I cannot but act in keeping with your decisions, your directives, and in line with my legal authority”, and that Mladić’s statement did not indicate subservience to the Accused because Mladić had a “great deal of freedom to act” within the scope of his “legal authority”).

¹⁰¹⁵¹ D3864 (Radovan Radinović’s expert report entitled “The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS”, 2012), pp. 5–6; Radovan Radinović, T. 41618–41619 (19 July 2013) (testifying that the Accused did not have actual operative control over the VRS in July and August 1995); D4011 (Witness statement of Vojislav Kuprešaniin dated 11 November 2013), paras. 44, 52 (stating further that during the war, it became clear that the Accused “was President of the state but did not have power, while, on the other hand, [...] Mladić had power but did not have the state”); Vojislav Kuprešaniin, T. 43519 (14 November 2013); D3682 (Witness statement of Gordan Milinić dated 8 June 2013), paras. 11–12 (stating that Mladić did not respect the Accused in the slightest and instead always wanted to do the opposite of what the Accused advocated; as such the Accused had been trying to dismiss Mladić since as early as 1993 but without success, as the VRS held the power and “did as it pleased and acted at its own discretion”); John Zametica, T. 42453–42455 (29 October 2013) (testifying that the Accused had very little power over the VRS and the VRS was regularly insubordinate to the Accused); D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 26 (stating that there was a lack of co-operation between the civilian and military authorities throughout the war); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 9; D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 99.

¹⁰¹⁵² D3864 (Radovan Radinović’s expert report entitled “The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS”, 2012), pp. 5–6; D3733 (Witness statement of Milan Ninković dated 23 June 2013), paras. 29, 39; Vojislav Kuprešaniin, T. 43519 (14 November 2013); D4011 (Witness statement of Vojislav Kuprešaniin dated 11 November 2013), paras. 44, 52. See also D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), paras. 91, 96, 111.

¹⁰¹⁵³ Momčilo Mandić, T. 5340–5341 (16 July 2010).

by the volume of reliable evidence discussed above. Therefore, in light of all the evidence, the Chamber finds that while there may have been a lack of trust and periods of discord between the Accused and Mladić, the Accused and Mladić acted as a collective leadership and conducted themselves in a single direction. The Chamber therefore finds that the Accused maintained his role as Mladić's superior, had *de jure* control over him, and exercised such control in fact throughout the conflict.

(4) Accused's powers

3142. The Accused, as the President, had the power to organise and implement plans for defence, order mobilisation, and command and control the army.¹⁰¹⁵⁴ In addition, as the Supreme Commander, the Accused had the power to issue regulations, to define the organisation of the VRS, to appoint, promote, and dismiss officers of the VRS, to establish a system of command, and to monitor the implementation of orders.¹⁰¹⁵⁵ The Accused had also the power to issue decrees, instructions, orders, and requests related to the general planning for the preparation of the army, the mobilisation of the army, and its deployment.¹⁰¹⁵⁶

3143. In application of these powers, the Accused, for example, issued instructions to different units in the VRS and occasionally sent direct orders to corps and brigade commanders to answer directly to him.¹⁰¹⁵⁷

3144. The Accused's personal involvement at the operational level can also be seen in his order to the Main Staff, on 5 December 1992, to provide reinforcements for the Drina Corps; to "disarm the opponent in the local communities of Cerska and Konjević Polje and take control of the Milići-Drinjača-Zvornik and Konjević Polje- Bratunac road"; and to inform him personally on the realisation of this order.¹⁰¹⁵⁸ Also demonstrative of his level of involvement are his instructions at a

¹⁰¹⁵⁴ See para. 162.

¹⁰¹⁵⁵ See para. 167; P2603 (SerBiH Law on the Army, 1 June 1992), art. 174 (stating, *inter alia*, that the RS President is the Commander-in-Chief of the VRS).

¹⁰¹⁵⁶ See para. 168.

¹⁰¹⁵⁷ See, e.g., P846 (Radovan Karadžić's Order to VRS, 7 February 1994) (which was relayed via P4493 (VRS Main Staff Order, 7 February 1994); Stanislav Galić, T. 38033 (9 May 2013) (stating that the SRK commander would receive information and directives directly from the Supreme Command and the Accused); P2276 (VRS Main Staff Order, 9 July 1995); P4925 (Supplement to Directive 6, 12 December 1993); P2645 (Radovan Karadžić's order to VRS Main Staff, MUP, and Ministry of Defence, 20 May 1992) (the Accused ordered the creation of a military police company within the SRK); D43 (Radovan Karadžić's Order to VRS Main Staff, 16 April 1993); P4495 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 29 March 1995); D4812 (Radovan Karadžić's Order, 15 January 1994); P1503 (Radovan Karadžić's Order re Nedžarići, 1 July 1992); P1299 (VRS Main Staff request for information from SRK, 26 April 1995); D4739 (Letter from Radovan Karadžić to all local civilian and police authorities, 31 October 1992).

¹⁰¹⁵⁸ P5083 (Radovan Karadžić's Order to the VRS Main Staff, 5 December 1992). See also P1493 (Letter from Ratko Adžić to Radovan Karadžić, 12 June 1992) (by which the Accused was informed of the progress of battles around Sarajevo and was asked to use "his influence" for additional weaponry to be provided).

meeting of the Supreme Command, on 7 May 1993, to be directly in charge of approving operations; that all offensive operations be halted; and that any action should be approved by the Supreme Command personally.¹⁰¹⁵⁹

3145. The Accused also exercised his power to order the VRS to carry out mobilisation.¹⁰¹⁶⁰ For example, already on 20 May 1992, the Accused issued a decision on the general mobilisation of all military conscripts and the requisition of material for the needs of the VRS and noted that this decision would be delivered to the “competent organs of all municipalities” of the SerBiH.¹⁰¹⁶¹ This decision was delivered and acted upon at the municipal level.¹⁰¹⁶²

3146. The Accused exercised his power to promote VRS officers¹⁰¹⁶³ and to reassign VRS officers.¹⁰¹⁶⁴ As mentioned above with regard to his relationship with Mladić, the power to dismiss officers was acknowledged by the Accused himself when he stated at the Bosnian Serb Assembly that if he did not trust Mladić he would have dismissed him and added: “I have the authority to do that.”¹⁰¹⁶⁵

¹⁰¹⁵⁹ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 89–90. The Chamber notes John Zametica’s evidence that he did not think that the Accused was “particularly involved” in “day-today operative and tactical level”, that the Accused was “largely uninterested” in the operation and tactical conduct of warfare, but notes that at the same time Zametica testified that he “never asserted that [the Accused] had not been involved” whatsoever. John Zametica, T. 42457–42458, 42522 (29 October 2013). The Chamber does not find that Zametica’s qualified observation regarding the involvement of the Accused in operative and tactical level affects the Chamber’s conclusion in this regard.

¹⁰¹⁶⁰ P5482 (Radovan Karadžić’s Order to Municipal Assembly Presidents and VRS Main Staff, 26 March 1995), p. 1; P5192 (Radovan Karadžić’s Decision on general mobilisation, 5 August 1995); P4926 (RS Declaration of war, 16 June 1995); P2248 (Radovan Karadžić’s Order to RS Government, VRS Main Staff, and Presidents of Municipalities, 26 March 1995). The Chamber notes that the Accused’s order was relayed the same day by Mladić to the VRS units. P2249 (VRS Main Staff Order, 26 March 1995). See also P5546 (VRS Main Staff Order, 30 July 1995), p. 1.

¹⁰¹⁶¹ P3919 (Radovan Karadžić’s Decision, 20 May 1992), pp. 1–2.

¹⁰¹⁶² P3537 (Decision of Prijedor Crisis Staff, 22 May 1992); Branko Đerić, T. 28059–28060 (25 April 2012).

¹⁰¹⁶³ P2650 (Radovan Karadžić’s decree on exceptional promotion, 16 December 1992); P2677 (Radovan Karadžić’s decree on Dragomir Milošević’s promotion, 24 March 1994); P5532 (RS Presidential Decree, 25 July 1993); P5533 (RS Presidential Decree, 28 June 1994), pp. 1–2; P3046 (Radovan Karadžić’s Decree on promotion of Ratko Mladić, 28 June 1994); P2649 (Radovan Karadžić’s decree on early promotion, 7 August 1994).

¹⁰¹⁶⁴ Stanislav Galić, T. 37594–37595 (23 April 2013); P3044 (Radovan Karadžić’s Decree, 14 July 1995); P5190 (Letter from RS MUP to RS President, 6 July 1995); P5085 (RS Presidential Decree, 15 July 1995); P5085 (RS Presidential Decree, 15 July 1995). The Chamber notes that, while the Accused’s decree is dated 14 July 1995, according to a memorandum of the Drina Corps “the handover of duties of the Drina Corps Commander was carried out on 13 July 1995”. However, it finds that this minor inconsistency with regard to the date does not affect the substance of the document of the Drina Corps, according to which reassignments were made “[p]ursuant to the Decree of the President of Republika Srpska”. P4485 (Drina Corps information, 13 July 1995). See also D3874 (Letter from Radovan Karadžić to Ratko Mladić and 2nd Krajina Corps commander, 14 December 1994); P5451 (RS MUP request to Radovan Karadžić, 13 July 1995), p. 1. See paras. 5768, 5776.

¹⁰¹⁶⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 316. See also P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 315. See also D3495 (Letter from Radovan Karadžić to Yasushi Akashi, 24 March 1994) (responding to D3494 (Letter from Yasushi Akashi to Radovan Karadžić, 23 March 1994)).

3147. The Accused also assisted the VRS in his capacity as RS President. In April 1994, following a letter from the Main Staff informing that there were volunteers from the SRS who had been operating in two municipalities without the knowledge or consent of the VRS,¹⁰¹⁶⁶ the Accused reminded the municipal authorities that this interfered with the system of single command and control. The Accused also required to be informed about developments so he could take measures.¹⁰¹⁶⁷

3148. The Chamber observes that Mladić took note in 1994 that while subordination was good at the Main Staff and corps level, insubordination was found at the lower levels,¹⁰¹⁶⁸ and it also observes that in 1995 lack of co-operation and certain acrimony existed between the civilian and military authorities.¹⁰¹⁶⁹

3149. The Chamber notes that according to Božidar Vučurević officers of the VRS turned to Belgrade rather than to the RS.¹⁰¹⁷⁰ The Chamber finds that Vučurević was not forthright in this regard and does not accept his evidence. The Chamber also notes that Momir Bulatović testified that the Accused told Milošević that “he did not understand why the VRS took Jajce, a Muslim town that they would never be able to preserve” and that Bulatović “believe[d]” that the Accused’s statement to Milošević referred to the lack of the Accused’s control over military operations.¹⁰¹⁷¹ The Chamber does not find that Bulatović’s interpretation of the Accused’s statement has any weight as Bulatović was not present when it was made.

3150. Finally, Colm Doyle testified that he informed the Accused, via one of the Accused’s officials, of a planned attack against a TV station in Sarajevo and that the Accused replied that the attack will not take place. However, the TV station was bombed, and Doyle relayed information to the Accused that he “was going to hold him personally responsible” for the attack.¹⁰¹⁷² When the Accused met with Doyle later that day he said to Doyle that he had not ordered the attack, that he

¹⁰¹⁶⁶ D1454 (Request of RS President's Office, 29 April 1994); D1446 (Radovan Karadžić's Order to RS MUP, 29 April 1994).

¹⁰¹⁶⁷ D1454 (Request of RS President's Office, 29 April 1994); D1446 (Radovan Karadžić's Order to RS MUP, 29 April 1994); Milorad Davidović, T. 15809 (1 July 2011). See also D1448 (Letter from RS President's Office to President of Petrovo Municipal Assembly, 29 April 1994).

¹⁰¹⁶⁸ P1485 (Ratko Mladić's notebook, 9 January–21 March 1994), pp. 46, 117.

¹⁰¹⁶⁹ D3364 (Witness statement of Dušan Kozić dated 7 April 2013), paras. 26, 33; D3366 (Report of 1st Igman Infantry Brigade, 20 October 1995); P3114 (Minutes of the 32nd session of RS Government, 13 October 1995), p. 4; Dragan Kijac, T. 44317 (3 December 2013); D4143 (Witness statement of Dragan Kijac dated 30 November 2013) para. 59. The Chamber notes that Kijac later testified that had normal relations with the military security services. D4143 (Witness statement of Dragan Kijac dated 30 November 2013) para. 60.

¹⁰¹⁷⁰ D3146 (Witness statement of Božidar Vučurević, 22 March 2013), para. 8.

¹⁰¹⁷¹ D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 29–30.

¹⁰¹⁷² Colm Doyle, T. 2678–2679 (21 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25278–25281.

had condemned it, and that he “didn’t control all of the military all of the time.”¹⁰¹⁷³ The Chamber finds the Accused’s statement to Doyle regarding his lack of continuous control over the military to be of minimal weight. The Accused had a clear interest in distancing himself from, and minimising his involvement in, the attack after Doyle told the Accused that he would be held personally responsible for it and that he was going to condemn this attack on television.

3151. In addition, the Chamber finds that the limited evidence regarding the Accused’s lack of control over the VRS¹⁰¹⁷⁴ is not only of minimal weight in and of itself, but that, in any event, it is inconsistent with the overwhelming evidence to the contrary, described above.

(5) The issuance of military directives in pursuance of the Strategic Goals

3152. Above, the Chamber found that the Strategic Goals, which embodied the fundamental objectives of the Bosnian Serb leadership were communicated to the VRS and formed a core element of its military strategy.¹⁰¹⁷⁵ They were the basis for the military operations that were formulated in the seven main VRS military directives issued between June 1992 and March 1995.¹⁰¹⁷⁶

3153. These directives constituted “the highest level of political-military direction” for the conduct of the war.¹⁰¹⁷⁷ They were “act[s] of command used by the highest echelons of command” that delegated long-term tasks and assignments.¹⁰¹⁷⁸ They regulated the actions of the military forces by setting tasks in the form of guidelines governing the division of responsibilities between

¹⁰¹⁷³ Colm Doyle, T. 2678–2679 (21 May 2010). See also Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25279–25281. The Chamber notes that Doyle’s testimony could be interpreted as referring to the Accused’s authority over paramilitary forces. However, considering the features of the attack described by Doyle and the knowledge of the Accused about the attack the Chamber concludes that, in this context, the Accused was referring to regular military forces rather than paramilitaries.

¹⁰¹⁷⁴ The Chamber also notes evidence of a rift in August 1994 between the RS leadership and the FRY concerning negotiations, which included a message from the FRY leadership to the VRS to refuse obedience to, and not to be manipulated by, the RS leadership. P1486 (Ratko Mladić’s notebook, 31 March–3 September 1994), pp. 277–279. However, the Chamber notes that this message was not accepted by the VRS officers and did not affect the hierarchical control of the RS leadership over the VRS. P1486 (Ratko Mladić’s notebook, 31 March–3 September 1994), pp. 283, 286 (according to which Milovanović qualified this rift as “not ideological conflicts, but conflicts in the struggle for power” and Miletić stated that “[d]emanding that the officers turn against the Serbian leadership is against the people, and that is the biggest crime”).

¹⁰¹⁷⁵ See para. 2845.

¹⁰¹⁷⁶ See para. 2899. See also D232 (Directive 1, 6 June 1992); D593 (Directive 2, 22 July 1992); D235 (Directive 3, 3 August 1992); P976 (Directive 4, 19 November 1992); P843 (Directive 5, 25 June 1993); P3039 (Directive 6, 11 November 1993); P838 (Directive 7, 8 March 1995).

¹⁰¹⁷⁷ Richard Butler, T. 27439 (17 April 2012).

¹⁰¹⁷⁸ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11992.

the army, police, and civilian protection.¹⁰¹⁷⁹ They identified objectives, forces and resources that should be used in achieving the objectives, and contained basic guidelines.¹⁰¹⁸⁰

3154. There were three methods of drafting directives: the “complete” method, the “shortened” method, and the method that did not include any consultation with the organs and commands.¹⁰¹⁸¹ The complete method entailed that the Commander of the Main Staff first opened the discussion, the corps commanders then gave a briefing, and the chiefs of sectors of the Main Staff—such as security, logistics, training, and morale—in turn also provided input.¹⁰¹⁸² During this analysis, conclusions would be made related to the level of accomplishment of the tasks defined for the previous year, before moving on to define the tasks for the following year.¹⁰¹⁸³

3155. On this basis, the Commander of the Main Staff, Mladić, would formulate the basic principles and the command organs would submit proposals to him.¹⁰¹⁸⁴ He would then adopt the proposals, and the operative organ would integrate the adopted proposals into a unified text,¹⁰¹⁸⁵ this text would then be forwarded to the Accused, as Supreme Commander.¹⁰¹⁸⁶ The Accused would provide guidelines and revisions would be made pursuant to his instructions.¹⁰¹⁸⁷ Directives were either signed by the Accused as Supreme Commander or by Mladić as the Commander of the Main Staff but in any event, the Accused examined and approved all of the seven directives mentioned above.¹⁰¹⁸⁸ Once signed, the directive was finalised and could not be altered or amended

¹⁰¹⁷⁹ Manojlo Milovanović, T. 25494 (29 February 2012). *See also* Mirko Trivić, T. 40538–40539 (26 June 2013).

¹⁰¹⁸⁰ Radovan Radinović, T. 41392 (17 July 2013).

¹⁰¹⁸¹ Radovan Radinović, T. 41394 (4 April 2013); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11992.

¹⁰¹⁸² Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993; Radovan Radinović, T. 41394 (4 April 2013).

¹⁰¹⁸³ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993.

¹⁰¹⁸⁴ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993. For example, proposals pertaining to the enemy were made by the intelligence organ, proposals for use of the corps and subordinate units were made by the operations sector, and proposals pertaining to arms were made by the organ in charge of arms. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993–11994.

¹⁰¹⁸⁵ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993. Obradović specified that tasks from prior directives would need to be reformulated and included in superseding directives in order to remain valid. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12179 (31 March 2011).

¹⁰¹⁸⁶ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12040. Obradović stated that the Supreme Commander would receive a typed document, would look at it and enter comments in the margin, and would then return the document for retyping into a version that included his statements. However, he then stated that he was not privy to or aware of the editing process within the cabinet of the Supreme Commander. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12040. The Chamber shall therefore not rely on this part of his evidence.

¹⁰¹⁸⁷ Manojlo Milovanović, T. 25495 (29 February 2012) (specifically referring to the drafting of Directive 7).

¹⁰¹⁸⁸ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11992. Directives 6 and 7 and the supplement to Directive 6 were signed by the Accused. P3039 (Directive 6, 11 November 1993), p. 16; P838 (Directive 7, 8 March 1995), p. 15; P4925 (Supplement to Directive 6, 12 December 1993), p. 3. *See also* P1415 (Transcript of 54th session of RS Assembly, 15–16 October 1995), p. 84; P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 24.

by others who might receive it.¹⁰¹⁸⁹ Once finalised, the directive would be forwarded to the assistant commanders and the chiefs of sectors would receive copies.¹⁰¹⁹⁰

3156. Thereafter, Mladić would produce a further executive order or directive effectively operationalising the directive.¹⁰¹⁹¹ The Main Staff was then responsible for disseminating the directive to subordinate units in accordance with the directive.¹⁰¹⁹²

(6) Conclusion

3157. The Chamber concludes that from May 1992 the Accused had continuous *de jure* authority and control over the VRS, which he exercised in fact, while serving as the President of the SNB, President of the Presidency, and later President of the RS and Supreme Commander. The Accused was regularly informed of the developments in the VRS and in the field. The Accused was involved at the strategic level and, when he desired, at the operational level as well.

(B) Bosnian Serb MUP

3158. The Minister of the MUP was the head of the MUP.¹⁰¹⁹³ The Chamber recalls that Mićo Stanišić was Minister of the MUP from 24 March 1992 until the end of 1992 and again from January 1994 until July 1994 and that Tomislav Kovač was acting Minister from September 1993 until January 1994.¹⁰¹⁹⁴

3159. The Chamber recalls that the Law on Internal Affairs, issued on 23 March 1992, established a network of CSBs to carry out the work of the Bosnian Serb MUP.¹⁰¹⁹⁵ The CSBs were located in Banja Luka (for the ARK), Trebinje (for the SAO Herzegovina), Doboj (for the SAO of Northern BiH), Sarajevo (for the SAO of Romanija-Birač), and Bijeljina (for the SAO of Semberija) and coordinated the functions of the SJBs.¹⁰¹⁹⁶ The SJBs, which were established within the territory of each municipality, were tasked with dealing with all public security matters.¹⁰¹⁹⁷ The Chamber further recalls that the SBP, commanded by Goran Sarić, functioned as a combat unit and was divided into five detachments located in Banja Luka, Trebinje, Doboj, Sarajevo, and Bijeljina.¹⁰¹⁹⁸

¹⁰¹⁸⁹ Manojlo Milovanović, T. 25499–25500 (29 February 2012).

¹⁰¹⁹⁰ Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12047–12048.

¹⁰¹⁹¹ Manojlo Milovanović, T. 25505–25506 (29 February 2012).

¹⁰¹⁹² Manojlo Milovanović, T. 25513–25514 (29 February 2012).

¹⁰¹⁹³ P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990–1992", 19 May 2011), para. 99.

¹⁰¹⁹⁴ See para. 215.

¹⁰¹⁹⁵ See para. 217.

¹⁰¹⁹⁶ See para. 218.

¹⁰¹⁹⁷ See para. 219.

¹⁰¹⁹⁸ See para. 222.

PJPs, which participated in combat activities, were organised by the CSBs at the regional level and their detachments were located at each of the five CSBs.¹⁰¹⁹⁹

(1) Accused's powers

3160. As Supreme Commander of the VRS, the Accused had the authority to issue orders for the deployment of the police and define the basis for the organisation and size of the police force during times of war in order to protect the rights and duties of the RS and its citizens.¹⁰²⁰⁰ The Presidency declared an "imminent threat of war" on 15 April 1992.¹⁰²⁰¹ In addition, the Chamber recalls that on 15 May 1992, Mićo Stanišić issued an order formalising the co-operation of the Bosnian Serb MUP and VRS, such that the MUP personnel would be organised into "war units" and be re-subordinated to the VRS during their participation in combat activities.¹⁰²⁰² Therefore, the Chamber finds that the Accused had *de jure* authority over the MUP.

3161. Branko Đerić testified that Mićo Stanišić took his orders directly from the Accused and that the Accused was in charge of the "use of the police".¹⁰²⁰³ He explained that as Minister of the MUP, Stanišić should have implemented government decisions; instead he ignored the government and failed to attend government sessions.¹⁰²⁰⁴ The Prosecution points to one example of Stanišić receiving instructions from the Accused in an intercepted conversation from 18 April 1992.¹⁰²⁰⁵ In this intercepted conversation, the Accused and Stanišić discussed the whereabouts of a team of European observers and then moved on to discuss the arming of a group of people preparing for an attack on Foča.¹⁰²⁰⁶ The Accused told Stanišić to stop the chain of weapon delivery and inform Hadžići and Ilidža not to cross over to Kiseljak.¹⁰²⁰⁷

3162. In addition, the Accused issued an order with respect to the deployment of police forces into combat. On 20 May 1992, the Accused ordered that manpower in SRK units was to be replenished by agreement with the MUP and SJBs in, *inter alia*, Ilidža, Vogošća, Novo Sarajevo, Rajlovac,

¹⁰¹⁹⁹ See para. 222. The Chamber notes that CSBs were renamed CJBs at the beginning of 1994. Christian Nielsen, T. 16320 (7 July 2011).

¹⁰²⁰⁰ P2602 (SerBiH Defence Act, 1 June 1992), art. 7(6); Mićo Stanišić, T. 46484 (4 February 2014); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9107–9110. See also Manojlo Milovanović, T. 25445 (28 February 2012).

¹⁰²⁰¹ P3922 (Decision of SerBiH Presidency, 15 April 1992).

¹⁰²⁰² See para. 230.

¹⁰²⁰³ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 20–22.

¹⁰²⁰⁴ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 22.

¹⁰²⁰⁵ Prosecution Final Brief, para. 133, referring to P5606 (Intercept of conversation between Mićo Stanišić and Radovan Karadžić, 18 April 1992).

¹⁰²⁰⁶ P5606 (Intercept of conversation between Mićo Stanišić and Radovan Karadžić, 18 April 1992), p. 1.

¹⁰²⁰⁷ P5606 (Intercept of conversation between Mićo Stanišić and Radovan Karadžić, 18 April 1992), pp. 2–3.

Sokolac, and Pale.¹⁰²⁰⁸ On 2 June 1992, he ordered two PJP platoons to be redeployed to Nedžarići and put under the military command of the SRK via, *inter alia*, Ilidža where they were to report to Tomislav Kovač regarding the continuation of their journey.¹⁰²⁰⁹

3163. Municipal Crisis Staffs and War Presidencies issued orders to MUP units. For example, the Crisis Staff in Sanski Most issued orders to the SJB.¹⁰²¹⁰ The Banja Luka CSB instructed its subordinate SJBs to implement decisions of the ARK War Presidency.¹⁰²¹¹ The Chamber further notes that the Bratunac Crisis Staff issued the decision that the Bratunac TO and SJB would take over the defence of the Serbian municipality of Bratunac and issued decisions authorising the SJB to disarm citizens, and that members of the SJB assist other Serb Forces with actions against Bosnian Muslims during the take over of Bratunac.¹⁰²¹² In Foča, the SJB acted alongside the TO during the take-over.¹⁰²¹³ The Rogatica Crisis Staff ordered the implementation of the division of the Rogatica SJB.¹⁰²¹⁴ In Vlasenica, the Crisis Staff was involved in the co-ordination of the take-over of the town, which was carried out with police acting alongside other Serb Forces, and its aftermath, which involved the police confiscating weapons from non-Serbs and arresting those who refused to surrender their weapons.¹⁰²¹⁵ The Vlasenica Crisis Staff also commanded a Special Police Platoon,¹⁰²¹⁶ and was able to issue orders to the Chief of the SJB in Vlasenica.¹⁰²¹⁷ In Hadžići, the police implemented a decision of the Crisis Staff to arrest and detain all Bosnian Muslim men of military age.¹⁰²¹⁸ The Vogošća Crisis Staff also had the authority to provide

¹⁰²⁰⁸ P2645 (Radovan Karadžić's order to VRS Main Staff, MUP, and Ministry of Defence, 20 May 1992).

¹⁰²⁰⁹ P1503 (Radovan Karadžić's Order re Nedžarići, 1 July 1992).

¹⁰²¹⁰ KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3342 (under seal). *See, e.g.*, P2613 (Conclusions of Sanski Most Crisis Staff, 22 May 1992); P2614 (Conclusions of Sanski Most Crisis Staff, 30 May 1992).

¹⁰²¹¹ *See* paras. 2055, 2061.

¹⁰²¹² *See* paras. 713–714, 717–718.

¹⁰²¹³ D3319 (Belgrade Radio news report, 8 April 1992). *See also* para. 858.

¹⁰²¹⁴ *See* para. 960.

¹⁰²¹⁵ *See* paras. 1113, 1121, 1149.

¹⁰²¹⁶ *See* para. 1124. The Special Police Platoon in Vlasenica was within the organisational structure of the SJB, received payment from the SJB, and reported daily to the SJB. *See* paras. 1125, 1161, 1182, 1193. The Special Police Platoon engaged in illegal activities, mistreated Bosnian Muslims, and was involved in take-overs of villages surrounding Vlasenica and expelling Bosnian Muslims. *See* paras. 1125–1134, 1161–1163.

¹⁰²¹⁷ *See* para. 1217.

¹⁰²¹⁸ *See* para. 2094.

instructions to the Vogošća SJB.¹⁰²¹⁹ Finally, the Chamber notes that in many municipalities, the head of the police was also a member of the Crisis Staff.¹⁰²²⁰

(2) Communication and Bosnian Serb MUP reporting system

3164. The Chamber recalls that the system of reporting within the MUP consisted of daily reports and other reports about more significant security information.¹⁰²²¹ Information was collected from the municipal level by the SJB, then sent to the regional level of the CSB, and finally sent to the Bosnian Serb MUP.¹⁰²²² The information was also sent from the MUP to the Bosnian Serb Government, including to the Presidency.¹⁰²²³

3165. The Chamber received evidence that there were some difficulties in communication during the first year of the conflict in 1992.¹⁰²²⁴ However, there were always communication channels between the Bosnian Serb MUP, CSBs and SJBs.¹⁰²²⁵ Communication between the CSB and the ministerial level was on a daily basis, with communication several times a day if there was a problem or every couple of days if there were no real developments.¹⁰²²⁶ Mandić testified that the police, in the absence of a special problem, were not bound to report regular activities to the

¹⁰²¹⁹ See para. 2372. In early March 1992, Tintor, on behalf of the Vogošća Crisis Staff, sent a dispatch to the Vogošća SJB and Kemo Šabović, prohibiting the SJB from conducting any investigations in Serb villages in connection with the alleged killing of a young Bosnian Muslim by a Serb.

¹⁰²²⁰ See paras. 698, 957 (referring to P2835 (Report of Rogatica Crisis Staff, April–June 1992)), 961, 1051, 1109 (referring to P6121 (Decision of Vlasenica's SDS Municipal Board, 4 April 1992)), 1581, 2125–2126 (referring to D1193 (Ilidža Crisis Staff Members, 10 April 1992)).

¹⁰²²¹ See para. 228.

¹⁰²²² See para. 228.

¹⁰²²³ See para. 228.

¹⁰²²⁴ KW317, T. 39412 (6 June 2013); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 57. See also D4229 (Witness statement of Boško Mandić dated 18 January 2014), para. 16. The Chamber does not find Grahovac's evidence that it was impossible for the municipal leaders to communicate or contact the Republican leadership to be reliable. D4077 (Witness statement of Anđelko Grahovac), para. 8.

¹⁰²²⁵ Milorad Davidović, T. 15460–15461 (24 June 2011). See also Christian Nielsen, T. 16270–16271 (7 July 2011); P2850 (Fax of Bijeljina CSB, 29 April 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 92. For example the SNB confirmed that it would communicate with the Bosnian Serb Assembly and the government by way of phone and courier. P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 1. *But see* D2852 (Witness statement of Srđan Šehovac dated 27 January 2013), para. 47. Šehovac's stated that in the period of hampered communication in 1992 that the Bosnian Serb leadership could not issue instructions and that matters were left to the municipal leadership. See also paras. 3019–3020, 4862.

¹⁰²²⁶ Milorad Davidović, T. 15462–15463 (24 June 2011). See also P2851 (Fax of Bijeljina CSB, 24 April 1992). *But see* Branko Đerić, T. 27937, 27941 (24 April 2012); D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 16. Đerić testified that the government over which he presided was cut off in terms of communication and that some regions became so independent that it was difficult to establish any kind of communication with them.

Accused but reported to the Prime Minister.¹⁰²²⁷ In addition, the Chief of the Bijeljina SJB reported to Mićo Stanišić on the situation in the municipality.¹⁰²²⁸

3166. Until the end of 1992, the SDB did not send any reports to the RS President; this was done through the MUP. Only from 1993, were SDB reports sent to the state leadership of the RS (President, President of the Assembly, Prime Minister, and other government bodies as required).¹⁰²²⁹ The Accused received the information verbally and via written reports multiple times per month.¹⁰²³⁰

(3) Conclusion

3167. The Chamber finds that the Accused had *de jure* authority over the Bosnian Serb MUP from at least 15 April 1992, which he exercised in fact, in his position as President of the Presidency, and later President of the RS, and Supreme Commander of the VRS. Although the evidence of his involvement in the day to day operations of the MUP is limited, the evidence establishes that he had the ability to re-deploy police officers and give instructions to Mićo Stanišić and lower level MUP officials. In addition, the evidence establishes that while the communication system was sometimes interrupted, the Accused frequently received reports from the MUP.

3168. The Chamber further finds that Crisis Staffs and War Presidencies played a role in commanding or co-ordinating the tasks of MUP units in the Municipalities. In this regard, the Chamber recalls that the Accused exercised authority over such institutions and played a central role in instructing how they would function.¹⁰²³¹ In light of the co-operation between MUP units and Bosnian Serb authorities, the TO, and the VRS, the Chamber finds that the Accused supported the use of MUP units during combat activities throughout the Municipalities.

(C) Territorial Defence

3169. In the second half of 1991, in the context of the conflict in Croatia, the Accused issued instructions to the SDS and to municipalities in which SDS was in power, to mobilise all citizens into the TO and to subordinate them to the command of the JNA.¹⁰²³² The Accused monitored this mobilisation effort.¹⁰²³³

¹⁰²²⁷ Momčilo Mandić, T. 5050 (13 July 2010).

¹⁰²²⁸ P2629 (Report of Bijeljina SJB, undated).

¹⁰²²⁹ D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 39.

¹⁰²³⁰ Dragan Kijac, T. 44320–44321 (3 December 2013).

¹⁰²³¹ See paras. 3087–3089.

¹⁰²³² P5884 (Intercept of conversation between Radovan Karadžić and Nikola Uzelac, 9 July 1991), p. 2; P2547 (Intercept of conversation between Radovan Karadžić and Tomislav Simović, 2 November 1991), p. 4; P2548

3170. As long as the JNA officially operated in BiH territory, the Accused supported the mobilisation of armed forces that operated under the JNA's command.¹⁰²³⁴ With regard to the mobilisation and the arming of Serbs who were not subordinated to the JNA, the Accused's position at that time was that the SDS would not arm the Serbs but would not prevent them from acquiring weapons in other ways.¹⁰²³⁵ However, the Chamber also recalls that the SDS in Bijeljina, Bratunac, Rogatica, Vlasenica, Ključ, and Hadžići provided Serbs with weapons while the JNA still operated in BiH.¹⁰²³⁶

3171. On 27 March 1992, before the Bosnian Serb Assembly, the Accused gave instructions to the newly-formed Serb municipalities to "organise the people so that they can defend themselves" as a TO and place them under the command of the JNA present at that time.¹⁰²³⁷

3172. Following the declaration of a state of imminent threat of war in mid-April 1992, the Presidency of the SerBiH decided that a SerBiH TO "shall be formed as the armed force of [SerBiH]",¹⁰²³⁸ led and commanded by municipal, district and regional staffs and the republican

(Telex entitled "The Sarajevo SDS Order", 29 October 1991); P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), pp. 316–317. *See also* D4504 (Intercept of conversation between Radovan Karadžić and Slobodan Vidović, 8 February 1992).

¹⁰²³³ P3406 (Intercept of conversation between Radovan Karadžić and Sveto, 20 September 1991); Sveto Veselinović, T. 45093–45101 (16 December 2013); D1643 (Intercept of conversation between Radovan Karadžić and Zvonko Bajagić, 4 September 1991), p. 6; D1653 (Intercept of conversation between Zvonko Bajagić and Radovan Karadžić, 11 December 1991); Zvonko Bajagić, T. 41172–41176 (10 July 2013).

¹⁰²³⁴ *See* P2542 (Vojislav Maksimović's diary, 24 December 1990 to 24 December 1991), p. 8 (the Accused stated during an SDS Council session that paramilitary organisations could not be formed and that the SDS should not take any step to provoke the army). *See also* D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), paras. 3, 14, 31–32 (the Accused told the Prime Minister of the ARK, Anđelko Grahovac, with regard to a paramilitary unit in Banja Luka led by Veljko Milanković, that the municipal Serb authorities should not support or rely on "criminals", stating that "these independent *vojvodas*" have already done them great damage); Anđelko Grahovac, T. 44036, 44045–44048 (26 November 2013) (stating further that this unit was allowed to eventually join the army—first the JNA and later the VRS).

¹⁰²³⁵ P2542 (Vojislav Maksimović's diary, 24 December 1990 to 24 December 1991), p. 8.

¹⁰²³⁶ *See* paras. 607, 695, 944, 1104, 1492, 2070.

¹⁰²³⁷ *See* para. 211; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 69. *See also* P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992), p. 3 (Gvozden informed the Accused that he had mobilised Serbs from Pale and would do the same in other municipalities, including Novi Grad).

¹⁰²³⁸ P2412 (Decision SerBiH Ministry of Defence, 16 April 1992) p. 1. *See also* para. 212; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 69, 75; Nedeljko Prstojević, T. 12967–12969 (8 March 2011); D394 (Announcement of SNB, 4 April 1992). Bogdan Subotić also stated that given that during this early phase, the central authorities did not establish control over the TO, the appointment of a Chief of the TO for SerBiH was an attempt to centralise the command. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 264–267; D3709 (Decision of SerBiH Government, 15 April 1992); P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 2; D3703 (Decision of SerBiH Ministry of Defence, 18 April 1992), p. 1; Bogdan Subotić, T. 40020–40021 (19 June 2013).

staff of the SerBiH.¹⁰²³⁹ The TO was subordinated to Minister of Defence Bogdan Subotić until the appointment of the commander.¹⁰²⁴⁰ In addition, a general mobilisation of the TO was ordered.¹⁰²⁴¹

3173. The SNB decided that the Accused, as the President of the SNB, would co-ordinate the command of the TO forces.¹⁰²⁴² The SNB adopted decisions on the appointment of the acting commander of the TO and the chief of staff of the TO,¹⁰²⁴³ the procurement of uniforms and insignia for the TO with instructions on markings,¹⁰²⁴⁴ and the securing of salaries for members of the TO.¹⁰²⁴⁵ On 24 April 1992, it was decided to charge the Accused with the responsibility of establishing a Town TO Staff.¹⁰²⁴⁶ Subotić asked, on 27 April 1992, for assistance from the Military Command in filling “most vital personnel” posts in the TO and also for the provision of uniforms.¹⁰²⁴⁷

3174. In a report of 5 June 1992 from the Novo Sarajevo Crisis Staff to the Accused, it was stated that the Crisis Staff had mobilised about 900 people over the previous two months, including about 700 in the Lukavica and Tilava areas and about 200 in Grbavica.¹⁰²⁴⁸ In addition, as found above, on 16 April 1992, following an order by the Presidency of the SerBiH, the Bratunac Crisis Staff issued an order for general mobilisation and also required military conscripts assigned to Bratunac

¹⁰²³⁹ P2412 (Decision SerBiH Ministry of Defence, 16 April 1992) p. 1.

¹⁰²⁴⁰ See para. 91; Nedeljko Prstojević, T. 12970 (8 March 2011).

¹⁰²⁴¹ D3703 (Decision of SerBiH Ministry of Defence, 18 April 1992), p. 2; P2412 (Decision of SerBiH Ministry of Defence, 16 April 1992). See also D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 1.

¹⁰²⁴² P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 1.

¹⁰²⁴³ P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 2.

¹⁰²⁴⁴ P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1, P2627 (Minutes of meeting of SNB and SerBiH Government, 28 April 1992), p. 1. The Chamber notes the evidence of Subotić that the attempts of the “central authorities” to procure military uniforms for TO members were only aimed at “providing logistical support for the TO units” and not commanding them. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 272. However, the Chamber finds that this evidence is not consistent with evidence regarding the creation of a hierarchical command structure nor with Subotić’s own statement with regard to P5565 (Request of the Ministry of Defence for Personnel, 27 April 1992) in relation to which he testified that this was part of “our efforts to organize an efficient command and control over the TO units up until the formation of the VRS.” D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 271.

¹⁰²⁴⁵ D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 1.

¹⁰²⁴⁶ See para. 92.

¹⁰²⁴⁷ P5565 (Request of the Ministry of Defence for Personnel, 27 April 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 271–272; P2627 (Minutes of meeting of SNB and SerBiH Government, 28 April 1992), p. 1; Bogdan Subotić, T. 40020 (19 June 2013).

¹⁰²⁴⁸ See para. 2260.

TO units to immediately respond to the mobilisation.¹⁰²⁴⁹ Similarly, the SAO Birač Crisis Staff ordered, on 29 April 1992, mobilisation in the entire SAO of Birač.¹⁰²⁵⁰

3175. The VRS reported that during the period before 20 May 1992 “the municipal authorities and party leaderships, primarily of the [SDS], mobilised the Serbian TO as a self-organised defence form of the Serbian people.”¹⁰²⁵¹ It also reported that in 1992 infantry units “grew on a massive scale out of the territorial defence and other units” and that they were only used at the beginning of the war “according to the decisions of crisis staffs and similar administrative bodies”.¹⁰²⁵²

3176. On 12 May 1992, after the formal establishment of the VRS, the SerBiH TO was directly integrated into the VRS. The Accused, as the President, was to determine the organisation of the integrated SerBiH TO units and staff.¹⁰²⁵³ The Accused participated in the creation of the VRS by organising the manpower at the local level and facilitating the transfer of personnel and supply from the JNA.¹⁰²⁵⁴

3177. Based on the above the Chamber finds that the Accused was instrumental in the creation of the SerBiH TO and local TO units in mid-April 1992 and that he had *de jure* authority over the TO. In addition, given the Accused’s authority over Crisis Staffs,¹⁰²⁵⁵ the Chamber finds that the Accused also had *de facto* authority over the TO.

(D) Paramilitary units

(1) Accused’s initial attitude towards paramilitary units

3178. As stated above, while the JNA was operating in BiH, the Accused’s position was that the SDS would not arm the Serbs but would not prevent them from acquiring weapons in other

¹⁰²⁴⁹ See para. 713; P4383 (Order of Bratunac Crisis Staff, 16 April 1992), p. 1; D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 4. See also Adjudicated Fact 2309; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 16.

¹⁰²⁵⁰ P2615 (Decision of Birač Crisis Staff, 29 April 1992). Subotić stated that nobody really knew how many local units had been formed. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 58.

¹⁰²⁵¹ D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 75. See also D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 69.

¹⁰²⁵² D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 13.

¹⁰²⁵³ See para. 214; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 13 (stating that when the VRS was formed the infantry units that grew from TO and other units were incorporated into the VRS).

¹⁰²⁵⁴ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), pp. 316–317; D1464 (Radovan Karadžić’s Interview in Delo, 8 November 1993), p. 2; KDZ088 T. 6245 (6 September 2010) (closed session); P1154 (Witness statement of KDZ088 dated 27–29 April 2010) (under seal), pp. 18–19. See also D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 69, 75; D409 (Minutes of meeting of SNB and SerBiH Government, 10 May 1992); P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), pp. 5–7; Colm Doyle, T. 2653 (21 May 2010), T. 2738–2739 (26 May 2010).

¹⁰²⁵⁵ See paras. 3072–3096.

ways.¹⁰²⁵⁶ However, the Chamber notes that already at the end of 1991 the SOS, commanded by Duško Šaović, was formed and received orders from the SDS in Sanski Most.¹⁰²⁵⁷

3179. Mandić testified that in March and April 1992 the municipalities controlled and coordinated the activities of the paramilitary formations active in their respective territories.¹⁰²⁵⁸ At around the same time, the Accused stated before the Bosnian Serb Assembly that “[w]e know that our people have armed themselves. We don’t know the various ways and means by which this was done, but we do know that the people have enough weapons”.¹⁰²⁵⁹ He added, however, that they did not have paramilitary units and called for the urgent creation of Crisis Staffs and for the organisation of TOs to be placed under the command of the JNA or reserve officers.¹⁰²⁶⁰

3180. In mid-April 1992, following a question by Vance about the presence of Arkan and Serb irregulars in BiH, the Accused and Koljević claimed to have never seen Arkan and that “somebody” invited Arkan to Bijeljina after a problem was caused by a Serb in a café, following which “Muslims even sent a cable thanking Arkan”.¹⁰²⁶¹

3181. During an interview that was published on 23 April 1992, the Accused was asked how he justified that “Arkan Serbian militia are still seizing control of large sections of Bosnian territory”, to which he responded that “[t]hose militias are paramilitary groups. They arrived in Bosnia to respond to the infiltration by units of regular Croatian army in Her[z]egovina”.¹⁰²⁶² When he was asked whether he agreed to disband the paramilitary forces he answered that the Bosnian Serbs did not have an armed force and that “[w]e have always asked the Serbs not to mobilize, unlike the Muslims”.¹⁰²⁶³

3182. The Chamber recalls that the Bijeljina Crisis Staff invited Arkan to the municipality and that the take-over of Bijeljina on 1 and 2 April 1992 was carried out, *inter alios*, by the local TO, the police, the JNA, and Arkan’s men who operated under the supervision of the Bijeljina Crisis

¹⁰²⁵⁶ See paras. 3169–3170.

¹⁰²⁵⁷ See para. 1925. The Chamber recalls that in April 1992, the Crisis Staff decided to integrate the SOS as a special unit of the TO and notes that the order was never executed because the SOS refused to be placed under the TO’s command. See para. 1928; KW540, D4449 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3325 (under seal). The Chamber finds, therefore, that the SOS in Sanski Most remained a paramilitary formation.

¹⁰²⁵⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9119.

¹⁰²⁵⁹ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 20. See also Herbert Okun, T. 1515 (23 April 2010).

¹⁰²⁶⁰ D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 20.

¹⁰²⁶¹ Herbert Okun, T. 1515 (23 April 2010); P780 (Seventh notebook of Herbert Okun’s Vance Mission Diary), p. 38.

¹⁰²⁶² D1591 (Radovan Karadžić’s interview from *Le Figaro*, 23 April 1992), p. 1.

¹⁰²⁶³ D1591 (Radovan Karadžić’s interview from *Le Figaro*, 23 April 1992), p. 1.

Staff.¹⁰²⁶⁴ Davidović stated that although Mićo Stanišić knew what Arkan and his staff were doing in Bijeljina, Stanišić dared not interfere because of Arkan's links with the Serbian MUP.¹⁰²⁶⁵ In April 1992, Mandić was also aware of Arkan's involvement in Bijeljina and that Arkan had "introduced order".¹⁰²⁶⁶

3183. Starting in early April 1992, Arkan's men also operated in Zvornik municipality, in conjunction with the police, the Zvornik TO, and the JNA.¹⁰²⁶⁷ In Bratunac, in mid-April, Arkan's men operated together with the Serb Forces that consisted of JNA troops, TO members, and local reservists.¹⁰²⁶⁸ In Ilidža, they co-operated with the local forces in April 1992.¹⁰²⁶⁹ At the beginning of May 1992, Arkan's men participated in the attack on Brčko in conjunction with Serb units of the JNA, active and reserve police officers, soldiers, military reserves, and a TO battalion.¹⁰²⁷⁰ Similarly, after Rogatica was attacked on or about 22 May 1992, Arkan's men were posted in Borike ready to start operations as soon as Kušić, who commanded the Rogatica Brigade, so ordered.¹⁰²⁷¹

3184. The Chamber notes the evidence that Arkan was not subordinated to the RS authorities. Milan Martić testified that Arkan was close to the federal SDB and that "he was practically there in that capacity".¹⁰²⁷² Martin Bell testified that "Arkan took orders from nobody";¹⁰²⁷³ however, he noted that Arkan "couldn't have got across the border through the roadblocks without some collusion somewhere and somebody letting his men across".¹⁰²⁷⁴ John Wilson stated that Arkan's

¹⁰²⁶⁴ See paras. 608, 611–612, 672.

¹⁰²⁶⁵ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 125. Davidović also testified that Arkan's men were controlled and subordinated to the Serbian MUP and that he had a training camp at Erdut for which he had received the consent of the Serbian MUP. See para. 232.

¹⁰²⁶⁶ P5741 (Intercept of conversation between Momčilo Mandić and Milenko Kepeš, 5 April 1992), p. 3.

¹⁰²⁶⁷ See paras. 1245–1246, 1252, 1255, 1319, 1361. The Chamber noted that the local authorities in Zvornik faced difficulties in controlling the actions of the paramilitaries but that, in some cases the paramilitary formations carried out their illegal activities with the knowledge and consent of members of the Bosnian Serb authorities. See paras. 1286, 1288.

¹⁰²⁶⁸ See para. 714. The Chamber noted that the municipal authorities faced problems with paramilitaries and volunteers who arrived in Bratunac, tried to take power, terrorised the population and did not accept the command structures or local authorities. See paras. 750–751, 754.

¹⁰²⁶⁹ See para. 2142.

¹⁰²⁷⁰ See para. 798. The Chamber noted that the Bosnian Serb local authorities had difficulties in controlling paramilitary groups which entered and operated in Brčko. See para. 824. See also paras. 826–833.

¹⁰²⁷¹ See paras. 969, 3322.

¹⁰²⁷² Milan Martić, T. 38158–38159 (13 May 2013). See also KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23628–23629 (under seal) (testifying: "I think that [Arkan] didn't have any official position [within the Ministry of Interior]" and that Arkan had been in contact with the Federal SUP and the main inspector in the Federal SUP).

¹⁰²⁷³ Martin Bell, T. 9787 (14 December 2010).

¹⁰²⁷⁴ Martin Bell, T. 9787 (14 December 2010). See also Martin Bell, T. 9788, 9809–9810 (14 December 2010); P2002 (BBC news report re Zvornik, with transcript); P2001 (BBC news report re Zvornik, with transcript); D916 (BBC news report re Ilidža, with transcript). While the Chamber accepts Bell testimony that according to

men “enjoyed cooperation with Mladić by the fact that they were able to move about freely in an otherwise relatively tightly controlled area.”¹⁰²⁷⁵

3185. With regard to the events in Zvornik in early April 1992,¹⁰²⁷⁶ KW317 testified that while there was an attempt of the SDS to negotiate with the Muslims in Zvornik, Arkan and his group arrived and took control over the situation. Arkan rejected the idea of negotiating and he launched an attack without the authorisation of the local authorities in Zvornik. KW317 added that they had no means of contacting the Accused and he was not aware of anything that would suggest that the Accused knew of Arkan’s attack on Zvornik, let alone approved it.¹⁰²⁷⁷ Similarly, Šešelj testified that the Accused had no role to play in the events in Zvornik in early April 1992 and did not have any power to exert any influence.¹⁰²⁷⁸

3186. However, as depicted above, Arkan’s men were in contact and co-operated with RS authorities. In addition, Kuprešanin testified that when he and other deputies from ARK called an extraordinary session of the ARK Assembly to receive explanations from the Accused about recent events involving Croatian and Muslim forces in the ARK Municipalities, Arkan interrupted the session while the Accused was not present and stated that he had come with 300 volunteers; he demanded that the republican authorities authorise him to defend the municipalities given that the VRS was not doing so.¹⁰²⁷⁹

3187. The Chamber recalls that when Davidović reported to Mićo Stanišić that some of Arkan’s men had taken over the SUP in Bijeljina, Stanišić commented that he knew, that nothing else could be done, and that’s “how it ha[d] to be”.¹⁰²⁸⁰ Stanišić also told Davidović that Arkan’s men were in Bijeljina and Zvornik “helping to liberate territory that they believed should become part of the [RS]”.¹⁰²⁸¹ The evidence also shows that at the same period, after Arkan had entered Bijeljina, Davidović was at a meeting in Belgrade where further activities of the Serbian MUP were

his observations there were paramilitary groups operating in BiH, it finds however that Bell was not in a position to conclude that such groups were under no one’s control.

¹⁰²⁷⁵ P1029 (Witness statement of John Wilson 4 November 2008), para. 128. Wilson stated that Mladić commanded not only the VRS, but the TO and paramilitaries, except, for example, Arkan’s men.

¹⁰²⁷⁶ See paras. 1248–1253.

¹⁰²⁷⁷ D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 46. See also paras. 1251–1253.

¹⁰²⁷⁸ Vojislav Šešelj, T. 39594 (10 June 2013). See also KDZ610, T. 27199–27200 (29 March 2012).

¹⁰²⁷⁹ D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 51.

¹⁰²⁸⁰ See para. 616.

¹⁰²⁸¹ See para. 616. See also para. 1244 (referring to the fact that Grujić and Spasojević were among the Bosnian Serb officials who invited and paid for paramilitaries to come to Zvornik).

discussed.¹⁰²⁸² Arkan arrived at this meeting, which was also attended by the Accused, Momčilo Krajišnik, and Mićo Stanišić.¹⁰²⁸³

3188. Davidović also testified that during a meeting with the Accused and Mladić around May 1992 at the Lukavica barracks, some of Arkan's men arrived. According to Davidović, Mladić was angry and the Accused stated, "[i]t's all right, we asked them to come. They should help with the liberation of Sarajevo. And, if they can do it, let them do it. Let them take whatever they can take."¹⁰²⁸⁴

3189. However, in an interview in November 1993, the Accused claimed that not a "single soldier from Serbia was fighting at the beginning of the war, only Arkan was in Bijeljina, but only briefly, however, and not at our invitation".¹⁰²⁸⁵ When asked whether Arkan was also in Ilidža, the Accused replied in the negative stating "[w]e have Šešelj's and Arkan's followers but they are our boys, however, who are only wearing their symbols."¹⁰²⁸⁶

3190. In addition to Arkan's men the Chamber noted that Mauzer's Panthers, whose commander was also the commander of the SAO Semberija TO, operated in Bijeljina with the support of the Presidency of the Bijeljina Municipal Assembly and under the supervision of the Bijeljina Crisis Staff. During the take-over in April 1992, Mauzer's Panthers operated in conjunction with the local TO, the police, and the JNA.¹⁰²⁸⁷ In April 1992 Mauzer's unit also operated in Zvornik,¹⁰²⁸⁸ and at the beginning of May 1992 participated in the attack on Brčko, in co-operation with Serb units of the JNA, active and reserve police officers, soldiers, military reserves and a TO battalion.¹⁰²⁸⁹

¹⁰²⁸² P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66.

