

 <b>UNITED NATIONS</b>	<b>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</b>	<b>Case No.</b>	<b>IT-09-92-T</b>
		<b>Date:</b>	<b>22 November 2017</b>
		<b>Original:</b>	<b>English</b>

**IN TRIAL CHAMBER I**

**Before:**

**Judge Alphons Orié, Presiding  
Judge Bakone Justice Moloto  
Judge Christoph Flügge**

**Registrar:**

**Mr John Hocking**

**Judgment of:**

**22 November 2017**

**PROSECUTOR**

**v.**

**RATKO MLADIĆ**

***PUBLIC WITH CONFIDENTIAL ANNEX***

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**JUDGMENT**

**VOLUME III OF V**

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## 6. Taking of hostages

### 6.1 Introduction

2216. According to the Indictment, between approximately 26 May 1995 and 19 June 1995, Bosnian-Serb forces detained over 200 UN peacekeepers and military observers in various locations, including Pale, Sarajevo, Banja Luka, and Goražde, and held them at different locations in the Bosnian-Serb Republic including in places of strategic or military significance.<sup>9395</sup> The purpose of these detentions was to render the locations immune from NATO air strikes and to prevent further air strikes against Bosnian-Serb military targets.<sup>9396</sup> In the course of the detentions, threats were issued to third parties, including NATO and UN commanders, that further NATO attacks on Bosnian-Serb military targets would result in the injury, death, or continued detention of the detainees.<sup>9397</sup> Some of the detainees were assaulted and maltreated during their captivity.<sup>9398</sup> The Defence submitted that, as a result of the UN's direct and active participation in the conflict, UN personnel lost their civilian protection status and were therefore lawfully detained.<sup>9399</sup> Further, members of paramilitary groups were responsible for any ill-treatment of UN personnel that may have occurred.<sup>9400</sup> The Trial Chamber took judicial notice of Adjudicated Facts 1759 and 1760 related to this charge.<sup>9401</sup> The Trial Chamber received evidence from UNMOs **Patrick Rechner**, **Janusz Kalbarczyk**, and **Griffiths Evans**, stationed in Pale in 1995;<sup>9402</sup> UNMOs **Gunnar Westlund**, **Joseph Gelissen**, and **Marcus Helgers**, stationed in Sarajevo in 1995;<sup>9403</sup> **Aleksandr Vishnevski**, an UNPROFOR officer stationed in Sarajevo from February to June 1995 and attached, as of May 1995, to the 1st Company deployed at the Krivoglavci checkpoint;<sup>9404</sup> **Rupert Smith**, **Witness RM-120**, **Witness RM-409**,

<sup>9395</sup> Indictment, paras 24, 82, 85.

<sup>9396</sup> Indictment, paras 24, 83, 85.

<sup>9397</sup> Indictment, para. 85.

<sup>9398</sup> Indictment, para. 85.

<sup>9399</sup> Defence Final Brief, paras 3331-3346, 3308, 3310-3313; T. 44609, 44808-44809, 44812.

<sup>9400</sup> Defence Final Brief, paras 3308, 3350, 3352-3371.

<sup>9401</sup> Adjudicated Facts number 1759 and 1760 are reviewed in chapter 5.1.1.

<sup>9402</sup> **Patrick Rechner**: P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 1, 4-6, 8-9; D391 (UN Questionnaire, completed by Patrick Rechner), p. 1; Patrick Rechner, T. 18461. **Janusz Kalbarczyk**: P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 1-2; Janusz Kalbarczyk, T. 19322, 19339. **Griffiths Evans**: P396 (Griffiths Evans, Rule 92*bis* material), statutory declaration, p. 1, witness statement, p. 1.

<sup>9403</sup> **Gunnar Westlund**: P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 1-2. **Joseph Gelissen**: P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 1-2. **Marcus Helgers**: P3581 (Marcus Helgers, witness statement, 3 August 1995), pp. 1-2; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995).

<sup>9404</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 1.

**Witness RM-403, Witness RM-055, Witness RM-401**, all UNPROFOR officers and soldiers stationed in Sarajevo in 1995;<sup>9405</sup> **Jonathon Riley** and **Hugh Nightingale**, an officer and a soldier respectively, stationed in Goražde in 1995;<sup>9406</sup> **David Harland**, an UNPROFOR Civil Affairs Officer assigned to Sarajevo as of May 1993;<sup>9407</sup> **Witness GRM-037**, an intelligence analyst working in Bosnia-Herzegovina between November 1994 and July 1995;<sup>9408</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>9409</sup> **Snježan Lalović**, a journalist for Serbian Radio and Television in Pale during the war;<sup>9410</sup> **Martin Bell**, a foreign affairs war correspondent for the BBC who covered the events in Bosnia-Herzegovina from around March 1992 through to the signing and implementation of the Dayton Agreement;<sup>9411</sup> **Cornelis Hendrik Nicolai**, the UNPROFOR Chief of Staff at the Bosnia-Herzegovina Command from 28 February to 2 September 1995;<sup>9412</sup> **Milorad Batinić**, a Serb who worked as an interpreter from about 28 June 1992 for the Igman Brigade and then, from 30 June, 1992 for UNMOs until 1995;<sup>9413</sup> **Milorad Šehovac**, the Chief of Staff of the 1st Posavina Brigade in Brčko between 23 May and 15 August 1992 and the Commander of the SRK 2nd Sarajevo Light Infantry Brigade between 18 August 1992 and mid-September 1995;<sup>9414</sup> **Milenko Indić**, a VRS liaison officer for cooperation with international organisations and institutions;<sup>9415</sup> **Vladimir Radojčić**, the commander of the VRS Ilidža Brigade between January 1993 and the end of the war;<sup>9416</sup> **John Hamill**, an UNMO stationed on the Serb side of the confrontation line

<sup>9405</sup> **Rupert Smith**: P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287. **Witness RM-120**: P807 (Witness RM-120, witness statement, undated), p. 3. **Witness RM-409**: P3586 (Witness RM-409, witness statement, 18 March 1998), paras 5-6. **Witness RM-403**: P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 1-4. **Witness RM-055**: P749 (Witness RM-055, witness statement, undated), p. 3. **Witness RM-401**: P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 1, 4, 7, 9-10, 56; P2536 (Witness RM-401, pseudonym sheet), p. 1.

<sup>9406</sup> **Jonathon Riley**: P2543 (Jonathon Riley, witness statement, 15 April 1996), p. 1, paras 2-3. **Hugh Nightingale**: P398 (Hugh Nightingale, witness statement, 5 February 1996), pp. 1-2.

<sup>9407</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>9408</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), paras 3-5; D1239 (Pseudonym sheet for Witness GRM-037).

<sup>9409</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>9410</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), para. 1.

<sup>9411</sup> P832 (Martin Bell, witness statement, 8 March 2010), para. 3; Martin Bell, T. 7811-7812.

<sup>9412</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), p. 1, paras 1-4, 67.

<sup>9413</sup> Milorad Batinić, T. 22613, 22619-22621, 22685, 22696-22697, 22715-22716; P6593 (Copy of notes taken from Milorad Batinić during his testimony, 12 June 2014), p. 2.

<sup>9414</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), p. 1, paras 1-2; Milorad Šehovac, T. 24055.

<sup>9415</sup> D614 (Milenko Indić, witness statement, 31 July 2014), paras 1-2.

<sup>9416</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 1.

near Sarajevo between May and August 1993;<sup>9417</sup> **Ratomir Maksimović**, who served in the SRK Command from 1 April 1993 to 1 September 1994 and from 30 April 1995 to 31 March 1996;<sup>9418</sup> and **Reynaud Theunens**, a military intelligence analyst;<sup>9419</sup> as well as documentary evidence.

2217. **David Harland** testified that on 22 May 1995, Bosnian-Serb forces removed two heavy weapons from the WCPs near Sarajevo and Bosnian forces withdrew weapons of their own.<sup>9420</sup> An ultimatum was issued by General Smith, UNPROFOR Commander in Sarajevo at the time, on 24 May 1995, with which the Serbs failed to comply, and in response NATO bombed certain Bosnian-Serb military targets on 25 May 1995.<sup>9421</sup> The Trial Chamber took judicial notice of Adjudicated Facts concerning the confiscation by the SRK of heavy weapons from WCPs on 25 and 26 May 1995 and the subsequent NATO bombings of the ammunitions depot in Pale on 26 May 1995, which are reviewed in chapter 5.1.1. According to a VRS Main Staff document dated 26 May 1995, NATO had identified depots, missile and radar systems, artillery firing positions, and command posts as potential bombing targets.<sup>9422</sup> **Witness GRM-037** testified that UNPROFOR, NATO, and national armed forces personnel, including a group of British soldiers known as ‘JCOs’, were tasked with covertly locating and recording Bosnian-Serb military positions and facilities which could be potential targets for air strikes and sharing this information with NATO.<sup>9423</sup> He also saw target lists for NATO air strikes in the UNPROFOR headquarters.<sup>9424</sup> Furthermore, the Canadian government and other countries had forward air controllers in Bosnia-Herzegovina.<sup>9425</sup> The witness saw General Smith enter the Air Operations Cell in the UNPROFOR headquarters in Zagreb where the target lists for NATO air strikes were being compiled and deduced from this that Smith must have been aware of the presence of these forward air controllers in Bosnia-Herzegovina and of the fact that they assisted NATO in conducting the air

<sup>9417</sup> P537 (John Hamill, *Galić* transcript, 25 March 2002), p. 6060.

<sup>9418</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 4-5; Ratomir Maksimović, T. 26741, 26800.

<sup>9419</sup> Reynaud Theunens, T.20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4.

<sup>9420</sup> P1 (David Harland, witness statement, 4 September 2009), para. 183.

<sup>9421</sup> P1 (David Harland, witness statement, 4 September 2009), para. 183. For General Smith’s function, see P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 28.

<sup>9422</sup> P3584 (VRS Main Staff document, 26 May 1995). See also P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10759-10760.

<sup>9423</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), paras 16-17.

<sup>9424</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), para. 18; Witness GRM-037, T. 39019.

<sup>9425</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), paras 20-21.

strikes in Pale in May 1995.<sup>9426</sup> According to the witness, all UNMOs were acting as if they were collecting intelligence and many of them had weapons, even though they were supposed to be unarmed.<sup>9427</sup> To the witness's knowledge, none of the UNMOs that he claimed were armed and none of the forward air controllers who were present in Bosnia-Herzegovina were part of the group that was taken hostage in May 1995.<sup>9428</sup> The witness recalled statements made by the Bosnian-Serb leadership that after the bombing started, they considered the UN to have become a combatant in the conflict.<sup>9429</sup> **Patrick Rechner** testified that all UNMOs in the former Yugoslavia were unarmed.<sup>9430</sup>

2218. According to **Harland**, following the 25 May 1995 NATO bombings, the Serbs took several hundred UNPROFOR members and UNMOs 'hostage' in retaliation.<sup>9431</sup> **Cornelis Nicolai** testified that on or around 25 May 1995, some 347 UN personnel were held 'hostage' by, or were in isolated detachments surrounded by, the VRS.<sup>9432</sup> **Rupert Smith** testified more particularly that on 26 May 1995, still in response to a series of NATO air strikes, the VRS took about 400 UNPROFOR personnel and UNMOs 'hostage', using some as human shields or chaining them to potential targets.<sup>9433</sup> **Witness RM-120** testified that around 26-27 May 1995, the VRS took approximately 260 UNPROFOR and UNMOs 'hostage', including Ukrainian and Canadian personnel deployed at various WCPs.<sup>9434</sup> **Anthony Banbury** testified that he attended a briefing on 27 May 1995 where it was reported that some of the UNPROFOR soldiers were being detained at their place of duty, namely at WCPs, by the VRS.<sup>9435</sup> During a briefing held on 29 May 1995, it was reported that in total 320 UN personnel were detained by the VRS at that time.<sup>9436</sup> **Martin Bell** reported that UN hostages on the Serb

<sup>9426</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), para. 22; Witness GRM-037, T. 39019-39020.

<sup>9427</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), paras 24, 26; Witness GRM-037, T. 39022-39023.

<sup>9428</sup> Witness GRM-037, T. 39039-39040.

<sup>9429</sup> D1240 (Witness GRM-037, witness statement, 14 September 2012), para. 29.

<sup>9430</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 8. *See also* Janusz Kalbarczyk, T. 19326.

<sup>9431</sup> P1 (David Harland, witness statement, 4 September 2009), para. 183.

<sup>9432</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 32; Cornelis Nicolai, T. 10684; P1176 (UNPROFOR Sarajevo Commander letter from Lt. General Rupert Smith regarding post air strike guidance, 29 May 1995), para. 2. *See also* D390 (UNPROFOR Directive, 29 May 1995), paras 1-2, 4, 10.

<sup>9433</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 116-118, 120-122, 125; P791 (Transcript of conversation between Mladić and Smith, 26 May 1995), p. 1.

<sup>9434</sup> P807 (Witness RM-120, witness statement, undated), p. 75.

<sup>9435</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), paras 164-165.

<sup>9436</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 168.



side included 199 soldiers, mostly French, and 32 UNMOs. Sixteen of the UNMOs were being used as human shields.<sup>9437</sup>

2219. **Vladimir Radojčić** testified that on 25 May 1995 Mladić, through the SRK, ordered the Ilidža Brigade to block and disarm the UNPROFOR members and put them under its control as POWs.<sup>9438</sup> On 27 May 1995, Manoljo Milovanović ordered various VRS corps and units to place captured UNPROFOR personnel and disarmed surrounded UNPROFOR forces at potential air strike targets. According to this order, UN personnel were to be treated with military respect and as POWs.<sup>9439</sup> The recipients of this order were expected to report personally to Milovanović about the execution of the order the next day.<sup>9440</sup> This order had been approved by the Bosnian-Serb President.<sup>9441</sup>

2220. **Milenko Indić** testified that on one occasion his office received an order from the VRS Main Staff to place under control, disarm, and seize the communication devices of UNPROFOR members in the SRK territory, but not to harm them in any manner.<sup>9442</sup> On 27 May 1995, Dragomir Milošević informed all SRK units that they were to report, by way of regular combat reports, the number of members of UNPROFOR, UNHCR, and other international organisations taken prisoner, the number of members under blockade, and the number of pieces of equipment seized. The units were instructed not to capture Russian UNPROFOR members and to free the captured Russians.<sup>9443</sup>

2221. **Witness GRM-037** testified that he received intelligence from direct sources that the orders to take ‘hostages’ came from high up in the military structure.<sup>9444</sup> According to an UNPROFOR letter addressed to Dragomir Milošević, since 26 May 1995 Bosnian-Serb forces had implemented a systematic policy of hostage-taking of unarmed military observers.<sup>9445</sup>

<sup>9437</sup> P1870 (Video of Bell’s reporting on dawn attack by Serbs and hostage-taking, undated).

<sup>9438</sup> P6611 (Statement of Vladimir Radojčić from the *Karadžić* case, 8 December 2012), para. 68; Vladimir Radojčić, T. 23056-23057, 23069-23070..

<sup>9439</sup> P789 (VRS Main Staff order, 27 May 1995), pp. 1-2. *See also* P1849 (VRS Main Staff communication, 27 May 1995).

<sup>9440</sup> P789 (VRS Main Staff order, 27 May 1995), pp. 1-2.

<sup>9441</sup> P789 (VRS Main Staff order, 27 May 1995), p. 2.

<sup>9442</sup> D614 (Milenko Indić, witness statement, 31 July 2014), para. 27; Milenko Indić, T. 25112-25113.

<sup>9443</sup> P2562 (VRS document from Dragomir Milošević to all VRS units, 27 May 1995). *See also* P785 (Rupert Smith, witness statement, 27 October 2009), para. 129.

<sup>9444</sup> Witness GRM-037, T. 39026, 39035-39037. Concerning the contention that the hostage-taking was supported *inter alia* by the VRS, *see also* P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 33.

<sup>9445</sup> P826 (UNPROFOR protest letter regarding hostages, 3 June 1995).

2222. On 28 May 1995, during a meeting of the Supreme Command of the Bosnian-Serb Republic, attended by Mladić and Karadžić, Karadžić instructed to 'seize the enclaves'.<sup>9446</sup> It was concluded at the meeting that captured members of UNPROFOR should be treated as POWs and that relations with the UN should be frozen.<sup>9447</sup>

2223. On 30 May 1995, Mladić informed various VRS corps commands and units that NATO was preparing for an operation to free the UNPROFOR personnel who were being held captive.<sup>9448</sup> Based on a 29 May 1995 Supreme Command decision, Mladić ordered all units to assess the feasibility of helicopter assault and to consider possibilities for the detection of enemy forces and taking effective combat action. Mladić further ordered the units to prevent any leak of information about the number and sector of deployment of UNPROFOR personnel who were held captive and forbid all unauthorized individuals from attempting to contact the detainees without approval of the Main Staff.<sup>9449</sup> The command of the SRK was to complete the disarming of the captured UNPROFOR personnel and their deployment to facilities identified as potential NATO air-strikes targets on the same day and transport the remaining UNPROFOR personnel to a safe place, from which the Main Staff would organize their transport to other corps. The commands of the SRK, HK and DK were to plan and prepare fire on the sectors of UNPROFOR personnel and possible areas of helicopter assault landings, around the enclaves of Sarajevo, Goražde, Srebrenica, and Žepa.<sup>9450</sup> In case of a NATO air strike or a helicopter assault landing, the units were to immediately and without a separate order open fire from all available assets on the sector of airborne assault and the sector of the deployment of UNPROFOR personnel. The unit commanders were expected to report to Mladić about the implementation of this order in regular combat reports.<sup>9451</sup>

<sup>9446</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 148.

<sup>9447</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 149.

<sup>9448</sup> P5230 (Order of the VRS Main Staff for preparing, organizing and conducting anti-airborne assault defense, 30 May 1995), p. 1.

<sup>9449</sup> P5230 (Order of the VRS Main Staff for preparing, organizing and conducting anti-airborne assault defense, 30 May 1995), p. 2.

<sup>9450</sup> P5230 (Order of the VRS Main Staff for preparing, organizing and conducting anti-airborne assault defense, 30 May 1995), p. 3.

<sup>9451</sup> P5230 (Order of the VRS Main Staff for preparing, organizing and conducting anti-airborne assault defense, 30 May 1995), p. 3.

## 6.2 Detention of UNMOs stationed in Pale and in the Sarajevo area

2224. **Gunnar Westlund** stated that on 14 May 1995, six members of his team, SS-1, were present in their office in Kasindo: one Dutch, Mark Helgers; one Nigerian, Abdul Razak Bello; one Polish, Wieslaw Wojtasiak; one Pakistani, Ahmad Manzoor; one Czech, Karel Kratky; and himself.<sup>9452</sup> On that day, SS-1 was visited by Captain Gavran, a VRS Battalion Commander, who informed the witness that his team was no longer allowed to leave their accommodation, except to shop, but that the witness, as team leader and with VRS approval, could visit the VRS and UNMO headquarters.<sup>9453</sup>

2225. **Janusz Kalbarczyk** testified that as of April 1995, Sierra Echo 1 (SE-1) was led by a British officer and his deputy, Major Griffiths Evans.<sup>9454</sup> Around 21 May 1995, UNMOs' headquarters in Sarajevo, in compliance with a demand made by the VRS, ordered UNMO teams stationed in Pale, including the members of the SE-1 Team, to cease their patrolling activities and stay in their accommodation unless required to get food supplies.<sup>9455</sup> **Westlund** stated that after the first NATO air strike on 24 May 1995, at approximately 2 or 3 p.m., a uniformed VRS security officer entered SS-1 quarters in Kasindo and told the UNMOs stationed there that they were not allowed to leave, and that men were to be posted outside with orders to shoot them if they tried to leave.<sup>9456</sup>

2226. **Joseph Gelissen** stated that on 25 May 1995, a UN ultimatum to pull out heavy weapons from the TEZ was ending and NATO air strikes started later the same day.<sup>9457</sup> **Rechner** testified that on the same day, the bunkers on the outskirts of Pale were bombed for the first time.<sup>9458</sup>

2227. Also on 25 May 1995, after the second NATO air strike, **Westlund** heard someone on the radio, in English, identify himself as a VRS soldier and threaten to kill the 'Pale Team' of UNMOs if the NATO strikes did not stop. At 5:15 p.m., two armed soldiers in uniform trousers and green T-shirts without insignia ordered the witness and

<sup>9452</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 2. For the full names of these SS-1 members, see P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), p. 4.

<sup>9453</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 2.

<sup>9454</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19360.

<sup>9455</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19340, 19344.

<sup>9456</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 2.

<sup>9457</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

<sup>9458</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 16; P2561 (UNMO report on Pale air strikes, 25 May 1995), p. 1; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

his team, SS-1, to leave their accommodation.<sup>9459</sup> The witness and his team were made to drive to Grbavica.<sup>9460</sup> The soldiers made the witness take a back road and the witness believed that they wanted to avoid the VRS garrison on the main road, which made him think that these were not VRS soldiers. At Grbavica, the witness was taken with his team to the cellar of a civilian building, which was occupied by civilians and VRS soldiers. The two soldiers who had arrested the witness and his team appeared, according to the witness, to be under the command of a man. This man had a long beard and long black hair and was dressed in black. He was accompanied by two men armed with pistols and kalashnikovs who, according to the witness, were not VRS soldiers but who wore some parts of VRS uniforms. The witness and his team were given a mix of uniforms and civilian clothes to change into. They were allowed to keep their IDs, wallets, and cigarettes. He and his team were then driven by the leader in black and another man, both of whom the witness stated were Bosnian Serbs, for 45 to 50 minutes to Pale, through VRS checkpoints. They stopped in front of a police station which the leader in black visited while they were guarded in the car. They were then driven to a café where they were ordered out of the car. The witness and his team were lined up on the pavement, and the witness observed a number of drunken soldiers, many of whom wore UN equipment such as helmets or berets. They were then ordered into another car, driven by a VRS officer. A man, who was approximately 25 years old and introduced himself to the witness as a VRS soldier, accompanied them in the car, and later told the witness that he was Canadian. They then drove to Jahorina Mountain, where the same man ordered the witness to contact UNMO headquarters and tell them that the team would be shot one by one unless the NATO air strikes stopped.<sup>9461</sup> The witness's team was loaded into a mini-bus and driven up Jahorina Mountain and, during the trip, drunken VRS soldiers beat and abused the Nigerian and the Pakistani UNMOs by hitting them with the butts of their rifles.<sup>9462</sup>

2228. **Patrick Rechner**, Head of the 7 Lima Team in Pale, testified that still on 26 May 1995 at around 10 a.m. the air strikes resumed.<sup>9463</sup> **Kalbarczyk**, from the SE-1 Team, testified that in the morning of 26 May 1995, between 8 and 9:30 a.m., he heard

<sup>9459</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 2.

<sup>9460</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 2-3.

<sup>9461</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 3-4.

<sup>9462</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 4.

<sup>9463</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 19; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

several big explosions and the alarm siren in Pale.<sup>9464</sup> At 10 a.m., General Smith had a telephone conversation with Mladić, reminding him to moderate his actions, return the missing weapons to the WCPs, and to clear the TEZ, after which Mladić urged Smith to think of the people and the soldiers under his command and the consequences which may result from such unreasonable and ‘unthinking’ decisions.<sup>9465</sup> **Kalbarczyk** testified that about 40 minutes after the last explosion, a police car arrived and an armed police commander and two armed policemen in violet uniforms entered the UNMOs’ office.<sup>9466</sup> Police officers, unlike soldiers, wore violet uniforms.<sup>9467</sup> **Griffith Evans**, also from the SE-1 Team, described the group that arrived at their post as composed of four people in VRS uniform and one in civilian clothes, whom the witness perceived as being in charge.<sup>9468</sup> He described the men in uniform as armed military policemen.<sup>9469</sup> The witness, Jose Antonio Romero, Dmitri Batiouchenkov<sup>9470</sup>, and Zlatko Kozusnik, all UNMOs from the SE-1 Team, were held at gunpoint and ordered to raise their hands. The policemen told the members of the SE-1 Team that they had received an order to shoot them if the bombardments continued.<sup>9471</sup> **Kalbarczyk** attributed this conduct to the police commander while **Evans** stated that the man in civilian clothes informed them that they were under arrest and one of the men in VRS uniform pointed what Evans believed to be a pistol at the team.<sup>9472</sup> **Kalbarczyk** testified that the police commander left after ten minutes and the policemen ordered the UNMOs to put their hands down. During the next 40 minutes, the UNMOs were not authorized to pick up incoming calls from their headquarters.<sup>9473</sup> At about 11:20 a.m., VRS soldiers arrived in

<sup>9464</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19345. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

<sup>9465</sup> P2557 (UN Code Cable with notes from telephone conversations between General Smith and General Mladić on 26 May 1995), p. 2.

<sup>9466</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19346-19347.

<sup>9467</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19347, 19351.

<sup>9468</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 1. Concerning Evans’s affiliation, *see* P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), p. 4.

<sup>9469</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, pp. 1-2.

<sup>9470</sup> The Trial Chamber understands Dmitri Batiouchenkov to be the same person as Dimitri Batinshenko, identified as a Russian member of the SE-1 Team in P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), p. 4.

<sup>9471</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19327-19328. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 1.

<sup>9472</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19327; P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 1.

<sup>9473</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2.

two cars and told the policemen that the UNMOs were now in their custody.<sup>9474</sup> According to **Evans**, one of the men, who had a limp and a cane, was clearly the officer in charge of the soldiers.<sup>9475</sup> The soldiers robbed the UNMOs' accommodation and requested the keys to the two UN vehicles.<sup>9476</sup> A VRS officer then asked the UNMOs to pack their equipment and go outside.<sup>9477</sup> The UNMOs were all handcuffed in pairs.<sup>9478</sup>

2229. At 11:30 a.m., armed VRS soldiers drove Kalbarczyk and Kozusnik to Pale and left the car open and unguarded for about ten minutes, during which time soldiers and civilians, who were around the car, threatened and insulted the witness and his colleague, by spitting and throwing stones at them.<sup>9479</sup> Subsequently, the VRS soldiers drove all of the detained members of the SE-1 Team to a place close to Pale called Jahorinski Potok, which had been targeted by NATO air strikes.<sup>9480</sup> **Evans** stated that before reaching Jahorinski Potok, they stopped in front of the local police station in Pale, where a VRS soldier of Canadian citizenship entered the car used to transport this group of UNMOs. The soldier used the radio to inform the UNMO headquarters in Sarajevo that Evans and his team were under arrest and that their lives would be in danger if the headquarters would not meet with General Smith to stop the air strike.<sup>9481</sup> **Smith** testified that the man speaking English, who had called him to inform him that he had taken UNMOs, mentioned that they had been placed at potential targets in the Pale area.<sup>9482</sup> These actions were confirmed to Smith in a message from Mladić sent through Indić, and in a phone call from Mladić.<sup>9483</sup> During this second conversation between Mladić and Smith, which took place at around 2:50 p.m., Mladić said that his information was that some men had been placed on the door and the roof of the earlier

<sup>9474</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2; Janusz Kalbarczyk, T. 19347. See also P396 (Griffiths Evans, Rule 92bis material), witness statement, pp. 1-2.