¹⁰²⁸³ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66. Davidović commented that in light of this meeting Arkan probably did "what he was authorised to do" and he believed that given that there was discussion of tasks and activities that the Accused knew about Arkan's activities.

¹⁰²⁸⁴ Milorad Davidović, T. 15465 (24 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 55.

¹⁰²⁸⁵ D1464 (Radovan Karadžić's Interview in Delo, 8 November 1993), p. 2. *But see* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21491–21492, 21539–21541. Andan stated that he regularly informed the political structures of government about the situation in Bijeljina, and that the Accused supported the measures Andan was implementing against paramilitary units.

¹⁰²⁸⁶ D1464 (Radovan Karadžić's Interview in Delo, 8 November 1993), p. 2.

¹⁰²⁸⁷ *See* paras. 608, 611–612, 672. The core of Mauzer's Panthers were SDS members close to the leadership of the Crisis Staff in Bijeljina. *See* para. 233. The Chamber also found that it was only after paramilitaries started undermining the authority of the local institutions by forming their own parallel authorities and also attacking Bosnian Serbs that the municipal authorities sought to exercise some real control over paramilitary units, and that there were difficulties in controlling Mauzer and his unit which opposed the attempts by Davidović and Andan to restore order in the municipality. However, following demands by Mauzer for his expulsion and the arrest of one of Arkan's men by Davidović's unit, Davidović's authority was obstructed by the Bijeljina Crisis Staff and his unit was ordered to leave for Belgrade. *See* paras. 632–633, 637–638.

¹⁰²⁸⁸ *See* para. 1244.

¹⁰²⁸⁹ *See* para. 798.

3191. With regard to Šešelj's men, the Chamber noted that in April 1992 they operated in conjunction with the Serb Forces in Bratunac.¹⁰²⁹⁰ Šešelj's men also operated in Zvornik,¹⁰²⁹¹ in Hadžići in co-operation with the TO,¹⁰²⁹² in Novo Sarajevo with the VRS and the police,¹⁰²⁹³ and took part in combat activities in Vogošća alongside the Bosnian Serb authorities.¹⁰²⁹⁴

3192. In addition, on or about 22 May 1992,¹⁰²⁹⁵ Šešelj's men were involved in the attack on Rogatica.¹⁰²⁹⁶ The Chamber notes Šešelj's testimony that all members of the SRS who went to BiH as volunteers joined the VRS or the TO and that the SRS party never sponsored or supported paramilitaries,¹⁰²⁹⁷ but finds his testimony in this regard to be unreliable.¹⁰²⁹⁸ The Chamber also recalls that Šešelj met with the Accused a few times each year during the war.¹⁰²⁹⁹

3193. The White Eagles also operated in conjunction with the Serb Forces in Bratunac in April 1992.¹⁰³⁰⁰ In addition, they operated in Rogatica in March 1992 with the JNA and TO,¹⁰³⁰¹ in Zvornik in April 1992 with the Zvornik TO and the JNA,¹⁰³⁰² and in Ilidža with the co-operation of the local forces.¹⁰³⁰³ The Chamber found that the White Eagles took part in the main attack on the town of Foča that commenced on the morning of 8 April 1992, in conjunction with soldiers from Serbia and Montenegro and the Foča Tactical Group.¹⁰³⁰⁴ The White Eagles also participated at the

¹⁰²⁹⁰ See para. 714. The Chamber already noted above the problems faced by the Bratunac municipal authorities with paramilitaries and volunteers. See fn. 10268.

¹⁰²⁹¹ See paras. 1244.

¹⁰²⁹² See paras. 2104–2105.

¹⁰²⁹³ See para. 2255.

¹⁰²⁹⁴ See para. 2396. See also paras. 2405–2406.

¹⁰²⁹⁵ See para. 965.

¹⁰²⁹⁶ See para. 969.

¹⁰²⁹⁷ D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 68–69; D3667 (Transcript of Vojislav Šešelj's press conference, 26 March 1992), pp. 36–37; D3668 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), pp. 2–3.

¹⁰²⁹⁸ The Chamber does not find this evidence to be reliable given the interest of Šešelj in minimising his own involvement in this regard. In addition, the Chamber notes that in a later interview Šešelj said that he was a true friend of the Accused "as long as [the Accused] pursues this kind of politics" and that he will not tell the interviewer "anything that someone else might use against [the Accused] or that might put him in an unpleasant situation." P6388 (Excerpt from video of interview with Vojislav Šešelj for "Death of Yugoslavia" documentary, with transcript).

¹⁰²⁹⁹ D3666 (TANJUG news report, 15 May 1993); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 36–37. See also para. 3327.

¹⁰³⁰⁰ See para. 714. The Chamber already noted above the problems faced by the Bratunac municipal authorities with paramilitaries and volunteers. See fn. 10268.

¹⁰³⁰¹ See paras. 958, 969.

¹⁰³⁰² See paras. 1244, 1249, 1276, 1317. See also Milorad Davidović, T. 15492–15495 (28 June 2011) (referring *inter alia* to P2865 (White Eagles' payroll, June 1992)). The Chamber noted that the local authorities faced difficulties in controlling the actions of the paramilitaries but that, in some cases the paramilitary formations carried out their illegal activities with the knowledge and consent of members of the Bosnian Serb authorities in Zvornik. See fn. 10267.

¹⁰³⁰³ See para. 2142.

¹⁰³⁰⁴ See para. 855. The Chamber noted that by May 1992 the authorities attempted to expel paramilitary formations from the municipality. See para. 866.

beginning of May 1992 in the attack on Brčko in conjunction with Serb units of the JNA, active and reserve police officers, soldiers, military reserves and a TO battalion.¹⁰³⁰⁵

3194. The Chamber found that members of the Yellow Wasps would regularly report to the Zvornik Crisis Staff, had close co-operation with, and were issued arms by the TO and were subsequently under the command of the Zvornik Brigade.¹⁰³⁰⁶

3195. Plavšić acknowledged during a session of the Bosnian Serb Assembly, in November 1992, in the presence of the Accused,¹⁰³⁰⁷ that following the call of the “president of the Republic” for volunteers, she sent letters in order to gather anyone who wanted to fight for the Serb cause in RS, and that she sent letters, *inter alios*, to Šešelj and Arkan.¹⁰³⁰⁸ Mandić testified that Plavšić “was an advocate of having all paramilitary units from territories where Serbs lived outside BiH coming to the assistance of their brethren [...] in the religious war being waged there”,¹⁰³⁰⁹ and was the “bridge” between Bosnian Serbs and the people who came from other states to the conflict.¹⁰³¹⁰

3196. Milorad Dodik testified in broad terms that paramilitary groups which operated in BiH were not under the control of the RS authorities.¹⁰³¹¹ Similarly, Momir Bulatović testified that the expulsions that were suffered by “all ethnic groups” was the result of the “collective mentality of

¹⁰³⁰⁵ See para. 798.

¹⁰³⁰⁶ See paras. 1280, 1287, 1297, fn. 10267. See also Milorad Davidović, T. 15492–15495 (28 June 2011) (referring to P2862 (Yellow Wasps payroll, 1 May 1992) and to P2863 (Yellow Wasps payroll, June 1992).

¹⁰³⁰⁷ P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), pp. 2, 60.

¹⁰³⁰⁸ P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 20; Milorad Davidović, T. 15473–15474 (28 June 2011); Momčilo Mandić, T. 4625–4626 (5 July 2010). See also P2857 (Video footage of Arkan in Bijeljina), p. 1; P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 42–44; Momčilo Mandić, T. 5163 (14 July 2010) (explaining that mop-up operations included paramilitary and military formations in combat operations aimed at taking new territory or territory under the control of another warring party).

¹⁰³⁰⁹ Momčilo Mandić, T. 4625–4626 (5 July 2010). See also Mićo Stanišić, T. 46385–46386 (3 February 2014); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 72; P1106 (Intercept of conversation between Biljana Plavšić and “Rus”, 23 April 1992), pp. 1–2.

¹⁰³¹⁰ Momčilo Mandić, T. 4660–4661 (6 July 2010). According to Mandić, while Đerić supported Plavšić, he and Mićo Stanišić opposed Plavšić’s approach to paramilitaries. Momčilo Mandić, T. 4625–4626 (5 July 2010). The Chamber notes that Davidović testified that he heard from many sources that the Accused invited those who wanted to fight for RS to report as volunteers in BiH and join units of the army. See Milorad Davidović, T. 15473–15474 (28 June 2011). The Chamber rejects this portion of Davidović’s evidence as it is based on unattributed hearsay. The Chamber also notes Redžić’s assessment that the paramilitaries were formed by leaders of the SDS. Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5070–5071. The Chamber notes that Redžić was the president of the Executive Board of Vlasenica, but, as he could not elaborate the basis for his assessment, the Chamber does not place any weight on his assessment.

¹⁰³¹¹ See Milorad Dodik, T. 36919 (9 April 2013). See also Milorad Dodik, T. 36852 (9 April 2013).

the population” and that it was impossible for any political leader to “control the population”.¹⁰³¹² The Chamber, however, does not find that these broad statements have any weight.¹⁰³¹³

3197. The Chamber finds, to the contrary, that the fact that paramilitary formations, such as Arkan’s men, Šešelj’s men, Mauzer’s Panthers, and White Eagles were able to move freely in “an otherwise relatively tightly controlled area”¹⁰³¹⁴ and to operate in concert with local forces and authorities, in several of the Municipalities throughout BiH, supports the conclusion that such co-operation was approved by the Bosnian Serb leadership.

3198. With regard to Arkan’s men and Šešelj’s men specifically, the Chamber concludes that the Accused knew that they were operating in BiH during the spring of 1992 and that they were invited by the RS Presidency to operate in conjunction with local authorities and forces.¹⁰³¹⁵ The Chamber also notes the Accused’s direct interaction with Arkan and Šešelj and, moreover, that in May 1992 the Accused invited, without Mladić’s knowledge, Arkan’s men to participate in operations in the Sarajevo area.¹⁰³¹⁶

(2) Disbandment of paramilitary forces

3199. The Chamber found above that over the course of the conflict the Bosnian Serb leadership and military commanders increasingly expressed opposition to having units that were outside of the command and control of the army.¹⁰³¹⁷

3200. On 2 June 1992, at a meeting of commanders of the 1st Krajina Corps and Banja Luka political leaders, which the Accused attended, there was agreement that paramilitary formations should be dissolved.¹⁰³¹⁸

3201. On 3 June 1992, the Eastern Bosnia Corp Command issued an order, pursuant to the decision on the formation of the VRS, that certain volunteer units, including Mauzer’s Panthers, be

¹⁰³¹² See D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 20.

¹⁰³¹³ The Chamber notes that Dodik’s evidence was marked by contradictions, indicators of insincerity and partisanship which undermined the reliability of his evidence in this regard. With regard to Bulatović’s evidence, the Chamber finds his statement to be broad, general and unsubstantiated.

¹⁰³¹⁴ P1029 (Witness statement of John Wilson 4 November 2008), para. 128. See also Martin Bell, T. 9787 (14 December 2010).

¹⁰³¹⁵ See paras. 3181, 3195.

¹⁰³¹⁶ See paras. 3188, 3192.

¹⁰³¹⁷ See para. 238. The Chamber notes that in certain regions orders against paramilitary formations were already issued by the local authorities in April and May 1992. See paras. 854, 1943, 2052. However, the Chamber also notes that such orders were not necessarily enforced or were selectively enforced against non-Serbs. See paras. 855, 2053.

¹⁰³¹⁸ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 53–59. See also D1464 (Radovan Karadžić’s Interview in Delo, 8 November 1993), p. 1.

transformed into units of the VRS and that Mauzer be appointed Assistant Chief of Staff.¹⁰³¹⁹ Similarly, as found above, on 13 June 1992, the Accused banned the formation and operation of armed groups and individuals which were not under the control of the VRS on the territory of the RS.¹⁰³²⁰ The Accused also stated that he was “disowning” groups that continued to operate independently and that those groups would suffer the strictest sanctions for their operations.¹⁰³²¹

3202. As a result Arkan’s men left BiH, though they returned from time to time.¹⁰³²² In addition, Mauzer’s Panthers were formally incorporated in the VRS as a “Special Brigade”¹⁰³²³ that functioned as a separate unit under Mauzer’s authority.¹⁰³²⁴ The Accused was aware that Mauzer’s Panthers were incorporated in the VRS as a “Special Brigade”.¹⁰³²⁵

3203. As described earlier, in June 1992, the Accused and Mladić visited Zvornik after the Zvornik Government and Crisis Staff building was encircled by paramilitary formations and a member of Captain Dragan’s unit threatened the President of the Municipality.¹⁰³²⁶ On 30 June 1992, Grujić reported to the Accused and Mladić that in addition to “major accomplishments” there were also many problems from paramilitary formations which broke free after Arkan’s withdrawal and called for their removal.¹⁰³²⁷ Marko Pavlović reported that the “[v]olunteer formations enjoyed exceptional success” and were led by Arkan and Šešelj, and that “Arkan’s withdrew orderly, but some that stayed broke free of his control”.¹⁰³²⁸ At this meeting, the Accused stated that it would

¹⁰³¹⁹ D1458 (Order of Eastern Bosnia Corps, 3 June 1992).

¹⁰³²⁰ See para. 239. See also KDZ088, T. 6562–6563 (13 September 2010) (closed session); D455 (Report re events in Dobo, 27 July 1992), pp. 1–2; D3485 (SRK report, 26 June 1993), p. 1.

¹⁰³²¹ See para. 239. See also D1933 (Fax from Radovan Karadžić to Boutros Ghali, 13 June 1992).

¹⁰³²² See paras. 239; 3226–3228.

¹⁰³²³ See D1458 (Order of Eastern Bosnia Corps, 3 June 1992), p. 2; P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 5; P1480 (Ratko Mladić’s notebook, 10–30 September 1992), p. 40 (referring to the “Special Brigade (Ljubiša Savić)”; P2716 (Notebook of Radovan Karadžić), p. 7 (referring to “Ljubiša Savić, Mauzer, Special Brigade”); P6133 (Drina Corps Order, 12 February 1993), para. 5.3; D2137 (VRS analysis of combat operations, undated), p. 1.

¹⁰³²⁴ Milorad Davidović, T. 15812–15813 (1 July 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 94, 96; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21656–21657. See also P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 5 (while reporting that Mauzer’s unit “formally joined the so-called Special Brigade” it was also stated that Mauzer’s unit “was formed by the Bijeljina SDS, and the Presidency of Bijeljina Municipal Assembly decided that this would be the army of Bijeljina [...] The greater part of the municipal authorities in Bijeljina still back [Mauzer’s unit]”).

¹⁰³²⁵ See P2716 (Notebook of Radovan Karadžić), p. 7. The Chamber also notes that in 1993 the Accused was present at a ceremony which was attended by Mauzer. See P2856 (Video footage of Radovan Karadžić at public ceremony); Milorad Davidović, T. 15481–15482 (28 June 2011).

¹⁰³²⁶ See para. 1286.

¹⁰³²⁷ See para. 1286; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 249–250, 252.

¹⁰³²⁸ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 252.

be a shame to abolish Captain Dragan's training centre at Diviči and that it would be easiest to "put the incident behind us".¹⁰³²⁹

3204. The Chamber notes the Accused's efforts to disband certain paramilitary groups, including through the assistance of the Federal SUP. After the Accused complained at an international peace conference about being unable to control paramilitaries in BiH who had come from Serbia, it was proposed that a group of Federal SUP officers go and assist the Bosnian Serb MUP to deal with problems with paramilitaries and Milorad Davidović was tasked to lead the investigative team.¹⁰³³⁰ According to Davidović, the Accused had called on him to assist in preventing crime.¹⁰³³¹ Davidović was instructed by Pavle Bulatović to arrest and prosecute paramilitaries who were found to engage in looting and robbing and was also requested by Mladić to take all measures envisaged by law against these persons.¹⁰³³² Davidović acknowledged that he was given complete autonomy by the Accused in planning operations and arresting individuals.¹⁰³³³

3205. Similarly, the Chamber found that in the summer of 1992, following increasing security problems related to paramilitaries in north-east BiH, including in Brčko, the Accused requested that a special unit be sent to Brčko, and the Bosnian Serb MUP requested support from the Federal SUP and Davidović to stabilise the security situation.¹⁰³³⁴

3206. However, the Chamber notes that according to Davidović, while some members of armed groups were arrested, the continued support for armed groups by local authorities, Crisis Staffs, and "high-ranking functionaries" made investigative measures difficult.¹⁰³³⁵ He also testified that while Mladić was always against paramilitary formations, he was unable to confront them because "they were protected by those whose existence suited them."¹⁰³³⁶ In Davidović's view, it was only when paramilitaries turned against the Bosnian Serb authorities and stopped sharing their "booty" that the local authorities wanted to have them removed.¹⁰³³⁷

¹⁰³²⁹ See para. 1286; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 250, 270.

¹⁰³³⁰ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 73–74; P2899 (Report of Bijeljina CSB, 29 July 1992), p. 2; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 1; Milorad Davidović, T. 15735 (30 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 4.

¹⁰³³¹ Milorad Davidović, T. 15735 (30 June 2011).

¹⁰³³² Milorad Davidović, T. 15604–15605, 15607 (29 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 72.

¹⁰³³³ Milorad Davidović, T. 15735 (30 June 2011).

¹⁰³³⁴ See para. 829.

¹⁰³³⁵ Milorad Davidović, T. 15519–15520 (28 June 2011).

¹⁰³³⁶ Milorad Davidović, T. 15519–15520 (28 June 2011).

¹⁰³³⁷ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 72.

3207. For example, Davidović testified that measures were taken in Bijeljina only after paramilitaries established parallel authorities which posed a threat to the local Bosnian Serb authorities.¹⁰³³⁸ The Chamber notes in this regard that the Accused issued on 30 August 1992 a decision addressed to the War Presidency of the Bijeljina municipality, indicating that all decisions of the municipality of Bijeljina pertaining to military matters would be suspended. He also ordered the civilian authorities to “investigate personal responsibility of officials who issued the illegal decisions in times of war”, with a report to be sent to the Presidency on what had been done.¹⁰³³⁹

3208. The Chamber found that Davidović planned the operation to arrest paramilitary groups in Zvornik in co-operation with Andan and special units of the MUP and that, on 29 July 1992, Žučo, the commander of the Yellow Wasps, was arrested and brought to Bijeljina.¹⁰³⁴⁰ During this operation, other leaders and members of the Yellow Wasps were arrested, as were municipal leaders who had links with or collaborated with the Yellow Wasps, including Pavlović.¹⁰³⁴¹ However, when the 30 day remand period expired,¹⁰³⁴² Davidović was told that pressure was exerted on the authorities by the Accused and Krajišnik who ordered that the Yellow Wasps be released.¹⁰³⁴³

3209. In contrast, Mandić testified that following this operation the leader of the Yellow Wasps, Vucković, was tried and sentenced for a war crime.¹⁰³⁴⁴ Mandić added that at the initiative of the Accused and the Prime Minister, the police and army arrested and handed over to competent organs a dozen men belonging to paramilitary units who had “committed crimes in the Podrinje area between Zvornik and Bratunac and Bijeljina”.¹⁰³⁴⁵ Mandić confirmed that Brano Grujić testified in

¹⁰³³⁸ D1436 (Report of SerBiH MUP, 17 June 1992), p. 6; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 78–79, 121.

¹⁰³³⁹ D454 (Decision of Presidency of SerBiH, 30 August 1992); Momčilo Mandić, T. 5199 (15 July 2010). *See also* [REDACTED].

¹⁰³⁴⁰ *See* para. 1290.

¹⁰³⁴¹ *See* para. 1290.

¹⁰³⁴² The Chamber recalls that when a person was arrested by the military police and a criminal report was given to the Prosecutor’s Office, the person could be initially detained by the military police for three days. The military prosecutor could then recommend to the investigative judge that the accused be detained for one month, during which an investigation would begin, and then a panel of judges could decide to extend detention for another two months. *See* para. 305.

¹⁰³⁴³ Milorad Davidović, T. 15647–15649, 15653–15654, 15663–15664 (29 June 2011); D1450 (Milorad Davidović’s statement to Belgrade District Court, 26 December 2007), pp. 30, 79. *See also* P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 144. Milorad Davidović, T. 15612–15613 (29 June 2011); P6435 (Article entitled “The Sting of the ‘Yellow Wasp’”, 10 December 2002), p. 3.

¹⁰³⁴⁴ Momčilo Mandić, T. 5289 (16 July 2010). *See also* Momčilo Mandić, T. 5152–5153 (14 July 2010). *But see* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21541.

¹⁰³⁴⁵ Momčilo Mandić, T. 5289 (16 July 2010). *See also* Fadil Banjanović, P104 (Witness statement dated 30 March 2002), p. 5; KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23637–23638 (under seal).

Belgrade that the Accused asked Mićo Stanišić and Karišik to send a special unit to arrest the Yellow Wasps because the local forces could not arrest them.¹⁰³⁴⁶

3210. However, as found above, in July 1992, even though the Yellow Wasps did not place themselves under the joint military command of the VRS, members of the Yellow Wasps went to Pale and received weapons from the Pale SJB after which Žučo, their commander, met with Plavšić.¹⁰³⁴⁷ Žučo also spoke to the Minister of Defence about the status of his group and Bogdan Subotić confirmed that all those who received orders from VRS officers were part of the VRS whether they were reservists, volunteers, or paramilitaries.¹⁰³⁴⁸ Subotić alerted these units that they needed to fully comply with the rules and regulation of the VRS, including those relating to uniforms, insignia and command structures.¹⁰³⁴⁹

3211. Branimir Tešić testified that the VRS and the civilian authorities had problems with paramilitaries and that the “police often brought them [into] the station, took away the items they had stolen and expelled them to Serbia.”¹⁰³⁵⁰

3212. The Chamber notes that at the 17th session of the Bosnian Serb Assembly dated 24 and 26 July 1992, the Accused emphasised to the Assembly the importance of the effective elimination of paramilitary and “para-state” factions.¹⁰³⁵¹ He also stated that at that stage, the priority was to introduce order, by virtue of, *inter alia*, placing all special police units which were being misused by some, under the single command of the Bosnian Serb MUP, rather than under the command of “local lords”.¹⁰³⁵² Mandić confirmed that at that session the Accused highlighted the problem of paramilitary formations and explained that paramilitaries were an armed force not under the control of any state organ or the army.¹⁰³⁵³

3213. On 27 July 1992, in talks with Mladić and Mićo Stanišić, Tolimir stated that crime was a problem and that persons prone to crime must be removed from the military police but reiterated that paramilitaries were “[t]he biggest problem”.¹⁰³⁵⁴ The following day, Mladić ordered that

¹⁰³⁴⁶ Momčilo Mandić, T. 5206 (15 July 2010).

¹⁰³⁴⁷ See para. 1287.

¹⁰³⁴⁸ See para. 1287.

¹⁰³⁴⁹ See para. 1287.

¹⁰³⁵⁰ D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 30.

¹⁰³⁵¹ D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 20; Momčilo Mandić, T. 5188–5189 (15 July 2010).

¹⁰³⁵² D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 19; Momčilo Mandić, T. 5186 (15 July 2010).

¹⁰³⁵³ Momčilo Mandić, T. 5188–5189 (15 July 2010). See also D1534 (Order of Romanija-Birač CSB, 28 July 1992), p. 1; D4709 (Letter from Radovan Karadžić to Lord Carrington, 16 July 1992).

¹⁰³⁵⁴ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 375.

paramilitary formations must join the regular VRS units, that individuals and groups who had been involved in criminal acts were not to be included into units, and that all paramilitary groups should be disarmed by 15 August 1992.¹⁰³⁵⁵ The order, which was relayed to the Accused,¹⁰³⁵⁶ also stated that paramilitary organisations rarely entered the area of combat activities, but usually followed VRS units when liberating parts of the territory and were mainly motivated by looting.¹⁰³⁵⁷

3214. On 6 August 1992, the Accused issued an announcement that the Presidency's order to subordinate all groups to the single command of the army and police has been implemented "apart from a few renegade groups".¹⁰³⁵⁸ He conveyed the information that the MUP had arrested "groups and individuals who defied the law and looted and committed arson" and praised those units that had subordinated themselves to the single command of the VRS and were "fighting courageously for the freedom of their Serbian BiH".¹⁰³⁵⁹

3215. At a "military-political consultation meeting" held on 2 September 1992 in Bijeljina, the Accused was informed that paramilitaries and parallel authorities were still an issue.¹⁰³⁶⁰ He reminded all those present that there should be maximum military discipline and training and stated that municipal authorities should not take too many things in their own hands.¹⁰³⁶¹ On 8 November 1992, representatives from the Bijeljina civilian and military authorities alerted Mladić that paramilitaries had to be dealt with.¹⁰³⁶²

3216. In September 1992, following an update from Manojlo Milovanović that a high-ranking official of the SDS, Rajko Dukić,¹⁰³⁶³ formed a paramilitary unit in Milići, the Accused ordered

¹⁰³⁵⁵ P1500 (VRS Main Staff Order, 28 July 1992), pp. 1–2. *But see* Ewan Brown, T. 21699–21701 (22 November 2011) (suggesting that, as long as they would come under VRS control, paramilitaries on RS territory were accepted, even if they had committed crimes). *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9119.

¹⁰³⁵⁶ P1500 (VRS Main Staff Order, 28 July 1992), p. 3.

¹⁰³⁵⁷ P1500 (VRS Main Staff Order, 28 July 1992), p. 1. *See also* P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), pp. 1–2. According to this Main Staff report the paramilitaries lacked a cohesive unity, expressed hatred of non-Serbs, were motivated by war profiteering or looting, had links to corrupt political leaderships, and were not affiliated with the SDS but with opposition parties from Serbia.

¹⁰³⁵⁸ D98 (Radovan Karadžić's announcement re paramilitary groups, 6 August 1992). *See also* P3058 (Radovan Karadžić's announcement, 6 August 1992), p. 1.

¹⁰³⁵⁹ D98 (Radovan Karadžić's announcement re paramilitary groups, 6 August 1992). *See also* P3058 (Radovan Karadžić's announcement, 6 August 1992), p. 1.

¹⁰³⁶⁰ P1479 (Ratko Mladić's notebook, 16 July–9 September 1992), pp. 131, 133.

¹⁰³⁶¹ P1479 (Ratko Mladić's notebook, 16 July–9 September 1992), pp. 154–156.

¹⁰³⁶² P1481 (Ratko Mladić's notebook, 5 October–27 December 1992), pp. 152, 156.

¹⁰³⁶³ *See* para. 2253.

Milovanović to “route” Dukić’s unit.¹⁰³⁶⁴ However, the Chamber notes that in 1994 the Accused awarded him the “Order of Nemanjići”.¹⁰³⁶⁵

3217. On 12 September 1992, the SRK informed its subordinate units including the Višegrad Brigade and Rogatica Brigade of the tasks it received from the VRS Main Staff on 7 September 1992, which included the task to eliminate the creation of any paramilitary unit.¹⁰³⁶⁶

3218. On 16 October 1992, Bogdan Subotić informed the Zvornik Municipality Executive Board, following their query about the engagement of Arkan and other volunteer units, that the VRS was the only legal and legitimate force and all “volunteer units” would be allowed to enlist in the VRS if they wore the VRS insignia and adopted the VRS command structure.¹⁰³⁶⁷ In a letter addressed to the Accused on 20 October 1992, Bogdan Subotić proposed that due to the tensions caused, *inter alia*, by “increasingly active paramilitary formations” and the fact that decisions issued by the Government and other state organs were not being respected, that military rule be introduced in several municipalities, including Zvornik.¹⁰³⁶⁸

3219. Notwithstanding, around the end of October 1992, the Accused informed Milovanović that “400 volunteers from Serbia will also be taking part in defending the [Višegrad Hydroelectric] Power Plant [...] under the command of Professor Košuti [...] and that [the VRS is] to take them on and bring them into combat.”¹⁰³⁶⁹

3220. During a Bosnian Serb Assembly session on May 1993, attended by the Accused, Vladimir Lukić stated that they had naively “raised paramilitaries” and called them “brotherly assistance” but “they were slowly less and less engaged in fighting and more and more in looting”.¹⁰³⁷⁰ Similarly, a Bosnian Serb leader from Sarajevo noted that in certain municipalities “chaos, disturbances, looting and stealing was the greatest where [paramilitaries] were stationed”.¹⁰³⁷¹ Complaints were also raised that while certain individuals were arrested, they were released.¹⁰³⁷² During the session, Mladić criticised the audience about how they asked him to let Mauzer “do as he likes” and stated

¹⁰³⁶⁴ D2149 (Aide mémoire of Manojlo Milovanović), p. 8.

¹⁰³⁶⁵ P5525 (Audio Recording and Transcript of the Ceremonial RS National Assembly, 9 January 1994), pp. 16–18 (referring to “Rajko Dukić from Milići”).

¹⁰³⁶⁶ P1006 (SRK Order, 12 September 1992), p. 1.

¹⁰³⁶⁷ D3705 (Letter from RS Ministry of Defence to Zvornik Municipality Executive Board, 16 October 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 293–294.

¹⁰³⁶⁸ D458 (RS Ministry of Defence letter to Radovan Karadžić, 20 October 1992); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 299.

¹⁰³⁶⁹ D2149 (Aide mémoire of Manojlo Milovanović), p. 12. The Chamber notes that this unit never arrived. *See* D2149 (Aide mémoire of Manojlo Milovanović), p. 12.

¹⁰³⁷⁰ P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993), e-court p. 39.

¹⁰³⁷¹ P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993), e-court p. 65.

¹⁰³⁷² P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993), e-court p. 67.

that “you found your patron in Arkan, who brought you together to tell you how you should vote”.¹⁰³⁷³

3221. On 28 August 1993, in an order focused on the organisation of the VRS, the Accused instructed the Main Staff and MUP to create a plan to seize uniforms from people who were not members of the army or police and who were committing crimes and other illegal activity in uniforms.¹⁰³⁷⁴

3222. The Chamber notes that in 1994 the Accused awarded Mauzer’s Panthers and personally promoted Vojkan Đurković, a member of Arkan’s men.¹⁰³⁷⁵

3223. Davidović testified that while some paramilitaries were arrested the measures were not successful because the paramilitaries continued to have the support of the local authorities, Crisis Staffs and “high-ranking functionaries” and as a result they were released and continued with their actions.¹⁰³⁷⁶ He also testified that Mladić was always against paramilitary formations; could not confront them; and said that “they were protected by those whose existence suited them.”¹⁰³⁷⁷

3224. In April 1994, following a letter from the Main Staff reporting that there were volunteers from the SRS who had been operating in two municipalities without the knowledge or consent of the VRS, the Accused reminded the municipal authorities that this interfered with the system of single command and control and that it was necessary to inform him about developments so he could take measures.¹⁰³⁷⁸

¹⁰³⁷³ P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993), e-court p. 90.

¹⁰³⁷⁴ D4790 (Radovan Karadžić’s Order to VRS Main Staff, 28 August 1993), p. 5.

¹⁰³⁷⁵ See paras. 3429, 3431; P5525 (Audio Recording and Transcript of the Ceremonial RS National Assembly, 9 January 1994), pp. 16–18 (the Accused awarded “the ‘Panteri’ Guard Unit from Bijeljina” the “Order of Nemanjići”). See also para. 672.

¹⁰³⁷⁶ Milorad Davidović, T. 15519–15520 (28 June 2011). The Chamber notes Andan’s “impression” that the Accused was not dealing with the problems of paramilitary formations adequately. However, since this impression is based on his position that “the leadership itself was not timely informed of certain things”, the Chamber does not find it to be of great weight. See Dragomir Andan, T. 40883 (5 July 2013). See also P6434 (Excerpt from Dragomir Andan’s interview with OTP), pp. 3–4 (stating “I also think that I stood in the way of a few politicians [...] I think that this went all the way to [...] [the Accused]”). The Chamber also recalls its finding regarding the proceedings against Đurković. See para. 676. The Chamber found that Đurković was arrested after he expelled a Bosnian Muslim but that he was released when he provided documents which suggested that he was authorised and had orders to expel Bosnian Muslim residents from Bijeljina. The Chamber also found with regard to the proceedings against Đurković in 1995 that the evidence led on this issue was inconclusive.

¹⁰³⁷⁷ Milorad Davidović, T. 15519–15520 (28 June 2011). See also para. 3206.

¹⁰³⁷⁸ D1454 (Request of RS President’s Office, 29 April 1994); D1446 (Radovan Karadžić’s order to RS MUP, 29 April 1994; Milorad Davidović, T. 15809 (1 July 2011). See also D1448 (Letter from RS President’s Office to President of Petrovo Municipal Assembly, 29 April 1994).

3225. The Accused informed Mladić in April 1994 that he had ordered the MUP and other municipal authorities to assist the VRS in preventing the organisation of paramilitary units and that the strictest measures would be taken.¹⁰³⁷⁹

3226. In the summer of 1995, Manojlo Milovanović asked the Accused for a meeting to be organised with Arkan to discuss the latter's presence in the combat zone under the Milovanović's responsibility.¹⁰³⁸⁰ During the meeting, following Milovanović's question concerning Arkan's presence, Arkan replied that his presence was in accordance with the order issued by the Supreme Command, but he did not present such order.¹⁰³⁸¹ Milovanović then asked the Accused whether he had issued Arkan with such an order, but the Accused did not reply—" [h]e didn't say yes and he didn't say no."¹⁰³⁸²

3227. In September 1995, in a letter from Mladić to the Accused, the former asked that Arkan and his paramilitary units be expelled from the RS and that the Accused "revoke his decision that gave Željko Ražnjatović the power to make arrests, mistreat, disarm and take away VRS members and civilians with his paramilitary units including /his authority/ to use firearms on persons who oppose or resist him."¹⁰³⁸³

3228. In the autumn of 1995, the Accused attended an event in Bijeljina where he inspected the ranks of Arkan's men under the escort of Arkan, and said: "I am deeply thankful and I congratulate you, and I hope that we will meet again in peace and you will always have a place in the heart of those who you have defended".¹⁰³⁸⁴ Arkan responded on behalf of his unit by saying that "we are ready if you call us and that we will be back to defend our ancient homeland, to defend our women and children, to defend the Serbian territory and our Orthodox religion".¹⁰³⁸⁵ According to Mihaljović this event was a product of Arkan's manipulation that surprised the Accused and that

¹⁰³⁷⁹ D1447 (Radovan Karadžić's letter to VRS Main Staff, 29 April 1994).

¹⁰³⁸⁰ Manojlo Milovanović, T. 25455–25456 (28 February 2012).

¹⁰³⁸¹ Manojlo Milovanović, T. 25457–25458 (28 February 2012).

¹⁰³⁸² Manojlo Milovanović, T. 25457–25458 (28 February 2012). The Chamber notes also the evidence that on 19 September 1995 it was agreed in Bijeljina that Arkan will get paid by the "Republican Government" for liberating Teočak. See P6210 (Report of Eastern Bosnian Corps, 20 September 1995). However, the Chamber does not grant this evidence any weight as it is based on an unknown and uncorroborated "reliable source" which "has not been verified". See P6210 (Report of Eastern Bosnian Corps, 20 September 1995), p. 2.

¹⁰³⁸³ P3056 (RS MUP dispatch, 24 September 1995), pp. 2–3. See also D2265 (Srđo Srdić's interview with OTP), e-court pp. 52–53.

¹⁰³⁸⁴ P2858 (Video footage of Radovan Karadžić and Arkan at award ceremony in Bijeljina, with transcript); D3137 (Witness statement of Svetozar Mihaljović dated 17 March 2013), paras. 10–11; Svetozar Mihaljović, T. 35721–35722 (20 March 2013).

¹⁰³⁸⁵ P2858 (Video footage of Radovan Karadžić and Arkan at award ceremony in Bijeljina, with transcript). See also P2854 (Letter from Party for Serbian Unity to Radovan Karadžić, 16 April 1994) (in which Arkan states that "[a]s always we, with all our available forces, stand to protect Serbian people. We are expecting your call so we can join armed forces of [RS]").

Arkan used this event to legitimise his presence in RS given the stance taken by the Main Staff and the VRS with respect to units not under the VRS command.¹⁰³⁸⁶ However, considering the evidence and the behaviour of the Accused, who gave documents to Arkan at this event, the Chamber is not convinced by the argument that the Accused was manipulated or taken by surprise.

3229. The Chamber notes the general statement of Nikola Poplašen that the Accused “argued for all Serbian forces to be placed under single command” and that “[i]ndividual incidents did occur, but this was not [...] with the approval or knowledge of the Serbian authorities”,¹⁰³⁸⁷ but finds this statement to be in contradiction with the clear evidence that at least some paramilitary formations operated in RS with the consent of the authorities.¹⁰³⁸⁸ Similarly, the Chamber notes the evidence of Bulatović that when he spoke to the Accused, the Accused was not in favour of the presence of paramilitaries in BiH but did not have the ability to remove them.¹⁰³⁸⁹ However, the Chamber notes in this regard that at a Supreme Defence Council session in August 1992, Bulatović said “[l]et’s be honest, we needed those paramilitary formations for a while. They are now a great burden and a problem.”¹⁰³⁹⁰ This is also corroborated by evidence that in BiH, given a poor response to mobilisation, the military forces were reinforced by volunteers and paramilitaries.¹⁰³⁹¹

(3) Conclusion

3230. In light of the above, the Chamber finds that, in mid-1992, following the creation of the VRS, the Accused sought to have paramilitary groups integrated in and subordinated to the regular army or otherwise be disarmed and dissolved.¹⁰³⁹² However, his attitude towards these groups shifted depending on the group and according to the Bosnian Serb interests.

3231. With regard to Arkan’s men, for instance, the Chamber finds that the Accused knew that they were invited by the RS Presidency to operate in conjunction with local authorities and forces and that in the spring of 1992 they were indeed operating in BiH.¹⁰³⁹³ The Accused had direct

¹⁰³⁸⁶ D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), paras. 10–11; Svetozar Mihajlović, T. 35721–35722, 35728–35731 (20 March 2013).

¹⁰³⁸⁷ D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 12.

¹⁰³⁸⁸ *See, e.g.*, paras. 3182, 3187–3188, 3195.

¹⁰³⁸⁹ D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 40–41; Momir Bulatović, T. 34560–34561, 34565–34566 (1 March 2013). The Chamber notes that it is not clear which period of time Bulatović is referring to in his statement.

¹⁰³⁹⁰ P6165 (Excerpt from notes of FRY’s SDC 5th session, 7 August 1992), p. 5.

¹⁰³⁹¹ Aleksandar Vasiljević, T. 34699–34700 (4 March 2013).

¹⁰³⁹² The Chamber also notes that evidence that the co-operation between Bosnian Serb authorities and paramilitary formations existed as long as the paramilitaries’ objectives were aligned with those of the Bosnian Serb leadership. *See* paras. 3208, 3220, 3223.

¹⁰³⁹³ *See* paras. 3181, 3195.

contact with Arkan in 1992 and 1995,¹⁰³⁹⁴ and in May 1992 he invited, without Mladić's knowledge, Arkan's men to participate in operations in the Sarajevo area.¹⁰³⁹⁵ While Arkan's men left BiH in mid-1992, the Accused supported their presence and activities in BiH in 1995.¹⁰³⁹⁶ The Chamber also notes that it was important to Arkan that his actions in BiH would be approved by the Bosnian Serb authorities.¹⁰³⁹⁷

3232. Similarly, the Accused knew that Šešelj's men were invited by the RS Presidency to operate in conjunction with local authorities and forces in the spring of 1992,¹⁰³⁹⁸ and he met with Šešelj a few times each year during the war.¹⁰³⁹⁹

3233. In addition, the Accused was aware that Mauzer's Panthers was incorporated in 1992 in the VRS as a "Special Brigade" and, in 1994, he awarded Mauzer's Panthers.¹⁰⁴⁰⁰

3234. The Chamber therefore finds that during the spring of 1992, following the withdrawal of the JNA from BiH, the Accused supported the operational co-operation of military forces and local authorities with Arkan's men, Šešelj's men, and Mauzer's Panthers. These paramilitary groups were able to operate in several municipalities, in an otherwise relatively tightly controlled area,¹⁰⁴⁰¹ in concert with the military forces and the local authorities.¹⁰⁴⁰²

3235. The Accused's shifting approach to paramilitaries is further demonstrated by his approach to Captain Dragan's training centre;¹⁰⁴⁰³ and his order to have the Yellow Wasps released after they were arrested by Davidović.¹⁰⁴⁰⁴

3236. Based on all of the above, the Chamber concludes that the Accused supported the co-operation of Arkan's men, Šešelj's men and Mauzer's Panthers with Serb Forces during the take-overs in the Municipalities—during the course of which crimes were committed. The Chamber also concludes that from mid-1992 onwards, following the completion of the take-overs and

¹⁰³⁹⁴ See paras. 3187, 3226.

¹⁰³⁹⁵ See para. 3188.

¹⁰³⁹⁶ Considering the Accused's silence when asked by Milovanović whether he authorised Arkan's men presence in the combat zone; Mladić's request from the Accused to have Arkan's men expelled and that the Accused revoke his decision granting Arkan the powers to act in BiH; and the Accused's behaviour while inspecting Arkan's men and his gratitude for their service, the Chamber finds that the only reasonable conclusion is that the Accused supported Arkan's men presence and activities in BiH in 1995. See paras. 3226–3228.

¹⁰³⁹⁷ See para. 3186, 3226, 3228.

¹⁰³⁹⁸ See para. 3195.

¹⁰³⁹⁹ See para. 3192.

¹⁰⁴⁰⁰ See paras. 3202, 3222.

¹⁰⁴⁰¹ See para. 3184.

¹⁰⁴⁰² See paras. 3182–3183, 3190–3192.

¹⁰⁴⁰³ See para. 3203.

¹⁰⁴⁰⁴ See para. 3208.

considering the creation of the VRS, the Accused endeavored to disband paramilitary groups in general. However, the Accused still tolerated and even supported the activities of certain paramilitary groups, namely, Akran's men, Yellow Wasps and Mauzer's Panthers.

iv. *Knowledge and acts of named alleged JCE members*

3237. The Prosecution alleges that the Accused worked together with other Serb military and political leaders to achieve the objective of the alleged Overarching JCE to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in BiH from at least October 1991 to 30 November 1995, in concert with Momčilo Krajišnik, Ratko Mladić,¹⁰⁴⁰⁵ Slobodan Milošević, Biljana Plavšić, Nikola Koljević, Mićo Stanišić, Momčilo Mandić, Jovica Stanišić, Franko Simatović, Željko Ražnatović (Arkan), and Vojislav Šešelj.¹⁰⁴⁰⁶ According to the Prosecution, while the membership in the JCE fluctuated over time, each member made a significant contribution to achieving the common criminal purpose.¹⁰⁴⁰⁷

3238. In response, the Accused argues that there was no criminal plan or design in the first place and second, that at no point in time did any of the alleged JCE members have, let alone share, any common mental state to carry out an agreed criminal plan or design.¹⁰⁴⁰⁸

3239. The Chamber has considered the involvement of the named alleged JCE members in earlier sections of this Judgement in the context of the objectives of the Bosnian Serb leadership and the creation of and authority over the Bosnian Serb political and governmental structures and military and police structures.¹⁰⁴⁰⁹ In this section, the Chamber will consider their further knowledge and acts in relation to the common purpose of the alleged Overarching JCE. As a part of this analysis, the Chamber will examine the relationship between the Accused and alleged JCE members where necessary.

¹⁰⁴⁰⁵ The Prosecution alleges that Mladić joined the alleged JCE as of May 1992. *See* Indictment, para. 6.

¹⁰⁴⁰⁶ *See* Prosecution Final Brief, para. 84; Indictment, paras. 9–14. Other alleged members of the Overarching JCE are listed in paragraph 12 of the Indictment and include, among others, members of SDS and Bosnian Serb government bodies at the republic, regional, municipal, and local levels, including Crisis Staffs, War Presidencies, and War Commissions, and commanders and senior officers of JNA, VJ, VRS, TO, and MUP units.

¹⁰⁴⁰⁷ *See* Prosecution Final Brief, para. 84; Indictment, paras. 9–14.

¹⁰⁴⁰⁸ *See* Defence Final Brief, para. 327.

¹⁰⁴⁰⁹ *See* Sections IV.A.3.a.i: Objectives of the Accused and the Bosnian Serb leadership, IV.A.3.a.ii: Bosnian Serb political and governmental structures, IV.A.3.a.iii: Authority over military and police forces.

(A) Momčilo Krajišnik

3240. As discussed above, Momčilo Krajišnik was a member of the SDS Main Board from July 1991 and was in the core leadership of the party.¹⁰⁴¹⁰ The Chamber recalls that Krajišnik was also elected as the first president of the Bosnian Serb Assembly in October 1991¹⁰⁴¹¹ and by virtue of his position, he was also a member of the SNB which was established on 27 March 1992.¹⁰⁴¹² The Chamber further recalls that the original three-member Presidency, comprised of the Accused, Plavšić, and Koljević, was enlarged to five members to include Krajišnik and Branko Đerić, and on 6 July 1992, Krajišnik was assigned to deal with issues related to commissioners and the economy.¹⁰⁴¹³

3241. Krajišnik was described as the Accused's "closest associate" and they had a close relationship before the SDS was even formed; this relationship continued throughout the conflict.¹⁰⁴¹⁴ For instance, the Accused personally insisted on Krajišnik's appointment as president of the Bosnian Serb Assembly.¹⁰⁴¹⁵

3242. Koljević, Plavšić, Krajišnik, and the Accused were considered to be the four most powerful leaders in the RS, with Krajišnik and the Accused at the top.¹⁰⁴¹⁶ There was very little divergence of views between the Accused and Krajišnik¹⁰⁴¹⁷ and these two were characterised as the "Alpha and Omega" of the Bosnian Serb government.¹⁰⁴¹⁸

¹⁰⁴¹⁰ See paras. 62, 77.

¹⁰⁴¹¹ See para. 77.

¹⁰⁴¹² See para. 89.

¹⁰⁴¹³ See para. 97.

¹⁰⁴¹⁴ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16605–16607; P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 75. See P5816 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 15 November 1991); P5803 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 11 December 1991); P5793 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 19 December 1991).

¹⁰⁴¹⁵ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16606–16607, 16765–16767.

¹⁰⁴¹⁶ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4154–4155; Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3396; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8610, 8618–8619. See also Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16603, 16607, 16744–16747, 16843; P3396 (Photographs depicting Radovan Karadžić, Ratko Mladić, Biljana Plavšić, Momčilo Krajišnik, and others). While Krajišnik, Plavšić, and Koljević were also present at SDS Main Board meetings, they did not play an active role in this body. Radomir Nešković T. 14235–14236 (6 June 2011); D1278 (Transcript of Radomir Nešković's interview with Karadžić's legal associate, 8 October 2009), p. 18.

¹⁰⁴¹⁷ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 30–31. See also Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16766–16767; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4156; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8622–8623, 8635–8636, 8644–8645 (testifying that after a few years of war, a rivalry developed between the Accused and Krajišnik).

¹⁰⁴¹⁸ Branko Đerić, T. 27951–27952 (24 April 2012). See also P1387 (Transcript of 38th session of RS Assembly, 17 January 1994), p. 46; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4154–4156; D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992), p. 11; P1029 (Witness statement of

3243. Krajišnik and the Accused communicated regularly about, *inter alia*, meetings and negotiations with international representatives,¹⁰⁴¹⁹ mobilising Serb forces in BiH,¹⁰⁴²⁰ discussions with political and military leaders in Serbia,¹⁰⁴²¹ and the involvement of the Bosnian Serb leadership in municipal level affairs.¹⁰⁴²²

3244. The Accused, Koljević, and Krajišnik led political negotiations on behalf of the Bosnian Serbs and had the support of the SDS Executive Board.¹⁰⁴²³ The Accused would often seek the advice of Krajišnik during negotiations.¹⁰⁴²⁴ Krajišnik emphasised that there was no difference between the Accused, Koljević, and himself who worked as a team in negotiations; Krajišnik tended to repeat “the established, party line” in negotiations.¹⁰⁴²⁵

3245. Furthermore, Krajišnik had “great authority” among the Bosnian Serb municipal leaders and influenced how power should be exercised at the municipal level.¹⁰⁴²⁶ As the President of the Bosnian Serb Assembly, Krajišnik was noted as a “skillful leader” of the local deputies.¹⁰⁴²⁷ The Accused described Krajišnik to Slobodan Milošević as a “great Bosnian patriot” and told him that Krajišnik “would not give one foot of Bosnian land” and wanted all of BiH to remain in Yugoslavia.¹⁰⁴²⁸ The Chamber recalls that the Accused and the Bosnian Serb leadership, including

John Wilson dated 4 November 2008), para. 121; Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5071–5073; P2526 (Witness statement of Radomir Kezunović dated 21 May 2011), para. 75.

¹⁰⁴¹⁹ P5805 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 6 December 1991).

¹⁰⁴²⁰ P5860 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 23 September 1991). See P5805 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 6 December 1991).

¹⁰⁴²¹ P5874 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 6 September 1991); P5835 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 22 October 1991).

¹⁰⁴²² P5833 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 29 October 1991), p. 2 (wherein Krajišnik told the Accused that he had gone to Ilidža the night before for a meeting of the board and “the right people got information, we invigorated them, they got a realistic evaluation, they were very pleased”).

¹⁰⁴²³ D1277 (Minutes of joint meetings of SDS’s General and Executive Committees and Political Council, 11 March 1992), p. 1. See also paras. 2700, 2703–2705, 2824, 2832.

¹⁰⁴²⁴ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 140–141.

¹⁰⁴²⁵ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 214 (stating further that Krajišnik was often difficult to deal with during negotiations); P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), p. 16.

¹⁰⁴²⁶ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8628. However, as President of the Banja Luka Municipal Assembly and Banja Luka Crisis Staff, Radić testified that he did not receive any instructions from Krajišnik in his municipality, other than Bosnian Serb Assembly decisions signed by him. Between the beginning of the war and the end of 1992, Radić only saw Krajišnik in Banja Luka a few times when he came for the RS Assembly sessions held there. Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7524–7526, 7571–7574. However, the Chamber does not find Radić’s testimony in this regard, in particular regarding his presence in Banja Luka, to be determinative regarding Krajišnik’s authority among all Bosnian Serb municipal leaders.

¹⁰⁴²⁷ Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7431–7432, 7538–7540, 7607. See also P2 (Predrag Radić’s interview with OTP, 16 July 2001), pp. 62–63.

¹⁰⁴²⁸ P5687 (Intercepts of conversations between (i) Ljiljana Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Slobodan Milošević, 12 June 1991), p. 8.

Krajišnik, formulated and promoted the Strategic Goals; for Krajišnik, the goal of separating from the Bosnian Muslims was the most important task.¹⁰⁴²⁹

3246. Between April and May 1992 the Accused, Krajišnik, Koljević, Plavšić, Đerić, and Bogdan Subotić met often to discuss a number of issues pertaining to the conditions in municipalities and decisions were issued as a result of these meetings.¹⁰⁴³⁰ Krajišnik was also informed about events and operations in the Municipalities.¹⁰⁴³¹ For instance, the Chamber notes that Krajišnik visited Bijeljina, often with the Accused, and that there was a close relationship between the Bijeljina branch of the SDS and the SDS in Pale.¹⁰⁴³² Krajišnik and the Accused also visited Sanski Most on the occasion of the formation of the SDS there.¹⁰⁴³³

3247. In May 1992, the Accused, Mladić, and Krajišnik held a meeting with representatives of municipalities, including Rogatica, and discussed the creation of a Bosnian Serb state in BiH.¹⁰⁴³⁴ Krajišnik also had close connections with Kušić, commander of the Rogatica Brigade, who was involved in the take-over of Rogatica and in the mistreatment and crimes against Bosnian Muslim civilians there.¹⁰⁴³⁵

3248. Krajišnik was also aware of Bosnian Muslim men being detained at Rajlovac Barracks in Novi Grad and in June 1992, he gave instructions to authorities at Rajlovac that nothing should happen to Bosnian Muslim detainees there.¹⁰⁴³⁶ He was informed of details regarding the take-over in Vogošća, and he attended sessions of the Vogošća Serb Assembly, Novi Grad Municipal Assembly, and Novo Sarajevo SDS Municipal Board.¹⁰⁴³⁷

¹⁰⁴²⁹ See paras. 2865, 2868, 2877, 2885, 2895–2903. According to Kecmanović, however, Krajišnik stressed respect for “other ethnicities, religions and customs”. D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), paras. 32–33. The Chamber however recalls its earlier finding that Kecmanović’s evidence was marked by evasiveness, contradictions, partisanship and indicators that his testimony lacked sincerity and candour. His testimony was also marked by indicators that he was seeking to protect the Accused. The Chamber therefore does not consider that it can rely on his evidence in this regard.