<sup>9475</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 2.

<sup>9476</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 2. See also P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 2.

<sup>9477</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 2-3. See also P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 2.

<sup>9478</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3. See also P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 2.

<sup>9479</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3; Janusz Kalbarczyk, T. 19368-19369, 19375.

<sup>9480</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3; Janusz Kalbarczyk, T. 19327-19328.

<sup>9481</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 2.

<sup>9482</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 121.

<sup>9483</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 125, 127; P791 (Transcript of conversation between Mladić and Smith, 26 May 1995), p. 1.

targets and that the destiny of the men rested completely with Smith.<sup>9484</sup> According to Mladić, Smith was responsible for the death of all of the Serb soldiers and civilians killed the previous day.<sup>9485</sup> **Evans** stated that the UNMO headquarters acknowledged the threat *via* radio and responded that they would try to meet the request.<sup>9486</sup>

2230. Earlier on the same day at approximately 10:30 a.m., **Rechner** heard loud voices and two shots being fired outside of the 7 Lima Team accommodation in Pale.<sup>9487</sup> Through a door at the back of the office he observed three individuals armed with kalashnikovs in the office.<sup>9488</sup> He called Karadžić's office and his secretary Mira told him that if the men had arrived at about 10:30 a.m., they were soldiers who had been sent there officially.<sup>9489</sup> He also called Jovan Zametica, Karadžić's spokesman and political advisor, who confirmed that he had heard that preparations were being made to send some soldiers into their office and that he was aware of an order.<sup>9490</sup> Almost immediately thereafter, one of the interpreters called the witness and told him that he was required in the office.<sup>9491</sup> When the witness entered the office, he saw two of the armed men there: Nikola Ribić, who was in full VRS uniform, and another man dressed in a red T-shirt and camouflage pants.<sup>9492</sup> Ribić told him to sit down and call the UNMO headquarters by radio, which the witness did.<sup>9493</sup> Ribić took the radio, identified himself as a VRS soldier and said that he wanted the bombing stopped immediately, or else the witness and two other UNMOs would be executed.<sup>9494</sup> Ribić then told the witness to call

<sup>9484</sup> P791 (Transcript of conversation between Mladić and Smith, 26 May 1995), p. 1; P2557 (UN Code Cable with notes from telephone conversations between General Smith and General Mladić on 26 May 1995), p. 4.

<sup>9485</sup> P791 (Transcript of conversation between Mladić and Smith, 26 May 1995), p. 2; P2557 (UN Code Cable with notes from telephone conversations between General Smith and General Mladić on 26 May 1995), p. 4.

<sup>9486</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 2.

<sup>9487</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 20; Patrick Rechner, T. 18475; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

<sup>9488</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 20; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

<sup>9489</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 21; Patrick Rechner, T. 18487-18488.

<sup>9490</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 23, 47; Patrick Rechner, T. 18487-18488.

<sup>9491</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 24; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

<sup>9492</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 25-26; Patrick Rechner, T. 18474-18475.

<sup>9493</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 27; D391 (UN questionnaire, completed by Patrick Rechner), paras 3-4.

<sup>9494</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 8, 27; D391 (UN questionnaire, completed by Patrick Rechner), paras 3-5.

General Smith.<sup>9495</sup> However, Smith's aide-de-camp said that Smith would not speak with these armed men, whereupon Ribić took the phone and said that he wanted the air strikes stopped and 'if you value the lives of your UNMOs, you'll stop the air strikes now. For every bomb that falls from now on, one of the UNMOs will be shot'.<sup>9496</sup> While Rechner and his colleagues Captain Oldrich Zidlik and Captain Pavel Teterevsky waited for Ribić's commander, Ribić directed them to call their headquarters several times to ask for confirmation that the air strikes had been called off.<sup>9497</sup>

2231. At approximately 11 a.m., a group of armed VRS soldiers arrived at the office, led by a commander whose name sounded like Srdjan and who walked with a crutch.<sup>9498</sup> While the air strikes were still on-going, the witness, Zidlik, and Teterevsky were handcuffed together in the back seat of their car, and driven to the ammunition bunkers at Jahorinski Potok, which had been the target of NATO bombings on 25 and 26 May 1995.<sup>9499</sup> While waiting for the gate to the bunker complex to be opened, a group of angry people gathered and one person opened the door of the car, punched and kicked the witness, pulled out a pistol and tried to point it at the UNMOs.<sup>9500</sup> The witness learned that this man's name was Šljivić or Šlivo and he was later dressed in uniform and served as one of their guards.<sup>9501</sup>

2232. The UNMOs were brought to warehouses inside the bunker complex where they were taken out of the vehicle and again handcuffed together while one of them was also secured to the vehicle.<sup>9502</sup> While the UNMOs were waiting at the warehouses, a Lieutenant-Colonel from the VRS who had arrived at their accommodation with the second group of soldiers and who was the press information officer for the Pale military garrison, told them that they were being kept by the warehouses to prevent any NATO

<sup>9495</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 28; Patrick Rechner, T. 18484; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

<sup>9496</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 28; Patrick Rechner, T. 18484; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

<sup>9497</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 8, 29.

<sup>9498</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 30; Patrick Rechner, T. 18477-18478.

<sup>9499</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 31; D391 (UN questionnaire, completed by Patrick Rechner), para. 1; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

<sup>9500</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 32-33; Patrick Rechner, T. 18480; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 8.

<sup>9501</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 34; D391 (UN questionnaire, completed by Patrick Rechner), para. 6.

<sup>9502</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 36



air strikes and threatened to kill them if they were not killed by the air strikes.<sup>9503</sup> The events at the warehouses were filmed by this press information officer.<sup>9504</sup> After being forced to contact the headquarters again to confirm that the air strikes had been called off, the UNMOs were loaded back into the vehicle and taken to the ammunition bunkers, which were located at a VRS military facility.<sup>9505</sup> On the way there, the Lieutenant-Colonel forced the witness to contact the headquarters again and inform them that in the event of any more air strikes, ‘they would die for the sake of NATO’, which was also suggested by Ribić.<sup>9506</sup>

2233. They arrived at the bunker site, which had been hit by aerial bombs, at approximately 11.30 a.m. Captain Zidlik was handcuffed to the door of one of the bunkers and remained handcuffed there for approximately nine hours.<sup>9507</sup> Rechner was handcuffed to a lightning rod about ten metres in front of the same bunker and remained handcuffed there for approximately six hours.<sup>9508</sup> Captain Teterevsky had his hands tied with rope around a second lightning rod about ten metres from the witness.<sup>9509</sup> Bosnian-Serb soldiers filmed them chained in these positions and the film was shown on SRT, a local Bosnian-Serb television station, and rebroadcast worldwide.<sup>9510</sup>

2234. Between 1 and 2 p.m., Rechner, Zidlik, and Teterevsky saw five members of the other UNMO team stationed in Pale, SE-1, being driven in UNMO vehicles to the bunker complex and placed at different locations throughout the compound by the

<sup>9503</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 37, 39; D391 (UN questionnaire, completed by Patrick Rechner), para. 5; Patrick Rechner, T. 18479, 18504; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9.

<sup>9504</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 39; Patrick Rechner, T. 18455-18458, 18479; P2556 (Video excerpts from the DVD entitled *Memories of the Wolf*).

<sup>9505</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 38; Patrick Rechner, T. 18481.

<sup>9506</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 38. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 1.

<sup>9507</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 42; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 2; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9508</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 42; D391 (UN questionnaire, completed by Patrick Rechner), para. 15; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 2; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9509</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 42; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 2; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9510</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 42-43. *See also* P832 (Martin Bell, witness statement, 8 March 2010), para. 108; P1869 (Report on NATO airstrikes and the UN hostage-taking); P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

VRS.<sup>9511</sup> **Evans** stated that Batiouchenkov was handcuffed to a door of an ammunition bunker and Kalbarczyk and Kozusnik, also part of the witness's team, were taken inside.<sup>9512</sup> **Rechner** testified that Kalbarczyk was placed at the most dangerous place, near a bunker that had been bombed that morning and where the ammunition was still exploding.<sup>9513</sup> **Kalbarczyk** testified that at around noon, he was chained to a lightning rod for approximately four hours and filmed by a VRS officer.<sup>9514</sup> Soldiers provided food to the witness, but no water despite the hot temperatures.<sup>9515</sup> **Rechner** testified that at approximately 2:20 p.m. two VRS soldiers came by to check if all UNMOs were still properly secured. The witness overheard them discussing whether they had enough time to check on Kalbarczyk further up the road before 2:30 p.m., the time NATO had announced to resume air strikes.<sup>9516</sup>

2235. On the same day, 26 May 1995, at around 4 p.m., six to eight VRS soldiers came into the accommodation of **Gelissen's** unit, SG-1, in Grbavica. Gelissen; Sergey Golubev, a Russian; Harley Alves, a Brazilian; an interpreter; and a cook were present.<sup>9517</sup> While they wore regular camouflage uniforms, Gelissen stated that he had never seen them before and thought that they were not from the area. They handcuffed the witness and put him in the stairway.<sup>9518</sup> Alves managed to send a message to UNMO headquarters that they were being taken 'hostage' before being handcuffed himself.<sup>9519</sup> The soldiers took all of their equipment, including computers, Motorola radios and base station, and personal items. The soldiers asked for their weapons but the team told them that UNMOs are unarmed.<sup>9520</sup> The witness and Alves were taken outside and were loaded into a black four-wheel-drive vehicle, which the witness identified as probably stolen from the UN.<sup>9521</sup> The commander of the 2nd Battalion arrived and tried to negotiate with the soldiers who arrested the UNMOs, but the soldiers said that they

<sup>9511</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 44.

<sup>9512</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, pp. 1-2.

<sup>9513</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 44. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9514</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9515</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3; Janusz Kalbarczyk, T. 19328.

<sup>9516</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 45; D391 (UN questionnaire, completed by Patrick Rechner), para. 15.

<sup>9517</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 2-3. Concerning Alves's and Golubev's affiliation, *see also* P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), p. 5.

<sup>9518</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

<sup>9519</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 2-3.

<sup>9520</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 3.

had orders from the regular VRS. An English-speaking Canadian soldier named Ribić was in charge, along with another commander who was about 40 years old, had blond-grey hair, wore a green overall uniform, and had a pistol. The witness and the other UNMO were taken to the Pale hospital where they were filmed by Pale TV. They were then taken to the Pale Barracks.<sup>9522</sup>

2236. **Evans** stated that he and Romero, another member of the SE-1 Team, were driven to the Koran headquarters, handcuffed to two flagpoles in front of the building, given some water to drink, and left in the sun for approximately 20 minutes.<sup>9523</sup> The Canadian Serb returned to warn the UNPROFOR Sarajevo headquarters over the radio, within earshot of Evans, that two UNMOs had been chained to the bridge leading to Pale and would be killed should NATO bomb the bridge. Evans and Romero were then driven to the bridge and handcuffed to it at gunpoint.<sup>9524</sup> After inquiring which of the two spoke better English, the Canadian Serb asked Evans to memorize the following statement to be repeated when journalists from a local Serb TV station would ask him a question: ‘The NATO planes have bombed civilian targets and killed civilians. This is a crime against humanity and General Smith should inform NATO to stop the bombings, otherwise we die’.<sup>9525</sup> The Canadian Serb further told Evans that if he were to refuse to repeat the statement the people around them would deal with them.<sup>9526</sup> According to a news report by Martin Bell, an individual spoke over the Motorola, introducing himself as a VRS soldier, and said: ‘[t]hree UNMOs are now at the site of the warehouse. Any more bombing, they will be the first to go. Understood?’.<sup>9527</sup> **Snježan Lalović** testified that his editorial desk had given him an assignment on that day ‘to film POWs who were UNPROFOR members in Pale Municipality’.<sup>9528</sup> The aim of this assignment was to inform the general public about the events that unfolded after bombing in the Bosnian-Serb Republic and to fend off further NATO bombings.<sup>9529</sup> Two uniformed men with personal weapons, one of whom was wearing a new uniform resembling an overall, allowed Lalović to film and interview the two UNPROFOR members chained

<sup>9521</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 2-4.

<sup>9522</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 4.

<sup>9523</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, pp. 1-3. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 4.

<sup>9524</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, pp. 2-3.

<sup>9525</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3. *See also* P1869 (Report on NATO air strikes and the UN hostage-taking, undated).

<sup>9526</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3.

<sup>9527</sup> P1869 (BBC News Report on NATO air strikes and the UN hostage-taking).

<sup>9528</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), paras 7-8.

to the railing of the bridge.<sup>9530</sup> **Evans** stated that after approximately ten minutes he and Romero were driven back to the Koran Barracks and re-chained to the flagpoles.<sup>9531</sup> After 4 p.m., two UNMOs, Alves and Gelissen, were brought to join them and were handcuffed to another flagpole for approximately four hours, after which they were allowed to sit in the shade under close guard.<sup>9532</sup> **Gelissen** testified that Golubev was also handcuffed to a flagpole in front of the barracks.<sup>9533</sup> **Lalović** testified that an armed man wearing a uniform advised him to film and interview two UNPROFOR members, who according to the witness were Brazilian and Polish, at a radio relay facility in Jahorina since NATO might open fire on it.<sup>9534</sup> Lalović complied with the armed man's request and returned the UNPROFOR members to the uniformed men in Pale after filming them in Jahorina.<sup>9535</sup> External reporters gave his editors a report involving UNPROFOR members tied to electricity poles at the barracks in Pale.<sup>9536</sup> **Gelissen** stated that during their detention, NATO planes were flying above them.<sup>9537</sup> The situation was tense and one VRS soldier was making gestures of shooting the plane and cutting throats towards the UNMOs while others were shouting. One commander, namely, as the witness later learned, Captain Vojvodić, sent back these soldiers.<sup>9538</sup>

2237. **Rechner** testified that in the meantime, still on 26 May 1995, in Jahorinski Potok at approximately 3:30 p.m. two groups of senior military officers, including two colonels, came by to see the UNMOs.<sup>9539</sup> Thereafter, a political delegation came by which included Jovan Zametica, Karadžić's spokesman and political advisor. The witness asked Zametica to explain the treatment of the UNMOs, to which Zametica responded: '[w]ell, times have changed' and remarked 'I wonder what General Smith will do now'.<sup>9540</sup> The witness testified that while being chained to the poles and bunkers the UNMOs were in danger. As they were left alone, the witness was afraid that a crowd of civilians would make their way to them, or the Lieutenant-Colonel who had threatened to shoot them would come and execute them. Further, as they were secured

<sup>9529</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), para. 9.

<sup>9530</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), paras 11-12.

<sup>9531</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3.

<sup>9532</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3.

<sup>9533</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 2-4.

<sup>9534</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), para. 13.

<sup>9535</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), paras 13-16.

<sup>9536</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), para. 17.

<sup>9537</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 2-4.

<sup>9538</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 4.

<sup>9539</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 46.

<sup>9540</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 47; Patrick Rechner, T. 18490.

in front of one of the bunkers filled with ammunition that had not yet been destroyed, any potential air strike would set off an explosion and if air strikes would resume he was afraid that they would be executed one at a time to get the bombing stopped.<sup>9541</sup>

2238. At approximately 5 p.m. on the same day, a group of VRS soldiers came with a UN vehicle and took Kalbarczyk and Rechner away in handcuffs, blindfolded them, and transported them to the Jahorina radar site.<sup>9542</sup> **Kalbarczyk** testified that the two UNMOs were driven by a VRS driver, a masked soldier wearing a uniform, an officer holding a camera, who according to him was a VRS soldier, and a journalist.<sup>9543</sup> **Rechner** testified that on the way to Jahorina, he heard a VRS soldier ask another why the men were being transported there, and the other soldier answered that Mladić had told them that he wanted to have UN people filmed at that location.<sup>9544</sup> At the Jahorina radar site two VRS soldiers took out their weapons and put on black balaclava masks, then handcuffed Kalbarczyk to the radar dome and conducted an interview with him.<sup>9545</sup> Everything was filmed by the VRS Lieutenant-Colonel and Lalović.<sup>9546</sup> At the end of the interview, Lalović stated that the survival of UN personnel depended on NATO's actions.<sup>9547</sup>

2239. Around the same time, **Kalbarczyk** saw two other UNMOs, one Czech and the other with dark complexion, handcuffed together and sitting back to back on the ground some 20 metres away.<sup>9548</sup> He later learned that his colleagues from the SE-1 Team were kept 20 metres away in concealed bunkers from which the radar station was

<sup>9541</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 48.

<sup>9542</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 51; Patrick Rechner, T. 18459-18460, 18485; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3.

<sup>9543</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3; Janusz Kalbarczyk, T. 19350-19352.

<sup>9544</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 52; Patrick Rechner, T. 18494, 18528-18529.

<sup>9545</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 53; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 3-4; Janusz Kalbarczyk, T. 19329-19332, 19353-19354, 19357; P2803 (Video of an interview of Janusz Kalbarczyk, 26 May 1995); P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9546</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 53. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 3-4; Janusz Kalbarczyk, T. 19329-19332, 19353-19354, 19357; P2803 (Video of an interview of Janusz Kalbarczyk, 26 May 1995); P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9547</sup> P2803 (Video of an interview of Janusz Kalbarczyk, 26 May 1995).

<sup>9548</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 3; Janusz Kalbarczyk, T. 19356.

operated.<sup>9549</sup> **Rechner** testified that after this, he and Kalbarczyk were handcuffed, blindfolded, loaded back into the vehicle, and transported to Hotel Bistrica.<sup>9550</sup> There, they were allowed to join soldiers and journalists in the hotel lounge, which the witness opined to be awkward as it was completely relaxed.<sup>9551</sup> They were then both driven back to Pale and transported to the Koran Military Barracks, a Bosnian-Serb logistical and military equipment maintenance facility.<sup>9552</sup> The other UNMOs from the Pale area, Captain Zidlik from the 7 Lima Team, four UNMOs from the SE-1 Team, and two UNMOs from the SG-1 Team in Grbavica, Alves and Gelissen, were present at the barracks, except for two Russian UNMOs housed at another location.<sup>9553</sup> **Evans** stated that they were fed at the barracks.<sup>9554</sup>

2240. **Kalbarczyk** testified that at about 9 p.m. on the same day, a VRS battalion commander visited the UNMOs and told them that they would have no problems should the NATO air strikes stop but that they would be chained to strategic places if they were to continue.<sup>9555</sup> Captain Vojvodić was in charge at the Koran Barracks but the witness later learned that Lieutenant-Colonel Indić from the Lukavica Barracks was in charge of all detained UNMOs in the Sarajevo area.<sup>9556</sup> **Evans** stated that Vojvodić later introduced the UNMOs to Major Batinić and explained that he reported directly to Batinić. That night, the group slept in a guarded, locked room.<sup>9557</sup> Kozusnik was selected to leave and collect some personal items for the team.<sup>9558</sup> Based on a discussion between Zidlik, who was also a member of Rechner's team, and Sljivo Šljivić, **Rechner** opined that Šljivić, a.k.a. Šlivo, was a member of a paramilitary unit, and assumed that

<sup>9549</sup> Janusz Kalbarczyk, T. 19356, 19358.

<sup>9550</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 54; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4; Janusz Kalbarczyk, T. 19353-19354, 19357.

<sup>9551</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 54; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 9. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4; Janusz Kalbarczyk, T. 19353-19354, 19357.

<sup>9552</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 55; D391 (UN questionnaire, completed by Patrick Rechner), para. 12; Patrick Rechner, T. 18481. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 4-5.

<sup>9553</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 55. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 4-5.

<sup>9554</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 3.

<sup>9555</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4.

<sup>9556</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 55; D391 (UN questionnaire, completed by Patrick Rechner), para. 22. *See also* P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 3.

<sup>9557</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 3.

<sup>9558</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 4.

Srđan and Ribić were probably from that same unit, although Ribić was wearing a regular VRS uniform.<sup>9559</sup>

2241. **Marcus Helgers** stated that on 26 May 1995 at around 1:30 p.m., UNMOs from the SS-1 Team, namely himself, Captain Manzoor, Major Bello, Major Kratky, Major Wojtasiak, and Major Westlund, were put under house arrest at their post in the area of Kasindo, Donje Mladice, south of Sarajevo, by the deputy of the local battalion commander, known as ‘Gabran’ or ‘Gavran’.<sup>9560</sup> The commander told them that it was for their own safety, as NATO air strikes had hit a school and a hospital.<sup>9561</sup> They were unarmed, apart from Helgers’s pocket knife which was taken from him.<sup>9562</sup> At around 3 p.m., a security officer told them that there had been more air strikes and that, if there were any more, or if they were to go outside, they would be shot. At approximately 4 p.m., two armed soldiers came to the post and told the group to load their personal and military belongings into UN cars, leaving behind computer equipment and the base station for their personal transmitters.<sup>9563</sup> These two soldiers were wearing partial uniforms, sufficient for the witness to identify them as members of the VRS.<sup>9564</sup> The armed soldiers drove them to a guard post at Grbavica where at least three telephone calls were made, one of which involved a conversation about uniforms.<sup>9565</sup> There were at least ten soldiers there and some military personnel armed with kalashnikovs came to look and then left. They were forced to remove their uniforms and change into their civilian clothes. Major Bello had to wear an old JNA uniform, as he did not have any civilian clothes with him.<sup>9566</sup> They were then driven to Pale in a four-wheel-drive police car, while their UN car was driven off by one of the soldiers, together with all their

<sup>9559</sup> Patrick Rechner, T. 18503, 18505-18506; D391 (UN questionnaire, completed by Patrick Rechner), para. 6.

<sup>9560</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), pp. 1-2; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995). *See also* P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 2, 4.

<sup>9561</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2.

<sup>9562</sup> P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10747, 10761-10762.

<sup>9563</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10748.

<sup>9564</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10748-10749.

<sup>9565</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10758-10759; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995).

<sup>9566</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10749.

equipment and clothes.<sup>9567</sup> At Pale Militia Station they waited, guarded and inside the car, for 15 minutes before a black four-wheel-drive car, with either a jaguar or a tiger's head sticker on it, arrived. Their police car then followed the black car and they were taken to a café where there were a lot of soldiers, some of whom were from the 7 Lima Team and had been captured earlier. A young Bosnian-Serb soldier told the witness's group that they were VRS hostages and that they would be taken to the Jahorina radar station and used as 'human shields'.<sup>9568</sup>

2242. Still on the same day, the group was taken to the Jahorina Radar Station, first by a UN car, then by a military bus with three soldiers on it.<sup>9569</sup> A drunk soldier hit Major Bello on the head and Major Westlund on the shoulder, in both cases with the butt of a kalashnikov rifle.<sup>9570</sup> The bus stopped near the radar station and they were made to walk 15 minutes to the barracks, where they were taken to a room and had to write down their names, ID numbers, nationality, and hand over any property they still had with them.<sup>9571</sup> The guards at the radar station identified themselves as members of the VRS and one of them wore a patch from the 22nd Mixed Brigade.<sup>9572</sup> The witness's group was later taken to a room where they were fed, allowed to sleep, and warned by the sub-lieutenant who was in charge there, named Trafković, not to try to escape because the area around the station was mined.<sup>9573</sup> Trafković expressed that he was sorry about the situation and that he hoped it would be resolved and that they would be released quickly. He told them that they had been taken on the orders of either the Bosnian-Serb President or the Bosnian-Serb command.<sup>9574</sup>

<sup>9567</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10758-10759; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995).

<sup>9568</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 2; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10750.

<sup>9569</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), pp. 2-3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10751, 10758-10759; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995). *See also* P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 2, 4.

<sup>9570</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10751.

<sup>9571</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10745, 10751-10752. *See also* P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 2, 4.

<sup>9572</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4.

<sup>9573</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10756-10757. *See also* P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 5; Janusz Kalbarczyk, T. 19356, 19358.

<sup>9574</sup> P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10756-10757.



2243. **Westlund** and **Helgers** stated that in the early morning hours, they were ordered, along with other detainees, to leave the garrison on foot and go to a small shelter at the radar station.<sup>9575</sup> The soldiers ordered Kratky and Wojtasiak to sit outside around the radar station for a few hours, not handcuffed but guarded.<sup>9576</sup> The soldiers ordered Westlund and Helgers to sit between two radar antennae for two hours and instructed them not to run away, as the area was mined.<sup>9577</sup> **Helgers** stated that they were replaced by other detainees every two hours.<sup>9578</sup> According to Helgers, this was the location of a command post or a radar control post.<sup>9579</sup> **Westlund** stated that at 3 p.m., he was driven away with Manzoor, but they got separated on the way when he was ordered out of the car, which then drove away with Manzoor.<sup>9580</sup> He stated that he was taken to an installation with a large antenna and was introduced to a VRS Lieutenant-Colonel whose first name was Milan and his deputy named Zoran.<sup>9581</sup> He later found out that this Lieutenant-Colonel was in charge of the whole air defence complex.<sup>9582</sup> Zoran told Westlund not to escape and that he would order his soldiers to shoot him should he try to run away or get a weapon and warned him that the area was mined. Westlund further stated that the detainees were ordered to go outside several times during their detention when NATO planes were flying over their location. Zoran told him he had received orders to keep the detainees outside at all times but did not always implement them due to the weather conditions.<sup>9583</sup> At one point, although **Helgers** could not remember whether this was in Jahorina or Pale, Westlund was forced to contact the UNMO headquarters in Sarajevo and was told to say that they were being taken to the Jahorina

<sup>9575</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 5; P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10760-10761.

<sup>9576</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 5. The Trial Chamber notes that Westlund stated that this event took place on 26 May 1995 at 4:45 a.m. while Helgers stated that it took place on 27 May 1995 at 4:30 a.m. While the Trial Chamber notes a discrepancy as to the exact date, it understands that both witnesses referred to the same event.

<sup>9577</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 1-2, 5.

<sup>9578</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10752.

<sup>9579</sup> P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10759-10760; P3584 (VRS Main Staff document, 26 May 1995).

<sup>9580</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 5. *See also* P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9581</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 1-2, 5. *See also* P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9582</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 5.