¹⁰⁴³⁰ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 61–62. See P5858 (Intercept of conversation between Radovan Karadžić and Biljana Plavšić, 27 September 1991).

¹⁰⁴³¹ See, e.g., P5740 (Intercept of conversation between Momčilo Krajišnik and Jovan Tintor, 4 April 1992), p. 2.

¹⁰⁴³² See para. 606.

¹⁰⁴³³ See para. 1920.

¹⁰⁴³⁴ See para. 936.

¹⁰⁴³⁵ See paras. 944, 948–951, 969–970, 973, 986, 999–1000, 1020.

¹⁰⁴³⁶ See Novi Grad Fact section, para. 2221 (referring to P2334 (Intercept of conversation between Momčilo Krajišnik, Mijatović, and Ljubiša Vladušić, 8 June 1992), pp. 1–2, 4).

¹⁰⁴³⁷ See Vogošća Fact section, paras. 2171–2172, 2246, 2359, 2375, 2386.

3249. During a January 1994 RS Assembly session, Krajišnik and the Accused were exalted by a member of the Assembly for “standing on top of the Serbian liberation movement and war” and described as their “highest leaders”.¹⁰⁴³⁸

(B) Nikola Koljević

3250. The Chamber recalls that Koljević was a member of the SNB, one of the interim bodies that served as the *de facto* Presidency of the SerBiH in 1992, and functioned as one of the acting presidents of the SerBiH.¹⁰⁴³⁹ Koljević was subsequently elected by the Bosnian Serb Assembly to the three-member RS Presidency on 12 May 1992.¹⁰⁴⁴⁰ As stated above, the Presidency was enlarged to five members and on 6 July 1992, Koljević was allocated the task of international relations as well as information and propaganda-related issues.¹⁰⁴⁴¹ On 17 December 1992, the Bosnian Serb Assembly replaced the structures of the Presidency by establishing a single president and two vice-presidents of the Republic, electing the Accused to the position of President of the RS and Koljević as one of the Vice-Presidents.¹⁰⁴⁴²

3251. As early as October 1990, in a meeting before Serb representatives in Banja Luka, Koljević identified the purpose of establishing the SDS in furtherance of the unity of the Serb people and the promotion of Serb interests.¹⁰⁴⁴³

3252. The Chamber recalls Koljević’s acknowledgement that the process of re-organising municipalities was with the aim of creating “homogeneity of certain areas” and that he repeatedly called for the expulsion of Bosnian Muslims and the homogeneity of territories, claiming it was impossible for Serbs to live with anyone else.¹⁰⁴⁴⁴ Koljević was particularly extreme in his views and continued to repeat at important meetings that it was impossible for Bosnian Serbs, Muslims, and Croats to live together.¹⁰⁴⁴⁵ Koljević also made a statement at the 34th session of the Bosnian Serb Assembly in 1993 about the aim being the “spiritual and moral revitalisation of

¹⁰⁴³⁸ P1387 (Transcript of 38th session of RS Assembly, 17 January 1994), p. 46.

¹⁰⁴³⁹ See para. 90.

¹⁰⁴⁴⁰ Adjudicated Fact 1898; P3032 (Minutes of 1st constitutive session of SerBiH Presidency, 12 May 1992). See para. 96.

¹⁰⁴⁴¹ D440 (Minutes of 15th session of SerBiH Presidency, 6 July 1992), p. 3. See para. 97. In April 1992, Koljević had already been tasked with communicating with the international public on the situation in SerBiH. P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 2. See also KDZ240, T. 16116 (5 July 2011) (closed session); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 139 (stating that Koljević tended to be more on the periphery of the Bosnian Serb leadership). However, given this is a personal opinion from Wilson, the Chamber placed no weight on that aspect of his evidence.

¹⁰⁴⁴² See para. 98.

¹⁰⁴⁴³ See para. 2637.

¹⁰⁴⁴⁴ See paras. 2721, 2762.

¹⁰⁴⁴⁵ See para. 2728.

Serbhood”.¹⁰⁴⁴⁶ Koljević also discussed his views with the Accused and other members of the Bosnian Serb leadership in private conversations.¹⁰⁴⁴⁷

3253. Koljević was closely involved in negotiations with international representatives.¹⁰⁴⁴⁸ In January 1992, Koljević warned of the danger of an Islamic republic being created.¹⁰⁴⁴⁹ In this regard, Koljević met with Tuđman and noted that they had a common interest of separating people, that an independent BiH did not suit them as it would separate them from their “mother lands”, and that they advocated a sovereign Muslim, Serb, and Croat BiH.¹⁰⁴⁵⁰ At the same meeting, Koljević also suggested that an agency be established to regulate the exchange of property.¹⁰⁴⁵¹ During another meeting related to the ICFY in September 1992, the Accused and Koljević reiterated that the Bosnian Serbs and the Bosnian Croats would not accept a unitary BiH state; a state based on one-man, one-vote.¹⁰⁴⁵²

3254. In April 1992, Koljević proposed that Bogdan Subotić set up a separate Ministry of Defence, which he accepted and thereafter, Subotić started organising and preparing drafts of the Law on Defence and Law on the Army.¹⁰⁴⁵³

3255. In May 1992, Koljević spoke to Bosnian Muslims in Pale and when they asked for guarantees that they could stay in their homes, he replied that “Serbs don’t want to continue living with you here.”¹⁰⁴⁵⁴ Koljević also visited units on the ground and attended meetings in *inter alia* Bratunac, Foča, Vlasenica, and Pale.¹⁰⁴⁵⁵

¹⁰⁴⁴⁶ See para. 2806.

¹⁰⁴⁴⁷ See, e.g., P5810 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 22 November 1991); P5760 (Intercept of conversation between Biljana Plavšić and Nikola Koljević, 25 January 1992), pp. 1, 4 (during which Koljević said “[t]he procedure itself and everything indicates that we are heading in the right direction. I mean, how good the objective we have chosen is” and Koljević and Plavšić further agreed on the idea of separation and the treatment of Bosnian Muslims “with indifference”).

¹⁰⁴⁴⁸ See paras. 2694, 2699–2700, 2703. Koljević and the Accused also discussed such meetings and negotiations with international representatives in private conversations. See, e.g., P5878 (Intercept of conversation between Radovan Karadžić and Nikola Koljević, 27 August 1991), pp. 5–9.

¹⁰⁴⁴⁹ See para. 2694.

¹⁰⁴⁵⁰ See para. 2694.

¹⁰⁴⁵¹ P986 (Transcript of a meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 13–14.

¹⁰⁴⁵² See para. 2705. Koljević also stated that the Bosnian Serbs would not accept the internal borders of BiH without some form of cantonisation. See para. 357.

¹⁰⁴⁵³ See para. 115.

¹⁰⁴⁵⁴ See para. 2317. See also fn. 9040.

¹⁰⁴⁵⁵ See paras. 693, 789, 841, 1106, 2317.

3256. Finally, on 14 March 1995, the Accused issued a decision to form a State Committee for Co-operation with the UN and International Humanitarian Organs, appointing Koljević as its President.¹⁰⁴⁵⁶

(C) Biljana Plavšić

3257. Plavšić was also a member of the SNB, one of the interim bodies that served as the *de facto* Presidency of the SerBiH in 1992, and functioned as the other acting president of the SerBiH, along with Koljević.¹⁰⁴⁵⁷ Plavšić was subsequently elected by the Bosnian Serb Assembly to the three-member RS Presidency on 12 May 1992.¹⁰⁴⁵⁸ When the Presidency was enlarged to five members on 6 July 1992, Plavšić was allocated the task of, *inter alia*, dealing with contacts with UNPROFOR, except for military issues, and questions related to refugees and humanitarian aid.¹⁰⁴⁵⁹ Plavšić was in charge of issues related to detention centres, including co-ordinating with the ICRC and other international organisations on this issue.¹⁰⁴⁶⁰ On 17 December 1992, the Bosnian Serb Assembly replaced the structures of the Presidency by establishing a single president and two vice-presidents of the Republic, electing the Accused to the position of President of the RS and Plavšić as one of the Vice-Presidents.¹⁰⁴⁶¹

3258. The Chamber recalls that Plavšić attended the first session of the Council of Ministers on 11 January 1992, during which the declaration on the promulgation of the SerBiH was discussed, including the priorities of defining the ethnic territory, establishing government organs in the territory, and the economic disempowerment of the current authorities.¹⁰⁴⁶² In another meeting, Plavšić emphasised the unity of the Serb people and their right to self-determination and thereafter continued to make similar speeches emphasising this right.¹⁰⁴⁶³

3259. Plavšić and the Accused communicated about preserving the common state of Yugoslavia and necessary steps to take to further Serb interests.¹⁰⁴⁶⁴ The Chamber recalls that in May 1992,

¹⁰⁴⁵⁶ See P4543 (Radovan Karadžić's Decision, 14 March 1995), pp. 1, 3. See para. 173.

¹⁰⁴⁵⁷ See para. 90.

¹⁰⁴⁵⁸ See para. 96.

¹⁰⁴⁵⁹ D440 (Minutes of 15th session of SerBiH Presidency, 6 July 1992), p. 3. See para. 97. See also KDZ240, T. 16116, 16141 (5 July 2011) (closed session). Prior to this, Plavšić had been authorised to represent the SerBiH in contacts with the UN. P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 2.

¹⁰⁴⁶⁰ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*) T. 8942.

¹⁰⁴⁶¹ See para. 98.

¹⁰⁴⁶² See para. 2818.

¹⁰⁴⁶³ See para. 2829.

¹⁰⁴⁶⁴ See para. 2641; P5729 (Intercept of conversation between Biljana Plavšić, Rajko Dukić, and Radovan Karadžić, 2 March 1992), pp. 3–4; P5727 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 2 March 1992), pp. 1–3.

Plavšić spoke of the entitlement of the Serbs to 70% of the territory and that Bosnian Serbs “were used to living in wide spaces” while Muslims typically lived in cities.¹⁰⁴⁶⁵ Plavšić further stated that “if it takes the lives of 3 million people to solve this crisis, lets get it done and move on”.¹⁰⁴⁶⁶

3260. On 4 April 1992, a commission consisting of Plavšić and Fikret Abdić, among others, as well as high-ranking army officials visited Bijeljina to assess the situation there.¹⁰⁴⁶⁷ Plavšić visited the Bijeljina Serb Crisis Staff and congratulated Arkan for saving the Bosnian Serbs and was filmed kissing and hugging Arkan.¹⁰⁴⁶⁸ When, in the course of the visit, Plavšić asked Arkan to hand over control of Bijeljina to the JNA, he replied that he had not yet finished his “business” there.¹⁰⁴⁶⁹ On 23 April 1992, Plavšić was in contact with Arkan’s men and left a message for him asking whether it was possible for her to visit.¹⁰⁴⁷⁰ Plavšić also asked whether they could “possibly bring the merchandise” and the member of Arkan’s men she spoke with responded “understood, understood”.¹⁰⁴⁷¹

3261. Plavšić openly supported paramilitary units, or “weekend warriors” as she called them, and during a Bosnian Serb Assembly session in November 1992, she openly invited them—including Arkan’s men and the White Eagles—to “send their volunteers to help the defence of the Serbian people in [RS]”.¹⁰⁴⁷² As stated above, Plavšić was an advocate of having all paramilitary units from territories where Serbs lived outside BiH come to assist them and was the “bridge” between Bosnian Serbs and the people who came from other states to assist in the conflict.¹⁰⁴⁷³ Mićo

¹⁰⁴⁶⁵ See para. 2727.

¹⁰⁴⁶⁶ See para. 2727.

¹⁰⁴⁶⁷ See para. 626.

¹⁰⁴⁶⁸ See para. 626.

¹⁰⁴⁶⁹ See para. 626. The Chamber further recalls that at a dinner with UNPROFOR representative, Cedric Thornberry, on 20 April 1992, Plavšić described Bijeljina as a “liberated” town. See para. 626.

¹⁰⁴⁷⁰ P1106 (Intercept of conversation between Biljana Plavšić and “Rus”, 23 April 1992), pp. 1–2.

¹⁰⁴⁷¹ P1106 (Intercept of conversation between Biljana Plavšić and “Rus”, 23 April 1992), p. 2. Without further context, the Chamber is not in a position to determine the meaning behind Plavšić’s reference to “merchandise” and will not make a finding thereon.

¹⁰⁴⁷² Mićo Stanišić, T. 46385–46386 (3 February 2014); Momčilo Mandić, T. 4625–4626 (5 July 2010); P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 20. See para. 608.

¹⁰⁴⁷³ See para. 3195.

Stanišić and Plavšić clashed over this issue.¹⁰⁴⁷⁴ According to Mandić, Mićo Stanišić arrested paramilitary units and Plavšić would intercede on their behalf and have them released.¹⁰⁴⁷⁵

3262. The Chamber also recalls that in mid-April 1992, Plavšić visited the Alhos factory in Zvornik and met with Bosnian Serb local leaders, including members of the Zvornik Crisis Staff.¹⁰⁴⁷⁶

3263. In meetings attended by the Accused in May or June 1992, as well as in a television interview in July 1992, Plavšić acknowledged that there were detention facilities run by Bosnian Serbs in BiH, including in Pale, Ilidža, Banja Luka, and Prijedor; however she qualified that those in detention were only able-bodied men of military age who actively participated in “rebellions”, assisted such rebellions, or financed the purchase of weapons.¹⁰⁴⁷⁷

3264. On 7 July 1992, Plavšić was informed in writing that there had been “forced and wilful” efforts to move Bosnian Muslims out of Pale, resulting in a large number of criminal acts.¹⁰⁴⁷⁸ Plavšić was informed by the UN that on 30 September 1992, approximately 300 Bosnian Muslim civilians were expelled by Serbs from the area of Grbavica in Novo Sarajevo; when questioned about the situation, Plavšić deferred any response.¹⁰⁴⁷⁹

3265. In meetings with international representatives, Plavšić openly stated that it was impossible for Bosnian Serbs to co-exist with the other communities, particularly the Bosnian Muslims, and that it was better to separate the communities; she also emphasised the importance of partitioning the territory so that the Serbs would be left in control of a single continuous block of territory.¹⁰⁴⁸⁰

¹⁰⁴⁷⁴ Momčilo Mandić, T. 4625–4631 (5 July 2010) (testifying that Đerić supported Plavšić and Mandić supported Stanišić on this issue and it culminated in a clash between Plavšić and Đerić, on one side, and Stanišić and Mandić, on the other). According to Đerić, he never approved of Plavšić’s statements or actions with respect to paramilitaries and Đerić did not consider that this “was the way things should be done”. P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 43. In June 1991, the Accused had discussed personnel issues in the MUP with Plavšić. P2222 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 17 June 1991).

¹⁰⁴⁷⁵ Momčilo Mandić, T. 4626, 4630, 4649–4650 (5 July 2010); Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 9725–9726 (testifying that Plavšić ordered the release of the Yellow Wasps in late November 1992). Furthermore, Mandić stated that he did not speak to the Accused for half a year because he allowed Plavšić to do this. Momčilo Mandić, T. 4627–4630 (5 July 2010); Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 9725–9726.

¹⁰⁴⁷⁶ See para. 1253.

¹⁰⁴⁷⁷ P1099 (Video footage of interview with Biljana Plavšić, with transcript) (stating further that the number of prisons run by Muslims, in Sarajevo in particular, “vastly outnumbers” the number of prisons run by Bosnian Serbs in BiH); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 101–103, 138 (stating further that Plavšić countered that similar camps were maintained by other parties to the conflict). Mandić confirmed that this was one example of war propaganda spread by Plavšić as Bosnian Muslims did not have as many camps as Bosnian Serbs. Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*) T. 8936–8942.

¹⁰⁴⁷⁸ See para. 2324.

¹⁰⁴⁷⁹ See para. 2286. See also Hussein Ali Abdel-Razek, T. 5521 (20 July 2010).

¹⁰⁴⁸⁰ See paras. 2725–2727.

At a meeting with a delegation from Greece in March 1994, in the presence of Mladić, Plavšić expressed her disapproval of the Accused's appeasement and "diplomatic juggling" displayed at international negotiations.¹⁰⁴⁸¹

(D) Ratko Mladić

3266. The Chamber recalls that Ratko Mladić was appointed Commander of the VRS Main Staff on 12 May 1992, after being selected by the Accused.¹⁰⁴⁸² The Main Staff was the highest operative body of the VRS.¹⁰⁴⁸³

3267. As the Commander of the VRS Main Staff, Mladić commanded the VRS in compliance with the authority that the President delegated to him; he issued regulations, orders, and instructions relating to the implementation of orders that the President had issued.¹⁰⁴⁸⁴ The Accused selected Mladić for this role and promoted him to the rank of Colonel-General on 28 June 1994.¹⁰⁴⁸⁵ Mladić remained in this position throughout the conflict until 8 November 1996.¹⁰⁴⁸⁶

3268. Mladić was in contact with and received instructions from the Accused and Krajišnik.¹⁰⁴⁸⁷ In one conversation in May 1992, Mladić told Krajišnik that he would "stop by to get new instructions [...] So we'll arrange for what we should do next".¹⁰⁴⁸⁸

3269. Mladić was informed of military developments and take-overs throughout the Municipalities, as well as crimes which occurred there, during his time as Commander of the Main Staff. For example, the take-over of Rogatica beginning on or about 22 May 1992 was planned and

¹⁰⁴⁸¹ P1485 (Ratko Mladić's notebook, 9 January–21 March 1994), pp. 180, 184, 186–187.

¹⁰⁴⁸² See para. 3115.

¹⁰⁴⁸³ See para. 169.

¹⁰⁴⁸⁴ See para. 170. See also paras. 3107, 3116, 3152–3156.

¹⁰⁴⁸⁵ P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 317 (noting that the Accused, together with Krajišnik, had taken an interest in Mladić and requested that he come to assume the role as VRS Main Staff Commander); P3046 (Radovan Karadžić's Decree on promotion of Ratko Mladić, 28 June 1994), Reynaud Theunens, T. 16863 (19 July 2011). See also P1477 (Ratko Mladić's notebook, 14 February–25 May 1992), p. 292). See also para. 3115.

¹⁰⁴⁸⁶ See fn. 461 (referring to P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 287, 293); Ewan Brown, T. 21504–21505 (17 November 2011); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.64; P1355 (Minutes of 16th Session of SerBiH Assembly), 12 May 1992, p. 2; Manojlo Milovanović, T. 25439 (28 February 2012); P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995). See also P1489 (Ratko Mladić's notebook, 28 August 1995–15 January 1996), p. 135 (noting that Mladić was at a meeting of the RS Supreme Command on 1 December 1995 with the Accused, Krajišnik, Plavšić, and others).

¹⁰⁴⁸⁷ See Section IV.A.3.a.iii.A.3: Relationship between Mladić and Accused. See also, e.g., P1145 (Intercept of conversation between Momčilo Krajišnik and Ratko Mladić, 24 May 1992); P1519 (Intercept of conversation between Ratko Mladić and Momčilo Krajišnik, 27 May 1992), p. 2.

¹⁰⁴⁸⁸ P1519 (Intercept of conversation between Ratko Mladić and Momčilo Krajišnik, 27 May 1992), p. 2.

executed by the SRK and Mladić was informed of it.¹⁰⁴⁸⁹ In May 1992, Mladić was informed that “Foča has been finished” and later in September 1992, that the percentage of Serbs in Foča was 99%.¹⁰⁴⁹⁰ Furthermore, Batković camp was established in Bijeljina following an order from Mladić to set up a camp for “war prisoners” in June 1992.¹⁰⁴⁹¹ On 6 June 1992, Mladić issued an urgent directive to secure communications from Sarajevo to Zvornik and mop up or cleanse the zone of “remaining enemy groups”, also stating that the maltreatment of the unarmed civilian population was prohibited.¹⁰⁴⁹² Mladić was also kept informed of events during the take-over in Vlasenica and was consulted during the armed conflict in Ilidža.¹⁰⁴⁹³

3270. On 1 July 1992, Mladić paid tribute to all members of the VRS for having successfully organised and implemented the co-ordinated “operation for breakthrough, expansion and cleansing of [the] corridor in Bosanska Posavina, between Eastern and Western Bosnia”.¹⁰⁴⁹⁴ Mladić specifically congratulated the units of the Eastern Bosnia Corps and the 1st Krajina Corps for their unified efforts to support the position of the VRS Main Staff to realise its military and political goals for the “preservation of Serbianhood” in BiH.¹⁰⁴⁹⁵

3271. On 3 August 1992, Mladić ordered that *inter alia* Omarska, Trnopolje, and Manjača be prepared for upcoming visits from foreign journalists and members of the ICRC.¹⁰⁴⁹⁶ Furthermore, in a meeting with Jovi Banjac in September 1992, Mladić was informed that only 5,000 Bosnian Muslims remained in Ključ, and that another 1,500 were leaving on that same day.¹⁰⁴⁹⁷

3272. The Chamber also recalls that in meetings with international representatives, Mladić spoke about the genocide committed against Serbs in World War II in areas including Srebrenica and Sarajevo.¹⁰⁴⁹⁸ Furthermore, the Chamber recalls that Mladić agreed with the Accused when he said in January 1993 that they could not live together with Bosnian Muslims anymore and that therefore Bosnian Muslims would be transferred out of Bosnian Serb territory.¹⁰⁴⁹⁹ Mladić continued to make statements into 1994 about the necessity to fight against Bosnian Muslims and Bosnian

¹⁰⁴⁸⁹ See para. 971.

¹⁰⁴⁹⁰ P1477 (Ratko Mladić’s notebook, 14 February–25 May 1992), p. 255; P1480 (Ratko Mladić’s notebook, 10–30 September 1992), p. 66. See also para. 2781.

¹⁰⁴⁹¹ See para. 642.

¹⁰⁴⁹² See para. 1278.

¹⁰⁴⁹³ See paras. 1112, 1124, 2133. See also para. 2785.

¹⁰⁴⁹⁴ P5509 (Letter from Ratko Mladić to all members of VRS, 1 July 1992), p. 1.

¹⁰⁴⁹⁵ P5509 (Letter from Ratko Mladić to all members of VRS, 1 July 1992), p. 1.

¹⁰⁴⁹⁶ See paras. 1404, 1784, 1849.

¹⁰⁴⁹⁷ See para. 1565.

¹⁰⁴⁹⁸ See paras. 2662, 2669.

¹⁰⁴⁹⁹ See para. 2757.

Croats to the end that they vanish completely or disappear.¹⁰⁵⁰⁰ Finally, the Chamber recalls the notice Mladić issued to the Main Staff in August 1995 in which, *inter alia*, he praised the VRS for thwarting “a planned and prepared genocide of the Serbian people, protecting the greater part of Serbian territories, and achieving victory after victory in the liberation of occupied historically and ethnically Serbian areas”.¹⁰⁵⁰¹

3273. The Chamber also recalls that Mladić was involved in defining, adopting, and carrying out the Strategic Goals.¹⁰⁵⁰² Mladić advocated that the actions of the Bosnian Serbs should remain secret and recommended the adoption of a common rhetoric towards the public.¹⁰⁵⁰³ He also stressed the importance of identifying a common enemy and that on this basis, “we must make our move and eliminate them, either temporarily or permanently”.¹⁰⁵⁰⁴ In relation to carrying out the Strategic Goals, the Chamber recalls that Mladić issued important military directives, such as Directive 4 in November 1992 and Directive 5 in June 1993.¹⁰⁵⁰⁵

(E) Slobodan Milošević

3274. Slobodan Milošević was the President of the Republic of Serbia.¹⁰⁵⁰⁶ Milan Babić described Milošević as “the president of all Serbs, not only those in Serbia”¹⁰⁵⁰⁷ and was referred to by Jovica Stanišić as the “main boss”.¹⁰⁵⁰⁸ He had control over the JNA.¹⁰⁵⁰⁹

3275. Beginning in November 1990, Milošević and the Accused had a close association and the Accused would visit him frequently in Belgrade.¹⁰⁵¹⁰ Other Bosnian Serb leaders such as Krajišnik also met with Milošević but their meetings were less frequent.¹⁰⁵¹¹ Prior to the start of the conflict and into 1992, Slobodan Milošević and the Accused were in constant communication with each

¹⁰⁵⁰⁰ See paras. 2766, 2769, 2771, 2806, 2832.

¹⁰⁵⁰¹ See para. 2815.

¹⁰⁵⁰² See paras. 2794, 2863–2864, 2868, 2874, 2876–2877. The Chamber notes that on 15 July 1994, Mladić complained that the Strategic Goals adopted by the Bosnian Serb Assembly had not been given the financial support needed and that on the contrary, political structures had hindered the VRS from carrying out certain operations which were directly within the purview of carrying out the set Strategic Goals. P1486 (Ratko Mladić’s notebook; 31 March–3 September 1994), pp. 209–210.

¹⁰⁵⁰³ See para. 2864.

¹⁰⁵⁰⁴ See para. 2864.

¹⁰⁵⁰⁵ See paras. 2876, 2879, 3155–3156.

¹⁰⁵⁰⁶ P3048 (Record of 21st session of FRY’s SDC, 7 June 1994), p. 1; Yasushi Akashi, T. 37705–37706 (24 April 2013).

¹⁰⁵⁰⁷ P754 (Milan Babić’s interview in NIN, 18 June 1991), p. 10; Milan Babić, P743 (Transcript from *Prosecutor v. Martić*), T. 1473.

¹⁰⁵⁰⁸ P5818 (Intercept of conversation between Ljiljana Karadžić and Jovica Stanišić, 12 November 1991).

¹⁰⁵⁰⁹ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4147.

¹⁰⁵¹⁰ Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3397; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16612, 16614–16615, 16768.

¹⁰⁵¹¹ Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16616.

other to discuss and co-ordinate both political and military tactics in relation to developments in BiH and Croatia.¹⁰⁵¹² There was a close connection between the authorities in Pale and Belgrade, and the Bosnian Serb leadership consulted with Belgrade on developments in BiH.¹⁰⁵¹³ Points of

¹⁰⁵¹² D1282 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 May 1991), pp. 1–4; P5686 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 11 June 1991), pp. 1–2; P5687 (Intercepts of conversations between (i) Ljiljana Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Slobodan Milošević, 12 June 1991), pp. 2–3, 5, 7–9; P5688 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 June 1991), pp. 1–3; P5893 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 June 1991), pp. 1–2; D3531 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 28 June 1991); P5890 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 July 1991), pp. 1–2; P5887 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 8 July 1991), pp. 2–5; P5883 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 July 1991), pp. 1–3; P5875 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 July 1991), pp. 1–3; P5881 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 31 July 1991), pp. 4–12; P5880 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 6 August 1991), pp. 1–5; P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), pp. 1–6; D365 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, undated); D4545 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 13 September 1991); P5866 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 18 September 1991); P5864 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), pp. 2–4; P5865 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 13 September 1991); P5863 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 22 September 1991); P5861 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), pp. 2–7; P5853 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), pp. 3–6; P5859 (Intercept of conversations between Radovan Karadžić, Slobodan Milošević and unidentified persons, 24 September 1991), pp. 7–11; D4496 (Intercept of conversation between Radovan Karadžić and an unidentified female and Slobodan Milošević, 24 September 1991), pp. 4–8; D4497 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 September 1991); P5848 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 8 October 1991), pp. 2–6; P5847 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 October 1991), pp. 1–3; P5834 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 October 1991), pp. 1–6; P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), pp. 1–13; P5828 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 November 1991), pp. 1–9; P5897 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 14 November 1991), pp. 1–3; P5815 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 15 November 1991), pp. 1–2; P5813 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 18 November 1991), pp. 1–4; P5811 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 22 November 1991), pp. 1–4; P5809 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 November 1991), pp. 1–2; P5808 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 November 1991), pp. 2–3; P5796 (Intercept of conversation between Mirko Krajišnik and Mirče Radić, 16 December 1991); P5795 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 December 1991), pp. 1–3; P2224 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 September 1991) (the Chamber notes that while this intercepted conversation is dated 20 December 1991, it is clear from the context of the conversation that it should be dated 9 September 1991); P5790 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 20 December 1991), pp. 1–4; P5787 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 25 December 1991), pp. 1–4; P5780 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 30 December 1991), pp. 1–3; P5775 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 5 January 1992), pp. 2–5; P5769 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 January 1992); P5767 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 12 January 1992), pp. 2–6; P5766 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 15 January 1992), pp. 1–3; P5752 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 10 February 1992), p. 1; P5751 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 10 February 1992).

¹⁰⁵¹³ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 72, 199. *See also* P2926 (Official note of Serbia RDB, 27 June 1994); Milorad Davidović, T. 15830–15834 (1 July 2011). P2926 refers a group identified as the “Tajfun” group operating in Banja Luka and that the Serbian MUP would only accept the initiative of this group if the Accused and Mićo Stanišić gave their approval. However, Davidović was unable to give direct evidence about the nature of this group and measures taken in that regard.

discussion included (i) their opposition to the secession of BiH and the desire to remain part of Yugoslavia;¹⁰⁵¹⁴ (ii) opposition to the creation of an Islamic State;¹⁰⁵¹⁵ (iii) political negotiations;¹⁰⁵¹⁶ (iv) regionalisation;¹⁰⁵¹⁷ (v) developments in Croatia and Slovenia;¹⁰⁵¹⁸ (vi) military preparations including mobilisation of the Serb population and the provision of arms;¹⁰⁵¹⁹

¹⁰⁵¹⁴ D1282 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 May 1991), pp. 1, 3; P5687 (Intercepts of conversations between (i) Ljiljana Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Slobodan Milošević, 12 June 1991), pp. 2–3; D3531 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 28 June 1991), pp. 3–4; P5880 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 6 August 1991), p. 1; D4545 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 13 September 1991), p. 2; P5834 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 October 1991), p. 1; P5828 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 November 1991), p. 6; P5897 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 14 November 1991), p. 3; P5787 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 25 December 1991), p. 4; P5775 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 5 January 1992), p. 3.

¹⁰⁵¹⁵ D1282 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 May 1991), p. 3; P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), pp. 2, 4–5; P5828 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 November 1991), pp. 1, 9; P5766 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 15 January 1992), p. 2.

¹⁰⁵¹⁶ P5687 (Intercepts of conversations between (i) Ljiljana Karadžić and Slobodan Milošević and (ii) Radovan Karadžić and Slobodan Milošević, 12 June 1991), pp. 3–5; P5688 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 June 1991), pp. 1–3; P5893 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 24 June 1991), p. 2; P5875 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 July 1991), p. 2; D365 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, undated), pp. 1–2; P5859 (Intercept of conversations between Radovan Karadžić, Slobodan Milošević and unidentified persons, 24 September 1991), p. 8; D4497 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 September 1991), p. 1; P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), p. 11; P5897 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 14 November 1991), pp. 2–3; P5813 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 18 November 1991), p. 2; P5808 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 26 November 1991), p. 2; P5790 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 20 December 1991), p. 1.

¹⁰⁵¹⁷ P5688 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 June 1991), p. 3; D365 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, undated), p. 2.

¹⁰⁵¹⁸ D3531 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 28 June 1991), p. 5; P5890 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 1 July 1991), p. 1; P5887 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 8 July 1991), pp. 3–5; P5875 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 July 1991), p. 3; P5880 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 6 August 1991), p. 2; P5877 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 4 September 1991), pp. 1, 4; P5867 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), pp. 1–2; P5861 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), pp. 5–6; P5853 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), p. 6; P5848 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 8 October 1991), p. 5; P5811 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 22 November 1991), p. 3.

¹⁰⁵¹⁹ P5861 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), p. 5; P5883 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 July 1991), pp. 1–2; P5887 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 8 July 1991), pp. 3–5; P5853 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), pp. 3–5; P5859 (Intercept of conversations between Radovan Karadžić, Slobodan Milošević and unidentified persons, 24 September 1991), p. 10; D4496 (Intercept of conversation between Radovan Karadžić and an unidentified female and Slobodan Milošević, 24 September 1991), p. 4.

(vii) developments in Krajina;¹⁰⁵²⁰ and (viii) issues pertaining to recognition of the independence of BiH.¹⁰⁵²¹

3276. The Chamber recalls that from 1990 and into mid-1991, the political objective of the Accused and the Bosnian Serb leadership was to preserve Yugoslavia and to prevent the separation or independence of BiH, which would result in a separation of Bosnian Serbs from Serbia; the Chamber notes that Slobodan Milošević endorsed this objective and spoke against the independence of BiH.¹⁰⁵²²

3277. The Chamber found that based on a conversation between the Accused and Milošević on 24 October 1991, it was also clear that Slobodan Milošević was attempting to take a more cautious approach while the Accused was adamant that the goal of the Bosnian Serb leadership was to ensure that they would establish full authority in their territories and that they would announce their own Bosnian Serb Assembly.¹⁰⁵²³ The Chamber also found that while Milošević expressed reservations about excluding Bosnian Muslims, the Accused was adamant that there were not even 10% of Bosnian Muslims who supported Yugoslavia and that they could not take such a risk.¹⁰⁵²⁴

3278. The Chamber recalls that in December 1991, Milošević told the Accused that he should not give in to Izetbegović and that they had to stick to their line and that “if they want to fight, we’ll fight” given that the Serbs were stronger.¹⁰⁵²⁵ They also spoke about the unconstitutional nature of the decision changing the status of BiH.¹⁰⁵²⁶

¹⁰⁵²⁰ P5866 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 18 September 1991), pp. 1–2; P5867 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), p. 1; P5864 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 19 September 1991), p. 3; P5863 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 22 September 1991), p. 2; P5861 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 23 September 1991), p. 4; P5859 (Intercept of conversations between Radovan Karadžić, Slobodan Milošević and unidentified persons, 24 September 1991), p. 9; P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), pp. 1, 11; P5787 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 25 December 1991), p. 1; P5769 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 January 1992), p. 2; P5751 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 10 February 1992), pp. 1–2.

¹⁰⁵²¹ P5832 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 29 October 1991), p. 2; P5795 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 17 December 1991), p. 1; P5775 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 5 January 1992), p. 4; P5769 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 January 1992), p. 1; P5766 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 15 January 1992), p. 1.

¹⁰⁵²² See paras. 2644–2645, 2651.

¹⁰⁵²³ See para. 2710. See also P5782 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 28 December 1991), pp. 1–2.

¹⁰⁵²⁴ See para. 2711.

¹⁰⁵²⁵ See para. 2691.

¹⁰⁵²⁶ See para. 2691.

3279. On 26 December 1991, the Accused and Krajišnik spoke about their political strategies and the issues of sovereignty in BiH, regionalisation, and their mutual disappointment with Slobodan Milošević.¹⁰⁵²⁷ The Accused in this regard stated that they would have to pursue their own policy even if it meant “splitting with Milošević”.¹⁰⁵²⁸ In January 1992, Milošević told the Accused in an intercepted phone conversation that he would not describe the Accused as one of his “satellites”.¹⁰⁵²⁹

3280. In March 1992, in a meeting with international representatives, Slobodan Milošević described the situation in BiH as similar to “dynamite”, and if anyone favoured one of the parties, there would be hell but he had called the Accused and told him to “cool it”.¹⁰⁵³⁰ Milošević also said that Yugoslavia hoped for intensive links with BiH.¹⁰⁵³¹ Later in the war, in meetings with international representatives, Milošević also made assurances that he would speak to the Bosnian Serbs, that he continued to condemn “ethnic cleansing” but that the world was “satanizing” the Serbs without condemning actions by the other parties.¹⁰⁵³²

3281. Beginning in 1992, Slobodan Milošević was informed by international representatives about the expulsion of Muslims in BiH; he responded that everything that would happen in BiH would be horrendous and the responsibility for these acts remained with those who decided to separate BiH and that he had no authority as far as the Bosnian Serbs were concerned.¹⁰⁵³³ In September 1992, in meetings with international representatives, leaders of the FRY expressed the view that the international representatives were justified in asking them to pressure the Accused.¹⁰⁵³⁴

3282. The Accused in September 1992 acknowledged the support given by “leading figures both in Serbia and in Yugoslavia” who strongly supported the Bosnian Serbs in achieving their goal, even if it was temporarily within BiH, but on the condition that the Bosnian Serbs defined “the borders towards the Muslims and Croats”.¹⁰⁵³⁵ By January 1993, deputies in the Bosnian Serb

¹⁰⁵²⁷ P5785 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 26 December 1991), pp. 3–7.

¹⁰⁵²⁸ P5785 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 26 December 1991), p. 7.

¹⁰⁵²⁹ P5769 (Intercept of conversation between Radovan Karadžić and Slobodan Milošević, 9 January 1992), p. 6.

¹⁰⁵³⁰ P779 (Sixth notebook of Herbert Okun’s Vance Mission Diary), e-court pp. 36–37.

¹⁰⁵³¹ P779 (Sixth notebook of Herbert Okun’s Vance Mission Diary), e-court p. 36.

¹⁰⁵³² D1140 (Letter to UN Secretary General, 2 February 1993) (under seal), p. 4; P4246 (UNPROFOR report re meetings with Slobodan Milošević, 25 March 1993), p. 2. *See also* D3054 (Notes of session of Council for Coordinating Positions on State Policy, 18 August 1992), pp. 10–12.

¹⁰⁵³³ [REDACTED].

¹⁰⁵³⁴ P784 (First notebook of Herbert Okun’s ICFY diary), e-court p. 53.

¹⁰⁵³⁵ D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 16.

Assembly called on Slobodan Milošević and the Serbian people to do more to help their brothers in the RS.¹⁰⁵³⁶

3283. In May 1993, Slobodan Milošević addressed the Bosnian Serb Assembly and confirmed the solidarity of Serbia with the Bosnian Serbs but stressed that the assembly should accept the Vance-Owen Plan to avoid the disastrous consequences of the war continuing.¹⁰⁵³⁷ He acknowledged that the war had been imposed on the Serbs who simply defended themselves.¹⁰⁵³⁸ On this point, the Accused disagreed and stated that he felt deceived by Milošević and explained that the Vance-Owen Plan was catastrophic for the Serbs, that they would live in enclaves and areas like Zvornik would be “Turkish”, and that there was a danger that they would be bombed whether or not they signed.¹⁰⁵³⁹

3284. At a meeting on 24 September 1993 with Slobodan Milošević and Mladić, Perišić discussed the danger of war in the Krajina and stated that help in manpower, combat equipment, and financial resources was needed.¹⁰⁵⁴⁰ Milošević stated that with respect to the “final verification of RS” it required political co-ordination with the Accused, economic co-ordination, military co-ordination with one Main Staff, as well as liaising regarding intelligence and security functions.¹⁰⁵⁴¹ Milošević further declared that crime needed to be fought decisively.¹⁰⁵⁴²

3285. In October 1993, Perišić discussed personnel issues related to officers from the FRY who had been engaged in the VRS and there was discussion of whether the FRY should pull out their personnel from the RS.¹⁰⁵⁴³ At this meeting, Slobodan Milošević said that “Mladić needs to come here so that we can hear what he has to say”.¹⁰⁵⁴⁴

3286. The Chamber recalls that Slobodan Milošević attended a meeting held at the Presidency of Serbia on 8 November 1993, with among others, the Accused, Krajišnik, Martić, Mladić, and Perišić, where the following common objectives were discussed: (i) unconditionally strengthen the

¹⁰⁵³⁶ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 55–56.

¹⁰⁵³⁷ P1371 (Transcript of 30th session of RS Assembly, 5–6 May 1993), pp. 29–30, 157–160; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4235; Herbert Okun, T. 1828 (28 April 2010).

¹⁰⁵³⁸ P1371 (Transcript of 30th session of RS Assembly, 5–6 May 1993), p. 161.

¹⁰⁵³⁹ P1373 (Transcript of 31st session of RS Assembly, 9 May 1993), p. 18.

¹⁰⁵⁴⁰ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 339–340.

¹⁰⁵⁴¹ P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 341, 343–344.

¹⁰⁵⁴² P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 345.

¹⁰⁵⁴³ P6162 (Excerpt from notes of FRY’s SDC 14th session, 11 October 1993), e-court pp. 1, 5, 7.

¹⁰⁵⁴⁴ P6162 (Excerpt from notes of FRY’s SDC 14th session, 11 October 1993), e-court, p. 7. *See also* P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), p. 47.

integrity of Serbia, (ii) set up the RS as a completely independent state; and (iii) ensure Serbs have complete power in the Krajina.¹⁰⁵⁴⁵

3287. At a meeting in December 1993, with Slobodan Milošević, Jovica Stanišić and others, the Accused stated that the end of the conflict was close and that the Bosnian Serbs were holding 75% of the territory; he acknowledged that some of this territory would have to be returned as the international community would not allow it.¹⁰⁵⁴⁶ The Accused listed the Strategic Goals at this meeting.¹⁰⁵⁴⁷ This meeting was convened to improve the “operational and tactical position” of the Bosnian Serbs and to discuss help from Serbia.¹⁰⁵⁴⁸ Milošević agreed with a proposal from Mladić and suggested that “the operation” should be planned and the forces prepared but only following negotiations in Brussels.¹⁰⁵⁴⁹ He also promised to provide fuel supplies from the state reserves for the operations.¹⁰⁵⁵⁰ Milošević offered further assistance, stating that Perišić will “give everything that does not jeopardise combat readiness of units” in Serbia.¹⁰⁵⁵¹ Perišić further stated that they would help with weapons while Jovica Stanišić spoke about a special combat group which could be deployed;¹⁰⁵⁵² these units included the Red Berets and Arkan’s men.¹⁰⁵⁵³ The following day, continuing the meeting, Stanišić and Perišić confirmed that that they would provide manpower of a few hundred men.¹⁰⁵⁵⁴

3288. At a meeting in Belgrade on 15 March 1994 attended by Jovića Stanišić, Martić, Mladić, and the Accused, Slobodan Milošević stated that “[a]ll members of other nations and ethnicities must be protected” and that “[t]he national interest of the Serbs is not discrimination”.¹⁰⁵⁵⁵

¹⁰⁵⁴⁵ See para. 2883.

¹⁰⁵⁴⁶ See para. 2886.

¹⁰⁵⁴⁷ See para. 2886.

¹⁰⁵⁴⁸ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 53.

¹⁰⁵⁴⁹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 57–58.

¹⁰⁵⁵⁰ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 58. See also P3048 (Record of 21st session of FRY’s SDC, 7 June 1994), p. 5; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 55.

¹⁰⁵⁵¹ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 57.

¹⁰⁵⁵² P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 59–61; P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 80. See also KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21025–21027; P31 (List of names referred to during testimony of KDZ446) (under seal); KDZ555, T. 17248–17258 (16 August 2011) (private session) (pertaining to the distribution of weapons); D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 10.

¹⁰⁵⁵³ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 80, 112–113, 166. See also P6210 (Report of Eastern Bosnian Corps, 20 September 1995).

¹⁰⁵⁵⁴ P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 61. Later, in June 1994, Perišić spoke about requests Serbia had received for assistance in the war from the RS and the assistance they had provided with respect to financing and material assistance for combat operations and the strain this was placing on their own resources. P3048 (Record of 21st session of FRY’s SDC, 7 June 1994), pp. 5–8.

¹⁰⁵⁵⁵ P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 169.

3289. International observers noted that Milošević had a dominant influence over the Bosnian Serb leadership and played a role in convincing them to accept certain proposals during international negotiations.¹⁰⁵⁵⁶ However, by July 1994, there were rifts in the relationship between the RS and Serbia, and Slobodan Milošević complained about criticisms directed against Serbia.¹⁰⁵⁵⁷ In private meetings, Milošević was extremely angry at the Bosnian Serb leadership for rejecting the Vance-Owen Plan and he cursed the Accused.¹⁰⁵⁵⁸

3290. The Chamber notes that while originally Milošević had similar interests to those as the Bosnian Serbs, when their interests diverged, his influence over the Bosnian Serb leaders also reduced.¹⁰⁵⁵⁹ Milošević also questioned whether the world would accept that the Bosnian Serbs who represented only one third of the population of BiH would get more than 50% of the territory and he encouraged a political agreement.¹⁰⁵⁶⁰ He stated that the Serbs had won the war, and that there were “hardly any” Bosnian Muslims in RS.¹⁰⁵⁶¹ By August 1994, leaders in Serbia criticised Bosnian Serb leaders of committing “crimes against humanity” and continuing “ethnic cleansing” and the war for their own purposes.¹⁰⁵⁶²

3291. At a meeting held on 22 August 1994 between Slobodan Milošević and Akashi, it was clear to Akashi that Milošević’s break with the Accused was “serious” and stemmed from differences that arose over a long period of time.¹⁰⁵⁶³ Milošević gave the impression that he was “a politician who is more in command of the overall situation” while the Accused was “a local leader wrapped up in the emotions of an ongoing civil war”.¹⁰⁵⁶⁴ At the meeting, Milošević made it clear that there

¹⁰⁵⁵⁶ Yasushi Akashi, T. 37705–37706 (24 April 2013). *See also* P820 (Witness statement of David Harland dated 4 September 2009), paras. 277–280.

¹⁰⁵⁵⁷ P1486 (Ratko Mladić’s notebook, 31 March 1994–3 September 1994), p. 216. *See also* P820 (Witness statement of David Harland dated 4 September 2009), paras. 280–281; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 52–53, 161; P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), p. 3; Anthony Banbury, T. 13336–13337 (15 March 2011); Vojislav Šešelj, T. 39564 (10 June 2013).

¹⁰⁵⁵⁸ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 188–190. *See also* John Zametica, T. 42468–42469 (29 October 2013) (testifying that Milošević tried to have the Accused removed after the Vance-Owen Plan); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 41; D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 42; Momir Bulatović, T. 34532–34533 (28 February 2013). The Chamber does not rely on Zametica’s general opinion that there was no joint criminal enterprise between the Accused and Milošević or that Milošević was not interested in a Greater Serbia.

¹⁰⁵⁵⁹ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 54.

¹⁰⁵⁶⁰ P1486 (Ratko Mladić’s notebook, 31 March 1994–3 September 1994), pp. 219, 221, 228. *See also* P3863 (UNPROFOR report, 18 May 1995), p. 1.

¹⁰⁵⁶¹ P1486 (Ratko Mladić’s notebook, 31 March 1994–3 September 1994), pp. 219–220.

¹⁰⁵⁶² P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), p. 3. *See also* D1140 (Letter to UN Secretary General, 2 February 1993) (under seal), p. 4.

¹⁰⁵⁶³ P3861 (UNPROFOR report, 23 August 1994), pp. 1, 3 (noting that among others, Sergio de Mello and Kirudja were also present at the meeting). *See* P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 135.

¹⁰⁵⁶⁴ P3861 (UNPROFOR report, 23 August 1994), p. 1.

was a difference of views emerging in the Bosnian Serb leadership on the execution of the war.¹⁰⁵⁶⁵ Specifically, Milošević stated that Krajina Serbs were well aware that a solution based on negotiations was the only way out and this is why they had not accepted the Accused's suggestion to merge with the RS.¹⁰⁵⁶⁶

3292. Given the difference of opinion between the Bosnian Serb and the Serbian leaderships, in 1993 and 1994, the FRY reduced its support for the RS and encouraged the Bosnian Serbs to accept peace proposals.¹⁰⁵⁶⁷ In this regard the FRY leadership was on notice about some of the extreme views held by the Bosnian Serb leadership and they could not support those views, including with respect to ethnic cleansing.¹⁰⁵⁶⁸

3293. During a meeting held on 20 September 1994 with Mladić, Perišić, and others, Milošević stressed that there had been a break between Pale and Serbia and reminded them that Serbian policy was defined in Belgrade, not Pale.¹⁰⁵⁶⁹ He declared that the war must end and that the Bosnian Serbs' biggest mistake was to want a complete defeat of the Bosnian Muslims.¹⁰⁵⁷⁰ During the course of this meeting, Milošević further expressed his disapproval of the Bosnian Serb leadership's disunity from the Bosnian Serbs in Krajina, stating that "the crazy doctor may think that Serbia must toady up to him—it's not going to happen".¹⁰⁵⁷¹

3294. By November 1994, Perišić noted that the Bosnian Serbs accounted for 20% of the population but held more than 70% of the territory which, in his view, was unsustainable; however, according to Perišić, the Bosnian Serbs wanted "to preserve this at all cost", but loss of territory was inevitable.¹⁰⁵⁷² Slobodan Milošević referred to the Accused's belief that they could "wage an infinite war and they won't give up on anything".¹⁰⁵⁷³ Milošević noted however that "our biggest advantage is that the territories, which are to be allocated to Serbs by the peace plan, are already in the Serbian hands so that nobody has to be removed from them".¹⁰⁵⁷⁴ He also explained that when they tried to convince the Accused and Krajišnik that they would be forced to do certain things,

¹⁰⁵⁶⁵ P3861 (UNPROFOR report, 23 August 1994), p. 1.

¹⁰⁵⁶⁶ P3861 (UNPROFOR report, 23 August 1994), p. 3.

¹⁰⁵⁶⁷ D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 43.

¹⁰⁵⁶⁸ Momir Bulatović, T. 34543–34546, 34549–34550 (1 March 2013); P6161 (Excerpt from notes of FRY's SDC 8th session, 12 March 1993), e-court pp. 1–2; P6162 (Excerpt from notes of FRY's SDC 14th session, 11 October 1993), e-court. p. 3.

¹⁰⁵⁶⁹ P1487 (Ratko Mladić's notebook, 4 September 1994–29 January 1995), pp. 16–17, 21.

¹⁰⁵⁷⁰ P1487 (Ratko Mladić's notebook, 4 September 1994–29 January 1995), pp. 23–24.

¹⁰⁵⁷¹ P1487 (Ratko Mladić's notebook, 4 September 1994–29 January 1995), p. 26.

¹⁰⁵⁷² P6163 (Excerpt from notes of FRY's SDC 28th session, 2 November 1994), p. 7; Momir Bulatović, T. 34552–34553 (1 March 2013).

¹⁰⁵⁷³ P6163 (Excerpt from notes of FRY's SDC 28th session, 2 November 1994), p. 25.

¹⁰⁵⁷⁴ P6163 (Excerpt from notes of FRY's SDC 28th session, 2 November 1994), pp. 25–26.

they replied that it was better to be forced than to accept.¹⁰⁵⁷⁵ Milošević noted that the Bosnian Serb political leadership would “sacrifice many lives in order to preserve their vanity and to prove that they are not the ones who accepted the peace plan because a half of BiH is too little for them”.¹⁰⁵⁷⁶ He spoke about the Bosnian Serbs wanting to take even more territory by force even while they already controlled half of BiH and described this as “complete madness”.¹⁰⁵⁷⁷

3295. Milošević tried to reason with the Bosnian Serbs saying that he understood their concerns, but that it was most important to end the war and that they would achieve any objectives denied them by the plan when peace talks resumed.¹⁰⁵⁷⁸ When the RS did not accept this plan, Milošević imposed a blockade on the Drina River and suspended political and economic relations with the Bosnian Serb leadership; Milošević even wanted to remove the leaders from Pale and have them replaced by exerting influence on the deputies and the Bosnian Assembly.¹⁰⁵⁷⁹

3296. By May 1995, it appeared to international representatives that the split between Slobodan Milošević and the Accused was complete.¹⁰⁵⁸⁰ At a 3 May 1995 meeting with Milošević, Milinović, Akashi, Banbury, and Kirudja, among others, Milošević stated: “I have good personal relations with Mladić. However, as long as Karadžić and Krajišnik are there, they will not accept a peaceful solution.”¹⁰⁵⁸¹ Kirudja observed that Slobodan Milošević still exerted influence over officials in the RS and RSK, including Mladić.¹⁰⁵⁸² This influence appeared to vary over time, but Kirudja was under the impression that Milošević considered Mladić to be loyal to him even after

¹⁰⁵⁷⁵ P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), p. 26.