<sup>9583</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 6.

Radar Station to be used as ‘human shields’.<sup>9584</sup> He also had to tell them that for every air strike one of them would be shot and if the radar station was attacked they would all be shot.<sup>9585</sup> **Westlund** stated that he, Helgers, Bello, Kratky, and Wojtasiak were kept at this complex until 13 June 1995.<sup>9586</sup>

2244. **Rechner** testified that, at approximately 9 a.m. on 27 May 1995, Ribić instructed him to call the UNMO headquarters and inform them that the UNMOs were to be placed at the same positions as the day before, in front of the bunkers, and to inform them of the locations of the other UNMOs being held ‘hostage’.<sup>9587</sup> However, for the duration of the day, the UNMOs were taken by regular VRS soldiers to a guardhouse located midway between the warehouses and bunkers.<sup>9588</sup> **Evans** stated that they were kept there without handcuffs. The Canadian Serb took Kalbarczyk and Alves away and brought them back after a few hours.<sup>9589</sup> **Kalbarczyk** testified that Captain Vojvodić visited the detainees and introduced himself as a liaison officer between the VRS command and the detainees. The detained UNMOs were then moved to another building after which they were told that they had been moved to this location so that they could be chained more quickly to NATO’s potential targets.<sup>9590</sup> At 11 a.m., the cameraman and the journalist drove him and Alves from the SE-1 Team, both blindfolded, to the same radar station as the one to which the witness had been attached the previous day, and filmed the two UNMOs for approximately 15 minutes while they were handcuffed to two antennae.<sup>9591</sup> The two UNMOs were then driven back to the barracks after a stopover at a wedding party where they were given food, drinks, and were filmed.<sup>9592</sup>

<sup>9584</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), pp. 2-3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10744-10745.

<sup>9585</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9586</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 5-6. *See also* P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9587</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 56; P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), pp. 1-2; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 10.

<sup>9588</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 56; Patrick Rechner, T. 18519-18520; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 10. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3; P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 5.

<sup>9589</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 3.

<sup>9590</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4; Janusz Kalbarczyk, T. 19361.

<sup>9591</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4; Janusz Kalbarczyk, T. 19332-19335; P2804 (Video of an interview with Harley and Janusz Kalbarczyk, 27 May 1995). *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 5.

<sup>9592</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 4.

2245. On 27 May 1995, the VRS forces detained 35 UNMOs in several places in Bosnia-Herzegovina: three from the 7 Lima Team and five from the SE-1 Team at Jahorinski Potok; four from the SN-1 Team from Vogošća and six from the SS-1 Team from Kasindo, at their accommodations and later, for the Kasindo team, at the Jahorina radar station; two from the L Team in Lukavica, at an unknown location; three from the SG-1 Team in Grbavica, at an unknown location; nine from the SW-1 Team from Blažuj, at their accommodation; and three from the Banja Luka Team, two at an unknown location and one at the Mahovljani airbase near Banja Luka.<sup>9593</sup>

2246. **Milorad Batinić** testified that after the NATO bombing of Serb positions in the spring or summer 1995, Commander Cojić of the Igman Brigade assigned an armed guard to the SW-1 Team, led by Olivier Mrowicki and billeted in the former *café Méditerranée* in Blažuj.<sup>9594</sup> According to the witness, the guard was not there to guard the UNMOs but rather to protect them from the locals.<sup>9595</sup> UNMOs could move around the house and in the area around the house.<sup>9596</sup> The guard had an automatic rifle, but he only carried it on the first day and would then leave it in the house while he was outside, which means that the weapon was accessible to everybody.<sup>9597</sup> According to the witness, the UNMOs were on good terms with the guard and they shared drinks together.<sup>9598</sup> While the UNMOs were being kept there, the commander of the 1st Battalion, Svetožar Guzina, only allowed the witness and Mrowicki to leave the house on several occasions during which they purchased food and gasoline, including in places outside of VRS-controlled territory, and contacted their family.<sup>9599</sup> According to a situation report, on 27 May 1995 the VRS told the nine members of the SW-1 Team stationed in Blažuj that they were not allowed to leave their accommodation. At the time, they were not guarded by the VRS.<sup>9600</sup>

2247. **Rechner** and **Kalbarczyk** testified that around 28 May 1995, the UNMOs detained in the Koran Military Barracks were moved from the large dormitory room to a small guard house within the same complex, where they stayed until their release on 18

<sup>9593</sup> P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), pp. 2, 4-6.

<sup>9594</sup> Milorad Batinić, T. 22635-22637, 22642, 22711-22712.

<sup>9595</sup> Milorad Batinić, T. 22643.

<sup>9596</sup> Milorad Batinić, T. 22637-22638, 22640, 22643.

<sup>9597</sup> Milorad Batinić, T. 22637, 22639; P6593 (Copy of notes taken from Milorad Batinić during his testimony, 12 June 2014), p. 3.

<sup>9598</sup> Milorad Batinić, T. 22638.

<sup>9599</sup> Milorad Batinić, T. 22637-22638, 22640-22643.

<sup>9600</sup> P2559 (UN Code Cable about the situation in Bosnia-Herzegovina, 28 May 1995), p. 5.

June 1995 with a small group of guards.<sup>9601</sup> **Evans** stated that the detainees were held in a room for 24 hours a day, under constant guard. They had no radio and food was brought to them.<sup>9602</sup> Vojvodić visited them daily and Evans and his team would request medical attention due to the unsatisfactory hygiene conditions.<sup>9603</sup> Their demands were not met until later.<sup>9604</sup> The UNMOs requested to know their status and Vojvodić answered that they were detained as POWs. The UNMOs then requested to have the same rights as POWs. Vojvodić responded that he would contact Major Batinić but the UNMOs never heard anything from him.<sup>9605</sup> **Gelissen** stated that on 28 May 1995, the two Russian UNMOs were released.<sup>9606</sup> **Rechner** testified that on that day, when VRS soldiers allowed the UNMOs to pick up a change of clothes in the original accommodations, he saw one of the interpreters in the office and instructed him to fax a message to the headquarters to let them know that they were fine. The landlord, Danjlo Savić, who happened to be at the office, interrupted and stated that Momčilo Krajišnik, an old friend, had instructed him that the UNMOs not be allowed to call or fax any message. Savić told the witness to do as he was told and if everything worked out they would be set free in three or four days.<sup>9607</sup>

2248. On this same day, General Smith and Mladić had a telephone conversation during which Mladić said that the Serb treatment of all detained UN personnel was humane and proper, although there were some located in key positions, including his headquarters, which were potential NATO targets.<sup>9608</sup> Mladić added that he had given orders not to handcuff detainees, acknowledging nevertheless that he was aware that in some cases the detainees had been handcuffed.<sup>9609</sup> Mladić further said that if Smith were to send letters of condolences to the families of dead Serb soldiers, he would ‘give a

<sup>9601</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 57; Patrick Rechner, T. 18520; D391 (UN questionnaire, completed by Patrick Rechner), para. 12; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5; Janusz Kalbarczyk, T. 19360, 19362.

<sup>9602</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 4.

<sup>9603</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, pp. 4-5.

<sup>9604</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5.

<sup>9605</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 4.

<sup>9606</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 5. *See also* P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5.

<sup>9607</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 58.

<sup>9608</sup> Patrick Rechner, T. 18526-18527; P790 (Transcript of conversation between Mladić and Smith, 28 May 1995), p. 1; P2558 (UN Code Cable with notes from a telephone conversation between General Smith and General Mladić on 28 May 1995), paras 3, 7. *See also* P785 (Rupert Smith, witness statement, 27 October 2009), para. 131.

<sup>9609</sup> P790 (Transcript of conversation between Mladić and Smith, 28 May 1995), pp. 1-3; P2558 (UN Code Cable with notes from a telephone conversation between General Smith and General Mladić on 28 May 1995), para. 3.

chance for survival to the UK soldiers in Goražde'.<sup>9610</sup> When asked by Smith if he was ready to discuss a prisoners' exchange and stop all threats to UN soldiers, Mladić said that neither he nor the Bosnian Serbs had made any threats.<sup>9611</sup>

2249. On 30 May 1995, the officer in charge of the detainees, Lieutenant-Colonel Indić, asked **Rechner** to be his informant and to write down information about the behaviour of the UNMOs in exchange for an authorization to make a phone call home, which he declined.<sup>9612</sup> **Kalbarczyk** testified that when detained in the small guard house, the detainees were allowed to go outside after a week. According to the witness, they were not allowed out for safety reasons because of possible provocations by VRS soldiers passing near the building where they were detained.<sup>9613</sup>

2250. **Gelissen** stated that on 31 May 1995, they were visited by Major Batinić who introduced himself as being in charge of Captain Vojvodić who had been, until then, responsible for the detainees at the Koran military barracks.<sup>9614</sup> They therefore drafted a letter to Major Batinić, asking for, *inter alia*, the right to be visited by the ICRC and access to a doctor.<sup>9615</sup>

2251. On 1 June 1995, **Evans** was interviewed for approximately 30 minutes by a visiting Major of the Main Staff, during which he was asked multiple questions on NATO targeting and bombing practice, including the UNMOs' involvement in the bombing.<sup>9616</sup> Evans stated that Zidlik was also interviewed and asked similar questions.<sup>9617</sup> The Major offered to let Evans make some telephone calls if he cooperated, but Evans refused on the grounds that he had no information to share.<sup>9618</sup>

<sup>9610</sup> P2558 (UN Code Cable with notes from a telephone conversation between General Smith and General Mladić on 28 May 1995), para. 7.

<sup>9611</sup> P790 (Transcript of conversation between Mladić and Smith, 28 May 1995), pp. 1-3; P2558 (UN Code Cable with notes from a telephone conversation between General Smith and General Mladić on 28 May 1995), paras 8-9.

<sup>9612</sup> D391 (UN questionnaire, completed by Patrick Rechner), para. 19; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 11.

<sup>9613</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5.

<sup>9614</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), pp. 5-6.

<sup>9615</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 6.

<sup>9616</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 4. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 6; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5; Janusz Kalbarczyk, T. 19363.

<sup>9617</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 4. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 6; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5; Janusz Kalbarczyk, T. 19363.

<sup>9618</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 4.

2252. During his detention, **Rechner** was guarded by Major Batinić from the headquarters in Sokolac, Captain Radovan Vojvodić, the Koran Barracks Security Officer, and a Military Policeman called 'Ogi', all of whom wore VRS uniforms.<sup>9619</sup>

2253. **Milorad Šehovac** testified that after the NATO bombings of 1995 and as they were attacked, the SRK 2nd Sarajevo Light Infantry Brigade declared five to seven UNMOs, deployed in the Sarajevo area, as POWs. The SRK unit detained the UNMOs in the house of a forestry engineer and manager of forestry in Trnovo in the Sarajevo area.<sup>9620</sup> The SRK unit acted in execution of an order from the SRK to capture 'everything' in their defence zone and treat them as POWs. According to the witness, the SRK unit did not mistreat the detainees nor used any kind of restraint or force against them. The UNMOs were allowed to make phone calls, provided three meals per day, and allowed to see a doctor.<sup>9621</sup> According to the witness, the military police guards who were guarding the men, disarmed them and took their rifles, but left them their side arms and pistols with their ammunition in it.<sup>9622</sup> The witness never received orders that the UNMOs were to be restrained in any way.<sup>9623</sup>

<sup>9619</sup> D391 (UN questionnaire, completed by Patrick Rechner), para. 21.

<sup>9620</sup> Milorad Šehovac, T. 24052.

<sup>9621</sup> Milorad Šehovac, T. 24052-24053.

<sup>9622</sup> Milorad Šehovac, T. 24052.

<sup>9623</sup> Milorad Šehovac, T. 24053.

### 6.3 Detention of Ukrainian UNPROFOR soldiers in Banja Luka<sup>9624</sup>

2254. **Aleksandr Vishnevski** stated that on 25 May 1995 at around 11 a.m., as he was travelling to Sarajevo with Lieutenant-Colonel Kruchkov, the Commander of the 1st Company of the 240th Battalion of UNPROFOR, and another soldier, they were stopped in Ilidža by a Serb military police squad wearing Serb police uniforms and black armllets.<sup>9625</sup> The military police told Kruchkov that Sarajevo was blockaded and directed them to the UNPROFOR Zaria checkpoint in Ilidža. From the checkpoint, Kruchkov informed the 240th Battalion Commander, Skliar, that the UNPROFOR soldiers were not allowed to proceed to Sarajevo and the commander ordered them to stay there.<sup>9626</sup> **Vladimir Radojčić** testified that in execution of Mladić's order received on the same day (in this respect, see the witness's evidence in chapter 6.1), he did not allow the commander of the 1st Company and his unit to return to their base in Sarajevo.<sup>9627</sup> The UNPROFOR soldiers stayed in containers and left their APC next to the military police building of the Ilidža Brigade.<sup>9628</sup>

2255. **Vishnevski** stated that on 26 May 1995 around 9 a.m., he saw that the Zaria checkpoint in Ilidža was blocked on two sides and a tank and an APC were advancing towards it. The police arrived at the checkpoint and their commander informed Captain Movchaniuk, chief of the checkpoint, that the UNPROFOR soldiers had to hand over their weapons after which they would be transferred to a safe place.<sup>9629</sup> **Radojčić** testified that the members of the 1st Company could keep their side arms without ammunition.<sup>9630</sup> **Vishnevski** testified that upon Captain Movchaniuk's order, the members of the 1st Company who were present handed over their weapons in an organized manner.<sup>9631</sup> **Radojčić** testified that the other weapons were placed in a separate, locked room, and the key was given to the 1st Company Commander.<sup>9632</sup> **Vishnevski** testified that during this process, he saw on television that French soldiers were being taken 'hostage', handcuffed, and treated with violence. He informed Kruchkov, who ordered them to stop handing over their weapons. They were left with

<sup>9624</sup> See also relevant evidence of P826 and P2559 in chapters 6.2 and 6.4.