¹⁰⁵⁷⁶ P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), p. 26.

¹⁰⁵⁷⁷ P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), pp. 33–34. *See also* P3049 (Record of 31st session of FRY’s SDC, 18 January 1995), e-court pp. 1–2. Milošević also acknowledged that Koljević was in favour of signing a peace plan, but the Accused and Krajišnik did not ask for his opinion. P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), p. 41.

¹⁰⁵⁷⁸ D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 66.

¹⁰⁵⁷⁹ D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 66; Vladislav Jovanović, T. 34273–34276 (26 February 2013) (further characterising the relationship between the Accused and Milošević as a “marriage out of necessity” given their opposing political and ideological views, and it moved from a cordial relationship to a point where Milošević imposed a blockade against the Bosnian Serbs); D3027 (Report re humanitarian activity, 17 August 1994) (under seal), p. 1.

¹⁰⁵⁸⁰ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 144–147. *See also* P2567 (Note from FRY’s SDC 42nd session, 23 August 1995), p. 2 (during which Milošević expressed his reticence to meet with the Accused due to the Accused and his team having demonstrated fickleness and disloyalty; Milošević also showed Mladić a confidential letter from the Accused which showed the Accused’s intention to “blame Serbia and the FRY for any debacle ensuing from the disastrous policies of the RS leadership”).

¹⁰⁵⁸¹ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 145. The Chamber notes that from the context of the conversation, Milošević is referring to the Bosnian Serbs when he said “they”.

¹⁰⁵⁸² P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 133, 147. In his role as Delegate of the Special Representative of the Secretary General to the FRY from August 1994 to June 1995, Kirudja dealt with all matters involving UNPROFOR’s relations with the FRY that were not military in nature. P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 2, 131.

the relations between Belgrade and Pale deteriorated.¹⁰⁵⁸³ Milošević also criticised Martić, and Kirudja noted that the Accused and Martić were aligned at the time.¹⁰⁵⁸⁴ According to Kirudja, Milošević seemed to be “playing his usual game of switching his support for RSK leaders as the situation best suited his aims at the moment” and that Milošević’s control over RSK or RS officials seemed to vary with time, depending on events in the region.¹⁰⁵⁸⁵ When Martić aligned himself with the Accused, both Martić and the Accused fell out of favour with Milošević.¹⁰⁵⁸⁶

3297. In November 1995, Slobodan Milošević addressed the Supreme Defence Council of the FRY, spoke about the leadership in Pale being the biggest obstacle to solving the problems in BiH, and criticised them for rejecting plans for the territorial division of BiH.¹⁰⁵⁸⁷ Milošević told the Bosnian Serb leadership that they were not entitled to have more than half the territory in BiH, stating that

there is no way that more than that could belong to us! Because, we represent one third of the population. [...] We are not entitled to in excess of half of the territory – you must not snatch away something that belongs to someone else! [...] How can you imagine two thirds of the population being crammed into 30% of the territory, while 50% is too little for you?! Is it humane, is it fair?!

(F) Mićo Stanišić

3298. Mićo Stanišić was a member of the Preparatory Committee that established the SDS.¹⁰⁵⁸⁹ He was also a member of the Council of Ministers and the SNB.¹⁰⁵⁹⁰ On 24 March 1992, Mićo Stanišić was appointed Minister of the MUP.¹⁰⁵⁹¹ Stanišić served in this position until the end of December 1992 when he was relieved of his duties by the Bosnian Serb leadership, specifically at

¹⁰⁵⁸³ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 147. *See also* P2567 (Note from FRY’s SDC 42nd session, 23 August 1995), p. 2.

¹⁰⁵⁸⁴ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 146, 148 (stating further that in February 1995, he referenced the fact that Milošević would influence Martić over what was going on in the Bihac pocket, but not the Accused). *See* P3868 (UNPROFOR report, 16 February 1995), p. 4.

¹⁰⁵⁸⁵ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 146–147.

¹⁰⁵⁸⁶ P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 147 (stating further that based on comments made by Milošević, it appeared that Mladić remained loyal to him even when Milošević closed the border between the FRY and BiH).

¹⁰⁵⁸⁷ P2604 (Minutes of 47th session of SDC, 28 November 1995), pp. 6–7.

¹⁰⁵⁸⁸ P2604 (Minutes of 47th session of SDC, 28 November 1995), p. 9. *See also* P6163 (Excerpt from notes of FRY’s SDC 28th session, 2 November 1994), p. 32.

¹⁰⁵⁸⁹ P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), p. 57.

¹⁰⁵⁹⁰ P3111 (Minutes of the 2nd meeting of the Ministerial Council of SerBiH Assembly, 17 January 1992), p. 1; Mićo Stanišić, T. 46341 (3 February 2014); P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 1.

¹⁰⁵⁹¹ Mićo Stanišić, T. 46327, 46353 (3 February 2014), T. 46440 (4 February 2014); P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), p. 7. *See also* Adjudicated Fact 2146; para. 3158.

the request of Plavšić and Koljević.¹⁰⁵⁹² Stanišić went to Belgrade until he was appointed by the Accused again as Minister of the Bosnian Serb MUP during an interim six month period between January and July 1994.¹⁰⁵⁹³

3299. Mićo Stanišić was considered to be in the top leadership of the RS and had a very close relationship with the Accused, as well as his support.¹⁰⁵⁹⁴ According to Branko Đerić, Mićo Stanišić and Mandić were the “President’s men” and Stanišić took orders directly from the Accused.¹⁰⁵⁹⁵ Stanišić also reported to the Accused.¹⁰⁵⁹⁶

3300. The Chamber refers to Section IV.A.3.a.ii.C regarding the split in the MUP and the creation of a Bosnian Serb MUP and Mićo Stanišić’s involvement therein.¹⁰⁵⁹⁷ It recalls that the ultimate split in the MUP structures was precipitated by a decision by the Bosnian Serb leadership which formed part of their decision to create a separate Bosnian Serb state with parallel structures. Mićo Stanišić was involved in the decision making and promulgation of this idea from as early as February 1992, where he spoke of the need to work towards organising a Bosnian Serb MUP starting at the municipal and regional levels and moving towards a Serb ministry.¹⁰⁵⁹⁸ The Chamber also found that the creation of a separate Bosnian Serb MUP was a means of undermining the proposed independence of BiH. Finally, the Chamber found that the directives with respect to the division of the MUP structures and the creation of the Bosnian Serb MUP were communicated to and implemented at a municipal level and were a crucial step in the take-over of the

¹⁰⁵⁹² Mićo Stanišić, T. 46327, 46353 (3 February 2014); T. 46437–46438 (4 February 2014); P1383 (Transcript of 36th session of RS Assembly, 30–31 December 1993), pp. 51, 59; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9267–9270 (testifying that Krajišnik informed Mandić and Stanišić of the decision from the Bosnian Serb leadership, specifically at the request of Plavšić and Koljević, to send them to Belgrade and terminate their positions). See Branko Đerić, T. 27947–27948, 27983 (24 April 2012) (testifying, however, that the Accused did not accept to have Mićo Stanišić and Mandić removed from their positions).

¹⁰⁵⁹³ Mićo Stanišić, T. 46327, 46353 (3 February 2014); T. 46437–46439 (4 February 2014) (testifying that in the interim period he was in Belgrade, he did not work, but the Accused issued a decision appointing Stanišić as a “republican advisor” in order to protect Stanišić from being mobilised into the army during this time); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9267–9270.

¹⁰⁵⁹⁴ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 14, 20–22 (stating that with regard to Mićo Stanišić and Mandić, they kept visiting the Accused and failed to attend government’s sessions as they felt that “the government could be pushed aside” and “thought of themselves as belonging to the top leadership”); P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 12. See P5646 (Intercept of conversation between Radovan Karadžić and Mićo Stanišić, 21 June 1992); P6624 (Intercept of conversation between Mićo Stanišić and Radovan Karadžić, 12 June 1991). See also P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 47.

¹⁰⁵⁹⁵ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 21–22. See paras. 2932, 3161.

¹⁰⁵⁹⁶ See paras. 3164–3167.

¹⁰⁵⁹⁷ For example, as early as September 1991, Mićo Stanišić was informed that the Bosnian Serbs wanted to split the police structures in Vogošća given the disputes they were facing, but Stanišić said that “it needs some more time. One should act with his head cool”. P2219 (Intercept of conversation between Jovan Tintor and Mićo Stanišić, 12 September 1991), pp. 2–5.

¹⁰⁵⁹⁸ See para. 2973. See also D4271 (Video footage of Mićo Stanišić’s speech, 30 March 1992, with transcript).

Municipalities, as it created a structure which would allow Bosnian Serb authority to be maintained through a separate police structure.¹⁰⁵⁹⁹

3301. Furthermore, the Chamber recalls that Mićo Stanišić also ordered that CSB heads were allowed to take-over the employees from the former MUP and assign jobs within the CSBs and SJBs, however, they had to inform the Minister of the Interior of all such decisions.¹⁰⁶⁰⁰ Furthermore, all heads of CSB were required to obtain prior approval from the MUP before assigning posts at the higher levels, such as the head of the SJBs.¹⁰⁶⁰¹ In addition, on 15 May 1992, Stanišić issued an order formalising the co-operation of the Bosnian Serb MUP and VRS, such that MUP personnel would be organised into war units and re-subordinated to the VRS during their participation in combat activities.¹⁰⁶⁰²

3302. In April 1992, Davidović was sent with others from Belgrade to help set up the Bosnian Serb MUP and to establish a special purpose unit under the direction of Mićo Stanišić.¹⁰⁶⁰³ Those who went to assist the Bosnian Serb MUP were to act with Bosnian Serb MUP IDs in order to conceal their identity and the fact that the FRY was assisting in the war.¹⁰⁶⁰⁴ On arrival in Pale, Davidović reported to and then met with Mićo Stanišić and Mandić.¹⁰⁶⁰⁵ Also, surplus weapons from the Federal SUP were sent to the Bosnian Serb MUP and were controlled by Mićo Stanišić and Momčilo Mandić.¹⁰⁶⁰⁶ These weapons were transported from Belgrade to Pale in JNA helicopters in around April 1992 and consisted of uniforms, flak jackets, and automatic weapons.¹⁰⁶⁰⁷

¹⁰⁵⁹⁹ See paras. 2990–2991.

¹⁰⁶⁰⁰ See para. 2986.

¹⁰⁶⁰¹ See para. 2986.

¹⁰⁶⁰² See paras. 230, 3160.

¹⁰⁶⁰³ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 43; P2893 (Intercept of conversation between Pero Mihajlović and an unidentified person, 6 May 1992), p. 2.

¹⁰⁶⁰⁴ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 43–44, 46.

¹⁰⁶⁰⁵ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 45–46. See also P2221 (Intercept of conversation between Mićo Stanišić and Mićo Davidović, 17 May 1992). The Chamber recalls that Davidović was later tasked to lead a special unit of the Federal SUP to address problems with paramilitaries in northeastern BiH and arrived in Bijeljina on 27 June 1992; while Davidović's unit came from the Federal SUP in Belgrade it was re-subordinated to the command of the Bosnian Serb MUP. See paras. 634, 3204.

¹⁰⁶⁰⁶ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 39.

¹⁰⁶⁰⁷ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 39–40; Milorad Davidović, T. 15447 (24 June 2011). See also P2876 (Receipt of weapons issued to Brčko TO, 13 May 1992); P2877 (Authorisation from Brčko garrison); P2902 (JNA's travel log for vehicles, 8–31 May 1992). But see D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 18, 67. The Chamber notes that Subotić's evidence was marked by evasiveness and bias which undermined his credibility. The Chamber therefore does not rely on his evidence that no arms came from outside to arm the Bosnian Serbs and that he was not aware of any organised arming in the first year of the war. The Chamber does find, however, that the Accused proposed that Subotić be promoted for his organisation of the arming and training of Bosnian Serbs in RS for their "defence and survival" particularly in relation to attacks from Croatia. D3704 (Radovan Karadžić's clarification

3303. In Bijeljina, the Chief of the Bijeljina SJB reported to Mićo Stanišić on the situation in the municipality, and an almost daily reporting system was operating between the Bijeljina CSB and the Bosnian Serb MUP.¹⁰⁶⁰⁸ The Chamber recalls that Mićo Stanišić informed Milorad Davidović that Arkan's forces were in Zvornik and Bijeljina and "helping to liberate territory [that] they believed should become part of [the RS]".¹⁰⁶⁰⁹ In addition, Mićo Stanišić was informed that Arkan's men had taken over the Bijeljina SUP, and Stanišić commented that he knew, that nothing else could be done, and that's "how it ha[d] to be".¹⁰⁶¹⁰ In April or May 1992, after Arkan entered Bijeljina, the Accused met with Krajišnik, Mićo Stanišić, Frenki Simatović, Arkan, Pero Mihajlović, and Davidović in Belgrade to discuss "further activities" of the SDB.¹⁰⁶¹¹

3304. At the end of May 1992, Bosnian Serb leaders from Zvornik informed Mićo Stanišić and Mandić about the situation in the municipality, including the actions of the paramilitaries.¹⁰⁶¹² Mićo Stanišić was also informed in May 1992 about the situation in Ilidža, and in particular, that they had received reinforcements which included "Arkanovci and Šešeljevci" to which Stanišić responded: "Good".¹⁰⁶¹³ In June 1992, the Accused received a report on the combat situation in Ilidža from Mićo Stanišić and the Accused instructed him "don't hurry, just proceed according to your plan".¹⁰⁶¹⁴

3305. In an interview in October 1992, Mićo Stanišić stressed that the Bosnian Serb MUP assisted the VRS in combat operations, yet at the beginning of the conflict, the "burden of defence was borne by the police" and due to its organisation and dedication, "we established most of our borders, exactly like what they look like today".¹⁰⁶¹⁵ Finally, during an Assembly meeting in November 1992, Stanišić affirmed his allegiance to the Accused and the SDS stating that he had always followed the policies of the SDS Presidency and he would not allow himself to be separated from them.¹⁰⁶¹⁶

of promotion proposal, undated); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 22–24.

¹⁰⁶⁰⁸ See paras. 606, 3165.

¹⁰⁶⁰⁹ See paras. 616, 1251.

¹⁰⁶¹⁰ See para. 616.

¹⁰⁶¹¹ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66.

¹⁰⁶¹² See para. 1284. By the end of July 1992, pursuant to instructions by Stanišić, Davidović planned an operation to arrest the paramilitary groups in Zvornik and Foča in co-operation with Andan and special units of the MUP. See paras. 866, 1290–1291.

¹⁰⁶¹³ P2229 (Intercept of conversation between Mićo Stanišić and Nedjelko Žukić, 15 May 1992), pp. 1–2.

¹⁰⁶¹⁴ P5646 (Intercept of conversation between Radovan Karadžić and Mićo Stanišić, 21 June 1992), pp. 2–3.

¹⁰⁶¹⁵ D4274 (Article from Javnost, entitled "A Legal State is Being Established", 3 October 1992), p. 3.

¹⁰⁶¹⁶ P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), p. 15. See also Mićo Stanišić, T. 46369–46370, 46403 (3 February 2014).

(G) Momčilo Mandić

3306. Momčilo Mandić was the Deputy Minister of the Bosnian Serb MUP between 1991 and May 1992, and was then appointed the first RS Minister of Justice from May to November 1992.¹⁰⁶¹⁷ Mandić left his position and went to Belgrade in November 1992 due to a conflict with Plavšić and Koljević.¹⁰⁶¹⁸

3307. All decisions relating to staffing policies at the Bosnian Serb MUP required Mandić's approval and he consulted with the Accused and regional leaders in selecting candidates.¹⁰⁶¹⁹ Mandić worked with the support and approval of the Accused.¹⁰⁶²⁰

3308. The Chamber refers to Section IV.A.3.a.ii.C regarding the split in the MUP and creation of a Bosnian Serb MUP and Mandić's involvement therein.¹⁰⁶²¹ The Chamber found that Mandić took a leading role in ensuring that this division was carried out at a municipal level and in detailing how the new Bosnian Serb MUP was to be structured.¹⁰⁶²²

3309. Through the Ministry of Justice, Mandić was given the responsibility for the exchange of detainees through the Central Commission for the Exchange of Prisoners of War and Arrested Persons established by the Bosnian Serb Government on 8 May 1992.¹⁰⁶²³ Mandić was directly involved in organising the exchange of detainees.¹⁰⁶²⁴

¹⁰⁶¹⁷ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8603, 8605; Momčilo Mandić, T. 4427–4428, (30 June 2010), T. 4545 (5 July 2010); P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 4; P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 3.

¹⁰⁶¹⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8609–8610, 9267–9270 (testifying that Krajišnik informed Mandić and Stanišić of the decision from the Bosnian Serb leadership, specifically at the request of Plavšić and Koljević, to send them to Belgrade and terminate their positions). See Branko Đeric, T. 27947–27948 (24 April 2012). See also Milorad Dodik, T. 36909–36910 (9 April 2013); D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 30 (stating that he noticed animosity between Biljana Plavšić and Nikola Koljević on one side and ministers Mandić and Stanišić on the other).

¹⁰⁶¹⁹ P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), pp. 1, 4; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8614, 8648.

¹⁰⁶²⁰ Branko Đeric, T. 27947–27950 (24 April 2012); P4982 (Witness Statement of Branko Đeric dated 5 April 2012), para. 22. See also Radomir Nešković T. 14340 (7 June 2011).

¹⁰⁶²¹ The Chamber also recalls that Mandić and the Accused discussed the preparations for the creation of a separate Bosnian Serb MUP early on. See para. 2971 (referring to P5806 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 3 December 1991), p. 2).

¹⁰⁶²² See paras. 2990.

¹⁰⁶²³ See paras. 124–128. In June 1992, Mandić spoke to Krajišnik about criticism they had received about prisoner exchanges, and the fact that they were holding 400 prisoners at Kula Prison. P1101 (Intercept of conversation between Momčilo Krajišnik and Momčilo Mandić, 26 June 1992), pp. 2–3; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8886. See also P1129 (Letter from BIH Commission for Exchange of POWs to Central Commission for Exchange of Persons, undated).

¹⁰⁶²⁴ See paras. 2111, 2160, 2417. In August 1992, Mandić and a Serb journalist visited Planjo's House in Vogošća, and were asked by one of the detainees about possible exchanges; Mandić replied that there was no need for any

3310. Mandić was advised about Bosnian Muslims being driven out of Ilidža in May 1992 and he further informed Prstojević that he was aware that Prstojević was issuing ultimatums to Bosnian Muslims and evicting them from settlements.¹⁰⁶²⁵ In a conversation with Prstojević in June 1992, Mandić said:

It has come to our attention and that of the Government that you are issuing ultimatums to some Turks; evicting people from certain settlements and people respond badly to it [...] Well please do not do anything like it, consult with Đerić first and those people up there, because this is very bad publicity for us [...] You have to be a little bit more flexible there and not touch those Muslims who are willing to listen and who are loyal. We cannot ethnically cleanse Ilidža or any other place. At least that is the attitude of the Government and political leadership and all.¹⁰⁶²⁶

Mandić continues and says that they should “place two or three Muslims somewhere” so that they could say that they were employing everyone who was loyal to the Serb state, regardless of nationality.¹⁰⁶²⁷ The Chamber finds that it is clear from this conversation that what was important to the Bosnian Serb authorities was maintaining a certain appearance regarding what was said in public, rather than the protection of the non-Serbs.

3311. Mandić was also aware that the Crisis Staffs used detainees for forced labour, including digging trenches and fortifying barracks on the frontlines.¹⁰⁶²⁸ He was involved in providing detainees from Kula Prison and Planjo’s House to perform forced labour in Ilidža and Vogošća.¹⁰⁶²⁹

(H) Jovica Stanišić

3312. Jovica Stanišić was the head of the SDB, which was part of the Serbian MUP.¹⁰⁶³⁰

3313. Stanišić and the Accused were in regular contact and discussed and co-ordinated a number of issues including political and military developments in BiH and Croatia.¹⁰⁶³¹ There was also co-

exchanges as the detainees were at their “homes”. See para. 2417. See also P1128 (Intercept of conversation between Momčilo Mandić and Nenad Vanovac, 23 June 1992).

¹⁰⁶²⁵ See para. 2159.

¹⁰⁶²⁶ P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 June 1992), pp. 3–4.

¹⁰⁶²⁷ P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), p. 4.

¹⁰⁶²⁸ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8768–8769, 8983–8985, 9107–9108 (testifying further that although Prime Minister Đerić insisted that prisoners of war not be used for physical labour, detainees were expected to perform labour and pursuant to the law on the military the army and the police had the right to request detainees to dig trenches or other similar types of work to defend facilities). See also P1143 (Intercept of conversation between Momčilo Mandić and Radivoje Grković, 3 July 1992).

¹⁰⁶²⁹ See paras. 2149, 2427.

¹⁰⁶³⁰ KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23620 (under seal); P34 (Structure of Serbian SDB and Zvornik/Bijeljina MUP) (under seal); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9082. Jovica Stanišić was opposed to the multi-ethnic character of the Federal SUP and was of the view that its role could be handled by the Serbian MUP. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 38. The Chamber recalls that Davidović was tasked to lead a special unit of the Federal SUP and while Davidović’s unit came from the Federal SUP in Belgrade it was re-subordinated to the command in RS MUP. See paras. 634, 3204.

ordination pertaining to the involvement of the JNA¹⁰⁶³² and recruiting volunteers.¹⁰⁶³³ Stanišić also liaised between the Accused and Slobodan Milošević.¹⁰⁶³⁴

3314. In May 1991, the Accused met with Jovica Stanišić and others including Franko Simatović at the Accused's apartment in Sarajevo, where among other issues they discussed maps of BiH.¹⁰⁶³⁵ The Accused and Jovica Stanišić were also involved in creating an account which could be used for "fictitious payments" relating to weapons and ammunition which had been procured in FRY for the RS and which evaded the embargo.¹⁰⁶³⁶ Stanišić told the Accused in November 1991 that he hoped to have a chance to work with him.¹⁰⁶³⁷ On 4 December 1991, Jovica Stanišić asked the Accused when he should send "men", to which the Accused responded, "[a]s soon as possible".¹⁰⁶³⁸

3315. Jovica Stanišić invited Arkan to visit the Serbian MUP and Arkan called Stanišić directly occasionally.¹⁰⁶³⁹ Jovica Stanišić attended meetings with the Accused, Slobodan Milošević, and others throughout the conflict to discuss providing assistance from Serbia to the Bosnian Serbs, including in the form of personnel, such as units of the Red Berets and Arkan's men.¹⁰⁶⁴⁰ According to Davidović, the Pale authorities, which included the Accused, Krajišnik, Mićo Stanišić, and Mladić, consulted the authorities in Belgrade—Slobodan Milošević, Jovica Stanišić,

¹⁰⁶³¹ P2223 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 8 September 1991), pp. 1–3; P5801 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 4 December 1991), pp. 1–5; P5788 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 21 December 1991), pp. 1–3; P5781 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 29 December 1991); P5771 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 7 January 1992); P5768 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 12 January 1992); D301 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 22 January 1992), pp. 2–9, 11–13; P5622 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 25 January 1992), pp. 2–3 (wherein the Accused informed Stanišić about their opposition to the independence of BiH). At times, Jovica Stanišić and the Accused spoke in code. D301 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 22 January 1992), p. 5. See also P6305 (Photograph of Milan Martić, Radovan Karadžić, Momčilo Krajišnik, Jovica Stanišić, Franko Simatović, and others).

¹⁰⁶³² P5771 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 7 January 1992), pp. 2–3.

¹⁰⁶³³ P5801 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 4 December 1991), p. 5.

¹⁰⁶³⁴ See, e.g., P5872 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 20 December 1991); P5772 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 5 January 1992); P5773 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 5 January 1992), pp. 2–3.

¹⁰⁶³⁵ Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13082–13084; Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3407–3409.

¹⁰⁶³⁶ Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13083–13085.

¹⁰⁶³⁷ P5614 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 29 November 1991), p. 2.

¹⁰⁶³⁸ P5801 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 4 December 1991), pp. 3–4.

¹⁰⁶³⁹ KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23651–23652 (under seal).

¹⁰⁶⁴⁰ P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), pp. 53–61. See para. 3287. See also P1485 (Ratko Mladić's notebook, 9 January–21 March 1994), pp. 165–179 (wherein Mladić provided details about another meeting on 15 March 1994 in Belgrade attended by Jovica Stanišić, Martić, Mladić, and the Accused).

and later Perišić—“about everything”; this was “common knowledge as they did not have enough resources of their own”.¹⁰⁶⁴¹

3316. Stanišić spoke about the possibility of an all-out war and that they would “exterminate them completely”.¹⁰⁶⁴² In 1994, Stanišić told RSK MUP officials that he supported the objective to “fight to achieve the common goals of all the Serbian lands”.¹⁰⁶⁴³

3317. The authorities in Serbia were also involved in establishing multiple training camps for Bosnian Serbs including special police units of the RS and a camp run by Captain Dragan.¹⁰⁶⁴⁴ The Accused supported the work of these training camps.¹⁰⁶⁴⁵

(I) Franko Simatović

3318. Franko Simatović, also known as “Frenki”, served under Jovica Stanišić in the SDB, as part of the Serbian MUP.¹⁰⁶⁴⁶ The Chamber recalls that units such as the Red Berets and Arkan’s men were directly subordinated to the Serbian MUP and to Franko Simatović.¹⁰⁶⁴⁷

3319. In a conversation on 28 January 1992 with the Accused regarding plans to meet, Simatović told the Accused: “You’re the main man there doctor, and that’s how it stays”.¹⁰⁶⁴⁸ As stated above, Simatović also attended the meeting in April or May 1992 with the Accused, Mićo Stanišić, Arkan, and others to discuss “further activities” of the SDB.¹⁰⁶⁴⁹

¹⁰⁶⁴¹ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 72 (stating further that he often saw Mićo Stanišić at the Federal SUP and Serbian MUP buildings).

¹⁰⁶⁴² D301 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 22 January 1992), p. 4.

¹⁰⁶⁴³ P6307 (Letter from RDB to RSK MUP, 5 July 1994), p. 1.

¹⁰⁶⁴⁴ P2852 (Video clips depicting award ceremonies), p. 3; [REDACTED]; P4262 (Request of Municipal Assembly Executive Board of Banja Luka, 19 August 1994); P3384 (Report of Eastern Bosnia Corps, 7 June 1992), p. 1; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 97–103; Milan Martić, T. 38149–38152 (13 May 2013); P6317 (Letter from Captain Dragan to Serbia TO command, 8 November 1991); Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13119, 13121–13122; Milorad Davidović, T. 15513–15514 (28 June 2011).

¹⁰⁶⁴⁵ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 270; P3384 (Report of Eastern Bosnia Corps, 7 June 1992), p. 1.

¹⁰⁶⁴⁶ P34 (Structure of Serbian SDB and Zvornik/Bijeljina MUP) (under seal); Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13118; Milorad Davidović, T. 15824 (1 July 2011). *See also* P6305 (Photograph of Milan Martić, Radovan Karadžić, Momčilo Krajišnik, Jovica Stanišić, Franko Simatović, and others).

¹⁰⁶⁴⁷ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 80, 112. *See also* para. 830, 3287.

¹⁰⁶⁴⁸ P5759 (Intercepts of conversations between (i) Radovan Karadžić and “Braco” and (ii) Radovan Karadžić and “Frenki” Simatović, 28 January 1992), pp. 4–8. In the summer of 1992, after Davidović arrested members of the Red Berets, Frenki Simatović phoned Davidović twice, cursed him, and asked how he had the right to act in that way. *See* para. 830.

¹⁰⁶⁴⁹ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66.

3320. Simatović was also responsible for monitoring the training of Serb Forces, including units trained in camps run by Captain Dragan.¹⁰⁶⁵⁰

(J) Željko Ražnatović (Arkan)

3321. Željko Ražnatović, also known as Arkan, was the commander of a Serbian paramilitary group named after him.¹⁰⁶⁵¹

3322. Arkan's men were involved in operations in Bijeljina, Bratunac, Brčko, Rogatica, Sokolac, Vlasenica, Zvornik, Iliđa, and Pale in spring of 1992.¹⁰⁶⁵² Arkan himself was personally involved in the take-over operations in Bijeljina and Zvornik.¹⁰⁶⁵³ Arkan also trained members of the Mauzer's Panthers who operated in Bijeljina, Zvornik, and Brčko.¹⁰⁶⁵⁴

3323. The Chamber recalls that after successfully taking over Bijeljina on 4 April 1992, Arkan was welcomed there and "treated like a god"; some of his men were given official positions and based themselves in the local SDS building.¹⁰⁶⁵⁵ The Chamber recalls that Plavšić was in communication with Arkan beginning in April 1992.¹⁰⁶⁵⁶ She congratulated Arkan for saving the Bosnian Serbs in Bijeljina and was filmed kissing and hugging him.¹⁰⁶⁵⁷

3324. Arkan's men were also involved in killings of Bosnian Muslim civilians in Bijeljina and Zvornik in April 1992.¹⁰⁶⁵⁸ Arkan's men and Mauzer's Panthers were also involved in mistreating Bosnian Muslims in Bijeljina, Bratunac, Rogatica, Vlasenica, Zvornik, and Hadžići, including in detention centres; these units also looted property of Bosnian Muslims and were involved in expelling Bosnian Muslims from Bijeljina and Zvornik after the take-overs in those municipalities.¹⁰⁶⁵⁹

¹⁰⁶⁵⁰ Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13118–13125; P5614 (Intercept of conversation between Radovan Karadžić and Jovica Stanišić, 29 November 1991), p. 2; [REDACTED]. See also P6388 (Excerpt from video of interview with Vojislav Šešelj for "Death of Yugoslavia" documentary, with transcript), pp. 2–4.

¹⁰⁶⁵¹ See para. 232.

¹⁰⁶⁵² See paras. 232, 611–616, 714, 724, 768–769, 798, 969, 986–987, 1049, 1155, 1242–1246, 1249, 1251, 1255, 1260, 2301, 3182–3183.

¹⁰⁶⁵³ See paras. 611–616, 1245–1246.

¹⁰⁶⁵⁴ See paras. 233, 608, 611–612.

¹⁰⁶⁵⁵ See para. 614.

¹⁰⁶⁵⁶ See para. 3260; see also Momcilo Mandić, T. 4664 (6 July 2010).

¹⁰⁶⁵⁷ See para. 3260.

¹⁰⁶⁵⁸ See Scheduled Incidents A.1.1, A.16.1.

¹⁰⁶⁵⁹ See paras. 631–632, 672, 768–769, 771, 986–987, 1155, 1245–1247, 1317–1319, 1361, 1365, 2104, 2112.

3325. Arkan attended meetings and had direct contact with the Accused.¹⁰⁶⁶⁰ As noted above, Arkan wrote to the Accused in 1994 to inform him that his men supported the Accused's "heroic resistance" against NATO and that "[a]s always we, with all our available forces, stand to protect Serbian people" and that they were expecting the Accused's call to join the VRS to "protect Serbian nationality and Orthodoxy".¹⁰⁶⁶¹ In the autumn of 1995, at an event in Bijeljina, Arkan repeated his commitment to the Accused to return to defend the "Serbian territory and our Orthodox religion" if called by the Accused.¹⁰⁶⁶² On this occasion, the Accused awarded Arkan a certificate to congratulate him and thank him and his unit for their efforts in defending the Bosnian Serbs.¹⁰⁶⁶³

(K) Vojislav Šešelj

3326. Šešelj was the leader of the SRS and of the "Serbian Chetnik Movement".¹⁰⁶⁶⁴ In May 1991, Šešelj praised the Accused as "the true leader of the Serbian people" in BiH, stating further that he enjoyed their "undivided trust" and that the SRS supported the policies of the SDS.¹⁰⁶⁶⁵ Šešelj stated that BiH was fundamentally Serbian and that either Muslim fundamentalists should leave or the Muslims should accept this and become loyal citizens of Serbia.¹⁰⁶⁶⁶ Also in May 1991, the Accused in an interview spoke of Šešelj and his "political force" but said that they differed in terms of the choice of method.¹⁰⁶⁶⁷

3327. Šešelj met with the Accused and the Bosnian Serb leadership on several occasions during the war in BiH.¹⁰⁶⁶⁸ In May 1992, Šešelj spoke about contacting the Accused with respect to the

¹⁰⁶⁶⁰ See paras. 3187–3188. (referring to P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 55; Milorad Davidović, T. 15465 (24 June 2011).

¹⁰⁶⁶¹ P2854 (Letter from Party for Serbian Unity to Radovan Karadžić, 16 April 1994); Milorad Davidović, T. 15477 (28 June 2011). See also para. 3228.

¹⁰⁶⁶² See para. 3228.

¹⁰⁶⁶³ See para. 3228 (referring to P2858 (Video footage of Radovan Karadžić and Arkan at award ceremony in Bijeljina, with transcript). After this, Arkan left RS and went to Serbia. D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 10.

¹⁰⁶⁶⁴ P6390 (Article from Der Spiegel entitled "Šešelj: Serbian Policy Must Not Be Defined in Washington", 8 August 1991), p. 1; D3666 (TANJUG news report, 15 May 1993); Vojislav Šešelj, T. 39543–39545 (7 June 2013); P6389 (Vojislav Šešelj's interview with Pogledi, 31 May 1991), pp. 1–2.

¹⁰⁶⁶⁵ P6387 (Vojislav Šešelj's interview with ON newspaper, 24 May 1991), pp. 1–2. See also Vojislav Šešelj, T. 39543–39544 (7 June 2013); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 37; D3667 (Transcript of Vojislav Šešelj's press conference, 26 March 1992), p. 1.

¹⁰⁶⁶⁶ P6387 (Vojislav Šešelj's interview with ON newspaper, 24 May 1991), p. 6–7, 9 (wherein Šešelj further stated that Serbs, with their genetic coding, were born to be soldiers and were always ready to go to war and that they had fully achieved their objectives that they were trying to establish SRS boards in every Serbian municipality and consolidate the party).

¹⁰⁶⁶⁷ D1281 (Articles from Večernje Novine entitled "Karadžić shocked me" and "Šešelj is amiable", 9 May 1991), p. 2.

¹⁰⁶⁶⁸ D3666 (TANJUG news report, 15 May 1993); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 36–37.

withdrawal and deployment of his men.¹⁰⁶⁶⁹ Šešelj sent large groups of SRS volunteer fighters from Serbia to assist in Serb operations in Croatia and BiH.¹⁰⁶⁷⁰ Šešelj acknowledged that his men were in BiH and were in all areas for the “protection of the Serbian people” and the defence of their borders.¹⁰⁶⁷¹ Slobodan Milošević approved of the SRS’s action in sending volunteers.¹⁰⁶⁷²

3328. Šešelj’s men were involved in operations in Bratunac, Zvornik, Hadžići, Novo Sarajevo Vogošća, Brčko, and Rogatica in April and May 1992.¹⁰⁶⁷³ Furthermore, Šešelj made public statements about the participation of SRS volunteers in the take-over of Bijeljina and specifically the significant contribution of Mirko Blagojević as the commander of the SRS units to the “liberation” of Bijeljina.¹⁰⁶⁷⁴ In May 1993, Šešelj proclaimed Mirko Blagojević a “Vojvoda” in recognition of his participation in operations in municipalities including Bijeljina.¹⁰⁶⁷⁵

3329. The SRS and Šešelj advocated the idea of a homogeneous Greater Serbia which involved the unification of all Serb lands and the removal of the non-Serb population.¹⁰⁶⁷⁶ In March 1992, Šešelj spoke about the prospect of great bloodshed in BiH and called upon the Bosnian Serbs to preserve all their ethnic areas.¹⁰⁶⁷⁷ In a speech, Šešelj said that the “Muslims and Croats do not represent a threat for us for a long time already. Only, brothers and sisters Serbs, there should not be hesitating, waiting [...] the next time they strike, we should finish them off, so they never strike back”.¹⁰⁶⁷⁸ Šešelj also spoke about BiH being undoubtedly Serbian, and that if “any Muslim

¹⁰⁶⁶⁹ P2228 (Intercept of conversation between Vojislav Šešelj and Branislav Gavrilović, April 1992); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 58–59.

¹⁰⁶⁷⁰ P6388 (Excerpt from video of interview with Vojislav Šešelj for “Death of Yugoslavia” documentary, with transcript), pp. 2–4; Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3394–3395; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 24, 29–30, 50, 55–59.

¹⁰⁶⁷¹ P6389 (Vojislav Šešelj’s interview with Pogledi, 31 May 1991), p. 1.

¹⁰⁶⁷² Vojislav Šešelj, T. 39571 (10 June 2013).

¹⁰⁶⁷³ See paras. 3191–3192.

¹⁰⁶⁷⁴ D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March 1992), p. 12; P3033 (Reynaud Theunens’s expert report entitled “Radovan Karadžić and the SRBiH TO-VRS (1992-1995)”), e-court pp. 379–380.

¹⁰⁶⁷⁵ D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 49; P3033 (Reynaud Theunens’s expert report entitled “Radovan Karadžić and the SRBiH TO-VRS (1992-1995)”), e-court pp. 381–382.

¹⁰⁶⁷⁶ Milan Babić, P742 (Transcript from *Prosecutor v. Krajišnik*), T. 3393–3394. See also D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 15–16; Vojislav Šešelj, T. 39554–39555 (10 June 2013); P2527 (Video footage of speeches of Vojislav Šešelj and Radovan Karadžić, 6 May 1991, with transcript), p. 1; P6391 (Excerpts from Vojislav Šešelj’s speech); P6389 (Vojislav Šešelj’s interview with Pogledi, 31 May 1991), p. 7; P6390 (Article from *Der Spiegel* entitled “Šešelj: Serbian Policy Must Not Be Defined in Washington”, 8 August 1991), p. 1. Šešelj also stated the SRS advocated brotherhood and unity of “Orthodox Serbs, Catholic Serbs, Muslim Serbs, Protestant Serbs and atheist Serbs” and complete respect for the rights of national minorities: D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 15–16, 31–35, 39, 41; D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March–16 April 1992), p. 20; Vojislav Šešelj, T. 39600–39605 (10 June 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber considered that Šešelj had a clear self-interest in testifying in this regard and his evidence was marked by political statements which undermined his credibility in this regard.

¹⁰⁶⁷⁷ D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March 1992), p. 1.

¹⁰⁶⁷⁸ P6393 (Video clip of interview with Vojislav Šešelj). See also Vojislav Šešelj, T. 39589 (10 June 2013).

fundamentalists do not like that, they will have to pack their suitcases and leave”.¹⁰⁶⁷⁹

3330. In May 1992, Šešelj spoke about the “traditional enemies” of the Serbs and the need for them to be united to prevent a “new genocide against the Serbian people” and of the revenge Serbs would take against Muslims if they repeated history again.¹⁰⁶⁸⁰ Šešelj, on behalf of the SRS, also expressed his support for the formation of the SerBiH and his view that the Bosnian Serb authorities should demarcate Serb territory, proclaim its own TO and police in territories under its control, and simultaneously “liberate” those areas which were not under Serb control.¹⁰⁶⁸¹

v. Accused’s knowledge of crimes and measures he took to prevent and punish them

(A) Knowledge of crimes committed throughout the Municipalities

3331. The Prosecution argues that from the beginning of the conflict in 1992, the Accused was notified of crimes committed against non-Serbs in the Municipalities by Serb Forces.¹⁰⁶⁸² The Accused acknowledges that he received information from the VRS, the MUP, and municipal bodies but argues that the information rarely referred to illegal activities at the local level, and when it did, the Bosnian Serb leadership reacted immediately.¹⁰⁶⁸³

3332. At the outset, the Chamber notes that the Accused received information about occurrences in the Municipalities from a number of sources. As President of the RS, he received reports and attended Bosnian Serb Assembly sessions where representatives would report on the situation in their municipalities.¹⁰⁶⁸⁴ He also met regularly with municipal representatives and obtained reports in this manner.¹⁰⁶⁸⁵ His close associates also regularly visited the field and communicated with municipal leaders.¹⁰⁶⁸⁶ Furthermore, the Bosnian Serb leadership followed international coverage of the events in BiH during the conflict.¹⁰⁶⁸⁷ Finally, the Chamber notes that from the beginning of the conflict in 1992, the Accused was informed by international representatives, such as Okun,

¹⁰⁶⁷⁹ P6387 (Vojislav Šešelj’s interview with ON newspaper, 24 May 1991), p. 6; Vojislav Šešelj, T. 39546–39548 (7 June 2013).

¹⁰⁶⁸⁰ See para. 2657.

¹⁰⁶⁸¹ See para. 2798.

¹⁰⁶⁸² Prosecution Final Brief, para. 512.

¹⁰⁶⁸³ Defence Final Brief, paras. 555, 641.

¹⁰⁶⁸⁴ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 86; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 125–126.

¹⁰⁶⁸⁵ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 246 (notes from a meeting on 30 June 1992 between Mladić, the Accused, and municipal representatives from Srebrenica, Bratunac, Vlasenica, and Zvornik). See also paras. 3246–3247.

¹⁰⁶⁸⁶ See paras. 3246–3248, 3260, 3262, 3269, 3303–3304, 3310.

¹⁰⁶⁸⁷ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9126; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6825–6826 (closed session).

Mazowiecki, and UNPROFOR officials of the forcible displacement of non-Serb civilians¹⁰⁶⁸⁸ and that the issue of “ethnic cleansing” was also often raised with the Accused in media interviews.¹⁰⁶⁸⁹ The Chamber will assess below the evidence pertaining to the information that the Accused received about specific municipalities.

3333. In relation to Bijeljina, when at least 45 non-Serb civilians were killed by Serb Forces on 1 and 2 April 1992 the Accused was informed of the event.¹⁰⁶⁹⁰ On 4 April 1992, members of the BiH presidency and high ranking army officials assessed the situation in Bijeljina municipality,¹⁰⁶⁹¹ and the Accused made a public announcement referring to the “regrettable” incidents in Bijeljina but blamed the BiH Presidency for instigating chaos by calling for mobilisation.¹⁰⁶⁹²

3334. At a meeting of the Bosnian Serb Presidency on 23 June 1992, the Accused expressed his view that Mauzer and Blagojević’s paramilitary units, which were active in Bijeljina, were very extreme, and that all units should be placed under a single command of the army or the police.¹⁰⁶⁹³ Meanwhile, at a Bosnian Serb Assembly session in late June 1992, the Accused said that the Bosnian Muslims who continued to live in Bijeljina, forming 20% of the population, were not considered “second class citizens” and that the government officials were actually trying to persuade them that they had nothing to fear.¹⁰⁶⁹⁴ The Chamber recalls that in fact during the summer of 1992, Serb Forces instilled fear in the Bosnian Muslims who remained in Bijeljina and that Bosnian Muslims were forcibly expelled from Bijeljina by members of the Bijeljina Crisis Staff, SDS, Mauzer’s unit, special police units, and Vojkan Đurković, while others were sent to Batković camp.¹⁰⁶⁹⁵

3335. The Accused was later informed by the Bijeljina SJB on 29 July 1992 about the criminal behaviour of paramilitary groups during and after the take-over of Bijeljina, which resulted in rapes, thefts, robberies, killings, and the displacement of Bosnian Muslim and Serb civilians.¹⁰⁶⁹⁶ Živan Filipović, former chief of the Bijeljina Municipal TO Staff, testified that the Accused and Mladić attempted to “shake off these paramilitary formations which only caused damage, both to

¹⁰⁶⁸⁸ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4191; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6830–6832, 6834–6835 (closed session).

¹⁰⁶⁸⁹ Jeremy Bowen, T. 10095–10096 (13 January 2011).

¹⁰⁶⁹⁰ D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 18. See Scheduled Incident A.1.1.

¹⁰⁶⁹¹ D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 32.

¹⁰⁶⁹² D394 (Announcement of SNB, 4 April 1992); D392 (Conclusions of SRBiH Presidency, 4 April 1992).

¹⁰⁶⁹³ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 219–220; Milorad Davidović, T. 15770–15773 (30 June 2011). See also P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992).

¹⁰⁶⁹⁴ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 21.

¹⁰⁶⁹⁵ See paras. 671–673.

¹⁰⁶⁹⁶ P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2. See also paras. 610–638.

the people and the army and the political sphere”.¹⁰⁶⁹⁷ After the Accused complained to the Prime Minister of the FRY that Serbian paramilitaries were out of control, Davidović was sent to Bijeljina in early July 1992 to investigate the situation.¹⁰⁶⁹⁸ Moreover, on 2 September 1992 the Accused was among the attendees who participated in a meeting with military and political officials in Bijeljina.¹⁰⁶⁹⁹ The Accused acknowledged that the chief of the party, the MUP and the president of the municipality had been involved in crime “here and there”.¹⁰⁷⁰⁰

3336. In relation to Zvornik, Colm Doyle passed on information to the Accused that he received from Martin Bell of the BBC that on 10 April 1992, 25,000 people were leaving the municipality.¹⁰⁷⁰¹ The Accused “seemed to be a little bit alarmed” and then advised Doyle that he did not trust or believe the BBC.¹⁰⁷⁰² At a mid-April 1992 meeting with international humanitarian organisations and members of the SDS and JNA, the Accused placed the blame for events in Zvornik on irregular paramilitaries who he claimed were not under the control of the SDS.¹⁰⁷⁰³ At a meeting held on 30 June 1992 between representatives of the Zvornik municipality, the Accused, Mladić and other officials,¹⁰⁷⁰⁴ Branko Grujić, a representative of the Interim Government of Zvornik, stated that “[w]e have successfully implemented the President’s decision to settle Divič and Kozluk with our children.”¹⁰⁷⁰⁵ Marko Pavlović said that they were active in moving out Muslims, and had also moved people for the sake of their “heroes” who had fled from Kovačevići.¹⁰⁷⁰⁶ The Chamber recalls that in fact, most of the inhabitants of Divič and Kozluk

¹⁰⁶⁹⁷ Živan Filipović, T. 35818 (21 March 2013).

¹⁰⁶⁹⁸ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 73–75. *See also* paras. 634–638.

¹⁰⁶⁹⁹ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 131–132.

¹⁰⁷⁰⁰ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 155.

¹⁰⁷⁰¹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25275. *See also* Martin Bell, T. 9787 (14 December 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 25 (testifying that he informed Doyle of the events in Zvornik and suggested it be brought to the attention of the Accused). In this regard, the Chamber recalls that following the attack on Zvornik by the Bosnian Serb Forces on 8 April 1992, approximately 10,000 people, the majority of whom were Bosnian Muslim, left Zvornik. *See* paras. 1250, 1360.

¹⁰⁷⁰² Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25275. The Chamber received additional evidence that the Accused received information about the displacement of civilians from Zvornik. On 8 April 2010, [REDACTED].

¹⁰⁷⁰³ [REDACTED].

¹⁰⁷⁰⁴ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 246; D3654 (Witness statement of KW317 dated 26 September 2012), para. 69 (under seal). *See also* Marinko Vasić, T. 39954 (13 June 2013).

¹⁰⁷⁰⁵ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 243, 249–250.

¹⁰⁷⁰⁶ P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 249–251, 253–254; Petko Panić, T. 19138–19139 (19 September 2011). *See also* Milenko Stanić, T. 34033–34034 (19 February 2013) (testifying that he could not recall the issues discussed at this meeting pertaining to Zvornik which were presented by Marko Pavlović). Branko Grujić testified that the note in Mladić’s notebook is incorrect as he never uttered the words attributed to him and he insisted that it was a local decision to remove the Bosnian Muslims and the Accused did not allow forcible transfer. Branko Grujić, T. 40418–40420 (25 June 2013). The Chamber recalls that that Grujić’s evidence was marked by multiple contradictions, evasiveness, and bias. *See* paras. 4237, 4239, 4255, 4270, 4279, 4283, 4308, 4357, 4441, 4572. In light of this, the Chamber does not believe his denial as to the content of Mladić’s notes. The Chamber further notes that Grujić testified that the BCS word “*iseljavanje*” in Exhibit P1478 was incorrectly translated as “evicting” when it means “moving out at their request”. Branko Grujić, T.

were Bosnian Muslims and that after they were relocated, Bosnian Serbs who had fled their homes in other areas settled there.¹⁰⁷⁰⁷

3337. On 5 July 1992, the Accused stated that he had ordered an immediate investigation into the displacement of Bosnian Muslim civilians from Zvornik and had been told that the Bosnian Muslim inhabitants of Kozluk had requested approval to move to third-countries because they felt like hostages.¹⁰⁷⁰⁸ He further advised that the Zvornik authorities possessed written evidence that they left of their own free will and added that they could return anytime they wanted.¹⁰⁷⁰⁹ The Chamber considers that the implication that the Accused learned that Bosnian Muslims were removed from Zvornik with the assistance of the Interim Government of Zvornik in order to settle Bosnian Serbs who had fled from elsewhere indicates that the Accused was aware of the forcible nature of the movement. This is corroborated by the fact that the Accused was informed that the Bosnian Muslims who fled Kozluk had felt like hostages. The Accused was later made aware of further efforts to remove Bosnian-Muslim civilians held in the collection centre in Divič in September 1992.¹⁰⁷¹⁰ On 21 January 1993, the Accused commented that the number of inhabitants in Zvornik remained the same but it changed from being 50% non-Serb to completely Serb, with more than 24,000 Serbs from Zenica and Central Bosnia having arrived.¹⁰⁷¹¹ On 10 April 1993, the Accused attended a celebration marking “the day of the liberation of Zvornik”.¹⁰⁷¹²

3338. The Chamber also received evidence that the Accused knew that Nedeljko Prstojević, President of the Ilidža Crisis Staff, was involved in “ethnic cleansing” in Ilidža. In June 1992, after being relieved of his military command responsibilities due to his involvement in expelling Bosnian Muslims from Ilidža, Prstojević managed to return to Ilidža and continue this practice after he met with the Accused in Pale.¹⁰⁷¹³ Furthermore, on 2 July 1992, in an intercepted telephone conversation, Mandić confronted Prstojević about his involvement in forcing Bosnian Muslims out of Ilidža and advised him that the information about this had “already reached the top”.¹⁰⁷¹⁴ In

40421 (25 June 2013), Branko Grujić, T. 40458 (26 June 2013). The Chamber accepts the clarification made by Grujić but considers that in the context of the notes of the meeting, the meaning is effectively the same as “evicting”.

¹⁰⁷⁰⁷ Petko Panić, T. 19136–19137 (19 September 2011), T. 19151–19152 (20 September 2011). *See also* paras. 1261, 1267, 1269.

¹⁰⁷⁰⁸ P2937 (Radovan Karadžić letter, 5 July 1992) (under seal), p. 1.

¹⁰⁷⁰⁹ P2937 (Radovan Karadžić letter, 5 July 1992) (under seal), p. 1.

¹⁰⁷¹⁰ P5402 (Telegram from Neimar to Kapija 333, 13 September 1992). *See also* P5403 (Telegram from Neimar to Kapija 333, 10 September 1992).

¹⁰⁷¹¹ *See* para. 2760. *See also* paras. 2772, 3068.

¹⁰⁷¹² P5167 (Report of Zvornik Brigade, 10 April 1993), p. 2.

¹⁰⁷¹³ *See* para. 2132, [REDACTED].

¹⁰⁷¹⁴ P1110 (Intercept of conversation between Momčilo Mandić and Nedeljko Prstojević, 2 July 1992), p. 4. *See* para. 2159.

addition, at a July 1992 Bosnian Serb Assembly session, in the Accused's presence, Prstojević boasted about Iliđža's achievements in extending Bosnian Serb territory and driving Bosnian Muslims out of "territories where they had actually been [a] majority".¹⁰⁷¹⁵

3339. On 6 June 1992, the Bosnian Serb leadership, including the Accused, attended a briefing about Bratunac in which it was indicated that there were no Bosnian Muslims remaining in Bratunac and that it was a "fully liberated town".¹⁰⁷¹⁶ On 30 June 1992, the Accused was further informed by Ljubislav Simić, President of Bratunac, that from a situation where the Bosnian Muslims were the majority before the conflict, only two remained in the municipality.¹⁰⁷¹⁷ Simić also reported on looting by the army.¹⁰⁷¹⁸

3340. On 23 June 1992, the Accused was informed of events in Bosanski Novi regarding the 9,000 Bosnian Muslims who left after being subjected to intimidation and a policy of harassment and discrimination at the hands of the Bosnian Serbs.¹⁰⁷¹⁹

3341. The Accused, in July 1992, acknowledged that there had been a number of "traitors" who had committed inhumane acts and that they would be tried and punished by law, but suggested that the most severe acts were rare and that there were more frequent examples of unlawful acquisition of property.¹⁰⁷²⁰ The Accused characterised this as a consequence of the "inter-ethnic and religious war" and that some individuals were involved in taking the property of both Muslims and Serbs.¹⁰⁷²¹ The Accused stated that these crimes occurred without the knowledge of regular soldiers and affected their morale.¹⁰⁷²²

3342. On 17 July 1992, the Bosnian Serb MUP wrote a report to the Accused and the Prime Minister.¹⁰⁷²³ It stated that almost all paramilitaries lacked a unified command and engaged in looting, which posed a major threat to public peace and order.¹⁰⁷²⁴ The report also stated that the

¹⁰⁷¹⁵ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 66.