<sup>9625</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), pp. 1-2.

<sup>9626</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), pp. 2-3.

<sup>9627</sup> Vladimir Radojčić, T. 23057, 23073.

<sup>9628</sup> Vladimir Radojčić, T. 23057.

<sup>9629</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 2.

<sup>9630</sup> Vladimir Radojčić, T. 23057-23059.

<sup>9631</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 2.

<sup>9632</sup> Vladimir Radojčić, T. 23057-23059.

eight or nine automatic rifles. The police again demanded that the 1st Company hand over the remaining weapons and Veličko, the Military Police Commander in charge, who had one star on his uniform, threatened Kruchkov with his pistol, upon which Dvorovoi, UNPROFOR soldier and driver, rushed to the commander's help and hit several Serbs.<sup>9633</sup> The police fired above their heads in the direction of the members of the 1st Company and ordered them to lie down. Kruchkov and Dvorovoi did not carry out this order but were forced to surrender the remaining weapons.<sup>9634</sup> Kruchkov and Dvorovoi were isolated.<sup>9635</sup> Afterwards, the police escorted all other 22 members of the 1st Company to the Zaria police station and then to a hotel where they spent several hours.<sup>9636</sup> At around noon, they were returned to the Zaria checkpoint in police cars, where they spent the remainder of the day and night.<sup>9637</sup>

2256. On 27 May 1995 at 4 a.m., the police woke up the detainees and two military policemen took them to a bus which then drove in the direction of Krivoglavci checkpoint. The bus was escorted by two police vehicles. It stopped at a checkpoint called Palub where they picked up Captain Lukianenko, in charge of the Palub checkpoint, Kruchkov, Dvorovoi, and four soldiers of the battalion.<sup>9638</sup> One of the detainees had a radio receiver hidden in a backpack and the detainees informed the Battalion Commander about the events taking place. The escorted bus drove to Bijeljina. The detainees were then transferred to a military compound or a military school in Banja Luka. The Serb military police told the detainees to line up on the square, took their flak jackets, shoulder straps, and shoelaces, declared them POWs, and told them to obey their orders. Using dogs, the military police forced the detainees to split into smaller groups. The witness was transferred to a barracks-like compound in Banja Luka with 13 other soldiers of the 240th Battalion, including Kruchkov, Lukianenko, and Movchaniuk while the other soldiers were taken elsewhere. The conditions at the compound in Banja Luka were bad: the detainees barely received any food, the mattresses were unusable, and there was no soap, bed linen, or hot water. One of the military police commanders in Banja Luka explained that the purpose of splitting

<sup>9633</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), pp. 2-3.

<sup>9634</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 2.

<sup>9635</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), pp. 2-3.

<sup>9636</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3.

<sup>9637</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 2.

<sup>9638</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), pp. 2-3.



them into groups was to stop NATO air strikes by using them as 'human shields' at particularly important facilities which were possible targets of NATO attacks.<sup>9639</sup>

2257. Meanwhile, on 27 May 1995, the VRS denied access and exit to UN personnel at various WCPs, including eleven disarmed Ukrainian soldiers at Krivoglavci and 21 disarmed Ukrainian soldiers in Iidža.<sup>9640</sup>

2258. On 28 May 1995, the VRS Chief of Staff, Manojlo Milovanović, sent a report to the Bosnian-Serb President stating that the Krajina Corps took over 57 UNPROFOR members from the IBK, including 43 Ukrainian soldiers.<sup>9641</sup>

<sup>9639</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3.

<sup>9640</sup> P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), pp. 1, 3.

<sup>9641</sup> P2546 (VRS Main Staff situation report, 28 May 1995), p. 6.

## 6.4 Detention of UNPROFOR soldiers in Sarajevo

2259. A member of the UNPROFOR Frebat 4 stated that 50 members of his battalion were captured on 26 and 27 May 1995 and detained in different areas.<sup>9642</sup>

2260. **Witness RM-403** stated that 20 UNPROFOR soldiers belonging to the 4th Infantry Battalion were tasked to relieve the WCP in Poljine, approximately ten kilometres north of Sarajevo in Serb-controlled territory, on 13 May 1995.<sup>9643</sup> There was a Serb command post, manned by two to four Serb soldiers, approximately 50 metres away from the WCP.<sup>9644</sup> The head of the UNPROFOR unit met two to four times every day with the commander of the Serb command post, Captain Drago.<sup>9645</sup> Captain Drago was in charge of three Serb positions. He was a member of the Artillery Battalion, commanded by Major Jovanovski.<sup>9646</sup> The UNPROFOR unit was tasked to patrol the three WCPs in Poljine, manned by Serb soldiers.<sup>9647</sup> After 22 May 1992, Captain Drago banned the unit from patrolling, after which they were physically stopped by Bosnian-Serb soldiers and later anti-tank mines.<sup>9648</sup>

2261. On 26 May 1995, at approximately 2:15 p.m, the head of the UNPROFOR unit and another member of the unit met with Captain Drago at the Serb command post.<sup>9649</sup> Upon arrival, they were surrounded by six or seven VRS soldiers, wearing insignia of a Serbian flag with a yellow cross and four S's, pointing kalashnikov rifles and makarov pistols at them.<sup>9650</sup> Commander Vlado Medić, wearing black fatigues with Bosnian-Serb insignia, ordered the two members of the unit to surrender and hand over their weapons.<sup>9651</sup> Medić had been appointed to the rank of Major in the Koševo Brigade by the Brigade Commander, Miroslav Krajišnik, on 27 May 1992, and was Captain Drago's superior.<sup>9652</sup> Medić told the head of the UNPROFOR unit that they were taking hostages because NATO forces had bombed Pale, hitting a civilian hospital and killing

<sup>9642</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9643</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 5-7.

<sup>9644</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 7.

<sup>9645</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 8-9.

<sup>9646</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 3.

<sup>9647</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 7.

<sup>9648</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 11; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10721-10722.

<sup>9649</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 12.

<sup>9650</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 13, 15.

<sup>9651</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 14.

<sup>9652</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 21; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), p. 10728; P3579 (Order from the Koševo Brigade Commander appointing command personnel in Koševo Brigade, 27 May 1992).

people, and to recover Serb weapons under UNPROFOR control to prevent a Bosniak offensive.<sup>9653</sup> Two hours later, the Commander of the UNPROFOR 4th Infantry Battalion told the head of the UNPROFOR unit *via* radio communication that high-level negotiations were under way and that he should try to buy time while conveying explanations to the Serbs.<sup>9654</sup> The head of the UNPROFOR unit conveyed this information to Medić at the Serb post. Medić then made a phone call and returned very upset informing the head of the UNPROFOR unit that he would help them lay down their weapons faster. Medić then ordered a soldier from his unit to fire a rocket launcher. This soldier destroyed the watchtower of the UNPROFOR post. The UNPROFOR soldiers were in combat positions, and one of the armoured vehicles had moved to aim its gun towards the Serbs. This stand-off lasted ten minutes, during which Medić told the head of the UNPROFOR unit that if they did not lay down their arms, he would order his men to destroy the UNPROFOR tank and its crew of three.<sup>9655</sup> Captain Drago then arrived with five or six men, put a knife against the throat of the UNPROFOR unit's head while a soldier pointed a kalashnikov at his back, and other soldiers similarly threatened another member of the unit. Drago ordered the head of the UNPROFOR unit to lay down his weapons or he and the other member of the unit would be shot, and then said he would destroy the UNPROFOR post.<sup>9656</sup> He ordered one of his soldiers to fire at the UNPROFOR tank, at which point the head of the UNPROFOR unit surrendered his weapons and told the post to surrender.<sup>9657</sup>

2262. The UNPROFOR post was surrounded by approximately 50 Serb soldiers, while another 50 were close by. Some of them had been seen previously at Poljine, while the others whom **Witness RM-403** had not seen before were better equipped, with kalashnikovs and rocket launchers.<sup>9658</sup> The soldiers were members of the VRS 3rd Infantry Brigade.<sup>9659</sup> 'Irregular militias' belonging to the Vasilje Vidovi, a.k.a. Vasko, gang were present.<sup>9660</sup> **John Hamill** testified that he heard that Vidović's men were

<sup>9653</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 16.

<sup>9654</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 16-17.

<sup>9655</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 17.

<sup>9656</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 18. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9657</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 19. Concerning the hostage-taking situation in Poljine, *see also* P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 12; P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), pp. 1, 3.

<sup>9658</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 20.

<sup>9659</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9660</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2. The Trial Chamber understands that this is a reference to Vasilje Vidović.

under the command of General Josipović, who was apparently in charge of most of the Northern Sarajevo sector.<sup>9661</sup> **Witness RM-403** stated that the UNPROFOR soldiers' weapons and protection equipment were taken from them and they were not permitted to take any personal items. The head of the UNPROFOR unit informed Captain Drago that this was contrary to the Geneva Conventions, and Captain Drago replied through an interpreter that 'he could not care less'. Several of the UNPROFOR soldiers were kicked and punched by Serb soldiers to speed up their surrender.<sup>9662</sup>

2263. The UNPROFOR soldiers were driven in two Serb military trucks to the military hospital in Jagomir, Sarajevo, where they underwent medical examination and remained for two days.<sup>9663</sup> A senior Bosnian-Serb military official told them that if they remained calm everything would be alright, but that if they tried to escape they would be shot.<sup>9664</sup>

2264. On 28 May 1995, they were driven in a military truck guarded by soldiers to Bijeljina Barracks, and *en route* they boarded civilian buses, on which were already about 40 soldiers of the 2nd French Battalion, 50 Ukrainian soldiers, and two UNMOs.<sup>9665</sup> The barracks belonged to the Bosnian-Serb military police.<sup>9666</sup> **Witness RM-403** stated that the French and Ukrainian soldiers told the head of the UNPROFOR unit that hostage-taking operations had been carried out in the same manner at the same time. When they arrived at the barracks, where other soldiers were detained, including some English soldiers, they were divided by nationality and their personal details, including name, rank, and date of birth, were recorded.<sup>9667</sup> The soldiers were then divided into two groups.<sup>9668</sup> The head of the UNPROFOR unit and 13 soldiers were transported in a cattle truck to Doboij, a combat zone under Bosnian-Serb control, where

<sup>9661</sup> John Hamill, T. 5466-5467.

<sup>9662</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 22.

<sup>9663</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 23-24. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9664</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 24.

<sup>9665</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 25-26; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map of Bosnia-Herzegovina showing the transport of UN hostages in 1995, 6 June 2012). *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9666</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9667</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 26; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10726-10727. *See also* P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3.

<sup>9668</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

they were held in a small house.<sup>9669</sup> During the night of 28 to 29 May 1995, Bosnian-Serb Military Police took them to other locations.<sup>9670</sup> The soldiers transported to Doboj were then held at various positions and ‘very likely’ used as ‘human shields’ against eventual air attacks.<sup>9671</sup> Six soldiers were detained alone and three were handcuffed.<sup>9672</sup>

2265. **Witness RM-403** stated that during the night of 28 May 1995, at approximately 10 p.m., the head of the UNPROFOR unit and a soldier named Ferry were taken to an ammunition depot in Doboj Town which also served as the command post for the area, where they were held for about a week.<sup>9673</sup> They were treated well, ate as the Serb soldiers did, and had one shower and one outing per day.<sup>9674</sup> While detained, the head of the UNPROFOR unit met with a Bosnian-Serb Captain in command there, and a colonel who introduced himself as the regional Commander-in-Chief, who asked if they were treated well and if they needed anything. One of the Serb soldiers told the head of the UNPROFOR unit that they feared NATO reprisals and that they would be handcuffed inside the depot in case of air strikes.<sup>9675</sup>

2266. The second group composed of UNMO and UNPROFOR personnel was transported to a Serb military police building in Bijeljina, where they were split up and detained at different military positions.<sup>9676</sup>

2267. The Trial Chamber received evidence about the capture and detention of another contingent of French UNPROFOR soldiers stationed at the Lukavica Barracks. **Witness RM-409** stated that on 26 May 1995 at around 12:30 p.m., 19 members of the Frebat 4, stationed on that day at the Lukavica Barracks, were encircled by about 30 armed men, some wearing VRS uniforms and others belonging to a ‘regular militia’ from Lukavica.

<sup>9669</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012). *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9670</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012). *See also* P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3; P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9671</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9672</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9673</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), p. 10723.

<sup>9674</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31.

<sup>9675</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 32-33.