¹⁰⁷¹⁶ P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 93–94, 101.

¹⁰⁷¹⁷ P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 246, 258. The Chamber notes that Ljubislav Simić testified that he said there were only two Muslims remaining in Bratunac ironically to highlight the problems being caused by paramilitaries. Ljubislav Simić, T. 37303–37304 (16 April 2013). The Chamber views Simić's evidence in this regard with caution given the problems with his credibility identified earlier in this Judgement at footnote 2268 and that he had an interest in distancing himself from such a statement.

¹⁰⁷¹⁸ P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 259.

¹⁰⁷¹⁹ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6786–6789, 6834 (under seal).

¹⁰⁷²⁰ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 17.

¹⁰⁷²¹ D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 17. See also D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 14; P809 (Video footage of Radovan Karadžić's Press Conference at ICFY, 18 September 1992), p. 1.

¹⁰⁷²² D92 (Transcript of 17th session of SerBiH Assembly, 24–26 July 1992), p. 17.

¹⁰⁷²³ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992).

¹⁰⁷²⁴ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 2.

army, Crisis Staffs, and War Presidencies had requested that the army round up as many Bosnian Muslim civilians as possible.¹⁰⁷²⁵ The Accused had already received information in May and June 1992 that Serb Forces were engaged in looting and that there were problems with robberies “of even Serbian people”.¹⁰⁷²⁶

3343. On 19 July 1992, the Accused wrote, *inter alia*, to the Novo Sarajevo, Pale, Ilidža, Hadžići, Rajlovac, and Sokolac municipalities, requesting that they, in co-operation with the SJBs, make an inventory of all housing facilities which were left vacant following the “voluntary departure” of the Bosnian Muslim population and that pursuant to a Presidency decision those facilities would be given for the temporary use of Bosnian Serbs from Sarajevo.¹⁰⁷²⁷

3344. The Accused was informed on 28 July 1992 that paramilitary groups frequently followed VRS units into inhabited areas in order to loot after combat was completed in those areas.¹⁰⁷²⁸

3345. On 16 August 1992, Doyle mentioned to the Accused that he was familiar with the practice of non-Serbs being forced to leave their homes and that some of these people were forced to pay money for permission to leave. The Accused agreed that this was not legal and should not happen.¹⁰⁷²⁹

3346. On 22 August 1992, the Accused was informed by a report from the Banja Luka MUP and from international organisations of the incident at Korićanske Stijene in which approximately 200 non-Serb men were killed by Serb Forces and thrown down a ravine at Mount Vlašić on 21 August 1992.¹⁰⁷³⁰ The Accused was angry because he had already received calls from international

¹⁰⁷²⁵ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 3; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8944; Momčilo Mandić, T. 5166–5167 (14 July 2010).

¹⁰⁷²⁶ D414 (Minutes of 19th session of Government of SerBiH, 2 June 1992), p. 1; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 54; Milorad Davidović, T. 15612, 15634–15636 (29 June 2011).

¹⁰⁷²⁷ P739 (RS Presidency request to various municipalities, 19 July 1992).

¹⁰⁷²⁸ P1500 (VRS Main Staff Order, 28 July 1992), pp. 1, 3. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9119.

¹⁰⁷²⁹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25307–25308; Colm Doyle, T. 2874–2875 (27 May 2010).

¹⁰⁷³⁰ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 242–246; Bogdan Subotić, T. 40105–40111 (20 June 2013); T. 40173–40175 (21 June 2013). *See also* D4379 (Witness statement of Vladimir Glamočić dated 10 February 2014), paras. 14–15; P3768 (Witness statement of Milan Komljenović dated 28 October 2011), para. 5 (stating that Glamočić admitted to him years after the incident, that the Accused had called him on the night of the Korićanske Stijene incident to demand answers); P5446 (Report of 1st Krajina Corps, 22 August 1992); D2040 (Special report of the 22nd Light Infantry Brigade, 21 August 1992). *See* Scheduled Incident B.15.6.

organisations about the killings and “he simply couldn’t believe that something like that had indeed happened”.¹⁰⁷³¹

3347. On 25 August 1992, the Accused acknowledged his awareness of the “so called practice of ethnic cleansing” and that “the majority of those displaced are undoubtedly Bosnian Muslims”.¹⁰⁷³² He wrote a letter explaining that he had issued an order that the forced transfer of the civilian population must be prevented and any written statements by refugees that they would not return were considered legally invalid.¹⁰⁷³³ However, he stated that the civilian population must be allowed to move freely out of a war zone if that was their desire under the Geneva Conventions, blaming the failure on the part of the international community to understand the deep-rooted antagonism and hatred between the three ethnicities in BiH, which caused people to leave their communities in droves.¹⁰⁷³⁴

3348. At an international press conference in September 1992, the Accused again acknowledged that there was “ethnic cleansing” in BiH and stated that this was not part of a policy, emphasising that people were leaving the territory out of fear and that if there were examples of expulsion by force this was to be condemned.¹⁰⁷³⁵ At this same press conference when confronted with allegations and reports of atrocities being committed by Bosnian Serbs, the Accused claimed the reports were not honest and did not report on what the Bosnian Muslims and Bosnian Croats were doing. He also questioned whether these acts were part of a policy and stated that in an “inter-ethnic and inter-religious war”, there was no need for a command to kill, given that the three ethnic communities had “been antagonised during centuries”.¹⁰⁷³⁶

3349. At a meeting attended by the Accused and Koljević on 30 September 1992, Lord Owen indicated that there was outrage with respect to a story in the New York Times regarding killings in Brčko in May and June 1992.¹⁰⁷³⁷ The Accused refuted allegations that his forces had massacred 3,000 Muslims at a camp near Brčko and called on the U.S.A. to provide evidence of these accusations.¹⁰⁷³⁸ While the number of persons killed as reported in the New York Times appears

¹⁰⁷³¹ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 246.

¹⁰⁷³² D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

¹⁰⁷³³ See para. 346; D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

¹⁰⁷³⁴ See para. 346; D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

¹⁰⁷³⁵ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), p. 10.

¹⁰⁷³⁶ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), p. 3.

¹⁰⁷³⁷ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4224–4225.

¹⁰⁷³⁸ P3030 (Video of TV Belgrade news re Radovan Karadžić’s statement on events in Brčko, with transcript).

exaggerated, the Chamber has found that a large number of non-Serb men were indeed executed by Serb Forces at the Luka Camp in Brčko between at least 9 May and 16 May 1992.¹⁰⁷³⁹

3350. At a meeting of the Serbian leadership on 8 September 1992 with the Accused and Mladić in attendance, General Simonović stated that “ethnic cleansing” had been done more by paramilitary formations than by the VRS.¹⁰⁷⁴⁰

3351. On 19 October 1992, in reporting to members of the RS Presidency and VRS commanders on the Geneva peace talks, according to Mladić, the Accused stated that there had been a lot of discussion on “ethnic cleansing” and reminded the members that RS authorities must not participate in it.¹⁰⁷⁴¹ He then said: “We find it important to make a distinction between what is done by irresponsible individuals and what is done by the authorities.”¹⁰⁷⁴²

3352. In November 1992, Milojević, an Assembly official, complained at a Bosnian Serb Assembly session attended by the Accused, that a proposed citizenship law could be interpreted to allow “all the Muslims and Croats we expelled” to be citizens of the RS.¹⁰⁷⁴³

3353. On 26 November 1992, Owen and Vance wrote to the Accused, advising him that they had received credible reports about “renewed ethnic cleansing” by Bosnian Serb Forces in the Banja Luka area.¹⁰⁷⁴⁴

3354. At a session of the Bosnian Serb Government held on 21 December 1992, at which the Accused was in attendance, Vladimir Lukić advised that all government bodies should be consistently applying regulations that require the return of illegally obtained property to its original owner.¹⁰⁷⁴⁵

3355. Throughout the ICFY negotiations in Geneva from December 1992 to September 1993, the Bosnian Serbs were confronted with reports of ethnic cleansing committed by the Serbs in BiH.¹⁰⁷⁴⁶ During these negotiations, Lord Owen made very clear allegations about detention centres, military operations conducted against civilian populations, and the physical process of “ethnic cleansing” of areas.¹⁰⁷⁴⁷ Lawrence Eagleburger, former U.S. Secretary of State, around January 1993, spoke in

¹⁰⁷³⁹ See Scheduled Killing Incident B.5.1.

¹⁰⁷⁴⁰ P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 173.

¹⁰⁷⁴¹ P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 48–49.

¹⁰⁷⁴² P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 48–49.

¹⁰⁷⁴³ P1105 (Transcript of 22nd session of RS Assembly, 23–24 November 1992), pp. 60, 78.

¹⁰⁷⁴⁴ P5420 (Fax from UNPROFOR forwarding ICFY letters, 27 November 1992), p. 4.

¹⁰⁷⁴⁵ P3106 (Minutes of the 61st session of RS Government, 21 December 1992), pp. 1, 4.

¹⁰⁷⁴⁶ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 111–113.

¹⁰⁷⁴⁷ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 113–114.

direct terms to all the parties about the nature of their activities and said that they would be held accountable.¹⁰⁷⁴⁸

3356. On 2 April 1993, the Accused was present at the Bosnian Serb Assembly when it was reported that Foča was completely under Bosnian Serb control.¹⁰⁷⁴⁹ At the same session, he acknowledged that “we could not swear that there are no crimes” and that Serbs who committed crimes should be tried. However, the Accused claimed that he had only heard of 18 allegations of rape, but the propaganda had turned this into 18,000 cases of rape.¹⁰⁷⁵⁰ On 10 January 1994, the Accused commented that Bosnian Muslims had planned to build a big Islamic centre in Foča but by then it belonged 100% to the Bosnian Serbs, and that “it will never be theirs again.”¹⁰⁷⁵¹

3357. During a Bosnian Serb Assembly session in May 1993, at which the Accused was present, Vladimir Lukić stated that they had naively “raised paramilitaries” and called them “brotherly assistance” but “they were slowly less and less engaged in fighting and more and more in looting”.¹⁰⁷⁵² Other deputies spoke about the problems they faced in municipalities with respect to disturbances, looting, and stealing where there were paramilitaries.¹⁰⁷⁵³

3358. At a Bosnian Serb Assembly session held in late summer 1993, at which the Accused was present, Mladić said, “we cannot allow leaving the mosques with two minarets there”.¹⁰⁷⁵⁴ Similarly another deputy complained to the Accused that if a proposed peace agreement went through and Bosnian Muslims were granted a right to return to their territory they would have to compensate them for everything that they destroyed and burned, including the 17 mosques which they had “flattened”.¹⁰⁷⁵⁵

3359. In April 1994, Akashi requested the Accused to allow the ICRC to evacuate Bosnian Muslims from Prijedor.¹⁰⁷⁵⁶ In response to Akashi’s request, the Accused stated that the situation in Prijedor was an unfortunate development for the Serbs. While he accepted that the situation could have been predicted—he noted that civilians in the town had, at the beginning of the war,

¹⁰⁷⁴⁸ P1029 (Witness statement of John Wilson dated 4 November 2008), para. 115.

¹⁰⁷⁴⁹ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 25.

¹⁰⁷⁵⁰ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), pp. 107–108.

¹⁰⁷⁵¹ P1385 (Transcript of 37th session of RS Assembly, 10 January 1994), p. 110. *See also* para. 2811.

¹⁰⁷⁵² P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993, e-court pp. 7, 39.

¹⁰⁷⁵³ P1375 (Transcript of 32nd session of RS Assembly, 19–20 May 1993, e-court p. 65.

¹⁰⁷⁵⁴ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 7, 72.

¹⁰⁷⁵⁵ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 25.

¹⁰⁷⁵⁶ D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), p. 3; Yasushi Akashi, T. 37704 (24 April 2013).

slaughtered each other—he maintained that the present situation had been prompted by a Muslim massacre of six Serb policemen from the town.¹⁰⁷⁵⁷ The Accused agreed to the evacuation as suggested.¹⁰⁷⁵⁸

3360. The Accused continued to receive information about crimes—predominantly mass expulsions, as well as mistreatment, including beatings, rapes, robberies, killing and forced labour—being committed against non-Serbs in Bijeljina and other municipalities from 1994.¹⁰⁷⁵⁹

3361. Even into 1995, the Accused was aware of, and involved in, arrangements made with respect to regulating the movement of non-Serbs out of Bosnian Serb territory which was described as being in accordance with the right to freedom of movement.¹⁰⁷⁶⁰

3362. In an interview in July 1995, the Accused stated that Muslims in places like Bijeljina were completely safe but that there “is some intimidation by terrorist elements, by extreme Serbs who have lost everything in central Bosnia. But the authorities protect our citizens, regardless of whether they are Muslims or Croats. Therefore, what is happening is not *ethnic cleansing*, but *ethnic displacement*, people who want to leave.”¹⁰⁷⁶¹

3363. Based on the evidence set forth above, the Chamber finds that the Accused was promptly and well informed of the forced displacement of non-Serb civilians from the Municipalities by Serb Forces from as early as April 1992. He continued to learn of such displacements throughout the conflict. In addition, he learned of other types of criminal activity committed against the non-Serb population by Serb Forces, including killings, rapes, and property related offences, from the beginning of April 1992 onwards.¹⁰⁷⁶²

¹⁰⁷⁵⁷ D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), p. 3.

¹⁰⁷⁵⁸ D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), pp. 3–4.

¹⁰⁷⁵⁹ D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994), p. 3; D3145 (UNPROFOR report, 6 September 1994; UNPROFOR press statement, 5 September 1994), p. 1; P2087 (UNHCR protest letter to Radovan Karadžić, 5 September 1994); D1136 (UNPROFOR report, 9 September 1994), p. 2; P2458 (UNPROFOR Weekly BiH Political Assessment, 11 September 1994), p. 4; Anthony Banbury, T. 13356 (15 March 2011); P5421 (Letter from humanitarian organisation to Radovan Karadžić, 16 September 1993), pp. 1–2 (under seal); P5423 (UNPROFOR report, 20 September 1994), p. 2; D3500 (UNPROFOR report, 7 October 1994), pp. 3–4.

¹⁰⁷⁶⁰ P5214 (Letter from Momčilo Krajišnik to VRS Main Staff, 7 April 1995); P5213 (VRS Main Staff request to Radovan Karadžić, 6 April 1995).

¹⁰⁷⁶¹ P2564 (Radovan Karadžić’s interview in El Pais, 16 July 1995), p. 5 (emphasis in the original).

¹⁰⁷⁶² The Chamber notes that Davidović stated that the Accused must have known that crime was “rife and widespread” and that there was much collusion between those committing the crimes and those in high positions. Milorad Davidović, T. 15735 (30 June 2011). The Chamber considers this evidence to be speculative and will not rely on Davidović’s evidence in this regard.

(B) Knowledge of inadequate conditions and mistreatment of non-Serbs in detention centres

3364. During the conflict, information about occurrences in many detention facilities was forwarded to the Accused, prime minister, and the relevant ministers, namely the Ministers of Defence, Interior, and Justice.¹⁰⁷⁶³

3365. The Accused was present at a 24 April 1992 joint session of the SNB and Bosnian Serb Government, where it was decided that the Ministry of Justice would be responsible for the exchange of detainees.¹⁰⁷⁶⁴ On 8 May 1992, the Government decided to form the “Central Commission for the Exchange of Prisoners-of-War, Arrested Persons and the Bodies of those Killed”.¹⁰⁷⁶⁵ According to Mandić, the impetus for establishing the Commission was to provide “rule of law and legal security” for people detained, many of whom were civilians from conflict areas.¹⁰⁷⁶⁶ The Chamber considers that this evidence demonstrates that the Accused knew early on in the conflict in BiH that civilians were being detained by Serb Forces.

3366. Allegations of large-scale detention of civilians were reported in the international press in May and June 1992 and John Wilson raised these allegations with Plavšić in the presence of the Accused.¹⁰⁷⁶⁷ Plavšić acknowledged the existence of camps but said that they were only for military aged persons who were detained so they would not fight the Serbs and made counter-claims that the Bosnian Presidency was holding prisoners.¹⁰⁷⁶⁸

3367. In June and July 1992, the Bosnian Serb leadership requested several reports on detention camps and prisoners.¹⁰⁷⁶⁹ On 17 July 1992, the Bosnian Serb MUP wrote a report to the Accused and the Prime Minister, indicating, *inter alia*, that the conditions in detention centres were

¹⁰⁷⁶³ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8919, 9111. See paras. 3019–3020.

¹⁰⁷⁶⁴ P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1. See also para. 124.

¹⁰⁷⁶⁵ P1088 (Decision of SerBiH, 8 May 1992), p. 1. At a further meeting of the SNB and Bosnian Serb Government held on 10 May 1992, members of the Central Commission for the Exchange of Prisoners of War and Arrested Persons were appointed. D409 (Minutes of meeting of SNB and SerBiH Government, 10 May 1992), p. 2. See also para. 125.

¹⁰⁷⁶⁶ Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8750. See also para. 127.

¹⁰⁷⁶⁷ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 101–103.

¹⁰⁷⁶⁸ P1029 (Witness statement of John Wilson dated 4 November 2008), para. 102.

¹⁰⁷⁶⁹ P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992), p. 2; P1092 (Minutes of 25th session of Government SerBiH, 10 June 1992), p. 3 (indicating that the Ministry of Justice should make a report on the treatment of civilians and prisoners to be considered by the government and then presented to the Presidency); P3098 (Minutes of the 48th session of SerBiH Government, 28 July 1992), pp. 9–10 (stating that the Ministry of Justice and Administration was due to immediately prepare a Report on the state of detention centres and concentration centres for prisoners). See also D3109 (SerBiH MUP report, 22 August 1992) (reporting on the existence of detention centres in the SAO Herzegovina); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992) (reporting on the inspection of prisons in Trnopolje, Omarska, Keraterm in Prijedor; Manjača near Banja Luka, Krings Hall in Sanski Most, and the primary and secondary school in Bosanski Šamac).

poor.¹⁰⁷⁷⁰ On 22 July 1992, it was reported to the government that there had been occurrences of unlawful treatment of detainees.¹⁰⁷⁷¹

3368. On 25 July 1992, the Accused received a report from the ICRC following a visit to the Manjača camp.¹⁰⁷⁷² The Accused was informed that: (i) the authorities at the camp refused to notify the ICRC about the identity of the detainees; (ii) the ICRC's visit was terminated prematurely when it was observed that two detainees had been subjected to ill treatment during the visit; (iii) the ICRC observed frequent and widespread traces of severe beatings; (iv) the general living conditions including food, hygiene, clothing and accommodation were "absolutely insufficient"; (v) many detainees showed marked weight loss and signs of anaemia.¹⁰⁷⁷³ The Accused was also informed about the medical conditions and concerns with respect to the detainees and that a list of detainees who allegedly died during detention would be submitted to the "Higher Authorities" with a request to open an investigation.¹⁰⁷⁷⁴

3369. Several news articles criticising the detention centres in BiH were released in a British publication, the Guardian, in late July 1992.¹⁰⁷⁷⁵ Also in late July, the Accused appeared on ITN and responded to allegations and reports about Omarska; during the broadcast, he said to the media: "come and see for yourselves".¹⁰⁷⁷⁶ On 30 July 1992, the Accused responded directly to the Guardian in a letter, stating that it was "completely false" that Bosnian Serbs had organised concentration camps or that they were holding civilian prisoners.¹⁰⁷⁷⁷

3370. At the London Conference in August 1992, there was an agreement between the parties on a program of action with respect to humanitarian issues.¹⁰⁷⁷⁸ It included recognition of the "acute problem of the unlawful detention of civilians and the deplorable conditions in which they were held".¹⁰⁷⁷⁹ This agreement recognised that the primary objective should be to secure the release and return of those detained. If this was not possible the agreement provided for other options

¹⁰⁷⁷⁰ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 3.

¹⁰⁷⁷¹ D430 (Minutes of 41st session of Government of SerBiH, 22 July 1992), p. 7.

¹⁰⁷⁷² P3758 (Letter from Radovan Karadžić to Branko Derić, attaching an ICRC report, 7 August 1992), p. 4.

¹⁰⁷⁷³ P3758 (Letter from Radovan Karadžić to Branko Derić, attaching an ICRC report, 7 August 1992), p. 5.

¹⁰⁷⁷⁴ P3758 (Letter from Radovan Karadžić to Branko Derić, attaching an ICRC report, 7 August 1992), pp. 6–7.

¹⁰⁷⁷⁵ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7904.

¹⁰⁷⁷⁶ Edward Vulliamy, P3777 (Transcript from *Prosecutor v. Stakić*), T. 7904, 8095–8096; Edward Vulliamy, T. 21037–21038, 21077–21078 (9 November 2011).

¹⁰⁷⁷⁷ P3778 (Radovan Karadžić's letter published in the Guardian, 30 July 1992).

¹⁰⁷⁷⁸ D1142 (Programme of Action of the London International Conference, 27 August 1992), p. 1.

¹⁰⁷⁷⁹ D1142 (Programme of Action of the London International Conference, 27 August 1992), p. 1.

including “repatriation to areas under the control of their respective ethnic authorities” or relocation.¹⁰⁷⁸⁰

3371. The Chamber found that around 9 August 1992, Karadžić visited Kula prison with representatives of the media and the ICRC, and that the food was better that day and only clean rooms were shown.¹⁰⁷⁸¹ He released ten detainees, some of whom were above the age of 60 and others were ill.¹⁰⁷⁸²

3372. Doyle encountered the Accused in the lobby of a hotel in Brussels on 16 August 1992 when the Times had published a photograph of an emaciated detainee in the Omarska camp. The Accused appeared to be taken aback by the news.¹⁰⁷⁸³

3373. On 17 August 1992, the Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK was issued.¹⁰⁷⁸⁴ It provided a sanitised version of the conditions in the camps, failing to mention the detention of any civilians and noting that most of the camps, especially Manjača, had inadequate premises with insufficient food, beds, and blankets.¹⁰⁷⁸⁵ It also alluded to difficulties with security due to poor co-ordination between the army and the police.¹⁰⁷⁸⁶

3374. As a result of further reports received by the Accused from international representatives, Mandić tasked Avlijaš with drafting a report on the situation in camps from Sarajevo to Prijedor.¹⁰⁷⁸⁷ The report was issued on 22 October 1992 and was sent, *inter alia*, to the RS Presidency.¹⁰⁷⁸⁸ It included information on several detention centres in BiH, including in Vlasenica, Zvornik, Prijedor, Sanski Most, and Banja Luka.¹⁰⁷⁸⁹ It also noted that SJBs in Zvornik, Hadžići, and Iliđa were detaining people without any authorisation in law.¹⁰⁷⁹⁰

¹⁰⁷⁸⁰ D1142 (Programme of Action of the London International Conference, 27 August 1992), p. 1.

¹⁰⁷⁸¹ See para. 2150.

¹⁰⁷⁸² P2840 (Video footage of Radovan Karadžić's visit to Kula prison), e-court p. 1. One of the prisoners was blind in one eye and not able to fight. P2840 (Video footage of Radovan Karadžić's visit to Kula prison), e-court p. 2.

¹⁰⁷⁸³ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25307.

¹⁰⁷⁸⁴ P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992) (reporting, *inter alia*, on the inspection of prisons in Trnopolje, Omarska, Keraterm in Prijedor, Manjača near Banja Luka, and Krings Hall in Sanski Most).

¹⁰⁷⁸⁵ P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), pp. 7–8.

¹⁰⁷⁸⁶ P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), pp. 7–8.

¹⁰⁷⁸⁷ D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 58; P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992).

¹⁰⁷⁸⁸ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), p. 1.

¹⁰⁷⁸⁹ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), pp. 2–6.

¹⁰⁷⁹⁰ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), p. 7.

3375. The Chamber concludes that the Accused became aware of the detention of civilians in April 1992 and inadequate conditions in Bosnian Serb run detention facilities by at least May 1992. It further finds that the Accused sanctioned the forcible removal of civilians who were detained in these facilities either within BiH or to third countries. The Chamber notes the Accused's argument that during the rare visits by the RS authorities to Vlasenica, they were informed that the civilian population was well-treated, citing evidence that detainees at the Sušica camp told international representatives that they had received fine treatment in the camp.¹⁰⁷⁹¹ The Chamber also notes that on or about 21 June 1992, Dragan Nikolić and Goran Tešić entered the Sušica camp and took two detainees out for questioning and beat them to death; a false report was subsequently prepared to suggest that the two detainees died of natural causes.¹⁰⁷⁹² The Chamber accepts the Accused's submission that he and other members of the Bosnian Serb leadership did not learn of every single act of mistreatment of the non-Serb population throughout the Municipalities. However, the evidence establishes that the Accused was overall promptly and well-informed of crimes committed against non-Serbs in the Municipalities as described above.

(C) Misleading statements made by the Accused

3376. The Accused frequently minimised the extent of criminal activity in the Municipalities when speaking to the international media, negotiators, and to the public. Indeed, the Accused admitted to the Bosnian Serb Assembly that it was necessary to be cunning when faced with questions from the media and when dealing with international negotiators.¹⁰⁷⁹³ The Accused claimed that civilians were leaving of their own free will and had signed voluntary declarations that they wanted to leave.¹⁰⁷⁹⁴ The Accused made statements to the international media that the Bosnian Serb authorities did not participate in "ethnic cleansing", they were trying to stop this practice, and that acts of "ethnic cleansing" were being perpetrated by groups or individuals who did not originate from the Bosnian Serb authorities.¹⁰⁷⁹⁵ For example, in a 23 April 1992 media interview, when questioned about the fate of Bosnian Muslims and Bosnian Croats living in Serb areas, the Accused said that there were "very few such people" and that in any event they had

¹⁰⁷⁹¹ Defence Final Brief, confidential, para. 2839 [REDACTED].

¹⁰⁷⁹² See para. 1204, fn. 4146.

¹⁰⁷⁹³ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 276; P1417 (Transcript of 55th session of RS Assembly, 22–23 October 1995), p. 61 (where the Accused complained about media pressure in relation to questions about killings).

¹⁰⁷⁹⁴ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6789–6790 (under seal); KDZ240, T. 15972–15974, 15977 (4 July 2011) (closed session), T. 16057 (5 July 2011) (closed session); P2937 (Letter from Radovan Karadžić, 5 July 1992) (under seal); D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

¹⁰⁷⁹⁵ P5596 (Video footage depicting interview of Radovan Karadžić on CNN, with transcript), p. 1; P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 8.

signed an agreement with the UNHCR to allow the return of people to their homes.¹⁰⁷⁹⁶ However, by that time, the Accused knew that thousands of non-Serb civilians had been expelled from Bosnian Serb controlled territory,¹⁰⁷⁹⁷ and he continued to learn of such expulsions during the conflict.¹⁰⁷⁹⁸

3377. The Accused also shifted blame for the crimes away from Bosnian Serbs. For example, he often stated that: (i) his interlocutors had been misinformed; (ii) their sources were biased; (iii) crimes and terrible things had happened historically and were continuing to happen to Bosnian Serbs as well; (iv) everybody was guilty; (v) he had warned that the declaration of BiH independence would provoke a terrible war; and (vi) the international community was responsible.¹⁰⁷⁹⁹ In addition, Bosnian Serb leaders when confronted with allegations of rape and expulsion of Bosnian Muslims sometimes would also suggest that these abuses had been committed by Bosnian Muslims who were masquerading as Serb soldiers but did not deny that these crimes were happening.¹⁰⁸⁰⁰

3378. Throughout the conflict, the Accused boasted to the Bosnian Serb Assembly about the proper conduct of the Serb Forces, when he knew it was not true. In a television interview on 20 August 1992 regarding the release of detainees from detention centres, the Accused spoke of only releasing prisoners of war who were too ill or weak to go back into battle, after initially offering to close all of the camps.¹⁰⁸⁰¹ He stated that “we don’t have people in prisons that have been removed from their own homes. Those people have been captured in the battle-field”.¹⁰⁸⁰² The Accused claimed in a speech in December 1992 that “there were no civilians in our prisons”, that no institution which inspected their prisons found any civilians or women, and that they had released a large number of detainees.¹⁰⁸⁰³ However, prior to that time, the Accused had been

¹⁰⁷⁹⁶ D1591 (Radovan Karadžić’s interview from *Le Figaro*, 23 April 1992), p. 1.

¹⁰⁷⁹⁷ See paras. 3332, 3336.

¹⁰⁷⁹⁸ See Section IV.A.3.a.v.A: Knowledge of crimes committed throughout the Municipalities.

¹⁰⁷⁹⁹ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6789–6790, 6820, 6826, 6830–6835 (under seal); KDZ240, T. 15972–15974, 15977 (4 July 2011) (closed session); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4191–4192, 4200, 4203, 4252–4253, 4369, 4399; P790 (Seventh notebook of Herbert Okun’s ICFY diary), e-court p. 37; Herbert Okun, T. 1505–1513 (23 April 2010); P811 (Herbert Okun’s note re meeting with Radovan Karadžić, 31 October 1992); P1029 (Witness statement of John Wilson 4 November 2008), paras. 113–115, 122. See also P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 48–49; Anthony Banbury, T. 13337–13339, 13357–13358 (15 March 2011); D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 2; P784 (First notebook of Herbert Okun’s ICFY diary), e-court pp. 46, 53; P785 (Second notebook of Herbert Okun’s ICFY diary), e-court p. 34; P786 (Third notebook of Herbert Okun’s ICFY diary), e-court pp. 39–40; D1137 (Letter from RS, 2 April 1994), p. 2. ¹⁰⁸⁰⁰ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4224.

¹⁰⁸⁰¹ P3695 (Excerpt from video clip of Manjača camp and interview with Radovan Karadžić). See Mevludin Sejmenović, T. 20496–20497 (27 October 2011).

¹⁰⁸⁰² P3695 (Excerpt from video clip of Manjača camp and interview with Radovan Karadžić).

¹⁰⁸⁰³ P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court p. 8; P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 13.

informed by Bosnian Serb government commissioned reports as well as by international representatives and the media that civilians were detained and many detention centres had inadequate or worse conditions.¹⁰⁸⁰⁴ On 8 January 1993, the Accused also stated that “no soldier of ours would be allowed to rape a woman in the presence of another soldier” and described these stories as “terrible lies”.¹⁰⁸⁰⁵

3379. On 2 April 1993, the Accused stated that the UN could present evidence of war crimes, but that it was for the RS to investigate and prosecute matters itself, and that their army could never have committed crime.¹⁰⁸⁰⁶

3380. On 9 January 1994, the Accused went so far as to say to the Bosnian Serb Assembly that “[c]ontrary to the lies and slander of international propaganda-mongers, the Serbian army maintained the knightly character and military honour, worthy of it.”¹⁰⁸⁰⁷

3381. The Chamber finds that the Accused minimised what he knew about criminal activity committed by Serb Forces and misled international interlocutors and the public with respect to that activity in Bosnian Serb claimed territory in the Municipalities.

(D) Prevention of criminal activity

3382. The Prosecution argues that the orders issued by the Accused to address crimes committed against non-Serbs were “simply window dressing designed to disguise [his] role in supporting the very crimes he was purporting to address”.¹⁰⁸⁰⁸ The Accused argues that he made legitimate efforts to prevent the commission of crimes and ensure Bosnian Serb Forces adhered to international humanitarian law.¹⁰⁸⁰⁹

(1) Unlawful detention and inadequate conditions in detention facilities

3383. In relation to the treatment of detainees, on 8 June 1992, the SRNA broadcasted an appeal by the Accused to local authorities and prominent Serbs to, *inter alia*, ensure protection for all wounded and ill individuals irrespective of what side of the conflict they were on and to treat all prisoners humanely.¹⁰⁸¹⁰ On 13 June 1992, the Accused issued an order to the VRS and MUP to

¹⁰⁸⁰⁴ See paras. 3366–3370, 3372–3375.

¹⁰⁸⁰⁵ P921 (Transcript of 24th session of RS Assembly, 8 January 1993), pp. 13–14.

¹⁰⁸⁰⁶ P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 108.

¹⁰⁸⁰⁷ P5525 (Audio Recording and Transcript of the Ceremonial RS National Assembly, 9 January 1994), p. 10; P5492 (Record of speech by Radovan Karadžić, 9 January 1994), p. 9.

¹⁰⁸⁰⁸ Prosecution Final Brief, para. 541.

¹⁰⁸⁰⁹ Defence Final Brief, paras. 642, 741.

¹⁰⁸¹⁰ D426 (Radovan Karadžić’s appeal re ICRC’s plan for humanitarian aid to BiH, 8 June 1992), p. 1.

apply and respect the international law of war and authorised the Minister of Defence to prepare instructions on the treatment of captured prisoners,¹⁰⁸¹¹ which the Minister did.¹⁰⁸¹² In addition, the Chamber found that in June and July 1992, the Bosnian Serb leadership requested several reports on detention facilities and detainees.¹⁰⁸¹³

3384. On 1 July 1992, the Accused asked Mandić to release a Croat who the Accused believed was detained at Kula prison.¹⁰⁸¹⁴ The Chamber finds that this is indicative of the Accused's ability to secure the release of detainees when he felt like it. The Chamber also received evidence that Krajišnik and Mandić also intervened on behalf of detainees with whom they had personal connections.¹⁰⁸¹⁵

3385. The Chamber recalls that around 15 July 1992, a high-ranking delegation of Bosnian Serbs from Banja Luka and Prijedor visited Omarska and were received by Drljača.¹⁰⁸¹⁶ Following the delegation visit, the Accused called Kuprešanin to suggest that he influence the municipal authorities in Prijedor to close the "investigation centres" in the municipality.¹⁰⁸¹⁷ Kuprešanin

¹⁰⁸¹¹ D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992), p. 1; Momčilo Mandić, T. 5081–5082 (14 July 2010). See also D1849 (Radovan Karadžić's Order, 13 June 1992); P1134 (SerBiH Ministry of Defence Instructions on the Treatment of Captured Persons, 13 June 1992).

¹⁰⁸¹² P1134 (Minister of Defence of SerBiH Instructions on the Treatment of Captured Persons, 13 June 1992), p. 1; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 281; Momčilo Mandić, T. 5083 (14 July 2010) (testifying that on the basis of this order Minister Subotić issued instructions on the treatment of captured persons and that those instructions made reference to international regulations, the treatment of those persons, who was in charge of detaining and releasing them and the conditions under which they could be used for work).

¹⁰⁸¹³ P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992), p. 2; P1092 (Minutes of 25th session of Government SerBiH, 10 June 1992) (indicating that the Ministry of Justice should make a report on the treatment of civilians and prisoners to be considered by the government and then presented to the Presidency); P3098 (Minutes of the 48th session of SerBiH Government, 28 July 1992), pp. 9–10 (stating that the Ministry of Justice and Administration was due to immediately prepare a report on the state of detention centres and concentration centres for prisoners). See also D3109 (SerBiH MUP report, 22 August 1992) (reporting on the existence of detention centres in the SAO Herzegovina); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992) (reporting on the inspection of prisons in Trnopolje, Omarska, Keraterm in Prijedor; Manjača near Banja Luka, Krings Hall in Sanski Most, and the primary and secondary school in Bosanski Šamac).

¹⁰⁸¹⁴ P1102 (Intercept of conversation between Radovan Karadžić and Momčilo Mandić, 1 July 1992), pp. 2–3; Momčilo Mandić, T. 4606–4607 (5 July 2010).

¹⁰⁸¹⁵ P1101 (Intercept of conversation between Momčilo Krajišnik and Momčilo Mandić, 26 June 1992), p. 2; Momčilo Mandić, T. 4598–4603 (5 July 2010); P5651 (Intercept of conversation between (i) Momčilo Mandić and Petko Budiša; and (ii) Momčilo Mandić and Tomislav Kovač, 27 July 1992), p. 2.

¹⁰⁸¹⁶ See para. 1782.

¹⁰⁸¹⁷ See para. 1783; D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 46; Vojislav Kuprešanin, T. 43530, 43543–43545 (14 November 2013). See also P6510 (Excerpt of Vojo Kuprešanin's interview with OTP), e-court p. 11.

subsequently asked the authorities of Omarska and Keraterm to close the facilities and to improve the living conditions for the detainees until their disbandment.¹⁰⁸¹⁸

3386. Vulliamy visited Omarska on 5 August 1992.¹⁰⁸¹⁹ He was told later by survivors from Omarska that the detainees who appeared to be in “better condition” were brought out to the tarmac area between the hangar and the canteen where the journalists would see them during their visit.¹⁰⁸²⁰ The Chamber recalls that the authorities at detention facilities such as Omarska, Trnopolje and Manjača transferred the majority of their detainees to other locations during this time period and further cleaned up the facilities.¹⁰⁸²¹ Furthermore, soon after the Accused agreed to open up the camps to international visitors, Keraterm was closed, with the detainees being moved to Trnopolje or Manjača by 5 August 1992.¹⁰⁸²²

3387. On 6 August 1992 at a session of the RS Presidency, attended by the Accused, the treatment of detainees held in Serb controlled territory was discussed. It was concluded that the MUP would be ordered to examine the behaviour of all civilian authorities and individuals guarding detainees and report back to the MUP and the Presidency.¹⁰⁸²³ At this meeting it was stressed that international conventions on the treatment of prisoners of war should be followed to ensure the humane treatment of prisoners of war given that “they are in prisons and not concentration camps”.¹⁰⁸²⁴ The decision was relayed to SJB Chiefs in a number of municipalities who were

¹⁰⁸¹⁸ See para. 1783; D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 46; Vojislav Kuprešanin, T. 43543–43545 (14 November 2013). See also P6510 (Excerpt of Vojo Kuprešanin's interview with OTP), e-court p. 11.

¹⁰⁸¹⁹ Edward Vulliamy, T. 21079–21080 (9 November 2011).

¹⁰⁸²⁰ Edward Vulliamy, T. 21088 (9 November 2011). The Chamber recalls that the day after the international journalists visited Omarska, Sejmenović was taken out of Omarska by Kuprešanin. Kuprešanin had been instructed by the Accused to get Sejmenović a suit and allow him time to recuperate, and then he was planning round-table discussions for Sejmenović to speak publicly about the situation in Bosnian Krajina. See para. 1787.

¹⁰⁸²¹ See paras. 1409, 1789, 1851. See also P731 (Video footage from Kula, Omarska, Trnopolje, and Manjača, with transcript) (wherein Christiane Amanpour, reporting on Manjača, stated that “even though Karadžić authorised our visit to this camp, journalists were allowed less than half an hour to assess the situation”); Idriz Merdžanić, T. 21396–21397 (16 November 2011).

¹⁰⁸²² Idriz Merdžanić, T. 21395–21396 (16 November 2011); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; P6585 (SRNA press release, 22 August 1992); P5555 (Report of Prijedor SJB, 29 September 1992), p. 4. See also para. 1804. See also D4725 (Report from Slobodan Avlijaš to RS Ministry of Legislation and Administration, 31 August 1992). The Chamber notes that Idriz Merdžanić, a Bosnian Muslim doctor who was detained at Trnopolje from 26 May until 30 September 1992, testified that after the Accused promised at the London Conference to allow journalists to visit detention centres, he ordered to have the camps “prepared” for the journalists’ visits and suggested that the killing incident in Room 3 at Keraterm on or about 24 and 25 July 1992 occurred as a result of this. Idriz Merdžanić, T. 21394–21396 (16 November 2011). See Scheduled Incident B.15.1. The Chamber considers Merdžanić’s evidence to be speculative as he was not in a position to know about specific orders issued by the Accused. Therefore, the Chamber will not rely on his evidence in this regard.

¹⁰⁸²³ D465 (Minutes of 24th session of SerBiH Presidency, 6 August 1992), p. 2; P1603 (Decision of SerBiH Presidency, 6 August 1992); D97 (Conclusions of RS Presidency re prisoners of war, 6 August 1992); Momčilo Mandić, T. 5236–5238 (15 July 2010); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 54.

¹⁰⁸²⁴ D465 (Minutes of 24th session of SerBiH Presidency, 6 August 1992), p. 2.

obliged to provide reports in accordance with the RS Presidency decision by 20 August 1992.¹⁰⁸²⁵ The SJB Chiefs were also informed about the RS Presidency order to release all civilians and to allow them freedom of movement.¹⁰⁸²⁶

3388. On 7 August 1992, the Accused wrote to Branko Đerić about reports they had received regarding detention facilities, including Manjača, and stated the ICRC and Mladić had been informed.¹⁰⁸²⁷ The Accused also noted his expectation that the government would, on the basis of these reports, “take immediate measures for the improvement of the living conditions in the jails that are operated by civilian authorities on our territory”.¹⁰⁸²⁸ The Accused wrote to the ICRC with respect to these reports, and gave his re-assurance that the ICRC would be enabled to work without disturbance in RS and that he accepted “the majority of [their] remarks and recommendations for improvement of living conditions on these locations”.¹⁰⁸²⁹ The Accused also accepted the ICRC suggestion to release all persons older than 60 years of age from detention and stated that they were ready to speed up the exchange of prisoners through a system of exchange commissions.¹⁰⁸³⁰

3389. On 8 August 1992, at a session of the RS Presidency, it was concluded, *inter alia*, that: (i) visits by representatives of the ICRC to all prisons must be arranged; (ii) all detainees above the age of 60 or seriously ill or wounded should be released; and (iii) amnesty should be declared for persons who have committed minor offences or were misled into committing such offences.¹⁰⁸³¹

3390. On the same day, in a letter to, among others, the Accused, Tomislav Kovač, then Deputy Minister for Police Affairs and Tasks, identified the problems of detention of non-Serbs and proposed “that the status of these people be legally changed in compliance with international conventions on refugees, prisoners of war”, given the failure to properly categorise civilians, prisoners of war and those who had committed criminal acts.¹⁰⁸³² On 9 August 1992, the

¹⁰⁸²⁵ D3795 (Romanija-Birač CSB request to SJBs, 9 August 1992).

¹⁰⁸²⁶ D3795 (Romanija-Birač CSB request to SJBs, 9 August 1992).

¹⁰⁸²⁷ D100 (Letter from Radovan Karadžić to Branko Đerić, 7 August 1992); Herbert Okun, T. 1753–1754 (28 April 2010). See also P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 39; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 200, 219–221, 225. The Chamber does not find Subotić’s evidence that the only places of detention were under local authority and that he was not informed about the detention of civilians to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 9869 and more specifically that his evidence with respect to this issue was marked by evasiveness and contradictions and attempts to distance himself from the detention of civilians.

¹⁰⁸²⁸ D100 (Letter from Radovan Karadžić to Branko Đerić, 7 August 1992).

¹⁰⁸²⁹ P3758 (Letter from Radovan Karadžić to Branko Đerić, attaching an ICRC report, 7 August 1992), e-court pp. 2–3.

¹⁰⁸³⁰ P3758 (Letter from Radovan Karadžić to Branko Đerić attaching an ICRC report, 7 August 1992), e-court p. 3.

¹⁰⁸³¹ P3071 (Minutes of the 25th session of RS Presidency, 8 August 1992), p. 1.

¹⁰⁸³² P1100 (Letter from SerBiH MUP to Radovan Karadžić and Branko Đerić, 8 August 1992), p. 1; D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 84; Slobodan Avlijaš, T. 35170–35171 (11 March 2013).

government responded to the letter immediately and established the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, which released its report on 17 August 1992.¹⁰⁸³³ The Commission was tasked with determining the status of persons detained in prisons in the RS “in accordance with international conventions, and to speed up the procedure of categorising such persons”, inspecting those facilities and submitting a report to the government of the Republika Srpska.¹⁰⁸³⁴ Slobodan Avlijaš and Goran Šarić, as representatives of the Commission, visited Bileća, Trebinje, and Gacko and submitted a report to the Bosnian Serb government on 22 August 1992.¹⁰⁸³⁵

3391. According to the minutes of the 30th session of the RS Presidency held on 6 September 1992, the Accused accepted a proposal from the Military Prosecutor’s Office attached to the command of the 1st Krajina Corp to pardon some detainees held at Manjača camp.¹⁰⁸³⁶ The proposal stated that the detainees were suspected of having committed crimes and asked that they be exempted from further prosecution; however the minutes do not indicate the reason for the request.¹⁰⁸³⁷

3392. On 8 September 1992, the Accused sent a strictly confidential telegram to the presidents of all municipalities in RS instructing them to ensure “respect of international humanitarian law with regard to the treatment of prisoners of war” and that civilians who had not committed crimes should “not be kept in prisons and collection centres against their will” and that they should ensure their safe passage to territory where they seek refuge from the war.¹⁰⁸³⁸ He also indicated that officials must accommodate the ICRC and the High Commissioner for Refugees.¹⁰⁸³⁹

3393. In a meeting with international representatives in September 1992, the Accused agreed to “support any humanitarian issue” and “clean up” detention facilities but also in exchange requested that Bosnian Serbs, who he viewed as “hostages”, be allowed to leave Sarajevo.¹⁰⁸⁴⁰ On

¹⁰⁸³³ D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 84; Momčilo Mandić, T. 5139 (14 July 2010), T. 5239–5240 (15 July 2010); Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 9603–9604, 9820–9821 (testifying that representatives from the Ministry of Justice and Administration and the Ministry of the Interior were appointed to this commission); P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 2. See also para. 3373.

¹⁰⁸³⁴ D466 (Decision of Government of SerBiH on establishment of Commission for Inspection of Collections Centres and other facilities for prisoners, 9 August 1992), pp. 2–3; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 57. See also Slobodan Avlijaš, T. 35140–35142 (11 March 2013).

¹⁰⁸³⁵ D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 56; D3109 (SerBiH MUP report, 22 August 1992) (reporting on the existence of detention centres in the SAO Herzegovina).

¹⁰⁸³⁶ P3074 (Minutes of the 30th session of RS Presidency, 6 September 1992).

¹⁰⁸³⁷ P3074 (Minutes of the 30th session of RS Presidency, 6 September 1992).

¹⁰⁸³⁸ D3241 (Letter from RS Presidency to presidents of all municipalities, 8 September 1992).

¹⁰⁸³⁹ D3241 (Letter from RS Presidency to presidents of all municipalities, 8 September 1992).

¹⁰⁸⁴⁰ P785 (Second notebook of Herbert Okun’s ICFY diary), e-court pp. 23–24, 36.

11 September 1992, the Accused granted amnesty from criminal prosecution to 69 detainees who were being held at Manjača and Trnopolje.¹⁰⁸⁴¹ The Accused stated, a few days later, at a Bosnian Serb Assembly session that dealing with humanitarian issues would assist the Bosnian Serbs as they would get credit at an international level, and in this regard the disbandment of Trnopolje and Manjača camps would suit them so long as those detained were sent somewhere and did not return to the battlefield.¹⁰⁸⁴²

3394. An agreement between representatives of the Accused, Izetbegović, Mate Boban, and representatives of the SDA, SDS, and BiH Presidency was reached on 30 September and 1 October 1992.¹⁰⁸⁴³ They, *inter alia*, agreed to release all civilian detainees who were not suspected of having committed crimes.¹⁰⁸⁴⁴ The document lists several scheduled detention centres under Bosnian Serb control, including Manjača, Trnopolje, Batković camp, and Kula Prison.¹⁰⁸⁴⁵

3395. The Accused, in October 1992, informed Mladić, Mićo Stanišić and Mandić that he had received information that some local authorities had ignored his instruction to allow unfettered access for the ICRC to detention facilities. The Accused demanded that they inform their subordinates to respect his instruction to allow access and that he would order a thorough investigation of all cases of failure to comply.¹⁰⁸⁴⁶

3396. On 1 October 1992, Kuprešanin wrote to the Accused and requested a pardon to allow for the release of some Bosnian Muslim detainees who were being held at Manjača who had not participated in “the rebellion” against the RS.¹⁰⁸⁴⁷ On 7 October 1992, pursuant to a decision of the RS Presidency, Kuprešanin authorised ten detainees who had been released and pardoned to be permitted to leave the territory of RS through the ICRC in Banja Luka.¹⁰⁸⁴⁸ On 13 November 1992, the Accused issued an amnesty from prosecution in respect of numerous detainees who were held at

¹⁰⁸⁴¹ P3721 (Report of 1st Krajina Corps re decision by Radovan Karadžić, 11 September 1992).

¹⁰⁸⁴² D456 (Transcript of 20th session of RS Assembly, 14–15 September 1992), p. 55.

¹⁰⁸⁴³ P4859 (Agreement on the release and transfer of prisoners, 30 September and 1 October 1992), p. 1.

¹⁰⁸⁴⁴ P4859 (Agreement on the release and transfer of prisoners, 30 September and 1 October 1992), p. 2.

¹⁰⁸⁴⁵ P4859 (Agreement on the release and transfer of prisoners, 30 September and 1 October 1992), pp. 7–9.

¹⁰⁸⁴⁶ D103 (Letter from Radovan Karadžić to Ratko Mladić, Mićo Stanišić, and Momčilo Mandić, 22 October 1992). See also Mićo Stanišić, T. 46403–46404 (3 February 2014).

¹⁰⁸⁴⁷ P3722 (Request sent from Vojo Kuprešanin to Radovan Karadžić, 1 October 1992). A similar report was sent from the Manjača camp to the 1st Krajina Corps Command identifying individuals who did not deserve to be criminally prosecuted and who could be released and noting that not a single criminal report or other criminal documentation had been filed against individuals on a list and reported on their release: P3723 (Manjača camp daily report to the 1st Krajina Corps, 14 November 1992) (under seal).

¹⁰⁸⁴⁸ D4211 (List of persons pardoned and released signed by Vojislav Kuprešanin, 7 October 1992).

Manjača.¹⁰⁸⁴⁹ The Chamber considers that this further demonstrates the Accused's ability to intervene in matters related to detention.

3397. It was not until 27 October 1992, that the Bosnian Serb Government officially decided that the existing illegal camps and assembly centres were to be dissolved as soon as possible and that the existing penal institutions legally formed in large centres in Republika Srpska were to be used, since the conditions there were suitable for legal treatment of prisoners and inmates.¹⁰⁸⁵⁰

3398. On 4 December 1992, the Accused indicated that he would order the release of all detainees held in Manjača provided that they be transferred to third countries.¹⁰⁸⁵¹ The Chamber found above that this is what indeed happened.¹⁰⁸⁵²

3399. Having considered the evidence recounted above of the Accused's efforts to end the unlawful detention of non-Serb civilians and to ameliorate the conditions in detention centres, the Chamber notes that while the Accused was aware of the large-scale detention of civilians as early as April 1992, it was not until June 1992 that he issued orders on the protection of detainees and requested reports.¹⁰⁸⁵³ By that time, many civilians were already unlawfully detained in appalling conditions. The Chamber further finds that the Accused had the authority to order the closure of detention centres and order the release of detainees as evidenced by how quickly his instructions to close Omarska, Keraterm and later Manjača and his instructions to release specific detainees were followed by the relevant authorities. However, by the time the Bosnian Serb Government officially decided to close all "illegal camps" on 27 October 1992, the make-shift detention facilities used throughout the Municipalities by Serb Forces to detain non-Serbs had already largely served their purpose of facilitating the process of the forcible removal of non-Serbs. The Chamber considers that the Accused could have intervened much sooner if he had had the will to do so. However, instead of exercising his authority to close make-shift detention centres, he spent months denying that the conditions in these centres were appalling and that civilians were included among the detainees. Furthermore, the Chamber notes that Batković camp, Kula Prison and the Rasadnik detention facility remained in existence during the war and that they continued to unlawfully detain non-Serb civilians.¹⁰⁸⁵⁴

¹⁰⁸⁴⁹ [REDACTED].

¹⁰⁸⁵⁰ P3102 (Minutes of the 57th session of RS Government, 27 October 1992), p. 6.

¹⁰⁸⁵¹ D1851 (Letter from Radovan Karadžić to Daniel Shiffer, 4 December 1992).

¹⁰⁸⁵² See paras. 1408–1409.

¹⁰⁸⁵³ See para. 3365.