<sup>9676</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

This group of armed men was commanded by a man with captain's insignia.<sup>9677</sup> The commander of the Frebat 4 unit requested to see Lieutenant Beauregard, the chief of the UNPROFOR armoured platoon, stationed on that day at the entrance of the barracks, and was transported there.<sup>9678</sup> Beauregard was outside his post talking with a Serb major, wearing a new uniform, a French bullet-proof jacket, and insignia of a major. According to the witness, the major was in command of all the troops.<sup>9679</sup> Beauregard informed the commander of the Frebat 4 unit that Pale had been bombarded for the second time and that the Serbs wanted to take a number of UNPROFOR soldiers stationed at the barracks to assess the damage.<sup>9680</sup> Beauregard refused to go to Pale and the major left.<sup>9681</sup> While the Frebat 4 Commander was away from his section, the major told the members of the Frebat 4 that part of the battalion was authorised to go to Pale without weapons or equipment. The commander refused to obey this order and told the major that he did not want to deal with him anymore.<sup>9682</sup> The man left and ordered his troops to take up combat positions.<sup>9683</sup> At around 4:30 p.m., an explosion was heard. The witness later learned that two vehicles had been destroyed at the entrance of the barracks.<sup>9684</sup> The Captain commanding the Serb armoured elements and the Major in charge of the Lukavica Military Police took part in the capture and threatened the members of the Frebat 4 unit with heavy weapons.<sup>9685</sup>

2268. Still on 26 May 1995, around 7:15 or 7:30 p.m., Indić, accompanied by a civilian holding a video camera, introduced himself and informed the Frebat members as well as Beauregard, who was also present, that they were VRS POWs.<sup>9686</sup> According to an Associated Press article dated 26 May 1995, Indić entered the UNPROFOR quarters unarmed, in order to negotiate. After Beauregard told Indić that he had orders not to surrender, Indić ordered the military police to fire at the building where the French

<sup>9677</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 8, 16, 18-20. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2; P6717 (Associated Press article titled French UN Platoon surrenders to Bosnian Serbs, 26 May 1995), p. 1.

<sup>9678</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 12, 21.

<sup>9679</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 22-23.

<sup>9680</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 12, 24.

<sup>9681</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), para. 24.

<sup>9682</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), para. 25.

<sup>9683</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), para. 26.

<sup>9684</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), para. 27.

<sup>9685</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9686</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 28, 30-31. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

soldiers were. After a while, the French surrendered.<sup>9687</sup> **Indić** provided a different account of the circumstances of the shooting and testified that upon receiving an order from the Corps Command duty officer to place the French contingent under control and remove their weapons and means of communication, he reached an agreement with the French commanding officer whereby the witness would provide him with an alibi in order for him to surrender. According to **Indić**, the shooting was prearranged with the French officer.<sup>9688</sup>

2269. **Witness RM-409** stated that the two contingents of French UNPROFOR soldiers were detained at the barracks in their respective positions overnight.<sup>9689</sup> They were detained for two days at the 1st SRK Barracks.<sup>9690</sup> At 8 p.m., two UNMOs based in Lukavica, one of whom was Danish, were captured and handed over to the military police at the Lukavica Barracks, where they shared a room, as of 27 May 1995, with a French UNMO.<sup>9691</sup> At the time of their capture, the two UNMOs were told that after the air strike in Pale on 26 May 1995, the VRS was at war with the UN, and that they were POWs.<sup>9692</sup> The Danish UNMO was not threatened with any harm, physically attacked, or maltreated at any time.<sup>9693</sup> There was adequate food, sleeping arrangements, and sanitation.<sup>9694</sup> The Danish UNMO was held at that location for seven days.<sup>9695</sup> According to **Indić**, the Frebat members were treated professionally and not abused, although they were not permitted to move outside the premises in which they were kept.<sup>9696</sup>

2270. **Witness RM-409** stated that on 27 May 1995, a man asked for the addresses and telephone numbers of the soldiers' contact persons in order to inform them. The Frebat Commander refused to comply with the request and ordered his men to stay inside when the media arrived to film them.<sup>9697</sup> The Frebat members were loaded into two trucks,

<sup>9687</sup> P6717 (Associated Press article titled French UN Platoon surrenders to Bosnian Serbs, 26 May 1995), p. 1.

<sup>9688</sup> Milenko **Indić**, T. 25205, 25215-25216.

<sup>9689</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), para. 32. *See also* P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), pp. 1, 3; Milenko **Indić**, T. 25110.

<sup>9690</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9691</sup> D1591 (Jack Jorgensen, ICTY interview questionnaire, undated), pp. 1-2, 5.

<sup>9692</sup> D1591 (Jack Jorgensen, ICTY interview questionnaire, undated), p. 2.

<sup>9693</sup> D1591 (Jack Jorgensen, ICTY interview questionnaire, undated), p. 3.

<sup>9694</sup> D1591 (Jack Jorgensen, ICTY interview questionnaire, undated), p. 6.

<sup>9695</sup> D1591 (Jack Jorgensen, ICTY interview questionnaire, undated), pp. 5, 8.

<sup>9696</sup> Milenko **Indić**, T. 25110.

<sup>9697</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 33-34.

without their equipment, which then set off towards the off-limits area.<sup>9698</sup> The Frebat members were then transferred to Bileća, where they were guarded by members of the Military Police until 6 June 1995.<sup>9699</sup> The barracks seemed to be used as a training camp but the detainees noticed the presence of several guns and missiles.<sup>9700</sup> **Witness RM-409** stated that the Frebat Commander was held in the Lukavica military police building with two UNMOs, who were Swedish and Norwegian.<sup>9701</sup> During his detention, the Frebat Commander was interrogated by Indić, the captain, and the major and was asked for personal information about his men.<sup>9702</sup> Serb soldiers threatened and beat the Frebat Commander during his detention.<sup>9703</sup>

2271. According to an UNPROFOR situation report, other UNPROFOR French soldiers were surrounded at various WCPs. In particular, on 27 May 1995, VRS members denied access and exit to 22 French soldiers at Bare, and to 21 French soldiers at Osijek.<sup>9704</sup> In addition, the VRS detained several soldiers at various OPs in Sarajevo: nine French soldiers at Krupaci and ten disarmed French soldiers at Rajlovac.<sup>9705</sup>

2272. Furthermore, the Trial Chamber received evidence about the detention of another group of French UNPROFOR soldiers stationed in an OP on the Vrbanja Bridge in the Sarajevo area. **Witness RM-401** testified that on 27 May 1995, the Sierra Victor OP, located in a Serb area of Sarajevo, was tasked with keeping the Serbs and Bosnian Muslims apart, and in particular preventing the Serbs from gaining control of the Bosnian-Muslim symbols of authority, such as the Bosnian Presidency building.<sup>9706</sup>

2273. At 4:10 a.m. on 27 May 1995, a group of approximately 15 Bosnian-Serb assailants wearing UN helmets and protection gear carried out a rapid commando-type operation and took the head of the OP and his twelve fellow soldiers 'hostage', leaving two behind.<sup>9707</sup> Although it was dark at the OP except for a candle placed near the radio,

<sup>9698</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 37-39. *See also* P3586 (Witness RM-409, witness statement, 18 March 1998).

<sup>9699</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 1-2.

<sup>9700</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9701</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 37, 41. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9702</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 43-44.

<sup>9703</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9704</sup> P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), pp. 1, 3.

<sup>9705</sup> P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), p. 1.

<sup>9706</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 5, 7, 9; Witness RM-401, T. 18212, 18233-18235.

<sup>9707</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 5, 7, 16-17; Witness RM-401, T. 18211-18212, 18235-18236, 18241, 18276-18277. *See also* P785 (Rupert Smith, witness statement, 27



most of the assailants appeared to be militia members under the command of Slavko Aleksić, a.k.a. Duke, while the rest were members of the VRS.<sup>9708</sup> Duvan Triković, a.k.a. Tuba, was Aleksić's deputy and Aleksić's men, about 60 to 80, operated within the area of responsibility of the VRS 3rd Battalion of the 1st Motorised Brigade.<sup>9709</sup> According to **Reynaud Theunens**, while a number of SRK reports suggest that SRS volunteer groups were acting independently, other documents confirmed that these groups were subordinated to or related to the Bosnian-Serb MUP.<sup>9710</sup> On 16 December 1993, Slavko Aleksić sent a request for ammunition to the Command of the VRS 3rd Battalion.<sup>9711</sup> **Ratomir Maksimović** testified that Slavko Aleksić never undertook any military action without the knowledge of the SRK Command.<sup>9712</sup>

2274. In Lukavica, the UNPROFOR soldiers were under SRK control until their liberation.<sup>9713</sup> **Witness RM-401** testified that at the time of the attack, half of the French soldiers were on duty at different OPs and the remaining half were off duty, since the latter half had been relieved at 4 a.m. While no shot was fired during the operation, the head of the OP was hit on the chin with the butt of a rifle.<sup>9714</sup> The head of the OP tried to alert his superiors of the situation over the radio, but the assailants prevented him from doing so by tearing out all the radio cables.<sup>9715</sup> He was then compelled at gunpoint to assemble his soldiers and forced to kneel and used as a 'human shield' while the attackers made their way with the other soldiers towards a Serb building that the French had nicknamed 'Prisunic', around 20 to 30 metres away, which could be reached by crossing an open area exposed to Bosnian fire.<sup>9716</sup> The soldiers were guarded by a Serb soldier before being transported in two civilian cars to the Lukavica Barracks, approximately four kilometres away.<sup>9717</sup> **Witness RM-055** testified that the

October 2009), para. 128; P807 (Witness RM-120, witness statement, undated), p. 75; P2559 (Situation report with a list of detained UNMOs by VRS forces, 27 May 1995), p. 1.

<sup>9708</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 16-17; Witness RM-401, T. 18238-18239, 18241. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9709</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), pp. 2-3.

<sup>9710</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 395.

<sup>9711</sup> P6820 (Request for ammunition from Slavko Aleksić to the Command of the 3rd Battalion, 16 December 1993).

<sup>9712</sup> Ratomir Maksimović, T. 26813-26815.

<sup>9713</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9714</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 16; Witness RM-401, T. 18277.

<sup>9715</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 16; Witness RM-401, T. 18236-18237, 18242-18243.

<sup>9716</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 18-19; Witness RM-401, T. 18212-18214. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9717</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 21-22; Witness RM-401, T. 18241. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

UNPROFOR detainees captured on the Vrbanja Bridge were threatened with death and held in solitary confinement at Lukavica.<sup>9718</sup>

2275. **Witness RM-401** testified that the barracks were occupied by Serbs.<sup>9719</sup> Other French detainees were already there including 30 to 40 members of a platoon manning the Lukavica WCP, who all had been captured by the Serbs the previous day.<sup>9720</sup> While in the barracks, a member of the VRS who had accompanied the UNPROFOR soldiers to the Lukavica Barracks asked the head of the OP for his radio frequency to contact his superiors, but he refused.<sup>9721</sup> After being kept in a building for approximately three hours, the UNPROFOR soldiers were brought back to the Serb building aboard a military van and placed under the watch of soldiers wearing a variety of old military uniforms which appeared to be distinct from those of the soldiers who had taken them 'hostage'.<sup>9722</sup> They were then forced to put their hands on their necks, but while most of them were allowed to drop their hands, the head of the OP was required to remain in this position for hours; when he started to weaken, he was slapped. During their detention, many people entered the room and insulted them in Serbian.<sup>9723</sup> At the time, the head of the OP was not aware that French UNPROFOR troops had regained control of his OP on the morning of 27 May 1995.<sup>9724</sup> During the afternoon, the head of the OP was visited by a number of Serb soldiers whose age and demeanour indicated that they were high-ranking, and at one point he was taken to a corridor where he caught a glimpse of several officers in a meeting indicating that negotiations for an exchange were underway between the Serb authorities and UNPROFOR.<sup>9725</sup>

2276. A long time after his release, the head of the OP heard from a French soldier that at the time of his detention, Mladić was present around the building.<sup>9726</sup> During the detention, another French 'hostage' was brought in with a radio set to act as interpreter and the head of the OP was allowed to contact UNPROFOR.<sup>9727</sup> The detained

<sup>9718</sup> P749 (Witness RM-055, witness statement, undated), pp. 9, 18.

<sup>9719</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 23.

<sup>9720</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 23-24; Witness RM-401, T. 18214.

<sup>9721</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 26; Witness RM-401, T. 18243-18244.

<sup>9722</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 25, 28.

<sup>9723</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 30.

<sup>9724</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 29.

<sup>9725</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 29-32; Witness RM-401, T. 18253-18254.

<sup>9726</sup> Witness RM-401, T. 18214-18215.

<sup>9727</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 33.

UNPROFOR soldiers were forced to wear Serb uniforms.<sup>9728</sup> At some point, five UNPROFOR soldiers were selected and led to the courtyard where they were to be exchanged.<sup>9729</sup> Two Serbs took the head of the OP and drove a vehicle around the building to be able to use it for the exchange away from the Bosnian line of fire.<sup>9730</sup> The Serbs were afraid that the Bosnians would fire at the vehicle and told the head of the OP that he would be held responsible if the armoured vehicle was destroyed.<sup>9731</sup> The vehicle left towards the UNPROFOR soldiers stationed in Vrbanja.<sup>9732</sup> There were about 100 people around the Lukavica Barracks, including soldiers and civilians, and everyone was on edge as the exchange attempt had failed.<sup>9733</sup> As the soldier who had acted as interpreter returned with his radio, the head of the OP was able to contact his superiors and explain that the situation was very tense and that he and the other hostages were threatened with death; thereafter he was punched and kneed by the two Serb soldiers.<sup>9734</sup>

2277. The Serbs had sent an armoured vehicle to retrieve the bodies of two Serbs killed in the course of UNPROFOR's retaking of the OP, and the head of the OP was threatened that if anything went wrong with this trip, he would be released into the Bosnian frontlines wearing a Serb army uniform.<sup>9735</sup> When the armoured vehicle returned, the head of the OP was taken towards the vehicle in the midst of the crowd and he saw two corpses being taken out of the vehicle.<sup>9736</sup> The two Serb soldiers took him back to the building where they tied him to another soldier with steel wire, as was done to the other French soldiers.<sup>9737</sup> They were then returned to the OP, where they were forced to kneel in the middle of the road, facing the Bosnian sector.<sup>9738</sup> The head of the OP heard the French interpreter translate a message indicating that if they did not comply with the Serbs' request, the two of them would be executed along with the other

<sup>9728</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 33-34; Witness RM-401, T. 18207-18208.