¹⁰⁸⁵⁴ See Scheduled Detention Facilities C.2.1, C.18.2, C.21.3.

(2) Forced removal of non-Serbs and protection of non-Serbs remaining in Serb controlled territory

3400. With respect to forced displacement of non-Serb civilians, in advance of the London Conference, the Accused issued an instruction to the VRS and MUP, on 19 August 1992 ordering that the forced resettlement of civilians should be prevented and that “any certificates of sale of property or statements that refugees will not return shall be considered as legally invalid and are declared null and void”.¹⁰⁸⁵⁵ On 21 August 1992, the Accused pledged to prevent “ethnic cleansing” and punish persons involved in expelling the civilian population.¹⁰⁸⁵⁶ On 25 August 1992, on the eve of the London Conference, the Accused stated, in a letter to the international community, that he had issued the 19 August 1992 instruction, but that the civilian population must be allowed to move freely out of a war zone if that was its desire, blaming the failure on the part of the international community to understand the deep-rooted antagonism and hatred between the three ethnicities in BiH, which caused people to leave their communities in droves.¹⁰⁸⁵⁷ The Chamber considers that the Accused’s comments in the 25 August letter were an attempt to downplay the forced nature of the movement of the population that was occurring, whereas by that time thousands of non-Serbs had already been expelled from Bosnian Serb claimed territory by Serb Forces. This suggests that the Accused’s 19 and 21 August orders were not genuine efforts to stop “ethnic cleansing”, and were rather designed as an attempt to cast a positive light on the actions of the Bosnian Serbs in view of the commencement of the London Conference.

3401. In August 1992, the Accused issued instructions to the presidents of all municipalities to keep accurate records on the temporary use of abandoned flats by refugees and prevent any abuse in this regard.¹⁰⁸⁵⁸ However, the Chamber recalls that the transfer of abandoned non-Serb housing to Serb refugees had the effect of ensuring that non-Serbs who had fled their homes did not return to Serb held territory.¹⁰⁸⁵⁹

¹⁰⁸⁵⁵ D101 (Radovan Karadžić’s Order to VRS Main Staff and RS MUP, 19 August 1992); Colm Doyle, T. 2875–2876 (27 May 2010). *See also* KW609, T. 46140–46142 (29 January 2014) (testifying that although the 19 August 1992 order was forwarded on by Drljača, these provisions were not observed in detention facilities in Prijedor to a large extent due to a small group of individuals, including guards and inspectors at the facilities, who did not behave in accordance with their authority or the law).

¹⁰⁸⁵⁶ D109 (RS Presidency Declaration, 21 August 1992).

¹⁰⁸⁵⁷ *See* para. 346; D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

¹⁰⁸⁵⁸ D111 (Radovan Karadžić’s Instructions to Presidents of Municipalities, 23 August 1992). *See also* Branko Đerić, T. 28018 (24 April 2012). Đerić also issued a decree regulating the temporary use of abandoned agricultural land and buildings. D2246 (Decree on the Temporary Use of Abandoned Agricultural Land, Agricultural Buildings and Agricultural Machinery and Tools, 20 August 1992); Branko Đerić, T. 28031 (25 April 2012).

¹⁰⁸⁵⁹ *See, e.g.*, para. 2162.

3402. Furthermore, the Accused issued orders for the protection of non-Serbs remaining in Serb controlled territory. On 11 July 1992 at the 38th session of the Bosnian Serb Government, a working group was formed to prepare regulations on the treatment of civilians of all ethnicities in the RS in accordance with constitutional rights and international conventions and obligations.¹⁰⁸⁶⁰ On 14 July 1992, the Accused instructed the presidents of the municipalities in the Goražde area to ensure that all Bosnian Croat and Bosnian Muslim inhabitants in villages who surrendered their weapons and did not intend to fight should enjoy the full protection of the RS state.¹⁰⁸⁶¹ He issued a similar order on 23 July 1992 that Serb authorities must act in accordance with the law and international humanitarian law and all inhabitants who surrender weapons and agree to live peacefully must be permitted to stay and be protected by the RS.¹⁰⁸⁶² However, the Chamber notes that during this time period, Bosnian Muslims and Bosnian Croats were forced to leave Bosnian Serb claimed territory in the Municipalities through threats, coercion, or as a result of physical force.

3403. On 3 April 1994, the Accused issued an order to the Bosnian Serb MUP and VRS authorities to, *inter alia*, investigate criminal activity committed in the RS with particular attention to Prijedor, which was subsequently distributed to all RBD centres and Drina Corps units.¹⁰⁸⁶³ On 4 July 1994, the Accused conveyed to the municipal authorities in Prijedor that they should ensure full protection for the non-Serb population.¹⁰⁸⁶⁴ There had been incidents in mid-1994 of individuals attacking non-Serbs and their property, causing them to apply to municipal authorities to organise their collective departure abroad.¹⁰⁸⁶⁵ The Accused instructed the highest authorities of the municipality to publicly condemn such cases of assaults on non-Serbs and to maintain law and order, punish the perpetrators, and take measures to protect all citizens and their property against looting, including the property of individuals who had left or been killed.¹⁰⁸⁶⁶ A state commission was to be set up to deal with each registered case.¹⁰⁸⁶⁷ The Chamber considers by this time there were so few non-Serbs remaining in Prijedor after the overwhelming majority had already been expelled during 1992 that his instructions in this regard were rendered otiose.

¹⁰⁸⁶⁰ D446 (Minutes of 38th session of Government of SerBiH, 11 July 1992), p. 6; Momčilo Mandić, T. 5136 (14 July 2010).

¹⁰⁸⁶¹ D95 (Instructions from RS Presidency to presidents of municipalities in Goražde area, 14 July 1992), p. 1; Momčilo Mandić, T. 5183 (15 July 2010). *See also* Herbert Okun, T. 1741–1742 (27 April 2010) (testifying that those who received these 14 July 1992 instructions may have understood that the Accused did not really mean them): The Chamber places no weight on Okun's testimony in this regard because it is speculative.

¹⁰⁸⁶² P2970 (Radovan Karadžić order, 23 July 1992).

¹⁰⁸⁶³ D1138 (Radovan Karadžić's letter, 3 April 1994); D4151 (Dispatch of RS MUP to all RBD Centres, 5 April 1994); D4816 (Drina Corps Order, 4 April 1994), para. 1. *See also* [REDACTED].

¹⁰⁸⁶⁴ D4213 (Order of Radovan Karadžić, 4 July 1994).

¹⁰⁸⁶⁵ D4213 (Order of Radovan Karadžić, 4 July 1994).

¹⁰⁸⁶⁶ D4213 (Order of Radovan Karadžić, 4 July 1994).

3404. In response to concerns about the “ethnic cleansing” in Bijeljina in late 1994, the Accused explained to UNPROFOR that the authorities in Bijeljina intended to replace the Chief of Police given that he was providing unsatisfactory security for the population,¹⁰⁸⁶⁸ and later claimed that people leaving Bijeljina were being forced from their homes by criminal elements.¹⁰⁸⁶⁹ While the Chief of Police was replaced in Bijeljina, the UNHCR office continued reporting on the arrival of “large numbers of refugees who had been forced to leave the Bijeljina area” including over 2,000 people between 18 August to 4 September 1994.¹⁰⁸⁷⁰ On 9 September 1994, Vieira de Mello requested that the Accused allow Akashi and UNPROFOR to verify the humanitarian conditions in these regions and pressed for the arrest of Vojkan and his gang, who the Accused suggested might be acting under Arkan’s instructions in the area.¹⁰⁸⁷¹ On 15 September 1994, the Accused was told by international negotiators that his response to the crisis in Bijeljina was “insufficient [...] as the cleansing itself was apparently continuing” and that by the time investigations were completed “there would be nobody left to expel”.¹⁰⁸⁷² On 26 September 1994, the Accused said to international negotiators that Serbs in Bijeljina were “fighting for their own land” and that “ethnic cleansing” would be an inevitable outcome of the international community’s failure to establish any legal mechanism allowing the population to exchange their homes and move into cantons in which their nationality would be dominant.¹⁰⁸⁷³ The Chamber considers that the Accused’s statements to the international negotiators demonstrate his knowledge that “ethnic cleansing” was directly linked to the Bosnian Serb objective to establish a Bosnian Serb state and that he was not interested in preventing it.

¹⁰⁸⁶⁷ D4213 (Order of Radovan Karadžić, 4 July 1994).

¹⁰⁸⁶⁸ D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994), p. 3. *See also* D3145 (UNPROFOR report, 6 September 1994; UNPROFOR press statement, 5 September 1994), p. 1.

¹⁰⁸⁶⁹ P2458 (UNPROFOR Weekly BiH Political Assessment, 11 September 1994), p. 4; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 60–61.

¹⁰⁸⁷⁰ D3145 (UNPROFOR report, 6 September 1994; UNPROFOR press statement, 5 September 1994), p. 1. *See also* P799 (Excerpts from David Owen’s book entitled “Balkan Odyssey”), e-court p. 14.

¹⁰⁸⁷¹ D1136 (UNPROFOR report, 9 September 1994), p. 2.

¹⁰⁸⁷² P3862 (UNPROFOR report, 15 September 1994), para. 7. *See also* D3145 (UNPROFOR report, 6 September 1994; UNPROFOR press statement, 5 September 1994), p. 1. The Chamber recalls that on 23 September 1994, the Security Council passed Resolution 941 in which it noted that UNHCR and the ICRC had reported grave violations of international humanitarian law in Banja Luka, Bijeljina, and other areas of BiH under Bosnian Serb control, which it described as “ethnic cleansing”. *See* para. 403.

¹⁰⁸⁷³ P820 (Witness statement of David Harland dated 4 September 2009), para. 140; David Harland, T. 2113–2114 (7 May 2010). The Chamber notes that Gordan Milinić testified that the Accused formed a commission to examine the situation in Bijeljina in October 1994 and that the Bosnian Muslims living in Bijeljina told the Commission that they preferred to leave and the Presidency received letters of gratitude from Bosnian Muslims who emigrated. D3682 (Witness statement of Gordan Milinić dated 8 June 2013), para. 13; Gordan Milinić, T. 39771–39772 (12 June 2013). The Chamber notes that testimony of Milinić was marked by contradictions, bias and indicators that he lacked candour. The Chamber therefore does not find his evidence to be reliable in this regard.

(3) Other crimes

3405. With respect to crimes more generally, including looting and property related crimes, when the Bosnian Serb government was informed on 27 February 1993 that public law and order in the Republic was extremely bad, it put the MUP, Ministry of Defence and the Military Security Service in charge of protecting the citizens and their property.¹⁰⁸⁷⁴ In May 1993, the Accused also issued an order for the security and protection of all places of worship in Banja Luka and called for the immediate execution of this order and a report on measures taken.¹⁰⁸⁷⁵ At a session of the Bosnian Serb Government on 11 July 1993, in which the Accused participated, the “need for a swift drive against crime”, including killing, robbery, and profiteering was discussed.¹⁰⁸⁷⁶ On 28 August 1993, in an order focused on the organisation of the VRS, the Accused instructed the Main Staff and MUP to create a plan to seize the uniforms of people who were not members of the army or police and who were committing crimes and other illegal activity in the uniforms.¹⁰⁸⁷⁷

3406. Furthermore, Mićo Stanišić made efforts to remove criminals from the MUP. On 17 April 1992, Mićo Stanišić wrote to municipal CSBs and SJBs warning them that there had been reports of MUP members appropriating property and collaborating with persons with a history of organised crime and requesting that measures, including termination of employment and criminal prosecution, be taken against perpetrators.¹⁰⁸⁷⁸ On 23 and 24 July 1992, Stanišić ordered that members of the MUP who had been criminally prosecuted or against whom criminal proceedings were being conducted should be dismissed from duty and placed at the disposal of the VRS.¹⁰⁸⁷⁹

3407. The Chamber notes that the rules on disciplinary responsibility of Bosnian Serb MUP employees during war stipulated that MUP employees who are terminated for disciplinary reasons should be reported to the VRS.¹⁰⁸⁸⁰ However, the Chamber does not consider this an effective means of punishment or prevention of further crimes because such persons would continue to carry arms in proximity to civilian areas.

3408. Furthermore, on 27 July 1992, Stanišić issued an order stating that, in accordance with an order by the Accused, it was necessary to immediately remove individuals from the MUP who had

¹⁰⁸⁷⁴ D3569 (Excerpt from Minutes of 65th session of RS Government, 27 February 1993), p. 4.

¹⁰⁸⁷⁵ D106 (Radovan Karadžić's Order to RS MUP, 12 May 1993). See also Herbert Okun, T. 1767–1768 (28 April 2010).

¹⁰⁸⁷⁶ P3139 (Minutes of the 74th session of RS Government, 11 July 1993), p. 8.

¹⁰⁸⁷⁷ D4790 (Radovan Karadžić's Order to VRS Main Staff, 28 August 1993), p. 5.

¹⁰⁸⁷⁸ D1671 (Warning of SerBiH MUP, 17 April 1992); KDZ601, T. 18625–18626 (8 September 2011).

¹⁰⁸⁷⁹ P2771 (Order of SerBiH MUP, 23 July 1992); P2971 (Order of SerBiH MUP, 24 July 1992).

¹⁰⁸⁸⁰ D4455 (Letter from Mićo Stanišić to all CSBs forwarding Rules on Disciplinary Responsibility, 19 September 1992), Art. 3.

been held criminally responsible for crimes or were known to have committed crimes during the war in BiH.¹⁰⁸⁸¹ On 12 September 1992, Zoran Cvijetić issued a document to all SJBs, advising that despite Stanišić's orders to remove criminals from the ranks of the MUP, a number of SJBs had not taken the problem seriously enough and that it was necessary for them to analyse the involvement of MUP employees in criminal acts and dereliction of duty so that it could be reported to the MUP.¹⁰⁸⁸² In an interview in October 1992, Mićo Stanišić acknowledged that some individual members of the MUP had been expelled from their ranks because of acts which they had committed but he claimed that the number of such cases were rare but were taken seriously.¹⁰⁸⁸³ He also spoke about measures taken to deal with war profiteering and that most of the acts occurred at the beginning of the war when "there was a kind of legislative vacuum".¹⁰⁸⁸⁴

3409. In addition, members of the government, VRS, JNA and MUP, including Mićo Stanišić, issued orders to various divisions in the Bosnian Serb MUP or VRS on crime prevention, to ensure compliance with international humanitarian law, prevent the abuse of detainees and mistreatment of civilians, and to report crimes or illegal camps on 24 April 1992,¹⁰⁸⁸⁵ 26 April 1992,¹⁰⁸⁸⁶ 30 April 1992,¹⁰⁸⁸⁷ 10 June 1992,¹⁰⁸⁸⁸ 23 June 1992,¹⁰⁸⁸⁹ 10 August 1992,¹⁰⁸⁹⁰ 17 August 1992,¹⁰⁸⁹¹ 19 August 1992,¹⁰⁸⁹² 21 August 1992.¹⁰⁸⁹³ On 24 August 1992, Mićo Stanišić sent a dispatch to all CSBs and SJBs, requiring data by 30 August 1992 on all detention camps, prisons or collection centres, their location, the number of persons detained and who ordered the establishment and detention of people at the camps.¹⁰⁸⁹⁴ On 14 May 1993, pursuant to an order by

¹⁰⁸⁸¹ D4273 (Order of RS MUP, 27 July 1992). *See also* D1534 (Order of Romanija-Birač CSB, 28 July 1992) (wherein the RS MUP ordered all special units formed by SJBs during the war be disbanded and placed under the command of the VRS or dismissed from their areas of operation. Any crimes committed by these groups were to be reported to the appropriate institution).

¹⁰⁸⁸² D1077 (RS MUP order, 12 September 1992).

¹⁰⁸⁸³ D4274 (Article from *Javnost*, entitled "A Legal State is Being Established", 3 October 1992), p. 2.

¹⁰⁸⁸⁴ D4274 (Article from *Javnost*, entitled "A Legal State is Being Established", 3 October 1992), pp. 4–5.

¹⁰⁸⁸⁵ D3826 (Order of JNA 5th Corps, 24 April 1992).

¹⁰⁸⁸⁶ D2676 (Excerpts from instructions of SerBiH Government for municipal crisis staffs, 26 April 1992), pp. 1–2.

¹⁰⁸⁸⁷ D4670 (Telegram from Banja Luka CSB to all SJBs, 30 April 1992), pp. 1–2.

¹⁰⁸⁸⁸ D3829 (1st Krajina Corps dispatch, 10 June 1992; Order of 1st Krajina Corps, 9 June 1992), p. 15.

¹⁰⁸⁸⁹ D3837 (1st Krajina Corps dispatch, 23 June 1992).

¹⁰⁸⁹⁰ D467 (Order of MUP of SerBiH to CSBs Sarajevo, Trebinje, Dobo, Bijeljina, Banja Luka, 10 August 1992), p. 1; Momčilo Mandić, T. 5240–5241 (15 July 2010).

¹⁰⁸⁹¹ D469 (Order of MUP of SerBiH, 17 August 1992), p. 1. *See also* Momčilo Mandić, T. 5268 (15 July 2010); Mićo Stanišić, T. 46401–46403 (3 February 2014).

¹⁰⁸⁹² D4255 (Prijedor SJB dispatch forwarding order from Mićo Stanišić to Banja Luka CSB, 19 August 1992).

¹⁰⁸⁹³ D4256 (Banja Luka CSB dispatch to all SJBs, 21 August 1992; Prijedor SJB dispatch forwarding Banja Luka CSB dispatch, 24 August 1992); *see* KW609, T. 46144–46148 (29 January 2014).

¹⁰⁸⁹⁴ D475 (SerBiH MUP Order to all CSBs and SJBs, 24 August 1992), p. 1; Momčilo Mandić, T. 5268–5270 (15 July 2010).

the Accused, Mladić ordered that the Geneva and Hague Conventions and other provisions of “the international law of war” be observed in all respects.¹⁰⁸⁹⁵

3410. The Chamber considers that while the Accused and his subordinates issued orders during the conflict regarding respect for international humanitarian law, the rampant criminal acts being committed against non-Serbs in the Municipalities continued. The Accused continued to learn about the commission of serious crimes committed by Serb Forces against non-Serbs throughout the conflict and yet he continued to issue the same type of generic orders.¹⁰⁸⁹⁶ He made no efforts to ensure that these orders were implemented on the ground so as to generate a positive effect on the prevention of crime. The Chamber therefore finds that these orders are not reflective of genuine efforts to prevent such crimes.

(E) Investigation and prosecution of crimes committed against non-Serbs

3411. The Prosecution submits that the Accused supported a policy of non-prosecution of crimes committed against non-Serbs, which resulted in a climate of impunity for crimes committed against non-Serbs.¹⁰⁸⁹⁷ The Accused submits that the RS was committed to proper military and civilian prosecutions but that with the chaos of war and difficulties associated with institution building, there were reasonable delays.¹⁰⁸⁹⁸

3412. The Chamber recalls that the Bosnian Serb civilian courts were established on 16 May 1992 in some Bosnian Serb Municipalities and that the military courts began to function in August 1992.¹⁰⁸⁹⁹ On one occasion in 1993, the Accused claimed to have the ability to stop criminal proceedings. At a Bosnian Serb Assembly session in the fall of 1993, the Accused advised that whenever there was an indication that someone had committed a criminal act it should be forwarded to the authorised body but that “if it is the state interest to stop it, we will see that, we will stop it just before the trial, but all of you will know that. All of you will know why something was postponed or why it was stopped for the interest of the state. However, it is not to be stopped without being investigated [...]”¹⁰⁹⁰⁰ Furthermore, the evidence demonstrates that the Accused was able to intervene in proceedings as he had a military judge removed from his position in 1994 after

¹⁰⁸⁹⁵ D3309 (VRS Main Staff Order, 14 May 1993); D104 (Radovan Karadžić’s Directive to VRS Main Staff, 11 May 1993)

¹⁰⁸⁹⁶ See Section IV.A.3.a.v: Accused’s knowledge of crimes and measures he took to prevent and punish them.

¹⁰⁸⁹⁷ Prosecution Final Brief, paras. 549, 562.

¹⁰⁸⁹⁸ Defence Final Brief, paras. 761, 771.

¹⁰⁸⁹⁹ See paras. 253, 292.

¹⁰⁹⁰⁰ P1379 (Transcript of 34th session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 410–411. *But see* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 212–213, 217 (stating that the Accused never exerted any pressure on the work of the judiciary).

the judge refused to follow instructions from the Accused about how to rule on a case.¹⁰⁹⁰¹ In light of the foregoing, the Chamber finds that the Accused had influence and authority over the courts.¹⁰⁹⁰²

3413. In July 1992, the Accused assured international representatives that “war criminals” would be subjected to legal procedures.¹⁰⁹⁰³ However, Branko Đerić stated that when he advocated that procedures be put in place to prevent and try crimes in 1992, the Accused blocked such efforts and “thought that this could be dealt with later”, and the MUP and Ministry of Justice did not implement government decisions that crimes be prosecuted.¹⁰⁹⁰⁴ In addition, the Accused, in a meeting with Milorad Davidović and Mladić in the spring of 1992, said that while they should be trying to prevent looting and stealing by the Bosnian Serb MUP, it was more important to avoid conflicts between Serbs, even at the expense of not punishing criminal offences.¹⁰⁹⁰⁵ According to Branko Đerić, Mandić and Mićo Stanišić were the “President’s men”, taking orders directly from the Accused, and Đerić was dissatisfied with their work insofar as it related to security as they ignored government decisions with respect to prevention and prosecution of criminal activity.¹⁰⁹⁰⁶

3414. As discussed in greater detail below, there was a systemic failure to investigate and prosecute crimes committed against non-Serbs and few cases in which Bosnian Serbs committed crimes against non-Serbs reached military courts.¹⁰⁹⁰⁷ The cases prioritised by the military courts in Bijeljina and Banja Luka in August 1992 pertained to failure to respond to mobilisation and desertion by Bosnian Serb Forces and cases involving Serb victims.¹⁰⁹⁰⁸ The 10 July 1992 logbook for the prosecutor’s office in Ključ shows that criminal reports were filed against Bosnian Muslims, with only few being filed against Bosnian Serbs.¹⁰⁹⁰⁹ Furthermore, it was reported that most cases under investigation in the Military Court in Sarajevo in November 1993 pertained to crimes against the VRS.¹⁰⁹¹⁰

¹⁰⁹⁰¹ P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 32–36, 43–44 (under seal).

¹⁰⁹⁰² See also D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 36.

¹⁰⁹⁰³ P2937 (Letter from Radovan Karadžić, 5 July 1992) (under seal).

¹⁰⁹⁰⁴ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 14–15, 17, 22; Branko Đerić, T. 28002–28003 (24 April 2012).

¹⁰⁹⁰⁵ P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 54.

¹⁰⁹⁰⁶ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 21–22, 24.

¹⁰⁹⁰⁷ See KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*). T. 3929–3930 (under seal); P3632 (Schedules A and B of ICTY indictment against Momčilo Krajišnik); P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 9–10 (under seal); KDZ531, T. 15852–15855 (1 July 2011) (closed session); paras. 639–640.

¹⁰⁹⁰⁸ P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 9 (under seal); P3773 (Witness statement of KDZ532 dated 31 October 2011) (under seal), paras. 7–8.

¹⁰⁹⁰⁹ Slobodan Jurišić, T. 47083–47085 (14 February 2014); P6671 (Excerpt from logbooks from Brčko, Doboj, Ključ, Sanski Most and Travnik Prosecutor’s Offices).

¹⁰⁹¹⁰ D4880 (Report of Sarajevo Military Court, 2 December 1993).

3415. In relation to crimes committed by Bosnian Serbs against non-Serbs, authorities either failed to investigate or actively prevented investigations or prosecutions.¹⁰⁹¹¹ In Zvornik, municipal authorities were made aware of the massacre at Drinjača Dom Kulture but nothing was done to investigate nor was there anything done to investigate the crimes committed at Karakaj Technical School.¹⁰⁹¹² Bratunac municipal authorities and police learned that civilians were brought to the hangar of Vuk Karadžić School and heard rumours some may have been killed but the Bratunac SJB Chief forbade the police from investigating.¹⁰⁹¹³ The Prijedor Crisis Staff and SJB, as well as the Banja Luka CSB and VRS were aware of the Room 3 massacre at Keraterm, however there was no investigation into the shootings or mention of the incident in reports on Keraterm.¹⁰⁹¹⁴ Sokolac municipal authorities became aware of the killings at Novoseoci on 22 September 1992 the same day but no investigation was carried out.¹⁰⁹¹⁵ Municipal authorities were aware of the crimes committed in the Luka Camp in Brčko.¹⁰⁹¹⁶ Slobodan Avlijaš visited Brčko and was informed that approximately 226 non-Serb civilians were killed in Brčko and buried in mass graves and subsequently prepared a report which indicated that the victims were killed in combat.¹⁰⁹¹⁷ However, there was never an investigation because according to Ristanić, it was impossible at the time.¹⁰⁹¹⁸ Crimes committed in Vlasenica were widely known and criminal reports were filed but there were no criminal or disciplinary proceedings.¹⁰⁹¹⁹ While the police organs and courts were

¹⁰⁹¹¹ In addition, to the proceeding examples, the Chamber notes that when Vojkan was arrested in 1993 for expelling Bosnian Muslims from Bijeljina, he was released after he produced documentation showing that he had been authorised to locate and expel Bosnian Muslims by Krajišnik. Svetozar Mihajlović, T. 35737–35740 (20 March 2013); Milorad Davidović, T. 15702–15703 (30 June 2011); D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 14; [REDACTED].

¹⁰⁹¹² Marinko Vasilić, T. 39937–39938 (13 June 2013). *See* Scheduled Incidents B.20.1, B.20.3.

¹⁰⁹¹³ D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 40; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 24. *See* Scheduled Detention Facility C.6.2, Scheduled Incident B.4.1.

¹⁰⁹¹⁴ *See* Scheduled Incident B.15.1; D470 (CSB Banja Luka Report concerning collection centres, undated), e-court pp. 2–4, 28–30; P3549 (Report of the Commission for Inspecting Collection Centres and Other Facilities for Captives in the ARK, 17 August 1992), p. 4; P2968 (Report of Prijedor SJB, January 1993); P6536 (Report of Banja Luka CSB, 20 January 1993), p. 3; Dušan Janković, T. 47341–47343 (18 February 2014).

¹⁰⁹¹⁵ Dragomir Obradović, T. 36096–36097, 36100–36103 (26 March 2013). *See* Scheduled Incident A.13.1.

¹⁰⁹¹⁶ *See* Scheduled Killing Incident B.5.1; D1436 (Report of SerBiH MUP, 17 June 1992), p. 3; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 2; D1574 (Report of Brčko SJB, undated), pp. 2, 4; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 115–116; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21423–21424.

¹⁰⁹¹⁷ P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), p. 3; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 212–223; Slobodan Avlijaš, T. 35196 (11 March 2013). *See also* D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 23.

¹⁰⁹¹⁸ P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 210; Đorđe Ristanić, T. 16736 (15 July 2011).

¹⁰⁹¹⁹ *See, e.g.*, Scheduled Incident A.15.1; D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 34, 44; Mane Đurić, T. 35006, 35030–35031, 35059–35061 (7 March 2013) (private session); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 64, 167 (under seal); D447 (SerBiH MUP, Analysis of functioning of the MUP, July 1992), pp. 18–19. Several perpetrators of crimes committed against non-Serbs in Vlasenica were eventually tried and convicted before the Tribunal and courts in BiH. *See* *Dragan Nikolić*

fully organised and constituted in Novo Sarajevo they were not active in prosecuting individuals or protecting individuals.¹⁰⁹²⁰ Batko was committing crimes over a period of months there and the military police and prosecutor's office had the capacity to arrest and prosecute him but did not do so.¹⁰⁹²¹

3416. Furthermore, local or municipal authorities, SDS members, soldiers, and family members of accused persons often pressured authorities to release persons accused of committing crimes against non-Serbs.¹⁰⁹²² The military court in Banja Luka released Bosnian Serbs from custody before their cases had been completed so they could return to combat activities.¹⁰⁹²³ For example: (i) Zoran Žigić was released from prison a few days after being arrested due to a request for him to return to active duty even though it was reported to the Prijedor SJB by the Commander of Keraterm that he had beaten and killed prisoners there;¹⁰⁹²⁴ (ii) the perpetrators of the killings of at least 77 men at Velagići School on 1 June 1992 were arrested but returned to their units without being tried with the support of the deputy prime minister of the RS and the chairman of the Ključ Executive Board;¹⁰⁹²⁵ and (iii) Daniluško Kajtez admitted to killing 12 individuals in Manjača in November 1992 but was released as a result of pressure exerted on the Military Court.¹⁰⁹²⁶ The Chamber considers that this evidence suggests a systemic vulnerability of the justice system to external pressure, including by low-level municipal officials.

3417. On 20 December 1992, at a meeting of the Supreme Command in the presence of the Accused, Mićo Stanišić spoke of the need to strengthen the judiciary and to consider whether the

Sentencing Appeal Judgement; P6132 (Verdict of BiH Court against Predrag Bastah and Goran Višković, 4 February 2010).

¹⁰⁹²⁰ Radomir Nešković, T. 14308–14309, 14316–14317, 14319 (7 June 2011); P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), p. 12.

¹⁰⁹²¹ Radomir Nešković, T. 14316–14317 (7 June 2011).

¹⁰⁹²² [REDACTED]. See e.g. P3611 (Proposal of the Military Prosecutor's Office attached to the 1st Krajina Corps, 29 July 1993) (under seal); P3616 (Proposal of the Military Prosecutor's Office attached to the 1st Krajina Corps, 29 July 1993). See also D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 15. [REDACTED].

¹⁰⁹²³ [REDACTED]. See also P3612 (Submission to Banja Luka Military Court, 26 January 1993), p. 2; P3610 (Tactical Group 3 request, 27 August 1992); [REDACTED].

¹⁰⁹²⁴ D1926 (Order of Banja Luka CSB, 1 July 1992); D1925 (Prijedor SJB criminal report, 2 July 1992), e-court p. 2; P6597 (Request from Prijedor Prosecutor's Office, 3 July 1992); D4140 (Official note of Prijedor SJB, 4 July 1992); Dragan Radetić, T. 45690–45691, 45700–45701, 45711–45713, 45715 (21 January 2014); P6598 (Decision of Prijedor Lower Court, 9 July 1992). See also P6596 (Letter from ARK sabotage and reconnaissance unit to Prijedor Prosecutor's Office, undated). See para. 1802. Žigić was eventually convicted by the Tribunal for the crimes he committed at Keraterm. See *Kvočka et al.* Trial Judgement; *Kvočka et al.* Appeal Judgement.

¹⁰⁹²⁵ Adjudicated Fact 2447; P3616 (Proposal of the Military Prosecutor's Office attached to the 1st Krajina Corps, 29 July 1993); P6143 (Excerpt from ruling of Banja Luka Military Court, 29 July 1993), pp. 1–2; [REDACTED]; Novak Todorović, T. 34077 (20 February 2013). See Scheduled Incident B.10.1.

¹⁰⁹²⁶ See Scheduled Incident B.1.1.

situation at the time was satisfactory since the courts were then attached to commands and corps.¹⁰⁹²⁷

3418. The Chamber notes that in response to specific events, the Accused and other members of the Bosnian Serb leadership or Serb Forces sometimes called for criminal investigations. The Chamber notes the Accused's efforts to disband certain paramilitary groups, including through the assistance of the Federal SUP.¹⁰⁹²⁸ Furthermore, on hearing of the Korićanske Stijene incident, the Accused requested an investigation and on 31 August 1992, Mićo Stanišić ordered Župljanin, the chief of the Banja Luka CSB, to investigate the massacre.¹⁰⁹²⁹ However, Župljanin was advised by Drljača that an investigation could not be carried out because the officers who had participated in the convoy and incident were currently deployed in the battlefield.¹⁰⁹³⁰ The Chamber recalls that none of the policemen involved in the incident were held accountable for their involvement in the killings.¹⁰⁹³¹ Rather the intervention squad involved in the killings was disbanded and subsequently returned to active combat.¹⁰⁹³²

3419. On 6 April 1993, Prime Minister Vladimir Lukić, with the support of the Accused, demanded the Command of the SRK and the Main Staff of the VRS to investigate allegations of looting, killing, arson and rape in Novo Sarajevo committed by the VRS.¹⁰⁹³³ On 20 December 1994 Bogdan Subotić, on behalf of the Office of the RS President, ordered a thorough investigation of an incident involving members of special police and members of military police of the 2nd Krajina Corps.¹⁰⁹³⁴ In February 1994, the Accused was notified about a meeting of the municipal leaders, MUP, and military and judicial organs due to "a very bad situation regarding public law and order in Trebinje municipality" and that military security organs failed to execute

¹⁰⁹²⁷ P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992), p. 3.

¹⁰⁹²⁸ See paras. 3204–3210.

¹⁰⁹²⁹ D4194 (Witness statement of Sveto Kovačević dated 7 December 2013), para. 40; D1881 (Dispatch from Mićo Stanišić to Banja Luka CSB, 31 August 1992).

¹⁰⁹³⁰ D1882 (Letter from Simo Drljača, 14 September 1992); D1885 (Dispatch from Simo Drljača to Stojan Župljanin, 13 October 1992). See also Adjudicated Fact 2492.

¹⁰⁹³¹ See para. 1845. The Chamber notes that Subotić testified that everybody "did their part of the job" with respect to the investigation. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 242–246; Bogdan Subotić, T. 40105–40111 (20 June 2013); T. 40173–40175 (21 June 2013). However, the Chamber does not find this evidence to be reliable because Subotić's evidence was marked by indicators that he was seeking to minimise his own knowledge of the investigation which followed this incident and in light of the fact that none of the perpetrators were ever held accountable.

¹⁰⁹³² See paras. 1844–1845.

¹⁰⁹³³ D3574 (Letter from RS Office of Prime Minister to VRS Main Staff and SRK command, 6 April 1993); D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 36; Vladimir Lukić, T. 38801 (28 May 2013).

¹⁰⁹³⁴ D4640 (Letter from RS President's Office to RS MUP and VRS Main Staff, 20 December 1994).

their part, as “groups of servicemen were harassing refugees”.¹⁰⁹³⁵ The Accused ordered the VRS Main Staff to report back to him about the measures taken.¹⁰⁹³⁶

3420. During the conflict, there were some prosecutions of Serbs for crimes committed against non-Serbs.¹⁰⁹³⁷ However, the calls for investigations and the prosecutions were insufficient in light of the sheer number of serious offences which were not investigated and went unpunished.

3421. The Chamber has considered evidence that in 1994 and 1995, the Accused issued orders with respect to improving the military justice system.¹⁰⁹³⁸ However, the Chamber is not convinced

¹⁰⁹³⁵ P3053 (Radovan Karadžić’s order to VRS, 19 May 1994), p. 3.

¹⁰⁹³⁶ P3053 Radovan Karadžić’s order to VRS, 19 May 1994), p. 3.

¹⁰⁹³⁷ D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 208–215, 218, 297; Savo Bojanović, T. 34817–34828, 34830–34835, 34842–34843 (5 March 2013); D3076 (Witness statement of Savo Bojanović dated 2 March 2013), paras. 11–12, 23–27; [REDACTED]; Novak Todorović, T. 34095–34098 (20 February 2013) (private session); D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 18; Radomir Nešković, T. 14310–14311 (7 June 2011). For cases in the civilian courts, *see* D1467 (Bijeljina High Court judgement in Branko Đurić case, 27 October 1995); D1490 (Indictment of Brčko Public Prosecutor, 28 July 1993); D4239 (Banja Luka Public Prosecutor’s Office file on Sredo Aleksić), p. 8; D4240 (Banja Luka Public Prosecutor’s Office file on Boško Bavarčić), e-court pp. 3–4, 14–15; D1798 (Banja Luka CSB criminal case file, August–September 1992), e-court p. 48. D4235 (Witness statement of Jevto Janković dated 24 January 2014), para. 7; Jevto Janković, T. 45956–45957 (27 January 2014). For cases in the military courts, *see* D1465 (Bijeljina Military Court indictment of Radovan Mićanović, 17 August 1993); D1466 (Bijeljina Military Court judgement in Radovan Mićanović case, 22 March 1995); D1481 (Bijeljina Military Prosecutor request re Cvjetković/Jurošević case, 29 October 1992); D1482 (Bijeljina Military Court record re Cvjetković/Jurošević case, 30 October 1992); P6181 (Bijeljina Military Court’s Dispatch to Military Prosecutor’s Office, 28 January 1993); D1489 (Bijeljina Military Court decision in Cvjetković/Jurošević case, 1 April 1993) (under seal); D1757 (Indictment of the Military Prosecutor’s Office attached to the 1st Krajina Corps, 18 July 1993); D1758 (Banja Luka Military Court’s Judgement, 13 October 1993) (under seal); D1759 (RS Supreme Military Court’s Judgement, 12 November 1994) (under seal); D1799 (Indictment of the Military Prosecutor’s Office attached to the 1st Krajina Corps, 10 February 1993); D3081 (Bijeljina Military Court’s verdict, 18 January 1994); D3077 (Supreme Military Court’s Judgement, 16 May 1994); D1468 (Correspondence between Bijeljina Lower Court and Radovan Karadžić, 9 June 2011); D1469 (Correspondence between Bijeljina District Prosecutor and Radovan Karadžić, 24 August 2009); D3082 (Bijeljina Military Court’s Verdict, 24 June 1993); D3083 (Bijeljina Military Court’s Verdict, 27 August 1993); D3084 (Bijeljina Military Court’s Verdict, 11 October 1993); D3085 (Bijeljina Military Court’s Verdict, 16 September 1993); D3086 (Bijeljina Military Court’s Verdict, 9 March 1993); D3087 (Bijeljina Military Court’s Verdict, 22 June 1993); D3088 (Bijeljina Military Court’s Verdict, 17 June 1993); D3079 (Bijeljina Military Court’s Ruling, 19 June 1993); D3080 (Bijeljina Military Court’s Proposition, 26 April 1993); D596 (VRS Military Court judgement against Jovo Pejanović, 17 December 1992); P3597 (Criminal report of the 6th Krajina Brigade, Sanski Most Military Post, 7 December 1992) (under seal); P3519 (Indictment of the 1st Krajina Corps Military Prosecutor’s Office, 2 June 1993); D1788 (Banja Luka Military Court’s Ruling, 5 April 1994) (under seal); D1793 (Banja Luka CSB criminal case file, October–December 1992); D1776 (Record of trial of Banja Luka Military Court, 17 December 1992) (under seal); D1777 (Letter from Banja Luka Military Court to Srbac SJB, 18 December 1992) (under seal); D1780 (Record of deliberation and voting of Banja Luka Military Court, 21 October 1993) (under seal); D1781 (Record of deliberation and voting of Banja Luka Military Court, 20 April 1995) (under seal); D1782 (Record of trial of Banja Luka Military Court, 20 April 1995) (under seal); P3633 (Judgement of the Banja Luka Military Court, 20 April 1995) (under seal); D1796 (Delivery Note of Banja Luka Military Court, 19 October 1994); P3631 (Judgement of the Banja Luka Military Court, 6 February 1993) (under seal). *See* P2931 (Bijeljina Military Court indictment of Zoran Tomić and Dragan Matović, 24 June 1993), pp. 54–60, 84–87; [REDACTED]. *See also* D4279 (Verdict of Banja Luka District Court against Mile Zgonjanin, 25 November 2008); Mićo Stanišić, T. 46395–46396 (3 February 2014) (testifying that the judgement was passed based on the evidence that was collected in 1992).

¹⁰⁹³⁸ On 1 January 1994, the Accused ordered an inspection into the military prosecution system in Bijeljina after receiving reports of flaws in the system, primarily relating to the release of persons detained under reasonable

that they were sufficient to hold persons accountable for the very serious offences which had been committed in the Municipalities against non-Serbs in light of the fact that so many crimes against non-Serbs went without investigation. In any event, the most serious crimes had already been committed by that time.¹⁰⁹³⁹

3422. In fact, the Accused was more concerned with punishing offences committed against Bosnian Serb Forces than the non-Serb civilian population. This is demonstrated by the fact the Accused made efforts to ensure that crimes committed against Serbs were investigated and documented. On 17 June 1992, the Accused created the State Documentation Centre for Investigation of War Crimes against Serb People and appointed its head.¹⁰⁹⁴⁰ On 13 July 1992 the Presidency concluded that the work of the Commission for War Crimes Committed against the Serbian People of BH be urgently activated.¹⁰⁹⁴¹ On 14 July 1992 the Government decided that measures be taken for the Commission to be activated for the establishment of war crimes perpetrated against the Serbs.¹⁰⁹⁴² On 6 August 1992, at a RS Presidency session, it was decided that the Commission for Investigating War Crimes Committed against the Serbian People must

suspicion of having committed grave criminal offences. D1419 (Radovan Karadžić's order to president of Supreme Military Court, 1 January 1994). On 8 August 1994, the Accused ordered the VRS Main Staff to submit a report on problems in the military disciplinary tribunals and proposals to improve their function D1421 (Radovan Karadžić's order to VRS Main Staff, 8 August 1994). On 6 September 1994, the Accused directed that criminal offences against life, limb, and property and the offence of war profiteering should be given priority and detention measures "applied to the maximum in the punishment of these offences" and instructing the Court and Prosecutor's Office to urgently review all murder cases currently being tried in military courts and to submit analysis to him so that he could take further measures as President of the Republic. D2993 (Radovan Karadžić's instruction to Supreme Military Court and Supreme Military Prosecutor's Office, 6 September 1994). The Military Prosecutor's Office of the VRS conveyed similar instructions to the Intelligence and Security Sector of the VRS Main Staff with reference to instructions from the President. D2998 (Supreme Military Prosecutor's Office report, 8 September 1994) On 11 September 1994, the Accused instructed the organs of military security to review murder cases and report any irregularities observed to the Office of the President of the Republic. D1423 (RS President's Office request to VRS Main Staff, 11 September 1994). *See also* D2994 (Supreme Military Court's instruction, 16 September 1994), p. 1; D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 10. In a session on 15 September 1994, the RS Government, with the support of the Accused, authorised the MUP and the Ministry of Justice and Administration to collect information on crimes against humanity and other crimes violating international law, irrespective of the ethnicity of the victims of those crimes. D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 18; D3373 (Excerpt from minutes of 4th session of RS Government, 15 September 1994), p. 2. On 15 December 1994, the Accused ordered the VRS Main Staff to issue instructions to security and military police organs setting forth their duty to act in accordance with requests and orders by military prosecutors' offices and military courts. D1425 (Radovan Karadžić's order to VRS Main Staff, 15 December 1994), p. 1. *See also* D1426 (Instructions of RS Military Prosecutor's Office, 29 December 1994), pp. 2–5. On 4 January 1995, the Accused promulgated the Law on the Mandatory Submission of Information on Crimes against Humanity and International Law, which the Bosnian Serb Assembly had passed at its session on 29 to 30 December 1994. D1424 (Radovan Karadžić's Decree on promulgation of Law on mandatory submission of information on crimes against humanity and international law, 4 January 1995), p. 1; P1405 (Transcript of 48th session of RS Assembly, 29-30 December 1994), p. 129.

¹⁰⁹³⁹ *See* Section IV.A.2: Legal findings on crimes.

¹⁰⁹⁴⁰ P3064 (Minutes of the 8th session of the SerBiH Presidency, 17 June 1992), p. 1; D3990 (Radovan Karadžić's Decree, 17 June 1992), p. 1.

¹⁰⁹⁴¹ P1465 (Minutes of 19th session of SerBiH Presidency, 13 July 1992), p. 8.

¹⁰⁹⁴² P1137 (Minutes of 39th session of SerBiH Government, 14 July 1992), p. 10.

commence its work.¹⁰⁹⁴³ Mladić issued an order on 25 September 1992 that information about victims of crimes committed by the “Croatian-Muslim coalition” should be reported.¹⁰⁹⁴⁴ On the same day, Plavšić ordered that all SAOs spread the word to their municipalities that it was necessary to urgently set up commissions to gather information on crimes perpetrated against the Serbs by the Croats and Muslims.¹⁰⁹⁴⁵

3423. On 28 September 1992, the Presidency concluded that the Committee for Investigation of Crimes against Serbian People should intensify its work.¹⁰⁹⁴⁶ On 14 December 1992 the Banja Luka CSB Department Chief wrote to all SJBs to inform them that a meeting of senior criminal investigators from all centres would occur the following week in Bijeljina, at which the process of documenting crimes against the Serb civilians, their property, and Orthodox cultural and religious property would be analysed.¹⁰⁹⁴⁷ At sessions of the Bosnian Serb Government on 6 April and 26 to 27 May 1993, the work of the “State Documentation Centre for the Investigation of Crimes Against Serbs” was discussed, as was the “special importance” to instigate criminal proceedings against individual and group perpetrators of “crimes and genocide against the Serbian people”.¹⁰⁹⁴⁸ In March 1995, the Accused advised the Bosnian Serb Assembly that after reviewing data prepared by the Ministry of Justice and the Republican Prosecutor’s Office on cases in civilian courts in 1994, that “on the whole, the situation in the domain of penal policy is unsatisfactory” and stated that “this might have far-reaching detrimental consequences for the overall defence capability of the Republic and the continued successful conduct of the war”; he proposed that the Assembly adopt a conclusion that civilian and military courts step up their work and pass more stringent sentences, especially with respect to criminal offences against the Serb Forces.¹⁰⁹⁴⁹

3424. The Chamber notes that some witnesses provided evidence that: (i) the MUP and justice systems treated perpetrators and victims of different ethnicities in the same manner;¹⁰⁹⁵⁰ (ii) there

¹⁰⁹⁴³ D465 (Minutes of 24th session of SerBiH Presidency, 6 August 1992), p. 2.

¹⁰⁹⁴⁴ D3987 (Order of Ratko Mladić, 25 September 1992).

¹⁰⁹⁴⁵ P5506 (Request of RS Presidency to Municipal Assembly President, 25 September 1992), p. 1.

¹⁰⁹⁴⁶ P3120 (Minutes of the 32nd session of RS Presidency, 28 September 1992), p. 3.

¹⁰⁹⁴⁷ P6642 (Dispatch from Banja Luka CSB to all SJBs, 14 December 1992).

¹⁰⁹⁴⁸ P3138 (Minutes of the 67th session of RS Government, 6 April 1993), pp. 5–6; P3112 (Minutes of the 71st session of RS Government, 26–27 May 1993), p. 12.

¹⁰⁹⁴⁹ D1427 (Radovan Karadžić’s letter to RS National Assembly, 10 March 1995), p. 1. In this regard, the Chamber notes that on 17 May 1995, following a meeting of the Government’s Commission for gathering data on international crimes committed in the RS, Marko Lugonja on behalf of the Intelligence and Security Department of the SRK Command sent out a request to the Commands of all SRK units to “gather all the data and evidence in the zones of your units on war crimes against humanity and international law committed by the enemy against the Serbs and Serbian people. P2646 (Request of SRK’s Intelligence and Security Department, 17 May 1995); P2715 (SerBiH MUP dispatch, 16 May 1992).

¹⁰⁹⁵⁰ D4235 (Witness statement of Jevto Janković dated 24 January 2014), paras. 2, 7; Jevto Janković, T. 45949 (27 January 2014); D3663 (Witness statement of Goran Mačar dated 3 May 2013), paras. 26–27. See Dobrislav

was no cover-up of crimes in the MUP, including the CSBs and SJBs;¹⁰⁹⁵¹ (iii) there were problems in finding witnesses to proceed with a prosecution, especially in cases involving Muslim or Croat victims;¹⁰⁹⁵² (iv) there were purported issues deriving from the jurisdiction of the civilian and military systems, including confusion on the part of civilian and military authorities and inefficiency;¹⁰⁹⁵³ and (v) that investigations and prosecutions were made difficult due to lack of resources.¹⁰⁹⁵⁴

3425. Having considered all of the evidence, the Chamber finds that there was a systemic failure to investigate and prosecute criminal offences committed against non-Serbs in the Municipalities during the conflict. The Chamber rejects the evidence presented that the justice system treated all ethnicities the same in light of the compelling evidence demonstrating a lack of investigation and prosecution of the serious criminal acts committed against non-Serbs which were brought to the attention of authorities, as opposed to a clear willingness to investigate and prosecute crimes committed against Serbs.¹⁰⁹⁵⁵ In addition, lack of resources and difficulties with the determination of jurisdiction or finding witnesses does not explain or justify the lack of proceedings initiated against Serbs alleged to have committed crimes against non-Serbs because the evidence establishes that in most cases in 1992, absolutely nothing was done to investigate or prosecute the horrific crimes which were known to authorities. The Chamber considers that the inadequate level of investigations and prosecutions of crimes committed against non-Serbs is consistent with the Accused's position that such matters could be delayed during the conflict.¹⁰⁹⁵⁶

Planojević, T. 36258, 36262–36263, 36297 (28 March 2013); D3981 (Witness statement of Miroslav Toholj dated 31 October 2013), para. 72; Branko Đerić, T. 28047–28048 (25 April 2012).

¹⁰⁹⁵¹ Goran Mačar, T. 39525 (7 June 2013); Dobrislav Planojević, T. 36297 (28 March 2013). *See also* Čedomir Kljajić, T. 42241 (30 July 2013).

¹⁰⁹⁵² KDZ492, P3596 (Transcript from *Prosecutor v. Krajišnik*), T. 3937–3938 (under seal).

¹⁰⁹⁵³ *See* Momčilo Mandić, T. 5125–5127 (14 July 2010); D3076 (Witness statement of Savo Bojanović dated 2 March 2013), para. 16; Savo Bojanović, T. 34844–34846 (5 March 2013).

¹⁰⁹⁵⁴ D3663 (Witness statement of Goran Mačar dated 3 May 2013), paras. 23–24; Mićo Stanišić, T. 46360 (3 February 2014); D3197 (Witness statement of Dobrislav Planojević dated 23 March 2013), paras. 22–23. *See also* D447 (SerBiH MUP, Analysis of functioning of the MUP, July 1992), e-court p. 20; D2986 (Witness statement of Novak Todorović dated 17 February 2013), paras. 4–5, 20; P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 8 (under seal); KDZ532, T. 21011–21012 (8 November 2011) (closed session); KDZ492, T. 20058, 20061, 20078–20079 (18 October 2011) (closed session). *See also* D1752 (Request from VRS Main Staff, 5 August 1992); D1755 (Information on crime trends and review of work of Military Prosecutor's Office attached to the 1st Krajina Corps, 19 September 1992), p. 1; D2836 (SRK information, 23 December 1993), pp. 3–4; Dragomir Milošević, T. 32869–32870 (29 January 2013) D2987 (Report of Supreme Military Court on the work of Military Courts, 20 February 1996), pp. 4–5, 10.

¹⁰⁹⁵⁵ *See* paras. 3414–3416, 3422–3423.

¹⁰⁹⁵⁶ *See* para. 3413.

(F) Rewarding of those who committed crimes against non-Serbs

3426. The Prosecution submits that the Accused rewarded officials who had committed crimes against non-Serbs rather than punish them.¹⁰⁹⁵⁷ The Accused submits that there is no evidence that he rewarded an official who he knew had committed a crime and that proposals for promotions came from below.¹⁰⁹⁵⁸

3427. The Law on the Army provided the Accused with the exclusive competence to, *inter alia*, decide on the initial commission of officers, promote officers to the rank of Major General and above, and decide on the admission into service, subsequent appointment, transfer, and termination of service of officers with the rank of General.¹⁰⁹⁵⁹ It also authorised him to effect “exceptional promotion” with respect to those officers who did not meet the ordinary criteria of rank promotion and to raise the rank of those officers who were found to have exhibited courage and excelled in command and control skills.¹⁰⁹⁶⁰

3428. The Accused promoted several officials who he knew had committed criminal acts against non-Serbs or held extremist views. On 24 August 1992 the Accused appointed Jovan Tintor, then president of the Vogošća Crisis Staff,¹⁰⁹⁶¹ as a presidential advisor and in April 1995 praised him before the Bosnian Serb Assembly for giving “everything for this Party, for this people”.¹⁰⁹⁶² Tintor had been involved in the expulsion and mistreatment of non-Serbs from Vogošća, and surrounding areas.¹⁰⁹⁶³ He also held extremist views which were known to the Accused.¹⁰⁹⁶⁴

3429. The Accused awarded Mauzer’s Panthers on 9 January 1994.¹⁰⁹⁶⁵ The Accused was aware that Mauzer’s Panthers, a paramilitary group active in Bijeljina, was involved in planning and executing the forcible displacement of Bosnian Muslim civilians, committed killings and other crimes against non-Serb civilians in Bijeljina in 1992.¹⁰⁹⁶⁶

¹⁰⁹⁵⁷ Prosecution Final Brief, paras. 567–569

¹⁰⁹⁵⁸ Defence Final Brief, paras. 1335–1336.

¹⁰⁹⁵⁹ P2603 (SerBiH Law on the Army, 1 June 1992), Arts. 11, 369.

¹⁰⁹⁶⁰ P2603 (SerBiH Law on the Army, 1 June 1992), Arts. 36, 40.

¹⁰⁹⁶¹ See para. 2361.

¹⁰⁹⁶² P5430 (Decision of the RS Presidency, 23 August 1992); P970 (Transcript of 50th session of RS Assembly, 15–16 April 1995), p. 317.

¹⁰⁹⁶³ See Section IV.A.1.c.vi.C.1: Take-over of Vogošća town; Section IV.A.1.c.iii.C: Attack on Ahatovići.

¹⁰⁹⁶⁴ [REDACTED].

¹⁰⁹⁶⁵ P5525 (Audio Recording and Transcript of the Ceremonial RS National Assembly, 9 January 1994), p. 18.

¹⁰⁹⁶⁶ See Section IV.A.1.a.1: Bijeljina; para. 3334.

3430. The Accused also awarded Miroslav Deronjić on 9 January 1994 and later appointed him as Civilian Commissioner for Srebrenica on 11 July 1995.¹⁰⁹⁶⁷ Deronjić was the President of the SDS and chief of the Bratunac Crisis Staff and oversaw a policy of discrimination against Bosnian Muslims and was involved in operations leading to their expulsion from Bratunac and killings.¹⁰⁹⁶⁸ On 6 May 1992, it was reported to the Accused and Mladić that Deronjić was “killing all Muslims by slitting their throats”.¹⁰⁹⁶⁹

3431. The Accused personally promoted Vojkan Đurković to the rank of major and awarded him a medal at a ceremony in Bijeljina in 1994 although the Accused knew that he had participated in “ethnic cleansing” of non-Serbs during the conflict.¹⁰⁹⁷⁰ Furthermore, at a meeting of the VRS Main Staff on 5 April 1995, the Accused acknowledged that Vojkan had worked illegally.¹⁰⁹⁷¹

3432. In November 1993 and June 1994, the Accused promoted and awarded medals of bravery to members of the intervention squad, as well as high officials who were implicated in the Korićanske Stijene, such as Drljača, Paraš, Milutin Čađo.¹⁰⁹⁷² On 3 September 1992, the 1st Krajina Corps reported to the VRS Main Staff that Drljača was responsible for the incident at Korićanske Stijene and that it had caused indignation among citizens and members of the 1st Krajina Corps, creating a “dark stain”, but that it was fortunate that the “international community did not find out about it in more detail”.¹⁰⁹⁷³ Drljača was also the chief of the SJB in Prijedor and established Omarska by written order.¹⁰⁹⁷⁴

¹⁰⁹⁶⁷ P5525 (Audio Recording and Transcript of the Ceremonial RS National Assembly, 9 January 1994), p. 18; D2055 (Decision of RS President, 11 July 1995). *See also* para. 5692.

¹⁰⁹⁶⁸ *See* Section IV.A.1.a.ii; Bratunac.

¹⁰⁹⁶⁹ P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), p. 253. The Chamber notes that Mladić’s notebook refers to the President of the SDS as “Rodoljub Deronjić”. In addition one of the other Bosnian Serb leaders referred to in the notebook was “Rodoljub Đukanović”. In light of Miroslav Deronjić’s position as SDS President at the time, the Chamber finds that the reference is indeed to Miroslav Deronjić.

¹⁰⁹⁷⁰ Milorad Davidović, T. 15712–15715 (30 June 2011) (questioning the Accused in his testimony about how the Accused could have presented Vojkan Đurković an award if the Accused knew that Đurković carried out “ethnic cleansing” throughout the war); D1136 (UNPROFOR report, 9 September 1994), p. 2 (noting that the Accused identified Vojkan Đurković as a member of Arkan’s men who was involved in “ethnic cleansing” in Bijeljina in 1994. *See also* D1432 (Report of Eastern Bosnian Corps Command, 22 August 1994), p. 7 (wherein the Accused condemned Vojkan Đurković for criminal activities directed against members of the VRS).

¹⁰⁹⁷¹ P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 65 (indicating that the Accused stated at a meeting of the VRS Main Staff on 5 April 1995: “It is the standpoint of our policy, there has been a separation of peoples, of cultures of worlds” but acknowledged that Vojkan worked illegally). *See also* para. 3404; D1429 (Request of Bijeljina’s Municipal Assembly, 24 July 1995) (which demonstrates that Vojkan was still at large in July 1995).

¹⁰⁹⁷² *See* para. 1845; KDZ523, P4257 (Transcript from *Prosecutor v. Brđanin*), T. 21164–21166 (under seal); P4264 (Award for bravery presented by Radovan Karadžić) (under seal); P4261 (Article in the Kozarski Vesnik entitled “Shoulder to Shoulder with the Army”, 26 November 1993); P4265 (Compilation of video footage from various Serbian TV stations, undated, with transcript).

¹⁰⁹⁷³ P3929 (Report of 1st Krajina Corps, 3 September 1992), p. 4.

¹⁰⁹⁷⁴ *See* para. 1751.

3433. The Chamber finds that the evidence that the Accused rewarded or promoted his subordinates, who he knew had committed crimes, demonstrates that the Accused was indifferent to whether they participated in criminal activity directed at non-Serbs during the conflict as long as the core objectives of the Bosnian Serbs were fulfilled.

b. Existence of a common plan shared by a plurality of persons

i. *Common plan*

3434. In this section the Chamber refers to its factual findings with respect to the Overarching JCE discussed above and will assess whether those facts establish that a common criminal purpose existed, and if so, when it came into existence and what was entailed in that common plan. The Chamber will also assess whether a plurality of persons acted pursuant to that common plan.

3435. The Chamber found that from 1990 and into mid-1991, the political objective of the Accused and the Bosnian Serb leadership was to preserve Yugoslavia and to prevent the separation or independence of BiH.¹⁰⁹⁷⁵ The central themes of this objective were to preserve the unity of the Serb people and to ensure that Bosnian Serbs would not become a minority in an independent BiH.¹⁰⁹⁷⁶ The Chamber also found that in October 1991, when it became clear to the Bosnian Serb leadership that BiH was pursuing the path to independence and the Bosnian Serbs' objective of preserving Yugoslavia had been undermined, the focus shifted and plans were developed for the creation of a Bosnian Serb state.¹⁰⁹⁷⁷ The process of regionalisation and the creation of SAOs were the first steps in this process,¹⁰⁹⁷⁸ and were followed on 24 October 1991 by the decision of the Bosnian Serb deputies in the SRBiH Assembly to establish a separate assembly, which was

¹⁰⁹⁷⁵ See para. 2651.

¹⁰⁹⁷⁶ See para. 2652. See also para. 2942.

¹⁰⁹⁷⁷ See paras. 2654, 2711, 2941–2951. The Chamber recalls that it considered the Accused's statement in February 1992 about creating a "sovereign area of the Serbian people", and the supporting statements of both Koljević and Krajišnik, to be highly probative in terms of explaining the changing objectives of the Accused and the Bosnian Serb leadership. See paras. 2819–2820, 2840. The Chamber notes that during his testimony Jovanović tried to downplay any knowledge of statements made by the Bosnian Serb leadership regarding their aspirations in BiH and characterised them as "euphoric statements". The Chamber also noted that the witness showed indicators of bias during his testimony. The Chamber therefore does not rely on Jovanović's opinion or assessment about the goal of the Accused or the Bosnian Serb leadership. Similarly the Chamber has had regard to this credibility assessment and does not rely on Jovanović's assessment and characterisation of the Accused's rhetoric during the war. It also does not find his evidence regarding the objective of "Greater Serbia" to be reliable. Vladislav Jovanović, T. 34268–34271, 34296, 34301 (26 February 2013), 34347–34348, 34351–34352 (27 February 2013); D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 54. See also D3026 (Article from Yugoslav Daily Survey entitled "Montenegrin President: Decisive Step towards Peace in Bosnia", 21 June 1993), p. 1.

¹⁰⁹⁷⁸ See paras. 2964–2965. Pašić stated that the Accused did not participate in the establishment of the communities of municipalities and was opposed to it and was not aware that the Bosnian Serb leadership used regionalisation as a means of grouping "Serbian" territories. D3849 (Witness statement of Radomir Pašić dated 5 July 2013), paras. 28–29, 32. However, the Chamber notes that Pašić's testimony was marked by evasiveness and indicators of insincerity which undermined the reliability of his evidence in this regard.

constituted the next day.¹⁰⁹⁷⁹ From that point on, there came into existence a plan which entailed the creation of parallel governmental structures to be followed by the physical take-over of Bosnian Serb claimed territory.¹⁰⁹⁸⁰ Physical control of territories was a core element of this plan and the plan envisaged a territorial re-organisation which would allow the Bosnian Serbs to claim control of a large percentage of the territory in BiH.¹⁰⁹⁸¹ These territorial claims were closely linked to the ideology promoted by the Bosnian Serb leadership, as they tried to revive historical territorial rights and focused on the perceived threats faced by the Bosnian Serbs from Bosnian Muslims and Bosnian Croats who were portrayed as their historic enemies.¹⁰⁹⁸²

3436. The Accused and the Bosnian Serb leadership intended that these take-over operations be achieved militarily and that Bosnian Serbs maintain control over this territory through parallel structures of authority.¹⁰⁹⁸³ This plan to take physical control of Bosnian Serb claimed territory in the Municipalities through military means required the mobilisation and co-ordinated actions of the Serb Forces.¹⁰⁹⁸⁴ Earlier in this Judgement, the Chamber found that the use of force was envisaged to take-over power and there was no genuine concern about the manner in which power was taken.¹⁰⁹⁸⁵

3437. Once the Bosnian Serb Assembly was set up, the Accused issued the Variant A/B Instructions in December 1991 to ensure preparations at the municipal level for the establishment of an ethnically homogeneous separate state. The Chamber found above that these instructions were central in terms of furthering the objectives of the Accused and the Bosnian Serb leadership from December 1991 onwards.¹⁰⁹⁸⁶ The Chamber found that the structures and organs created pursuant to the Variant A/B Instructions—first and foremost the Crisis Staffs—played a central role in preparing for, and carrying out, the Bosnian Serb take-overs in the Municipalities and in maintaining Bosnian Serb authority and power after the take-overs were completed.¹⁰⁹⁸⁷ These

¹⁰⁹⁷⁹ See paras. 2914, 2944.

¹⁰⁹⁸⁰ See paras. 2708–2710, 2941–2951.

¹⁰⁹⁸¹ See paras. 2839–2856.

¹⁰⁹⁸² See paras. 2839–2856, 2948.

¹⁰⁹⁸³ See paras. 2654, 2707–2715, 2844–2848, 2991.

¹⁰⁹⁸⁴ See paras. 2844–2845. See also paras. 2898–2899, 3077.

¹⁰⁹⁸⁵ See para. 3084.

¹⁰⁹⁸⁶ See paras. 3073–3079, 3083, 3089.

¹⁰⁹⁸⁷ See paras. 3072–3096. Defence witnesses testified *inter alia* that Crisis Staffs (i) were established at various levels in BiH and were simply a means of responding to a crisis situation; (ii) were by no means “a secret system of command and control”; (iii) operated independently and did not receive instructions from the SDS leadership; and (iv) did not plan for the persecution of non-Serbs. D4194 (Witness statement of Sveto Kovačević dated 7 December 2013), paras. 10, 23; D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 5. While the Chamber did find that Crisis Staffs were created at different levels in BiH and also by Bosnian Muslims, the Chamber does not find the remainder of the evidence of these witnesses to be reliable in this regard. In reaching that conclusion, the Chamber had regard to the manner in which the Crisis Staffs were created pursuant to the Variant A/B Instructions and the manner in which they were used to establish Bosnian

parallel structures were also created in such a way that the objectives, plans, and instructions of the Bosnian Serb leadership were easily communicated to Bosnian Serb leaders at a municipal level.¹⁰⁹⁸⁸

3438. On 12 May 1992, six months after the issuance of the Variant A/B Instructions, and after the second level of those instructions had been activated, the Accused presented the Strategic Goals before the Bosnian Serb Assembly. The Chamber found earlier that these Strategic Goals not only reflected the objectives of the Accused and the Bosnian Serb leadership but were also viewed as instructions to be followed at a municipal level in order to achieve those objectives.¹⁰⁹⁸⁹

3439. The Chamber finds that there was nothing in the Variant A/B Instructions or the Strategic Goals which called for the commission of crimes *per se*. However, the Chamber found that ethnic separation and the creation of a largely ethnically homogeneous entity were some of the core aspects of the Strategic Goals and that the Accused and the Bosnian Serb leadership planned the military implementation of these goals which necessarily entailed the take-over of territory and the forcible movement of the non-Serb population to achieve that objective.¹⁰⁹⁹⁰ Therefore, it is clear that the Variant A/B Instructions and Strategic Goals created the basis, and laid the foundations, for the structures through which a criminal purpose could be achieved. In reaching that conclusion, the Chamber also had regard to the manner in which the Variant A/B Instructions and Strategic Goals were implemented throughout the Municipalities and the objectives of the Bosnian Serb leadership with respect to ethnic separation. This involved a widespread and systematic pattern of crimes committed by Serb Forces against non-Serbs throughout the Municipalities, which is discussed in further detail below.

3440. The Chamber finds that the planned take-over of Bosnian Serb claimed territories went beyond the establishment of authority; it also entailed the removal of Bosnian Muslims and Bosnian Croats in order to create a largely ethnically homogeneous entity.¹⁰⁹⁹¹ This was founded on the ideology that Bosnian Serbs could not co-exist with Bosnian Muslims and Bosnian Croats.¹⁰⁹⁹²

Serb authority and control over municipalities and their involvement in crimes committed against non-Serbs. It also noted that the evidence of the relevant witnesses was marked by contradictions, evasiveness, and indicators of bias which undermined the credibility of their evidence in this regard.

¹⁰⁹⁸⁸ See paras. 2940, 2944, 2947.

¹⁰⁹⁸⁹ See paras. 2899–2903.

¹⁰⁹⁹⁰ See paras. 2895–2903.

¹⁰⁹⁹¹ See paras. 2839–2856.

¹⁰⁹⁹² See paras. 2839–2956, 2895–2896. See also paras. 2670–2673.

3441. The Chamber further recalls that there was an organised and systematic pattern of crimes committed by members of the Serb Forces and Bosnian Serb Political and Governmental Organs in the Count 1 Municipalities.¹⁰⁹⁹³ A similar systematic pattern of crimes against Bosnian Muslims and Bosnian Croats was repeated in the remaining Municipalities which spread over the three main regions relevant to the Municipalities component of this case, namely Eastern Bosnia, the ARK, and the Sarajevo area.

3442. The Chamber found that a vast number of Bosnian Muslims and Bosnian Croats in the Municipalities were forcibly displaced from the homes, villages, and towns in which they were lawfully present to other locations in BiH or third countries. Victims were given limited time to leave their homes, loaded onto trucks, buses, or trains and transported out of the Municipalities. The Chamber found that in many cases Bosnian Muslims and Bosnian Croats were forced to leave following attacks against their villages or after the take-over of towns by Serb Forces. Many others were first arrested, and then unlawfully detained in detention facilities and transported out of the Municipalities. These expulsions resulted in drastic changes to the ethnic composition of towns and by 1995, almost no Bosnian Muslims or Bosnian Croats remained in many of the Municipalities.

3443. In particular, the Chamber found that, in a similar pattern throughout the Municipalities, Serb Forces and Bosnian Serb Political and Governmental Organs were involved in the systematic forced movement of Bosnian Muslims and Bosnian Croats from the Municipalities, including in creating an environment of fear in which Bosnian Muslims and Bosnian Croats had no choice but to leave the Municipalities.¹⁰⁹⁹⁴ The Chamber found that Bosnian Muslims and Bosnian Croats were displaced as a result of, or following physical force, threat of force, or coercion, or that they fled out of fear. This fear was caused by ongoing violence and various crimes committed against non-Serbs including *inter alia* killings, cruel and inhumane treatment, unlawful detention, rape and other acts of sexual violence, discriminatory measures, and wanton destruction of villages, houses and cultural monuments.¹⁰⁹⁹⁵

3444. Further, the similar manner and the short time period in which these crimes were committed support the conclusion that these crimes were committed during the course of well planned and coordinated operations which involved the military take-over of Municipalities and the expulsion of non-Serbs. The Chamber found that most of the crimes were committed between April to October 1992 in each of the Municipalities but then continued through to the end of the conflict.

¹⁰⁹⁹³ See Section IV.A.2.v: Genocide: Count 1.

¹⁰⁹⁹⁴ See Section IV.A.2.iii: Deportation and inhumane acts (forcible transfer): Counts 7 and 8.

The Chamber found that many of the attacks on towns and villages in the Municipalities were carried out in an organised and co-ordinated fashion and involved members of the Serb Forces. These attacks and the crimes which were committed during and after the take-overs followed a similar pattern across the Municipalities.¹⁰⁹⁹⁶

3445. Having regard to the clear systematic and organised pattern of crimes which were committed in each of the Municipalities by members of the Serb Forces, over a short time period, the Chamber finds that these crimes were not committed in a random manner, but were committed in a co-ordinated fashion.

3446. The Accused disputes that there was a systematic expulsion of non-Serbs from the RS by arguing that the Prosecution disregarded the majority of municipalities where non-Serbs were protected and that this undermines the theory that there was a common plan.¹⁰⁹⁹⁷ The Chamber does not consider that there is any merit to this argument, given that the Chamber found that the twenty municipalities in which these crimes were committed, and in relation to which the Chamber was tasked with entering findings, were of strategic importance to the Accused and the Bosnian Serb leadership and formed part of Bosnian Serb claimed territory. Even if there were no crimes committed in other municipalities in BiH, not covered by the Indictment, it would not affect the Chamber's conclusion that crimes were committed in a systematic and organised manner in the Municipalities.

3447. Having weighed the evidence discussed above in light of the systematic and organised manner in which crimes were committed in each of the Municipalities, the Chamber finds beyond reasonable doubt that between October 1991 and 30 November 1995 there existed a common plan to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory through the crimes as set out in more detail below. The Chamber finds that starting in October 1991, the Accused and the Bosnian Serb leadership agreed on how they would respond to the declaration of sovereignty in BiH and the measures they would take to create their own ethnically homogeneous state.

ii. *Plurality of persons*

3448. The Prosecution alleges that the Accused worked together with other Bosnian Serb military and political leaders to achieve the objective of the common plan.¹⁰⁹⁹⁸ While the Prosecution

¹⁰⁹⁹⁵ See Section IV.A.2.iii: Deportation and inhumane acts (forcible transfer): Counts 7 and 8.

¹⁰⁹⁹⁶ See Section IV.A.2: Legal findings on crimes.

¹⁰⁹⁹⁷ See Defence Final Brief, paras. 966–972, 979.

¹⁰⁹⁹⁸ Prosecution Final Brief, para. 84.

submits that the membership of the alleged JCE fluctuated over time, it argues that each member made a significant contribution to achieving the common criminal purpose.¹⁰⁹⁹⁹ The Prosecution then proceeds to list the named members of the alleged Overarching JCE and their respective contributions to the common plan.¹¹⁰⁰⁰

3449. Beginning in late 1991, Krajišnik, Koljević, and Plavšić were intimately involved with the Accused in developing the policies and plans which formed the foundation of the common plan as defined above. They made speeches on the themes of preventing the independence of BiH and that Bosnian Serbs could not live with Bosnian Muslims and Bosnian Croats, and ultimately advocated the separation of the three peoples and the creation of a separate Serb state.¹¹⁰⁰¹ For Krajišnik, the goal of separating from the Bosnian Muslims was the most important task and he often recalled that the main Bosnian Serb objective was to create their own, “ethnically pure” state.¹¹⁰⁰² Krajišnik and Plavšić both spoke of ethnic cleansing as something that was necessary to achieve the goals of the Bosnian Serb leadership.¹¹⁰⁰³ Krajišnik and Plavšić specifically agreed with the Accused that Bosnian Muslims should be transferred out of Bosnian Serb territory given that they could not live together.¹¹⁰⁰⁴ Plavšić went as far as to state that “if it takes the lives of 3 million people to solve this crisis, lets get it done and move on”.¹¹⁰⁰⁵ In addition, Koljević repeatedly called for the expulsion of Bosnian Muslims and the homogeneity of territories, claiming it was impossible for Serbs to live with anyone else.¹¹⁰⁰⁶ Krajišnik, Koljević, and Plavšić also participated in formulating and promoting the Strategic Goals, and took steps to ensure they were implemented, and that organisational structures were created through which the criminal purpose could be achieved.¹¹⁰⁰⁷

3450. In addition to their participation in the creation of the common plan and agreement with the political objectives of the Accused and the Bosnian Serb leadership, the roles held by Krajišnik, Koljević, and Plavšić throughout the conflict are indicative of their further contributions to the common plan. Together with the Accused, Krajišnik, Koljević, and Plavšić were considered the top most powerful leaders in the RS.¹¹⁰⁰⁸ Krajišnik, Koljević, and Plavšić were three of the five members of the RS Presidency; Krajišnik was President of the Bosnian Serb Assembly and

¹⁰⁹⁹⁹ Prosecution Final Brief, para. 84.

¹¹⁰⁰⁰ Prosecution Final Brief, paras. 85–109.

¹¹⁰⁰¹ See paras. 2649, 2663–2664, 2721, 2725, 2727–2729, 2749, 2762, 2764, 2767, 2772, 2786, 2810, 2820, 2825–2826, 2829, 2832.

¹¹⁰⁰² See paras. 2721, 2729, 2877, 2880, 2898, 3245.

¹¹⁰⁰³ See paras. 2757.

¹¹⁰⁰⁴ See paras. 2757.

¹¹⁰⁰⁵ See para. 2727.

¹¹⁰⁰⁶ See paras. 2721, 2728, 2762, 2806, 2820.

¹¹⁰⁰⁷ See paras. 2722, 2767, 2860, 2868, 2880, 2885, 2893–2894, 2898–2900, 2902, 3245.

¹¹⁰⁰⁸ See para. 3242.

Koljević and Plavšić were Vice-Presidents of the RS; all three were appointed to deal with important issues throughout the conflict, relating to detention centres, communications with international organisations, as well as information and propaganda.¹¹⁰⁰⁹

3451. Krajišnik had great authority among the Bosnian Serb municipal leaders and had the ability to issue orders and influence how power should be exercised at the municipal level.¹¹⁰¹⁰ Plavšić herself openly supported Serbian paramilitary units and invited them to BiH to support the war efforts and was a link between these units and the Bosnian Serb leadership.¹¹⁰¹¹ The Chamber further found that Krajišnik, Koljević, and Plavšić attended meetings and events throughout the Municipalities and were informed of crimes committed during and after the take-over of the Municipalities and in detention facilities there; furthermore, they were specifically informed of efforts to forcibly remove non-Serbs from the Municipalities which was the very result intended by the Bosnian Serb leadership from the inception of their plan.¹¹⁰¹²

3452. Based on the above, the Chamber finds that together with the Accused, Krajišnik, Koljević, and Plavšić shared the intent to effect the common plan to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory, and through their positions in the Bosnian Serb leadership and involvement throughout the Municipalities, they contributed to the execution of the common plan from October 1991 until at least 30 November 1995.

3453. Turning to Mladić, beginning on 12 May 1992 when the Accused recruited and appointed him as Commander of the Main Staff, he commanded the highest body of the VRS pursuant to the authority delegated to him by the Accused, and issued regulations, orders, and instructions, implementing orders issued by the Accused.¹¹⁰¹³ Given his position and influence, Mladić was closely involved with, and was kept well-informed of, military developments throughout the Municipalities, including during the take-over of towns by units of the VRS and in detention facilities where non-Serbs were held between April 1992 and November 1995.¹¹⁰¹⁴ As stated above, the Chamber found that Mladić shared the objective with the Bosnian Serb leadership that Bosnian Serbs could not co-exist with Bosnian Muslims and Bosnian Croats and agreed with and promoted the plan to create a separate Bosnian Serb state and in particular took steps to ensure that the Strategic Goals were implemented. The Chamber therefore finds that Mladić shared the intent to effect the common plan and contributed to the execution of the common plan through his role as

¹¹⁰⁰⁹ See paras. 3240, 3250, 3257.

¹¹⁰¹⁰ See para. 3245.

¹¹⁰¹¹ See para. 3261.

¹¹⁰¹² See paras. 3246–3248, 3253–3255, 3260, 3262–3264.

¹¹⁰¹³ See paras. 3266–3267.

Commander of the Main Staff and close involvement in operations by VRS units during which there were forced expulsions of non-Serbs and other crimes committed in the Municipalities. Furthermore, the Chamber found that despite periods of tension and disagreements between the Accused and Mladić on certain aspects, the Accused maintained his role as Mladić's superior and had *de jure* control over him, and exercised such control over him in fact throughout the conflict; thus, any temporary disagreements between the Accused and Mladić did not undermine their agreement or Mladić's contributions to the common plan at any point between his appointment on 12 May 1992 until at least 30 November 1995.¹¹⁰¹⁵

3454. With respect to Mićo Stanišić and Mandić, Stanišić was the Minister of the MUP in 1992 and Mandić was the Deputy Minister of the MUP until May 1992, and subsequently, the RS Minister of Justice from May to November 1992; both were closely involved in the creation and development of the Bosnian Serb MUP from as early as 1992.¹¹⁰¹⁶ The Chamber found that the directives with respect to the division of the MUP structures and the creation of the Bosnian Serb MUP were communicated to and implemented at a municipal level. These were crucial steps in the take-over of Municipalities, as a separate police structure would allow Bosnian Serb authority to be maintained in the Municipalities.¹¹⁰¹⁷ The creation of this separate Bosnian Serb MUP was a means of achieving the objectives of the Accused and the Bosnian Serb leadership, and Mićo Stanišić and Mandić contributed to the execution of the common plan through their involvement in this process.

3455. In addition, as head of the MUP, Mićo Stanišić was informed of operations throughout the Municipalities during which there were forced expulsions of non-Serbs and other crimes committed.¹¹⁰¹⁸ Mandić was responsible for the exchange of detainees through the Central Commission for the Exchange of Prisoners of War and Arrested Persons and was informed of non-Serbs being forcibly moved out of the Municipalities.¹¹⁰¹⁹ Both Mićo Stanišić and Mandić were considered the "President's men"; Stanišić affirmed his allegiance to the Accused and the SDS stating that he had always followed the policies of the SDS Presidency and he would not allow himself to be separated from them.¹¹⁰²⁰ Furthermore, Mandić made statements during the conflict that demonstrated his participation in the shared common plan, including when he stressed "we

¹¹⁰¹⁴ See paras. 3269–3271.

¹¹⁰¹⁵ See para. 3141.

¹¹⁰¹⁶ See paras. 3298, 3300, 3306, 3308.

¹¹⁰¹⁷ See paras. 3300, 3308.

¹¹⁰¹⁸ See paras. 3301–3304.

¹¹⁰¹⁹ See paras. 3309–3310.

¹¹⁰²⁰ See paras. 3299, 3305, 3307.

should split Bosnia in two parts” and that Muslims and Croats would have rights after “we clean them out”.¹¹⁰²¹

3456. Based on the above, the Chamber finds that through their participation in the creation of the Bosnian Serb MUP structure, its very goal being to achieve Bosnian Serb authority in the Municipalities, together with the fact that through their positions as Minister and Deputy Minister of the MUP, and later Minister of Justice, Mićo Stanišić and Mandić were closely involved with the units carrying out the operations to forcibly remove non-Serbs from the Municipalities as well as the commission of other crimes. As such, the Chamber finds that Mićo Stanišić and Mandić contributed to the execution of the common plan until the end of 1992. Given that both Mandić and Mićo Stanišić left their positions at the end of 1992, the Chamber cannot find that they were members of the Overarching JCE after this period.

3457. Turning to Arkan and Šešelj, both provided and trained units of men who were involved in operations throughout the Municipalities during which forced expulsions of non-Serbs and other crimes occurred. In addition, the Chamber found that Arkan communicated with Plavšić during the conflict and the Accused and Mićo Stanišić were informed of the involvement of Arkan’s men in the take-over of Municipalities and crimes committed by his units.¹¹⁰²² Arkan was invited by the RS Presidency to participate in military operations in the Municipalities; Arkan was also openly praised by Plavšić and the Accused for his contributions to the efforts to defend the Bosnian Serbs throughout the conflict.¹¹⁰²³ Even as he left BiH, Arkan repeated his commitment to the Accused to return to defend the “Serbian territory” if called upon by the Accused.¹¹⁰²⁴

3458. Regarding Šešelj, he was in frequent contact with the Accused and the Bosnian Serb leadership and supported the policies of the SDS. More specifically, Šešelj advocated for a homogeneous Greater Serbia which involved the unification of all Serb lands and the removal of the non-Serb population; as such he clearly shared the common plan. He sent large groups of SRS volunteer fighters to assist the Bosnian Serbs in BiH in the implementation of the common plan throughout the conflict and contributed to the execution of the common plan as such.¹¹⁰²⁵

¹¹⁰²¹ See para. 2730.

¹¹⁰²² See paras. 3198, 3260–3261, 3303–3304.

¹¹⁰²³ See paras. 3198, 3323, 3325.

¹¹⁰²⁴ See para. 3325.

¹¹⁰²⁵ See paras. 3327–3330. Šešelj also stated there was no joint criminal enterprise between the Accused, himself, and other individuals to expel Bosnian Muslims and Bosnian Croats and that the Accused did not have an antagonistic attitude towards Bosnian Muslims and Bosnian Croats. D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 31–35, 39, 41; D3667 (Transcript of Vojislav Šešelj’s press conference, 26 March 1992), p. 20; Vojislav Šešelj, T. 39600–39605 (10 June 2013). The Chamber does not find this evidence

3459. The Chamber therefore finds that Arkan and Šešelj both contributed to the common plan as envisaged by the Accused and the Bosnian Serb leadership by providing and training men who were involved in operations throughout the Municipalities during which there were forced expulsions of non-Serbs and other crimes were committed.

3460. With regard to the evidence presented in this case in relation to Slobodan Milošević and his membership in the JCE, the Chamber recalls that he shared and endorsed the political objective of the Accused and the Bosnian Serb leadership to preserve Yugoslavia and to prevent the separation or independence of BiH and co-operated closely with the Accused during this time. The Chamber also recalls that Milošević provided assistance in the form of personnel, provisions, and arms to the Bosnian Serbs during the conflict.¹¹⁰²⁶ However, based on the evidence before the Chamber regarding the diverging interests that emerged between the Bosnian Serb and Serbian leaderships during the conflict and in particular, Milošević's repeated criticism and disapproval of the policies and decisions made by the Accused and the Bosnian Serb leadership,¹¹⁰²⁷ the Chamber is not satisfied that there was sufficient evidence presented in this case to find that Slobodan Milošević agreed with the common plan.

3461. Finally, with respect to Jovica Stanišić and Franko Simatović, head and deputy head of the SDB, respectively, the Chamber recalls that Arkan's men and the Red Berets were subordinated to them and that they sent units to BiH which were involved in take-over operations in the Municipalities during the conflict; Stanišić and Simatović were also involved in establishing and monitoring training camps for Bosnian Serbs.¹¹⁰²⁸ However, the Chamber is not satisfied that there was sufficient evidence presented in this case to find that Jovica Stanišić and Franko Simatović agreed with the common plan.

3462. The Chamber therefore finds beyond reasonable doubt that the Accused, Momčilo Krajišnik, Nikola Koljević, Biljana Plavšić, Ratko Mladić,¹¹⁰²⁹ Mićo Stanišić,¹¹⁰³⁰ Momčilo

to be reliable. In reaching that conclusion, the Chamber considered that Šešelj had a clear self-interest in testifying in this regard and his evidence was marked by political statements.

¹¹⁰²⁶ See paras. 3275–3288.

¹¹⁰²⁷ The Chamber notes that the relationship between Milošević and the Accused had deteriorated beginning in 1992; by 1994, they no longer agreed on a course of action to be taken. Furthermore, beginning as early as March 1992, there was apparent discord between the Accused and Milošević in meetings with international representatives, during which Milošević and other Serbian leaders openly criticised Bosnian Serb leaders of committing "crimes against humanity" and "ethnic cleansing" and the war for their own purposes. See paras. 3280, 3289–3297.

¹¹⁰²⁸ See paras. 3312, 3314–3315, 3317–3320.

¹¹⁰²⁹ The Chamber finds that Ratko Mladić was a member of the Overarching JCE from 12 May 1992.

¹¹⁰³⁰ The Chamber finds that Mićo Stanišić was a member of the Overarching JCE until the end of 1992.

Mandić,¹¹⁰³¹ Željko Ražnatović (Arkan), and Vojislav Šešelj were members of the Overarching JCE and that they formed a plurality of persons who acted pursuant to the common plan that existed between October 1991 and 30 November 1995 as defined above.

iii. *Scope of common plan*

3463. In concluding that a common plan existed to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory in the Municipalities from October 1991 to 30 November 1995, the Chamber had regard to its findings that in internal discussions among Bosnian Serb leaders it was clear that the forcible movement of the population had occurred and had taken place in accordance with instructions received from the highest level of the Bosnian Serb leadership and was well planned.¹¹⁰³² The Chamber also had regard to its findings that the Accused and the other members of the Overarching JCE were not only informed about the forcible take-over of towns and municipalities by Serb Forces, but were also aware that this had led to massive demographic changes through the forcible displacement of non-Serb civilians and resulted in ethnic homogenisation, which they supported.¹¹⁰³³ The Chamber found that the Overarching JCE members, including the Accused, promoted and shared the objective of creating a Bosnian Serb state which was ethnically pure and contiguous Serb areas that would require a re-distribution of the population.¹¹⁰³⁴

¹¹⁰³¹ The Chamber finds that Momčilo Mandić was a member of the Overarching JCE until the end of 1992.

¹¹⁰³² The Chamber notes that Defence witnesses testified, *inter alia*, that the Accused and the Bosnian Serb leadership (i) pursued policies which tried to preserve peace; (ii) tried to accommodate and respect the rights of non-Serbs; and (iii) did not support or plan the forcible movement of the population or the commission of crimes against non-Serbs. Kosta Čavoški, T. 37052 (11 April 2013); Dragomir Keserović, T. 40914–40915, 40944–40946 (8 July 2013); D4194 (Witness statement of Sveto Kovačević dated 7 December 2013), paras. 5, 9, 15–16, 37; D4063 (Witness statement of Novak Kondić dated 23 November 2013), paras. 5–7; D4166 (Witness statement of Mikan Davidović dated 1 December 2013), para. 7; D3861 (Witness statement of Radovan M. Karadžić dated 14 July 2013), paras. 5, 10–11; D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 16, 18–18A, 46; Momir Bulatović, T. 34540–34541 (28 February 2013), T. 34560–34561 (1 March 2013); D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), paras. 18, 21; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), paras. 18–19; D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 28; D4313 (Witness statement of Gojko Kličković dated 7 February 2014), paras. 3–8; D3146 (Witness statement of Božidar Vučurević, 22 March 2013), para. 5. However, the Chamber finds that their testimony was marked by contradictions, evasiveness, and clear indicators of partiality and bias, or was based on their own unfounded assessment or impressions. The Chamber found that these factors undermined their evidence and does not find their evidence in this regard to be reliable. While Ronald Hatchett also testified that the Accused was committed to ending fighting and saving civilians, this observation was only limited to his own assessment during meetings with the Accused in 1994 and is thus of limited weight. D2741 (Witness statement of Ronald Hatchett dated 13 January 2013), paras. 10–12.

¹¹⁰³³ See paras. 2846, 2850, 2852, 3363. Dodik testified that he never heard anyone at a Bosnian Serb Assembly or meeting speak about the permanent removal of Bosnian Croats or Muslims from BiH and that the Accused sought to resolve conflicts peacefully and the crimes in BiH were committed by paramilitaries. Milorad Dodik, T. 36842–36843, 36914 (9 April 2013). The Chamber notes however that Dodik's evidence was marked by contradictions, indicators of insincerity, and partisanship which undermined the reliability of his evidence in this regard.

¹¹⁰³⁴ See paras. 2896, 2898.

3464. The Chamber finds that the only reasonable inference to draw from all of the evidence analysed earlier in this Judgement is that the crimes of deportation, inhumane acts (forcible transfer), and persecution (forcible transfer and deportation) were intended to achieve the objective of the Overarching JCE and that the Accused and other members of that JCE shared the intent for these crimes. With respect to forcible transfer and deportation as underlying acts of persecution, the Chamber also finds that the Accused and the other members of the Overarching JCE shared the specific intent to discriminate on the basis of the identity of the victims as Bosnian Muslims or Bosnian Croats.¹¹⁰³⁵

3465. Similarly, the Chamber also had regard to the manner in which the take-over of Municipalities was carried out by Serb Forces and the number of Bosnian Muslims and Bosnian Croats who were residing in the Municipalities prior to their take-over. With respect to the widespread practice of unlawfully arresting and detaining non-Serbs prior to removing them from Bosnian Serb claimed territory, the Chamber notes that there were repeated attempts by the Accused and the Bosnian Serb leadership to justify the existence of detention facilities in which they knew that civilians were detained. Promises were also made to international representatives to improve conditions and release detainees.¹¹⁰³⁶ However, the Chamber finds, in light of its factual findings with respect to the Municipalities, that these assurances were completely at odds with the reality on the ground. This reality involved the unlawful arrest and detention of thousands of Bosnian Muslims and Bosnian Croats following the forcible take-over by Serb Forces of villages, towns, and municipalities, before they were ultimately transferred to other locations.¹¹⁰³⁷ The Chamber finds that the Accused and the Bosnian Serb leadership were not only aware of these detention facilities but used unlawful detention at these facilities as a core element in achieving their objective of the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory. They also used the unlawful detention of civilians to secure the “exchange” of Bosnian Serbs detained by Bosnian Muslims. The Chamber therefore finds that the Accused and the Bosnian Serb leadership shared the intent to unlawfully detain Bosnian Muslims and Bosnian Croats as one of the means through which they could achieve their objective of ethnic separation. The Chamber therefore finds that the only reasonable inference from this evidence is that the crime of persecution, through the underlying acts of unlawful detention and the imposition and maintenance of restrictive and discriminatory measures, was intended to achieve the objective of

¹¹⁰³⁵ In addition, based on all the evidence, the Chamber finds that the Accused was aware that his conduct as discussed further below was part of a widespread and systematic attack directed against a civilian population.

¹¹⁰³⁶ See Section IV.A.3.a.v.B: Knowledge of inadequate conditions and mistreatment of non-Serbs in detention centres.

¹¹⁰³⁷ See Section IV.A.3.a.v.B: Knowledge of inadequate conditions and mistreatment of non-Serbs in detention centres.

the Overarching JCE and that the Overarching JCE members, including the Accused, shared the intent for these crimes. With respect to these underlying acts of persecution, the Chamber also finds that the Accused and the Overarching JCE members shared the specific intent to discriminate against the Bosnian Muslims and Bosnian Croats on the basis of their identity.¹¹⁰³⁸

3466. Thus the scope of the Overarching JCE includes the crimes of deportation, inhumane acts (forcible transfer), persecution (forcible transfer and deportation), and persecution through the underlying acts of unlawful detention and the imposition and maintenance of restrictive and discriminatory measures (“JCE I Crimes”). However, having considered all of the relevant evidence, the Chamber finds that it is insufficient to demonstrate that the only reasonable inference is that the other acts of persecution charged in Count 3 of the Indictment or the crimes of murder and extermination charged in Counts 4, 5, and 6 of the Indictment were included in the common plan or intended by the Accused. In coming to this conclusion, the Chamber has considered not only the evidence of the Accused’s intent for the JCE I Crimes, but also that the Accused received information about the perpetration of crimes committed by Serb Forces against non-Serbs throughout the conflict, including that Serb Forces killed approximately 45 non-Serb civilians in Bijeljina in April 1992 and approximately 200 non-Serb detainees at Korićanske Stijene in August 1992 and continued to act in furtherance of the common plan. The Chamber is of the view that another reasonable inference available on the evidence is that while the Accused did not intend for these other crimes to be committed, he did not care enough to stop pursuing the common plan to forcibly remove the non-Serb population from the Municipalities. While the Chamber considers that these other crimes resulted from the campaign to forcibly remove the non-Serb population from the Municipalities, the Chamber does not find them to be an intended part of the common plan. The Chamber will therefore consider below whether the Accused is responsible for these crimes pursuant to the third form of JCE liability below.

c. Accused’s contribution to the Overarching JCE

i. *Submissions of the Parties*

3467. Having found that the Overarching JCE existed from October 1991 and continued until at least 30 November 1995, the Chamber will now assess whether the Accused’s significantly contributed towards that JCE during this time period. In making that assessment the Chamber has limited itself to the Accused’s conduct during the period of the Overarching JCE. Any conduct which falls outside the temporal scope of the Overarching JCE has only been considered, if at all,

¹¹⁰³⁸ In addition, based on all the evidence, the Chamber finds that the Accused was aware that his conduct as discussed further below was part of a widespread and systematic attack directed against a civilian population.

for the purpose of establishing the Accused's intent to participate in the JCE. It can now turn to each of the alleged contributions through which the Prosecution alleges the Accused implemented the Overarching JCE.

3468. In paragraph 14 of the Indictment, the Prosecution alleges that the Accused significantly contributed to achieving the objective of the Overarching JCE through the commission of crimes in one or more of the following ways:

(a) Formulating, promoting, participating in, and/or encouraging the development and implementation of SDS and Bosnian Serb governmental policies intended to advance the objective of the JCE;

(b) Participating in the establishment, support and/or maintenance of Bosnian Serb Political and Governmental Organs and Bosnian Serb Forces through which the objective of the JCE was implemented;

(c) Disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the JCE;¹¹⁰³⁹

(d) Directing, encouraging, facilitating, and/or authorising Bosnian Serb Political and Governmental Organs, SDS officials and members, and Serb Forces to carry out acts in furtherance of the objective of the JCE;

(e) Participating in the design or formulation of acts carried out by Bosnian Serb Political and Governmental Organs, SDS officials and members, and Serb Forces in furtherance of the objective of the JCE;

(f) Obtaining, facilitating, encouraging and/or supporting the participation of JNA/VJ forces and Serbian paramilitary forces to further the objective of the JCE;

(g) Failing to take adequate steps to ensure that Bosnian Serb Political and Governmental Organs and/or Bosnian Serb Forces would act to protect Bosnian Muslims and Bosnian Croats residing in areas under their control;

(h) Facilitating and/or encouraging the commission by Serb Forces and Bosnian Serb Political and Governmental Organs of crimes that furthered the objective of the JCE by failing to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes;

(i) Engaging in, supporting, and/or facilitating efforts to deny or provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role Serb Forces had played in those crimes to representatives of the international community, non-governmental organisations, the media, and the public; and

¹¹⁰³⁹ The Prosecution submits that this included claims (i) that Bosnian Serbs were in jeopardy of oppression, including genocide, at the hands of Bosnian Muslims and Croats; and (ii) that territories on which Bosnian Muslims and Bosnian Croats resided were Bosnian Serb land. *See* Indictment, para. 14(c).

(j) Directing and/or authorising the restriction of humanitarian aid to Bosnian Muslim and/or Bosnian Croat enclaves located in territory controlled by Bosnian Serb Political and Governmental Organs and/or Bosnian Serb Forces in an effort to create unbearable living conditions for inhabitants there in furtherance of the objective of the JCE.¹¹⁰⁴⁰

3469. The Prosecution argues that the Accused led the Overarching JCE in translating the pro-Serb ideology into SDS and governmental policies designed to further the objective of the permanent forcible removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory.¹¹⁰⁴¹ The Prosecution submits that the Accused was the key figure in creating power structures that would transform policy into action by transforming the SDS bodies into RS structures and laying the groundwork for the creation of the Bosnian Serb MUP, Crisis Staffs, Bosnian Serb Government and Presidency, TO brigades, and the VRS.¹¹⁰⁴²

3470. The Prosecution alleges that the Accused dominated, guided, and directed the actions of the Bosnian Serb Political and Governmental Organs and Serb Forces throughout the period of the Indictment.¹¹⁰⁴³ The Prosecution further argues that the Accused disseminated propaganda to incite Bosnian Serb fear and hatred of Muslims and Croats, which had the effect of encouraging his subordinates to follow his example.¹¹⁰⁴⁴ The Prosecution also argues that the Accused obtained, facilitated, and encouraged the participation of JNA forces in arming Serbs and in the take-over of the Municipalities; the Accused further oversaw and encouraged the participation of Serb paramilitaries in pursuit of the common purpose.¹¹⁰⁴⁵

3471. The Prosecution argues that the Accused, by denying the commission of crimes, justifying them, and/or misleading the international community and the media, created an environment of impunity, through which he encouraged the ongoing implementation of the common plan.¹¹⁰⁴⁶ The Prosecution further submits that the Accused (i) failed to take adequate steps to ensure that Bosnian Serb Political and Governmental Organs and/or Bosnian Serb Forces would act to protect non-Serbs in Serb claimed territory, and (ii) by doing so, in turn facilitated and/or encouraged the commission of crimes in furtherance of the common purpose of the Overarching JCE.¹¹⁰⁴⁷

¹¹⁰⁴⁰ Indictment, para. 14.

¹¹⁰⁴¹ See Prosecution Final Brief, para. 597; Indictment, para. 14(a), 14(e).

¹¹⁰⁴² See Prosecution Final Brief, para. 598; Indictment, para. 14(b).

¹¹⁰⁴³ See Prosecution Final Brief, paras. 598, 600; Indictment, para. 14(d).

¹¹⁰⁴⁴ See Prosecution Final Brief, paras. 597, 600; Indictment, para. 14(c).

¹¹⁰⁴⁵ See Prosecution Final Brief, para. 599; Indictment, para. 14(f). With regard to whether the Accused's contribution to the Overarching JCE through obtaining, facilitating, encouraging, and/or supporting the participation of the JNA/VJ forces and Serbian paramilitary forces, the Chamber has included the VJ/JNA and Serbian paramilitary forces under the definition of Serb Forces. See Indictment, para. 14(f). See also para. 159.

¹¹⁰⁴⁶ See Prosecution Final Brief, para. 601; Indictment, para. 14(i).

¹¹⁰⁴⁷ See Prosecution Final Brief, para. 601; Indictment, para. 14(g), 14(h).

3472. In response, the Accused argues, *inter alia*, that he never had the objective of expelling Bosnian Muslims and Bosnian Croats from Serb areas of BiH and that he did everything humanely possible to avoid the war.¹¹⁰⁴⁸ The Accused further alleges that he did not promote hatred against other peoples and that, in fact, he always promoted respect for the Geneva Conventions and insisted on humane treatment of non-Serb civilians and prisoners of war.¹¹⁰⁴⁹ Furthermore, he concedes that at a state level, there were plans to defend Serbs or to protect Serb territory, but that there were never any plans or instructions on harming, expelling, or disenfranchising non-Serbs.¹¹⁰⁵⁰ According to the Accused, the Bosnian Serb Political and Governmental Organs were not created or maintained for the purpose of committing crimes against non-Serbs.¹¹⁰⁵¹ The Accused also contends that he had no control over the VRS and that he did not support or use paramilitaries to implement the common plan.¹¹⁰⁵² The Accused argued *inter alia* that the Strategic Goals were not the basis for the expulsion or destruction of non-Serbs in RS and were merely political goals to be realised through negotiations.¹¹⁰⁵³ The Accused submits that he did not promote a climate of impunity for crimes committed against non-Serbs.¹¹⁰⁵⁴ Furthermore, the Accused argues that there was no JCE and moreover, that he did not possess the intent to further any common plan of the JCE or to commit crimes.¹¹⁰⁵⁵ Finally, according to the Accused, his only “significant contribution” is shown in his efforts to maintain peace, legal order, and the security for all citizens in BiH.¹¹⁰⁵⁶

3473. The Chamber will assess these alleged contributions as far as they are relevant to the Overarching JCE. In that regard, the Chamber notes the alleged contribution at paragraph 14(j) of the Indictment which pertains to the Accused’s role in restricting humanitarian aid to Bosnian Muslim and Bosnian Croat enclaves in Bosnian Serb claimed territory. In its final brief, the Prosecution refers to the restriction of humanitarian aid in relation to the implementation of the third of the Strategic Goals through the issuance of Directive 4, namely the establishment of a corridor in the Drina Valley and the elimination of the Drina as a border between the RS and Serbia.¹¹⁰⁵⁷ It also refers, more generally, to the fact that in directing and authorising the restriction

¹¹⁰⁴⁸ See Defence Final Brief, para. 218.

¹¹⁰⁴⁹ See Defence Final Brief, para. 222.

¹¹⁰⁵⁰ See Defence Final Brief, para. 223.

¹¹⁰⁵¹ See Defence Final Brief, paras. 226–230.

¹¹⁰⁵² See Defence Final Brief, confidential, paras. 1052–1137, 1248–1285, 1293–1298.

¹¹⁰⁵³ See Defence Final Brief, paras. 1286–1293.

¹¹⁰⁵⁴ See Defence Final Brief, para. 761.

¹¹⁰⁵⁵ See Defence Final Brief, paras. 231–285.

¹¹⁰⁵⁶ See Defence Final Brief, para. 285.

¹¹⁰⁵⁷ See Prosecution Final Brief, para. 175.

of humanitarian aid to the Eastern enclaves in an effort to create unbearable living conditions, the Accused furthered the common purpose of the Overarching JCE.¹¹⁰⁵⁸

3474. However, the Chamber does not consider restrictions on humanitarian aid to be relevant to the Accused's alleged contribution to the achievement of the objective of the Overarching JCE for the following reasons. The Chamber recalls that the crime base for which the Accused ultimately faces responsibility in relation to the Overarching JCE mainly pertains to events in 1992 and 1993 in twenty municipalities in BiH defined by the Chamber earlier in this Judgement as the "Municipalities". Above, the Chamber found that the crimes of murder, extermination, persecution, deportation, and inhumane acts (forcible transfer) were committed in the Municipalities by Serb Forces during and after their take-over and in detention facilities there. The Chamber did not receive any evidence of restrictions of humanitarian aid into the Municipalities, which would have contributed to the creation of unbearable living conditions forcing the Bosnian Muslim and/or Bosnian Croat populations from these Municipalities to move out. The evidence that the Chamber did receive was that there were restrictions on humanitarian aid going into the Eastern BiH enclaves—Bihać, Goražde, Žepa, and Srebrenica from the spring of 1993 until the summer of 1995.¹¹⁰⁵⁹ The Chamber is not satisfied that such restrictions can attach in any meaningful way to the Accused's alleged contribution to the common purpose of the Overarching JCE, which was implemented through the commission of crimes committed in the Municipalities primarily in 1992 and 1993; therefore well before the period of these restrictions elsewhere in BiH.

ii. *Analysis*

3475. The Chamber found that the Accused was at the forefront of developing and promoting the ideology of the SDS. This ideology included the non-separation of Serbs, the identification of historical Serb territories, and the creation of a unified Serb nation. These principles formed a core element of the policies of the SDS and informed the objectives of the Bosnian Serb leadership.¹¹⁰⁶⁰ As the Chamber found above, while the political objectives themselves were not criminal, they created the basis and laid the foundations for the structures through which a criminal purpose could be achieved.¹¹⁰⁶¹ The Chamber finds that the Accused, first as President of the SDS, and then in

¹¹⁰⁵⁸ Prosecution Final Brief, para. 600.

¹¹⁰⁵⁹ Restrictions of humanitarian aid into Srebrenica, as well as in Sarajevo, will be dealt with elsewhere in this Judgement. See Sections. IV.B.1.a: Chronology of events in Sarajevo, IV.B.1.f.i.B: Shortage of food and supplies in Sarajevo, IV.C.1.b.ii: Restrictions on humanitarian convoys and the humanitarian situation in Srebrenica. For evidence on restrictions of humanitarian aid going into the Eastern BiH enclaves, see, e.g., [REDACTED]; P2243 (UNPROFOR report re meeting with Ratko Mladić, 14 February 1995); P1470 (UNPROFOR report re meeting with Ratko Mladić, 5 March 1995), pp. 3–4.

¹¹⁰⁶⁰ See paras. 2651–2653, 2940–2943.

¹¹⁰⁶¹ See paras. 3435–3440, 3447.

turn as President of the SNB, Presidency, and RS, played the most important role in laying the ground work for that criminal implementation through the creation of, and support for, the structures and bodies which carried out that plan. He did so by developing an ideology which was loaded with Serb nationalism and emphasising the unity of Serbs and the importance of creating an ethnically homogeneous Serb state.¹¹⁰⁶² The Chamber finds that the Accused was central in outlining the goals of the Bosnian Serb leadership and the measures which would have to be taken to establish Bosnian Serb authority in territories which they claimed.¹¹⁰⁶³

3476. The Chamber found that the Accused envisaged a separation of the Bosnian Serbs from non-Serbs in BiH and that war in BiH would result in “population homogenisation” and that he called for the creation of ethnically based entities in BiH.¹¹⁰⁶⁴ The Accused also encouraged the identification of Serb areas from which Bosnian Muslims would be excluded.¹¹⁰⁶⁵ Not only did the Accused formulate and promote these policies, the Chamber finds that he was adamant that he would not allow anything to stop the Bosnian Serbs from achieving their objectives.¹¹⁰⁶⁶

3477. The Chamber also found that the Accused was pivotal in making careful preparations to allow the Bosnian Serbs to respond to any move towards independence by BiH with the creation of its own parallel structures and take-over of power at a municipal level.¹¹⁰⁶⁷ The Accused’s involvement in this regard included formulating policies and actively promoting the creation of the parallel governmental, military, police and political structures that were used to gain or retain control of Bosnian Serb claimed territory.¹¹⁰⁶⁸ These parallel structures were designed to support the existence of a separate Bosnian Serb state and allow for the furtherance of the objective of the Overarching JCE.¹¹⁰⁶⁹

3478. For example, the Accused was responsible for the distribution and promotion of the Variant A/B Instructions, which the Chamber has found formed the basis on which Bosnian Serb Crisis Staffs, Bosnian Serb municipal assemblies, and other parallel municipal structures were established in the Municipalities.¹¹⁰⁷⁰ The Accused actively monitored the implementation of the Variant A/B Instructions, followed developments which occurred at a municipal level, and co-ordinated efforts

¹¹⁰⁶² See paras. 2651–2654, 2670–2673, 2839–2841.

¹¹⁰⁶³ See paras. 2707–2714.

¹¹⁰⁶⁴ See para. 2711.

¹¹⁰⁶⁵ See para. 2711.

¹¹⁰⁶⁶ See para. 2710.

¹¹⁰⁶⁷ See paras. 2940–2942, 2947.

¹¹⁰⁶⁸ See para. 2839.

¹¹⁰⁶⁹ See paras. 2944–2951.

¹¹⁰⁷⁰ See paras. 3073–3075.

to ensure they were implemented.¹¹⁰⁷¹ He issued precise directions with respect to the establishment and maintenance of Bosnian Serb authority and emphasised the importance of the Instructions in achieving the objective of creating a Bosnian Serb state.¹¹⁰⁷² In this regard the Chamber found that the Accused instructed how the Crisis Staffs would function and be structured and this was one of the ways in which the Accused exercised his authority over them.¹¹⁰⁷³

3479. The Accused was instrumental in the formation of, and support for, the Bosnian Serb Assembly and used this as the formal means through which the Bosnian Serb ideology and objectives were officially sanctioned and disseminated.¹¹⁰⁷⁴ The Chamber also found that the Accused had influence and authority as the leading figure in the Bosnian Serb Assembly.¹¹⁰⁷⁵

3480. Throughout the existence of the Overarching JCE, the Chamber found that the Accused was at the apex of a number of political, governmental, and military structures and was not only instrumental in establishing these structures, but he was also able to use his power and influence over them in order to further the objective to permanently remove the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. The Chamber found that the Accused demanded and enforced the strictest of discipline within the SDS in its adherence to the policies which he had developed.¹¹⁰⁷⁶ In this regard, the Chamber found that the Accused had *de jure* and *de facto* authority over the SDS party and its members and exerted the greatest control and authority over its institutions.¹¹⁰⁷⁷

3481. The Chamber finds that through insisting on this strict discipline and relying on his extensive authority, the Accused was more easily able to direct, encourage, facilitate, and authorise actions which furthered the objective of the Overarching JCE. The Chamber also found that the SDS party structures, which the Accused supported, facilitated communication between the higher level leaders, including the Accused, and the municipal SDS leaders.¹¹⁰⁷⁸ The Chamber finds that this was a crucial link in the chain to ensure that the Accused's policies were effectively disseminated and that he could monitor the way in which they were implemented at a municipal level. There was a direct and regular line of communication between the Bosnian Serb authorities at a municipal level and the Bosnian Serb leadership or RS authorities, including the Accused. This

¹¹⁰⁷¹ See paras. 3079–3081.

¹¹⁰⁷² See paras. 3080–3081.

¹¹⁰⁷³ See paras. 3086–3087.

¹¹⁰⁷⁴ See paras. 2944–2950.

¹¹⁰⁷⁵ See para. 2951.

¹¹⁰⁷⁶ See paras. 2940–2943.

¹¹⁰⁷⁷ See para. 2940.

¹¹⁰⁷⁸ See para. 2940.

line of communication allowed the Accused to monitor developments at a municipal level and to issue precise directions with respect to the establishment and maintenance of Bosnian Serb authority.¹¹⁰⁷⁹

3482. The Chamber found that the Accused was intimately involved in identifying Bosnian Serb claimed territories, and advocated and worked towards a territorial re-organisation which would allow the Bosnian Serbs to claim control and ownership of a large percentage of the territory in BiH. This was done in order to establish the borders of the Bosnian Serb state in accordance with their territorial and strategic aspirations.¹¹⁰⁸⁰ The Chamber also found that the Accused supported the military successes of the Serb Forces which resulted in major changes to the demographic landscape of BiH. He ultimately supported the military implementation of their goals which necessarily entailed the take-over of territory and the forcible movement of the non-Serb population to achieve that objective. He viewed these military operations as a necessary means of defining Bosnian Serb territory and creating their own state and these operations resulted in the ethnic homogenisation of Bosnian Serb claimed territory in the Municipalities.¹¹⁰⁸¹

3483. The Chamber further recalls its finding that the Accused formulated, promoted, and disseminated the Strategic Goals and that he tied the promotion of these goals to the threat faced from the Bosnian Muslims and Bosnian Croats who he continued to identify as their historic enemies and to minimising the number of those “enemies” who would remain in their state.¹¹⁰⁸² The Chamber found that the Accused was steadfast in emphasising that ethnic separation was necessary in the promotion of these Strategic Goals.¹¹⁰⁸³ Further, he received and gave updates about developments and progress made towards their achievement, including territorial control through military operations and the separation of people.¹¹⁰⁸⁴

3484. The Accused also activated the second level of the Variant A/B Instructions which were intimately linked to the physical control of Bosnian Serb claimed territory.¹¹⁰⁸⁵ The Chamber

¹¹⁰⁷⁹ See para. 3080.

¹¹⁰⁸⁰ See paras. 2839, 3090–3091.

¹¹⁰⁸¹ See paras. 2845–2846, 3091–3096.

¹¹⁰⁸² See paras. 2895–2896, 2901–2903. Kecmanović stated that the Accused and Krajišnik were among those who shared the view that it was necessary to find a solution to conflicts in BiH through political negotiations and to avoid or stop war at all costs and that the Accused did not view Bosnian Muslims and Croats as enemies. D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 35; Nenad Kecmanović, T. 39124–39125 (31 May 2013). The Chamber however notes that Kecmanović’s evidence was marked by evasiveness, contradictions, partisanship and indicators that his testimony lacked sincerity and candour. His testimony was also marked by indicators that he was seeking to protect the Accused. The Chamber therefore does not consider that it can rely on his evidence in this regard.

¹¹⁰⁸³ See para. 2896.

¹¹⁰⁸⁴ See para. 2901.

¹¹⁰⁸⁵ See para. 3083.

found that while the Accused envisaged the use of force to take-over power he was cautious about the way in which this would be portrayed at an international level. However, there was no genuine concern about the manner in which power was taken and there was a clear disjuncture between the Accused's public statements to international observers and his private discourse in this regard.¹¹⁰⁸⁶ There was an even greater disparity between his assurances given in speeches and orders and the reality on the ground. What transpired in the Municipalities were widespread crimes committed by Serb Forces against Bosnian Muslims and Bosnian Croats and this resulted in the creation of a largely ethnically homogeneous state which corresponded to the objective of the Bosnian Serb leadership.¹¹⁰⁸⁷

3485. The Chamber now turns to consider the Prosecution's submission that the Accused disseminated propaganda to incite Bosnian Serb fear and hatred of Muslims and Croats, which had the effect of encouraging his subordinates to follow his example. The Chamber recalls that the Accused was also a central figure in the dissemination of propaganda against Bosnian Muslims and Bosnian Croats. This propaganda identified them as the historic enemies of the Serbs.¹¹⁰⁸⁸ More specifically, the Accused in speeches repeatedly referred to the crimes committed against Serbs during World War II, and that they could not allow the Bosnian Muslims to declare themselves a majority people in BiH on this basis and threaten the Serbs again.¹¹⁰⁸⁹ The Accused's speeches were also used to promote the idea that the Bosnian Serbs could not live together with the Bosnian Muslims and Bosnian Croats and formed the foundation for the separation of the three people and the creation of a Serb state.¹¹⁰⁹⁰ The Chamber finds that the Accused played on this historical narrative and amplified its effect to suggest that the Serbs faced a similar existential threat.¹¹⁰⁹¹

¹¹⁰⁸⁶ See paras. 3084–3085. Defence witnesses stated that the Accused was very moderate and tolerant both in speeches he gave in the lead-up to the war and through his policies and that he insisted on respect for minorities and the peaceful resolution of problems. Savo Čeklić, T. 41230–41231, 41239 (11 July 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 60; D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), para. 41; D4077 (Witness statement of Anđelko Grahovac dated 23 November 2013), para. 10; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 44; Branko Grujić, T. 40373–40374 (25 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 33; D3528 (Witness statement of Milan Martić dated 7 May 2013), paras. 23, 70–71; D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 12; D2549 (Witness statement of Branko Radan dated 3 December 2012), para. 20. The Chamber notes that the evidence of the relevant witnesses were marked by evasiveness, contradictions and/or indicators of insincerity and therefore does not find their evidence that the Accused did not intend to commit crimes and always called for respect of minorities to be reliable. However, the Chamber finds that the Accused did speak in terms which portrayed himself publicly as the peaceful negotiator but he insisted that this peace was conditional on following the objectives of the Bosnian Serbs. The Chamber also places no weight on Filipović's personal opinion that the Accused prevented "bigger bloodshed in BiH" through his policies. D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 21.

¹¹⁰⁸⁷ See paras. 3091–3096.

¹¹⁰⁸⁸ See para. 2670.

¹¹⁰⁸⁹ See paras. 2671, 2843, 2851.

¹¹⁰⁹⁰ See paras. 2672, 2711, 2841.

¹¹⁰⁹¹ See paras. 2672, 2708, 2841–2843.

3486. The Chamber finds that this rhetoric was used by the Accused to engender fear and hatred of Bosnian Muslims and Bosnian Croats and had the effect of exacerbating ethnic divisions and tensions in BiH.¹¹⁰⁹² The Accused used fear and hatred to promote the historical territorial claims of the Bosnian Serbs and to garner support for the idea of creating a largely ethnically homogeneous Bosnian Serb state on this land.¹¹⁰⁹³ The Chamber also found that the Accused's position with respect to these historic territorial claims was endorsed by the Bosnian Serb Assembly and formed a core aspect of the Bosnian Serb objectives in including these territories in the RS.¹¹⁰⁹⁴

3487. The Chamber finds that these speeches and statements went beyond mere rhetoric and formed a core element in the policies and plans developed by the Accused and the Bosnian Serb leadership. The Chamber also found that the Accused disseminated propaganda about demographics and the Bosnian Muslim birth-rate as a further justification for ethnic separation.¹¹⁰⁹⁵ The Chamber found that this ideology was repeated and used by the Accused and the Bosnian Serb leadership as justification for the creation of ethnically homogeneous entities in BiH and to decrease the number of Bosnian Muslims and Bosnian Croats who remained in the Bosnian Serb state.¹¹⁰⁹⁶ The Chamber finds that the Accused persisted with promoting the objectives of ethnic separation and the territorial claims of the Bosnian Serbs into 1995.¹¹⁰⁹⁷

3488. The Chamber found that the Accused was instrumental in the creation of the SerBiH TO and local TO units in mid-April 1992 and that he had *de jure* and *de facto* control over the TO.¹¹⁰⁹⁸ The Chamber also found that the Accused was closely involved in giving instructions for mobilisation of the TO at a municipal level and the creation of the Bosnian Serb TO which was used to take-over and maintain Bosnian Serb authority in the Municipalities.¹¹⁰⁹⁹ The Accused also took a leading role in the co-ordination of TO forces and their subsequent integration into the VRS.¹¹¹⁰⁰

3489. The Accused, as the highest authority in the VRS chain of command,¹¹¹⁰¹ had the power to organise and implement plans for defence, order mobilisation, and command and control the

¹¹⁰⁹² See paras. 2671–2672, 2895.

¹¹⁰⁹³ See paras. 2670, 2711, 2713, 2841–2843.

¹¹⁰⁹⁴ See para. 2843.

¹¹⁰⁹⁵ See para. 2851.

¹¹⁰⁹⁶ See paras. 2839–2840, 2851, 2854–2855.

¹¹⁰⁹⁷ See paras. 2854–2856.

¹¹⁰⁹⁸ See para. 3177.

¹¹⁰⁹⁹ See paras. 3172–3173.

¹¹¹⁰⁰ See para. 3176.

¹¹¹⁰¹ See para. 3098.

army.¹¹¹⁰² The Accused exercised his powers, for example, by ordering the VRS to carry out general mobilisation, which was delivered and acted upon at the municipal level, and by reassigning VRS officers.¹¹¹⁰³ He was key in planning strategy and was closely involved in examining and approving the VRS military directives, which were issued in furtherance of the Strategic Goals.¹¹¹⁰⁴

3490. The Chamber also found that the Accused's involvement in the command of the VRS as Supreme Commander went beyond planning and strategy as he was involved at the operational level as well. For example, the Accused issued instructions based on proposals for operations he received from the Main Staff and occasionally sent direct orders to the corps and brigade commanders to answer directly to him.¹¹¹⁰⁵

3491. The Accused was central in promoting the creation of a separate police structure.¹¹¹⁰⁶ This reflected his objective of creating a separate Bosnian Serb state with parallel structures and this separate police structure was a means of achieving the objective of sovereignty of the Serb people in the territories which they claimed.¹¹¹⁰⁷ In addition, as Supreme Commander of the VRS and the President of the RS, the Accused had *de jure* authority over the MUP during times of war, which he exercised in fact directly, as well as through the municipal Crisis Staffs.¹¹¹⁰⁸

3492. Turning to whether the Accused obtained, facilitated, encouraged, and/or supported the participation of JNA forces and Serbian paramilitary forces, the Chamber found that the VRS was formed from parts of the JNA, TO, and volunteer units and inherited both officers and soldiers from the JNA, many of whom were of Bosnian Serb origin, as well as a substantial amount of weaponry and equipment.¹¹¹⁰⁹ The Accused participated in the creation of the VRS by organising the manpower at the local level and facilitating the transfer of personnel and supply from the JNA.¹¹¹¹⁰ Furthermore, following the withdrawal of the JNA from BiH, the Accused supported the operational co-operation of military forces and local authorities with Arkan's men, Šešelj's men, and Mauzer's Panthers.¹¹¹¹¹

¹¹¹⁰² See para. 3142.

¹¹¹⁰³ See paras. 3145–3146.

¹¹¹⁰⁴ See paras. 3142, 3152–3156.

¹¹¹⁰⁵ See paras. 3104, 3142–3144.

¹¹¹⁰⁶ See paras. 2990–2991.

¹¹¹⁰⁷ See paras. 2990–2991.

¹¹¹⁰⁸ See paras. 3167–3168.

¹¹¹⁰⁹ See para. 3097.

¹¹¹¹⁰ See para. 3176.

¹¹¹¹¹ See paras. 3234–3236.

3493. The Chamber now turns to consider the Prosecution's submission that the Accused failed to make meaningful efforts to exercise his authority to prevent or punish crimes committed by his civilian and military subordinates and that these failures significantly contributed to the Overarching JCE.¹¹¹¹² The Chamber recalls that for an Accused to contribute to a JCE by omission, he must have had a legal duty to act, and that the failure to act pursuant to that legal duty significantly contributed to the JCE.¹¹¹¹³ The Chamber found that during the time period relevant to the Indictment, the Accused was the highest authority in the VRS chain of command.¹¹¹¹⁴ Prior to its establishment, the Accused had *de jure* authority over the TO and took steps to create a hierarchical command and control structure, which included some municipal Crisis Staffs over which he had authority.¹¹¹¹⁵ According to the Bosnian Serb Constitution and the Law on the Army, as Supreme Commander, the Accused had the authority to, *inter alia*: (i) appoint, promote, and dismiss VRS officers in accordance with the law; (ii) appoint and dismiss presidents, judges, and assistant judges of military courts and military prosecutors; (iii) issue regulations prescribing internal order and relations in the military service; and (iv) issue regulations on military training and discipline.¹¹¹¹⁶ The Chamber also found that the Accused had *de jure* authority over the MUP, which he exercised in fact.¹¹¹¹⁷ The Chamber finds that in light of his position of authority over the VRS, TO, Crisis Staffs, and MUP, the Accused had a legal duty to prevent and punish crimes committed by them.

3494. The Chamber will now consider the efforts made by the Accused to ensure the protection of Bosnian Muslims and Bosnian Croats residing in areas of Bosnian Serb control and to prevent and punish crimes committed by his subordinates. The Chamber recalls that the Accused established the military courts and that the civilian courts existed during the conflict; however the Chamber found that the system functioned in a discriminatory manner, with a lack of attention to crimes committed against non-Serbs.¹¹¹¹⁸ The Chamber found that the inadequate level of investigations

¹¹¹¹² Prosecution Final Brief, paras. 535, 601.

¹¹¹¹³ See para. 566.

¹¹¹¹⁴ See para. 3098.

¹¹¹¹⁵ See para. 3177.

¹¹¹¹⁶ P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), Art. 106; P2603 (SerBiH Law on the Army, 1 June 1992), Art. 174(12), (13). See also D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992) (in which the Accused issued an order, imposing a duty on the "competent superior officer" to initiate proceedings to punish persons who violate the laws of war).

¹¹¹¹⁷ See para. 3167.

¹¹¹¹⁸ See para. 3425.

and prosecutions of crimes committed against non-Serbs was consistent with the Accused's position that such matters could be delayed during the conflict.¹¹¹¹⁹

3495. The Chamber found that the Accused made minimal efforts to prevent or punish the crimes of forcible displacement and deportation after he learned about such crimes repeatedly throughout the conflict, starting from as early as April 1992.¹¹¹²⁰ This is unsurprising given that he established and co-ordinated the political and military structures which implemented the goal of the Bosnian Serb leadership to create an ethnically homogeneous state and intended for these very crimes to be committed. For example, within a few months of being presented with information that non-Serb civilians were being expelled from Zvornik in early April 1992, the Accused ordered an investigation and then advised international representatives that Bosnian Muslim inhabitants in Zvornik had requested to move out because they felt like hostages. However, the Chamber found that the Accused had also been informed that the municipal authorities in Zvornik had participated in the expulsion of non-Serb civilians in order to allow Serb refugees to settle there and also blamed paramilitaries for these events. He therefore clearly knew that the expulsion was forced but took no actions to punish the perpetrators of such acts. He later celebrated the "liberation" of Zvornik and the fact that there were almost no non-Serbs remaining there in 1993.¹¹¹²¹

3496. The Accused continued to learn about instances of "ethnic cleansing" throughout the conflict.¹¹¹²² However, it was not until 19 August 1992 that he issued an instruction to the VRS and MUP ordering that the forced resettlement of the civilians should be prevented and that "any certificates of sale of property or statements that refugees will not return shall be considered as legally invalid and are declared null and void" and 21 August 1992 that he pledged to prevent "ethnic cleansing" and punish persons involved in it.¹¹¹²³ On 25 August 1992, the Accused wrote a letter to the international community explaining that he had issued the 19 August 1992 instruction and stated that the civilian population must be allowed to move freely out of a war zone if that was the desire of the civilian population, under the Geneva Conventions, blaming the failure on the part of the international community to understand the deep-rooted antagonism and hatred between the three ethnicities in BiH, which caused people to leave their communities in droves.¹¹¹²⁴ The Chamber considers this latter statement to be an attempt by the Accused to cover up and minimise the forced nature of the removal of non-Serbs from the Municipalities and indicates that his orders

¹¹¹¹⁹ See para. 3425.

¹¹¹²⁰ See Section IV.A.3.a.v.E: Accused's knowledge of crimes and measures he took to prevent and punish them.

¹¹¹²¹ See paras. 2812, 3337.

¹¹¹²² See Section IV.A.3.a.v.A: Knowledge of crimes committed throughout the Municipalities.

¹¹¹²³ See para. 3400.

¹¹¹²⁴ See para. 3400; D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992), p. 1.

to prevent such forced removal were not intended. This finding is supported by the fact that he continued to share the intent to forcibly remove non-Serbs from the Municipalities until 30 November 1995.

3497. It is further supported by comments that the Accused made in response to information he received from international representatives about “ethnic cleansing” in Bijeljina in late 1994. On 26 September 1994, the Accused said to international negotiators that Serbs in Bijeljina were “fighting for their own land” and that “ethnic cleansing” would be an inevitable outcome of the international community’s failure to establish any legal mechanism allowing the population to exchange their homes and move into cantons in which their nationality would be dominant.¹¹¹²⁵ The Chamber found that these statements demonstrated that “ethnic cleansing” was directly linked to the Accused’s objective to take-over Serb claimed land and that he was not interested in preventing it.¹¹¹²⁶

3498. With respect to the crime of unlawful detention, the Chamber found that the Accused was aware of the unlawful detention of non-Serb civilians from conflict areas by 24 April 1992.¹¹¹²⁷ On 8 June and 13 June 1992, the Accused issued an appeal to local Bosnian Serb authorities and an order to the VRS and MUP, respectively, to ensure protection for all detainees.¹¹¹²⁸ Furthermore, members of the government, VRS, JNA, and MUP, including Mićo Stanišić, issued orders to their subordinates to, *inter alia*, prevent abuse of detainees and mistreatment of civilians and report illegal camps from April to August 1992.¹¹¹²⁹ In mid-July, the Bosnian Serb government received reports from the MUP that conditions in detention centres were poor and that there had been occurrences of unlawful treatment of detainees.¹¹¹³⁰ On 25 July 1992, the Accused received a report from the ICRC following a visit to the Manjača camp, informing him that the conditions there were “absolutely insufficient” and that there was evidence that detainees were being subjected to ill treatment.¹¹¹³¹ But it was only when the international media started reporting on the inhumane conditions in the detention centres in Prijedor in July 1992 and following a Bosnian Serb delegation to visit the camps, that the Accused made efforts to close them down.¹¹¹³² Meanwhile, on 30 July 1992, the Accused continued to present to the public that the allegations made by the

¹¹¹²⁵ See para. 3404.

¹¹¹²⁶ See para. 3404.

¹¹¹²⁷ See paras. 3365, 3375.

¹¹¹²⁸ See para. 3383.

¹¹¹²⁹ See para. 3409.

¹¹¹³⁰ See para. 3367.

¹¹¹³¹ See para. 3368.

¹¹¹³² See paras. 3385–3386, 3399.

Guardian that the Bosnian Serbs had organised concentrations camps or were holding civilian prisoners were “completely false”.¹¹¹³³

3499. The Chamber notes that it was concluded at a session of the RS Presidency on 6 August 1992, that the MUP would be ordered to examine civilian authorities and individuals guarding detainees and report back to the Presidency. The decision was relayed to SJB Chiefs in a number of municipalities who were obliged to provide reports in accordance with the RS Presidency decision by 20 August 1992. The SJB Chiefs were also informed about the RS Presidency order to release all civilians and to allow them freedom of movement.¹¹¹³⁴ From August to October, the Accused made further efforts to reduce the number of civilians who were unlawfully detained in Serb controlled detention centres.¹¹¹³⁵ In October 1992, the Accused informed Mladić, Mićo Stanišić, and Mandić that he had received information that some local authorities had ignored his instruction to allow unfettered access for the ICRC to detention facilities and demanded that they inform their subordinates to respect his instruction to allow access and that he would order a thorough investigation of all cases of failure to comply.¹¹¹³⁶ On 27 October 1992, the Bosnian Serb Government officially decided to close all illegal camps as soon as possible and in December 1992, pursuant to the Accused’s order, all detainees held in Manjača were released on the condition that they be transferred to third countries.¹¹¹³⁷ The Chamber considers that prior to the Accused’s intervention in Prijedor to close the camps with the worst conditions in August 1992, the measures taken to prevent or punish the unlawful detention of civilians were completely inadequate. The Chamber further considers that after that point, he began to take measures to close the temporary detention centres in the Municipalities, however, these measures did not have much effect until closer to the end of 1992. The Chamber further notes that ultimately, while many civilians were released from detention by the end of 1992, detention centres remained in existence for the duration of the war and continued to hold non-Serb civilian detainees.¹¹¹³⁸

3500. The Chamber now turns to consider whether the Accused was able to do more to prevent and punish crimes committed by his subordinates. The Chamber recalls that Momčilo Mandić, Minister of Justice, and Mićo Stanišić, MUP Minister, ignored government decisions with respect to prevention and prosecution of criminal activity and answered more to the Accused than to the

¹¹¹³³ See para. 3369.

¹¹¹³⁴ See para. 3387.

¹¹¹³⁵ See paras. 3388–3390, 3392–3394.

¹¹¹³⁶ See para. 3395.

¹¹¹³⁷ See para. 3397.

¹¹¹³⁸ See Scheduled Detention Facilities C.2.1, C.18.2, C.21.3.

government.¹¹¹³⁹ This implies that the Accused had the ability to influence Mandić and Stanišić to ensure that their respective ministries functioned to prevent and punish crimes more effectively. Furthermore, the fact that the Accused, when he chose to act to remedy the situation in detention centres, was able to influence the closure of camps, shows that had he wanted, he could have used this influence more effectively and quickly to prevent crimes.

3501. The Chamber considers that the Accused's failure to exercise his authority to adequately prevent or punish crimes committed against non-Serbs signalled to Serb Forces and Bosnian Serb Political and Governmental Organs that criminal acts committed against non-Serbs were tolerated throughout the period of the Overarching JCE. In light of this, his failure to take adequate steps to prevent and punish criminal activity committed against non-Serbs in the Municipalities had the effect of encouraging and facilitating the JCE I Crimes. The Chamber further finds that the Accused's failure to prevent and punish crimes committed by Serb Forces against non-Serbs and his tolerance for such crimes demonstrate a failure on his part to take adequate steps to ensure that Serb Forces and Bosnian Serb Political and Governmental Organs would act to protect Bosnian Muslims and Bosnian Croats residing in areas under their control.

3502. In addition, the Chamber found that during the spring of 1992 the Accused supported the operational co-operation of military forces and local authorities with Arkan's men, Šešelj's men, and Mauzer's Panthers. While the Accused took actions to have paramilitary formations disbanded, these actions were initiated in mid-1992, after all the take-overs had already been completed in the Municipalities with the active involvement of these paramilitaries. These take-overs resulted in the forcible removal of thousands of non-Serbs. The Chamber also found that the Accused's attitude towards certain paramilitary formations after the creation of the VRS was flexible and shifted according to Bosnian Serb interests and concluded that he tolerated or even supported the co-operation of Arkan's men, Šešelj's men, Mauzer's Panthers, and the Yellow Wasps with Serb Forces.¹¹¹⁴⁰ The Chamber finds that this had the effect of encouraging and facilitating the JCE I Crimes committed by Serb Forces.

3503. Above, the Chamber found the many different ways in which the Accused, having been informed of crimes in the Municipalities, provided misleading information to representatives of international organisations, the public, and to the media in relation to these crimes.¹¹¹⁴¹ He covered up, for instance, the severity of the conditions in detention facilities,¹¹¹⁴² and he deflated criticism

¹¹¹³⁹ P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 21–22, 24.

¹¹¹⁴⁰ See paras. 3234–3235.

¹¹¹⁴¹ See paras. 3333–3334, 3337, 3341, 3347–3348, 3359, 3369, 3376–3381.

¹¹¹⁴² See para. 3378.

expressed by internationals in relation to claims of “ethnic cleansing” by claiming that non-Serbs were leaving “out of fear”.¹¹¹⁴³ The Chamber found a clear disjuncture between the manner in which the Accused defended the actions of the Bosnian Serbs in international settings and press conferences and the reality on the ground, of which he was fully aware.¹¹¹⁴⁴ In statements and speeches, the Accused created a narrative for an international audience in which the Bosnian Serbs would not be blamed for the movement of the non-Serb population.¹¹¹⁴⁵

3504. At the same time that he was learning about crimes committed against non-Serbs and not taking sufficient steps to prevent or punish them, the Accused was providing misleading information to international observers on the ground and the media. By his denials that Bosnian Serbs were committing crimes in the Municipalities and his disingenuous portrayal of the reality on the ground, of which he was in fact fully aware, the Accused created an environment in which Bosnian Serbs could continue to commit the crimes through which the common purpose of the Overarching JCE was implemented.

iii. Conclusion

3505. In the preceding paragraphs, the Chamber identified the various ways through which the Accused, in his functions as Supreme Commander, SDS President, SNB President, President of the Presidency, and President of the RS, participated in furthering the objective of the Overarching JCE, namely the permanent removal of the Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory. Considering the totality of the Chamber’s findings in this regard, and the extent of the Accused’s contribution by virtue of the functions and positions he held at the time, and the impact of his conduct—through his acts and omissions—on the implementation of this JCE, the Chamber finds that the Accused significantly contributed to the Overarching JCE.

d. Link to crimes committed by non-members of the JCE

3506. In order to hold the Accused criminally responsible for crimes committed by non-members of the JCE, there must be a link between the Accused or another JCE member and the criminal conduct. This link is established if the Accused or another JCE member used the non-member in accordance with the common purpose of the JCE to carry out the *actus reus* of the crimes included therein.¹¹¹⁴⁶ This may be inferred from the close co-operation of the accused, or any other JCE member, with the non-member in order to further the common criminal purpose. The non-member

¹¹¹⁴³ See paras. 3337, 3347–3348.

¹¹¹⁴⁴ See para. 2847.

¹¹¹⁴⁵ See para. 2849.

¹¹¹⁴⁶ See para. 567.

of the JCE need not share the intent of the members of the JCE.¹¹¹⁴⁷ It is also not necessary to establish the existence of an additional understanding or agreement between the accused and the non-member to commit that particular crime.¹¹¹⁴⁸

3507. The Chamber found that the Crisis Staffs, paramilitaries, and members of the TO, MUP, and VRS carried out crimes in furtherance of the common plan of the Overarching JCE during the take-over of the Municipalities.¹¹¹⁴⁹

3508. The Chamber found that the Accused had *de jure* and *de facto* authority over the SDS party and its members from at least October 1991 until 1995.¹¹¹⁵⁰ It also found that the municipal Crisis Staffs and Serb municipal assemblies were formed as a result of the implementation of the Variant A/B Instructions, which the Accused had issued and distributed to high ranking Bosnian Serbs, and the implementation of which he monitored through meetings and discussions with municipal leaders.¹¹¹⁵¹ Crisis Staffs had direct contact with the Presidency and followed the SDS party line.¹¹¹⁵² The Accused was instrumental in creating and activating the Crisis Staffs.¹¹¹⁵³ They played a central role in preparing for and carrying out the take-over of the Municipalities by Serb Forces and in maintaining Bosnian Serb authority and power after the take-overs were completed.¹¹¹⁵⁴ Crisis Staffs were tasked with making military and security preparations and the Accused gave explicit instructions on how the Crisis Staffs and the TO would be structured, including who would be the highest ranking officials in these structures, namely the presidents of municipalities and executive boards.¹¹¹⁵⁵ The Chamber also found that the Variant A/B Instructions required that all active and reserve police, TO, and civilian protection units be brought “to full manpower” and provided that the units would be activated by order of the municipal Crisis Staffs.¹¹¹⁵⁶ The Accused announced in March 1992 that while they did not plan to attack anyone, they had the “right to use the army for the final countdown and for the final establishment of authority”.¹¹¹⁵⁷ During this time, he was preparing for the take-over of power in the Municipalities. In addition, the Chamber found that Krajišnik, a member of the Overarching JCE, had “great

¹¹¹⁴⁷ See para. 567.

¹¹¹⁴⁸ See para. 567.

¹¹¹⁴⁹ See Section IV.A.2: Legal findings on crimes.

¹¹¹⁵⁰ See para. 2940.

¹¹¹⁵¹ See para. 3437; Section IV.A.3.a.ii.D: Variant A/B Instructions and take-over of power.

¹¹¹⁵² See paras. 3009–3011, 3080–3081.

¹¹¹⁵³ See para. 3074.

¹¹¹⁵⁴ See paras. 3437, 3083, 3078.

¹¹¹⁵⁵ See paras. 3079, 3082.

¹¹¹⁵⁶ See paras. 2997, 3077.

¹¹¹⁵⁷ See paras. 3051–3052.

authority” among the Bosnian Serb municipal leaders and influenced how power should be exercised at the municipal level.¹¹¹⁵⁸

3509. The Chamber found that the Accused had *de jure* and *de facto* authority over the TO from mid-April until mid-May 1992 when the TO units were transformed into the VRS.¹¹¹⁵⁹ The Chamber found that from May 1992, the Accused had *de jure* control over the VRS, which he exercised in fact continuously as the President of the SNB, President of the Presidency, and President of the RS.¹¹¹⁶⁰ Furthermore, the Chamber found that the Accused had *de jure* authority over the Bosnian Serb MUP, which he exercised in fact.¹¹¹⁶¹ Mićo Stanišić, a member of the Overarching JCE, was the head of the MUP from 24 March 1992 until the end of December 1992.¹¹¹⁶²

3510. With respect to paramilitary forces, the Chamber found that armed groups, including groups from Serbia, were at times invited by Crisis Staffs to assist in combat activity in the Municipalities, and acted in concert with units of the Serb Forces.¹¹¹⁶³ In other instances, paramilitary forces were invited by JCE members, notably Playšić,¹¹¹⁶⁴ or were affiliated with other members of the Overarching JCE, namely Arkan and Šešelj.¹¹¹⁶⁵ The Chamber found that the Accused supported the operational co-operation of military forces and local authorities with Arkan’s men, Šešelj’s men, Mauzer’s Panthers, and White Eagles as long as the objectives of these groups were aligned with those of the Bosnian Serb leadership.¹¹¹⁶⁶

3511. The Accused and other members of the JCE used their authority and influence over Crisis Staffs, TO, VRS, Bosnian Serb MUP, and paramilitaries to carry out the crimes envisaged by the common plan of the Overarching JCE. Furthermore, at times, paramilitaries, local Serbs, JNA, MUP, TO, and VRS units acted at the behest of the Crisis Staffs, which were under the Accused’s authority and influence, to commit crimes in furtherance of the common plan. Therefore, the Chamber finds that the crimes that were found to be committed by Serb Forces in the Municipalities are imputed to the JCE members or to the Accused. The Chamber finds that such a link existed based on the identity of the perpetrators, which takes into consideration their affiliation,

¹¹¹⁵⁸ See para. 3451.

¹¹¹⁵⁹ See para. 3177.

¹¹¹⁶⁰ See para. 3157.

¹¹¹⁶¹ See paras. 1160–1161.

¹¹¹⁶² See paras. 3298, 3158, 3454.

¹¹¹⁶³ See paras. 3182–3183, 3190, 3193–3194, 3231. Notably, the Chamber found that the Yellow Wasps co-operated with the Zvornik Crisis Staff and TO.

¹¹¹⁶⁴ See paras. 3195, 3261, 3198.

¹¹¹⁶⁵ See paras. 3189, 3191–3192, 3322–3324, 3327–3328.

¹¹¹⁶⁶ See para. 3236.

uniforms, and vehicles; the behaviour and utterances of the perpetrators while the crimes were committed; and the identity of the victims. This finding is also based on the assessment of the context in which the crimes were committed, including the timing and the correlation with the actions taken and crimes committed by other Serb Forces and Bosnian Serb authorities who acted in furtherance of the common plan.

e. Accused's responsibility for crimes outside the scope of the Overarching JCE

3512. The Chamber found that the common purpose of the Overarching JCE was to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory through the commission of the crimes of deportation, inhumane acts (forcible transfer), and persecution through forcible transfer, deportation, unlawful detention, and the imposition and maintenance of restrictive and discriminatory measures. The Chamber turns now to consider whether the Accused is responsible pursuant to the third form of JCE liability for the other acts of persecution charged in Count 3 of the Indictment or the crimes of extermination and murder charged in Counts 4, 5, and 6 of the Indictment in relation to the Overarching JCE, which have been proven beyond reasonable doubt. The crimes in question are:

- i. Persecution, as a crime against humanity through killings, cruel and/or inhumane treatment (through torture, beatings, physical and psychological abuse, rape and other acts of sexual violence, and the establishment of and perpetuation of inhumane living conditions in detention facilities), forced labour at the frontline and use of non-Serbs as human shields, appropriation or plunder of property, and the wanton destruction of private property, including cultural and sacred sites;¹¹¹⁶⁷
- ii. murder as a crime against humanity and/or a violation of the laws or customs of war;¹¹¹⁶⁸ and
- iii. extermination as a crime against humanity.¹¹¹⁶⁹

3513. The Chamber must determine whether it was reasonably foreseeable to the Accused that any of these crimes might be committed if he acted in furtherance of the common plan of the Overarching JCE and whether he willingly took that risk.¹¹¹⁷⁰ The Chamber recalls that the assessment of what was reasonably foreseeable to the Accused must be made on the basis of his individual knowledge and that what may be foreseeable to one member of a JCE may not be

¹¹¹⁶⁷ See Indictment, paras. 10, 60. See also paras. 2482–2518, 2531–2559.

¹¹¹⁶⁸ See Indictment, paras. 10, 60, 63–64, 67. See also paras. 2446–2456.

¹¹¹⁶⁹ See Indictment, paras. 10, 63–64, 67. See also paras. 2457–2464.

¹¹¹⁷⁰ See para. 570.

foreseeable to another.¹¹¹⁷¹ It is not necessary for the purposes of JCE III liability that an accused be aware of the past occurrence of a crime in order for the same crime to be foreseeable to him. However, it must be established that the possibility of any of these crimes being committed was sufficiently substantial as to be foreseeable to the Accused.¹¹¹⁷²

3514. The Chamber recalls that in coming to the conclusion that the Accused shared the intent to commit the crimes encompassed by the Overarching JCE, the Chamber found, *inter alia*, that the Accused: (i) knew that the forcible take-over of towns and municipalities by Serb Forces led to massive demographic changes through the forcible displacement of non-Serb civilians;¹¹¹⁷³ and (ii) promoted and shared the objective of creating an ethnically pure Bosnian Serb state and the creation of contiguous Serb areas which would require a redistribution of the population.¹¹¹⁷⁴ Furthermore, the Chamber found that the Accused contributed to the commission of those crimes by participating in the Overarching JCE through promoting an ideology of ethnic separation, using a rhetoric that amplified historical ethnic grievances and promoting propaganda to that effect, establishing the institutions used to carry out the objective of the common plan, and creating a climate of impunity for criminal acts committed against non-Serbs.

3515. The Chamber notes that the geographical scope of the common plan of the Overarching JCE was broad and it was implemented in a manner that involved many groups and individuals spanning several levels of the Serb Forces and Bosnian Serb Political and Governmental Organs. There was no genuine concern about the manner in which power in the Municipalities was taken. Furthermore, the Chamber found that there was an environment of extreme fear in which the Bosnian Muslim and Bosnian Croat population was forced to leave the Municipalities in circumstances that included displacement by physical force, threat of force or coercion, or fear of ongoing violence, killings, cruel and inhumane treatment, unlawful detention in terrible conditions, rape and other acts of sexual violence, discriminatory measures, and destruction of villages, homes, and cultural monuments.¹¹¹⁷⁵ In several municipalities, the Chamber found that non-Serbs left because they were being terrorised and conditions made it impossible for them to continue living in the area.¹¹¹⁷⁶ In many cases Bosnian Muslims were forced to leave or fled following killings in and/or attacks against their villages or following the take-over of towns or villages by Serb Forces and in many cases they were first arrested and detained before being transported out of the

¹¹¹⁷¹ See para. 570.

¹¹¹⁷² See para. 570; *Šainović, et al.* Appeal Judgement, para. 1081.

¹¹¹⁷³ See para. 3463.

¹¹¹⁷⁴ See para. 3463.

¹¹¹⁷⁵ See para. 2468.

¹¹¹⁷⁶ See para. 2471.

Municipalities.¹¹¹⁷⁷ Based on the nature of the common plan and the manner in which it was carried out, the Chamber considers that it was foreseeable to the Accused that Serb Forces might commit violent and property-related crimes against non-Serbs during and after the take-overs in the Municipalities and the campaign to forcibly remove non-Serbs.

3516. In addition, the evidence of the Accused's knowledge of criminal activity in the Municipalities demonstrates that the Accused was well aware of this environment in which the forcible displacement of non-Serbs occurred. The Chamber notes the Accused learned of the killings of non-Serb civilians in early April 1992 in the town of Bijeljina immediately after their occurrence.¹¹¹⁷⁸ Furthermore, on 23 June 1992, the Accused was informed that Bosnian Muslims were subjected to intimidation and a policy of harassment and discrimination at the hands of the Bosnian Serbs, causing thousands to leave.¹¹¹⁷⁹ In addition, he frequently discussed or was informed of the violent criminal behaviour of armed groups during the take-over of some municipalities.¹¹¹⁸⁰ For example, on 29 July 1992 he was told about the criminal behaviour of paramilitary groups during and after the take-over of Bijeljina, which resulted in rapes, thefts, robberies, killings, and the displacement of Bosnian Muslim civilians.¹¹¹⁸¹ On 22 August 1992, the Accused was informed of the incident at Korićanske Stijene in which approximately 200 non-Serb men were killed by Serb Forces and thrown down a ravine at Mount Vlašić on 21 August 1992.¹¹¹⁸² The Accused was also aware that paramilitaries, volunteers, and other irregular armed groups were being used to further the common purpose of the Overarching JCE, and were difficult to control.¹¹¹⁸³ The Chamber considers that in light of his knowledge of crimes committed in the Municipalities, the Accused was aware of the environment of extreme fear in which non-Serbs were forced to leave and of other acts of violence committed by Serb Forces against non-Serbs during the campaign of forcible displacement.

3517. The Accused was also told about looting, particularly of Bosnian Muslim homes, on several occasions,¹¹¹⁸⁴ and knew that paramilitary groups involved in the JCE I Crimes were notorious for pillaging and stealing.¹¹¹⁸⁵

¹¹¹⁷⁷ See para. 2470.

¹¹¹⁷⁸ See para. 3333.

¹¹¹⁷⁹ See para. 3334.

¹¹¹⁸⁰ See paras. 3334–3336, 3341, 3350.

¹¹¹⁸¹ See para. 3335.

¹¹¹⁸² See para. 3346.

¹¹¹⁸³ See paras. 3230–3236, 3334–3336, 3341–3342, 3344, 3350.

¹¹¹⁸⁴ See paras. 3335, 3339, 3341–3342, 3344.

¹¹¹⁸⁵ See paras. 3220, 3357.

3518. The Chamber found that the Accused intended the unlawful detention of civilians.¹¹¹⁸⁶ The Chamber notes that thousands of individuals, including women, children, and elderly people were detained for extended periods of time before they were ultimately transferred out of the Municipalities. In several of these detention facilities, Bosnian Serb Political and Governmental Organs and Serb Forces deliberately established and perpetuated inhumane living conditions.¹¹¹⁸⁷ The Chamber found that the Accused knew early on in the conflict in BiH that civilians were being detained by Serb Forces.¹¹¹⁸⁸ The Accused was told by international representatives of the large scale detention of civilians as early as May 1992.¹¹¹⁸⁹ On 17 July 1992, the Bosnian Serb MUP wrote a report to the Accused and the Prime Minister, indicating, *inter alia*, that the conditions in detention centres were poor.¹¹¹⁹⁰ On 22 July 1992, it was reported to the Bosnian Serb Government that there had been occurrences of unlawful treatment of detainees.¹¹¹⁹¹ On 25 July 1992, the Accused received a report from the ICRC following a visit to the Manjača camp, informing the Accused, *inter alia*, that two detainees had been subjected to ill treatment during the visit, frequent and widespread traces of severe beatings were observed, and that the general living conditions were “absolutely insufficient”.¹¹¹⁹² At the London Conference in August 1992, the “acute problem of the unlawful detention of civilians and the deplorable conditions in which they were held” was recognised.¹¹¹⁹³ In light of this evidence, the Chamber considers that the Accused knew that the conditions in many of the detention centres where non-Serbs were detained were poor while others were inadequate at best.

3519. The Chamber also notes that prior to the outbreak of armed conflict in April 1992, the Accused was well aware of the ethnic animosity between Bosnian Serbs, Bosnian Croats, and Bosnian Muslims and played on these historic antagonisms in order to further the objective of the Overarching JCE and its common plan.¹¹¹⁹⁴ The Accused knew that leading up to the outbreak of armed conflict, ethnic tensions were rising.¹¹¹⁹⁵ Furthermore, during the conflict, the Accused frequently dismissed the commission of crimes by armed groups, blaming this ethnic animosity.¹¹¹⁹⁶ For example, at an international press conference in September 1992, in response to a question about a report alleging atrocities, including executions, and brutal “Nazi-like”

¹¹¹⁸⁶ See para. 3465.

¹¹¹⁸⁷ See para. 2511.

¹¹¹⁸⁸ See paras. 3365, 3375.

¹¹¹⁸⁹ See para. 3366.

¹¹¹⁹⁰ P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 3.

¹¹¹⁹¹ D430 (Minutes of 41st session of Government of SerBiH, 22 July 1992), p. 7.

¹¹¹⁹² P3758 (Letter from Radovan Karadžić to Branko Derić, attaching an ICRC report, 7 August 1992), pp. 4–7.

¹¹¹⁹³ D1142 (Programme of Action of the London International Conference, 27 August 1992), p. 1.

¹¹¹⁹⁴ See Section IV.A.3.a.i.B: Identification of historic enemies.

¹¹¹⁹⁵ See paras. 2714, 2895, 2900.

conditions, the Accused said that in an “inter-ethnic and inter-religious war”, there was no need for a command to kill, given that the three ethnic communities had “been antagonised during centuries”.¹¹¹⁹⁷

3520. Having assessed all the evidence on the information available to the Accused prior to and during the execution of the common plan of the Overarching JCE, the Chamber considers that the Accused knew that the common plan, whereby thousands of non-Serb civilians were expelled *en masse* from their homes during and after the forcible take-over of towns and villages, and detained in facilities throughout the Municipalities, occurred in a context of inter-ethnic animosity and violence. Furthermore, he knew that a climate of impunity for crimes committed against non-Serbs existed in Bosnian Serb claimed territory, particularly in 1992.¹¹¹⁹⁸ In light of these factors, he ought to have known that the non-Serb population was vulnerable to violent crimes that might be perpetrated by Serb Forces.

3521. On the basis of the foregoing, the Chamber is convinced beyond reasonable doubt that it was foreseeable to the Accused that persecution through torture, beatings, physical and psychological abuse, rape and other acts of sexual violence, and the establishment and perpetuation of inhumane living conditions in detention facilities as cruel or inhumane treatment, killings, forced labour at the frontline, the use of non-Serbs as human shields, the appropriation or plunder of property, and the wanton destruction of private property, including cultural and sacred sites, might be committed by Serb Forces used to carry out the objective of the common plan, during the execution of the common plan, with discriminatory intent. Furthermore, the Chamber finds that it was foreseeable to the Accused that murder might be committed by Serb Forces used to carry out the objective of the common plan, during the execution of the common plan. Finally, the fact that the Accused knew that the common plan was executed across a large geographic scope which involved numerous protagonists from civilian and military units, and was directly made aware of mass killings at the beginning of April 1992, demonstrates that he knew of the possibility that killings on a large scale might be committed by Serb Forces used to carry out the objective of the common plan. Therefore, the Chamber finds that the possibility that extermination might be committed by Serb Forces was sufficiently substantial as to be foreseeable to the Accused. These crimes will hereinafter be referred to as “JCE III Crimes”.

¹¹¹⁹⁶ See para. 3341.

¹¹¹⁹⁷ P809 (Video footage of Radovan Karadžić’s Press Conference at ICFY, 18 September 1992, with transcript), p. 3. See para. 3348.

¹¹¹⁹⁸ See Section IV.A.3.a.v: Accused’s knowledge of crimes and measures he took to prevent and punish them.

3522. The Accused's continued participation in the Overarching JCE until 1995 demonstrates that he acted in furtherance of the common plan with the awareness of the possibility that the JCE III Crimes might be committed either by members of the Overarching JCE or Serb Forces who were used by him or other members of the Overarching JCE to carry out the common plan,¹¹¹⁹⁹ during the execution of the common plan, demonstrating that he willingly took that risk.¹¹²⁰⁰

3523. The Chamber is satisfied that the JCE III Crimes which have been found to be proven beyond reasonable doubt are sufficiently linked to the Accused because they were found to have been carried out by members of the Serb Forces who were used by the Accused or another JCE member to carry out the JCE I crimes.¹¹²⁰¹ The Chamber has found that the JCE III Crimes were committed either during or after the take-overs of Municipalities during the campaign to forcibly remove the non-Serb population or in connection with unlawful detention in a scheduled detention facility. The Chamber has also considered the context in which the crimes were committed, including the timing and the correlation with the actions taken and crimes committed by other Serb Forces and Bosnian Serb authorities who acted in furtherance of the common plan.

f. Conclusion: Accused's individual criminal responsibility

3524. The Chamber found above that the Overarching JCE came into existence in October 1991 and continued until at least 30 November 1995, that the Accused significantly contributed to the Overarching JCE, and shared the intent with respect to the JCE I Crimes. In addition the Chamber found that the Accused acted in furtherance of the Overarching JCE with the awareness of the possibility that the JCE III Crimes might be committed either by members of the Overarching JCE or Serb Forces who were used by him or other members of the Overarching JCE to carry out the common plan, and that he willingly took that risk. The Chamber therefore finds that the Accused bears individual criminal responsibility pursuant to Article 7(1) of the Statute for persecution, a crime against humanity (Count 3); extermination, a crime against humanity (Count 4); murder, a crime against humanity (Count 5); murder, a violation of the laws or customs of war (Count 6); deportation, a crime against humanity (Count 7); and inhumane acts (forcible transfer), a crime against humanity (Count 8). The Chamber will address the issue of cumulative convictions in Section IV.F below.

¹¹¹⁹⁹ See para. 3511.

¹¹²⁰⁰ See para. 3466, where the Chamber found that the evidence of the Accused's intent to commit the JCE I crimes, coupled with his knowledge of the commission of crimes by Serb Forces against non-Serbs in the Municipalities did not rise to the level of intention for the crimes discussed herein.

¹¹²⁰¹ Judge Morrison dissenting with respect to Scheduled Incident B.12.2.

3525. In addition to the Accused's liability through participation in a JCE, the Prosecution also alleges that the Accused is individually criminally responsible for planning, instigating, ordering, and/or aiding and abetting the crimes relevant to the Municipalities component through certain acts and omissions.¹¹²⁰² It also charges the Accused with individual criminal responsibility pursuant to Article 7(3) of the Statute.¹¹²⁰³ However, having considered all of the evidence and in light of the findings made above, the Chamber finds that commission through JCE pursuant to Article 7(1) most accurately and appropriately reflects the Accused's responsibility for the crimes in the Municipalities component as charged in the Indictment. The Chamber will therefore not analyse the Accused's responsibility under the other modes alleged by the Prosecution in the Indictment.

¹¹²⁰² Indictment, paras. 30–31; Prosecution Final Brief, paras. 1115–1118.

¹¹²⁰³ Indictment, para. 32; Prosecution Final Brief, paras. 1113–1114.