<sup>9729</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 35.

<sup>9730</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 35-37.

<sup>9731</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 36-37.

<sup>9732</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 37-38.

<sup>9733</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 38; Witness RM-401, T. 18254-18256.

<sup>9734</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 39.

<sup>9735</sup> Witness RM-401, T. 18217, 18256-18258.

<sup>9736</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 40; Witness RM-401, T. 18217, 18256-18257.

<sup>9737</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 41; Witness RM-401, T. 18221-18222; P2539 (BBC Video tape entitled UN hostages in Bosnia).

<sup>9738</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 13, 41-42; Witness RM-401, T. 18215-18219, 18223; P2538 (Sketch of the UN post drawn and marked by Witness RM-401), p. 1.

detainees.<sup>9739</sup> After ten minutes, the UNPROFOR soldiers were taken away and brought to various buildings throughout the night.<sup>9740</sup> In the course of the night, they were untied and brought to a Serb warehouse where they were tied up individually and remained for four to five hours.<sup>9741</sup>

2278. On 28 May 1995, the VRS Chief of Staff, Manojlo Milovanović, sent a report to the Bosnian-Serb President stating that the Krajina Corps ‘took over’ 57 UNPROFOR members, including French soldiers, from the IBK and that the HK Command took over 18 French UNPROFOR members from the SRK.<sup>9742</sup>

2279. **Witness RM-401** testified that at 7 or 8 a.m. on 29 May 1995, the head of the OP and the other UNPROFOR soldiers were untied and were visited by some people, one of whom was a young woman, dressed in civilian attire who spoke French.<sup>9743</sup> She told them that the negotiations had not been conclusive and that the head of the OP and another French soldier were to be killed; she also told the head of the OP that he had to designate two French soldiers to be killed.<sup>9744</sup> She eventually left and no one was killed. A man described by the witness as a ‘civilian’ in a dark suit with a navy blue sailor’s cap, known as ‘Duke Alexis’, arrived in a group but entered the room alone, struck the head of the OP on the temple with his dagger, and kicked the other French soldier who was in the room in the face.<sup>9745</sup> ‘Alexis’ left the room after a short while, and two VRS officers entered and assured the head of the OP that they would be handed over to the VRS.<sup>9746</sup>

2280. The UNPROFOR soldiers were later transported to Lukavica, where they were received by a commander who read the Geneva Conventions to them, told them they would be treated as POWs, and assured them that as long as there were no NATO strikes, they would be safe.<sup>9747</sup> On 29 May 1995, two French soldiers were taken away, handcuffed for a few minutes to military equipment, and filmed by a Serb cameraman, and on 30 May 1995, the same was done to two other French soldiers; on the second

<sup>9739</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 42; Witness RM-401, T. 18217.

<sup>9740</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 44.

<sup>9741</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 43-44.

<sup>9742</sup> P2546 (VRS Main Staff situation report, 28 May 1995), p. 6.

<sup>9743</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 45-46.

<sup>9744</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 46; Witness RM-401, T. 18256-18257.

<sup>9745</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 47; Witness RM-401, T. 18265.

<sup>9746</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 47-48.

<sup>9747</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 48; Witness RM-401, T.18262-18263, 18276. On the arrival of about ten UNPROFOR soldiers at the Lukavica Barracks on 28 May 1995, *see also* P3586 (Witness RM-409, witness statement, 18 March 1998), para. 45.

occasion, the head of the OP acted as interpreter but was not filmed as he had a black eye.<sup>9748</sup> They were taken to the factory near the Lukavica Barracks, where each was asked three questions: (1) How do you feel?; (2) Are you afraid?; and (3) Are you well treated?.<sup>9749</sup> A Serb Orthodox priest, who said to represent the Red Cross, visited the French soldiers during their detention and brought them clothing, toiletries, and correspondence, including a letter from their superior; the priest also told the head of the OP not to recount what had happened to them on 27 and 28 May 1995.<sup>9750</sup> They remained in detention in Lukavica until 13 June 1995 and were treated well.<sup>9751</sup>

2281. **Witness RM-055** testified that on 27 May 1995, Dragomir Milošević ordered that an UNPROFOR liaison officer who had come to Lukavica with a message for him be locked up with other ‘hostages’.<sup>9752</sup> **Witness RM-120** testified that after 5 p.m. on the same day, Dragomir Milošević and Indić called Sector Sarajevo stating: ‘[i]f you surrender the four Serb prisoners to me, we might consider giving you the French ‘hostages’ in Vrbanja’.<sup>9753</sup> They then pretended to carry out summary executions of the captured soldiers.<sup>9754</sup>

2282. On 3 June 1995, UNPROFOR sent a protest letter to Dragomir Milošević concerning the Serb troops’ threats against the lives of French soldiers in their custody since 27 May 1995. It also specifically protested the Serb soldiers’ treatment of a lieutenant who was forced to kneel in the street at gunpoint and threatened to be killed if UNPROFOR refused to withdraw from its post at the Vrbanja Bridge. During a telephone conversation with an UNPROFOR soldier, Indić said ‘if you don’t stop the attack immediately, I will kill one of the French soldiers’.<sup>9755</sup>

<sup>9748</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 50; Witness RM-401, T. 18263-18264, 18266-18267, 18269-18270, 18273-18274.

<sup>9749</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 50; Witness RM-401, T. 18264, 18266-18267, 18269-18271, 18273-18274.

<sup>9750</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), para. 54; Witness RM-401, T. 18220, 18270-18272.

<sup>9751</sup> P2537 (Witness RM-401, procès-verbal, 3 March 1998), paras 49, 51; Witness RM-401, T. 18222. *See also* P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9752</sup> P749 (Witness RM-055, witness statement, undated), p. 9; P750 (Table of clarifications to witness statement), p. 1.

<sup>9753</sup> P807 (Witness RM-120, witness statement, undated), pp. 75-76.

<sup>9754</sup> P807 (Witness RM-120, witness statement, undated), p. 76.

<sup>9755</sup> P830 (Protest letter re hostages, 3 June 1995).

## 6.5 Detention of UNPROFOR soldiers in Goražde

2283. **Jonathon Riley** testified that on 27 May 1995, based on a VRS Main Staff order, the commander of the DK, Milenko Živanović, ordered the 5th Podrinje Light Infantry Brigade Command to immediately capture and disarm UN soldiers located in the Sjenokos sector.<sup>9756</sup> Sjenokos is a mountain on the west bank of the Drina River above Goražde and three OPs were located there.<sup>9757</sup> Živanović also ordered the 5th Military Police Battalion to take over the captured UN soldiers and relocate them to various military locations in groups of one to four.<sup>9758</sup> Živanović ordered that the UN soldiers be treated as POWs in a correct manner throughout their capture and detention.<sup>9759</sup> **Smith** testified that on 27 May 1995 VRS soldiers captured 30 UNPROFOR soldiers from the Goražde area.<sup>9760</sup>

2284. **Hugh Nightingale** stated that the OP he was in command of in Goražde was positioned close to the Bosnian-Serb positions and that he became familiar with some of the Bosnian-Serb soldiers, including their Line Officer Captain Brane. After 22 May 1995, and more precisely at approximately 11 a.m. on the day after the bombardments in Pale, he was requested to meet with the local Bosnian-Serb Commander at their headquarters.<sup>9761</sup> When Nightingale attended the meeting, he observed an increased number of Bosnian-Serb soldiers and he saw a commander whom he had not previously encountered. The Commander told Nightingale that he was taking over the OP and that the witness should pack up as he and his troops would be taken to a safe area. When Nightingale responded that he would take his troops to his own headquarters in Goražde, he was told ‘You do not understand, you are coming with us to Višegrad, we can do it in two ways. With shooting or without’. Nightingale stated that he then returned to his OP and briefed his Corporal and staff, then briefed the watchkeeper at the headquarters by radio, and packed a kit. Bosnian-Serb troops then entered the OP without consent and Nightingale and his troops were escorted in two of their own armoured vehicles down the road, where they met up with two vehicles from OP7.<sup>9762</sup>

<sup>9756</sup> Jonathon Riley, T. 18308; P2545 (DK command, 27 May 1995), para. 1.

<sup>9757</sup> Jonathon Riley, T. 18308.

<sup>9758</sup> P2545 (DK command, 27 May 1995), para. 3.

<sup>9759</sup> P2545 (DK command, 27 May 1995), para. 5.

<sup>9760</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 128.

<sup>9761</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 2.

<sup>9762</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 3.

2285. Nightingale stated that further down the road to Višegrad he observed that all escape routes had been cut off by soldiers and obstructions, which led him to believe the operation was organised and planned. The road gave way under the vehicle holding Nightingale and his troops and it rolled down the hill. Five of Nightingale's troops and a Bosnian-Serb soldier were badly injured.<sup>9763</sup> Following the accident, Nightingale and his troops were transferred to the other armoured vehicles. Upon reaching the bottom of the hillside, Nightingale was introduced to Colonel Fortula, whom he believed to be the overall commander of the local VRS Brigade in the area. Colonel Fortula offered to take the injured to the Sokolac hospital but Nightingale declined.<sup>9764</sup>

2286. Nightingale and his troops were then taken to Višegrad at the Military Barracks, where they were processed and informed by Colonel Fortula that they were 'hostages'. A camera crew was present and filmed the men being fed. After the meal their personal belongings, protection kit, weapons, and other items were removed. Their UN ID numbers and names were recorded and they received medical care. The witness then went with Sergeant Warren to see Fortula in his office. Fortula asked Nightingale to guarantee the good behaviour of his soldiers and said that in return they would not be handcuffed and Nightingale agreed. In response to Nightingale's questions as to what would happen to them, Fortula only answered that it was outside his control. Nightingale was then taken to a room with the other troops and injured men. There were guards at the front of the building and seven or eight armed Bosnian Serbs in the room. A number of Bosnian-Serb television personnel were present with cameras, three or four of whom appeared to be civilian. Nightingale was asked to speak in front of television cameras and answered questions.<sup>9765</sup>

2287. At approximately 10 p.m., he and his troops were loaded into a truck. The injured were delivered to the Sokolac hospital and the remaining troops were put into pairs. The group then travelled by truck through Rogatica during the night, and the pairs were dropped off in areas of Bosnian-Serb troop concentration. Nightingale was dropped off with another member of his troops, at approximately 8 a.m., and taken to a building being used as a jail for Serbs. They were placed in guards accommodation. They were restricted in their movements and taken outside for fresh air only once. They

<sup>9763</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 3. *See also* P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 31; Jonathon Riley, T. 18310-18313.

<sup>9764</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 3.

<sup>9765</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 4.

stayed in the same room with access to an ablutions block whose windows were barred. The outer doors were locked, with no less than two guards in the room at all times. Four guards worked in rotation, with two carrying firearms.<sup>9766</sup> Nightingale and his co-detainees were kept there for six days, during which they were not threatened or assaulted. They were fed twice a day the same food as the guards.<sup>9767</sup>

2288. **Riley** testified that the 1st Battalion of the Royal Welch Fusiliers was deployed on the banks of the Drina River as part of the UNPROFOR mission and occupied OPs and checkpoints along the confrontation line.<sup>9768</sup> After the NATO air strikes on Pale on 25 and 26 May 1995 relations with the Serb side in Goražde deteriorated to the point that contact nearly ceased.<sup>9769</sup> Around noon on 26 May 1995, the witness received a radio message through an interpreter from Fortula who, according to the witness, was the Commander of the Goražde/Višegrad Light Mountain Brigade of the DK and responsible for liaising with UNPROFOR.<sup>9770</sup> Fortula informed the witness that Mladić had ordered him to shell the camp of the witness's troops if further NATO attacks were to take place, because the United Kingdom was a NATO member state.<sup>9771</sup> When the witness reported the message to the UNPROFOR headquarters in Sarajevo, he was told that the headquarters and UN commanders in Srebrenica, Tuzla, and Žepa had received similar messages.<sup>9772</sup> Mladić had a liaison officer present in Fortula's headquarters, Brane Šuka.<sup>9773</sup> The witness met with him regularly.<sup>9774</sup> According to the witness, Mladić may have passed orders directly through that liaison officer.<sup>9775</sup>

2289. Around 9 a.m. on 28 May 1995, the witness received another radio message from Fortula, through the same interpreter as two days earlier, requesting him to go to an important meeting at checkpoint 6 at 2 p.m. to discuss liaison, but he decided not to go because 'hostage-taking' in Sarajevo had started.<sup>9776</sup> Around 2 p.m. the same day, the witness found out that Major Jones, the commanding officer of one of the battalion's

<sup>9766</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 4.

<sup>9767</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 5.

<sup>9768</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), paras 3, 8.

<sup>9769</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 14; Jonathon Riley, T. 18320-18321, 18330.

<sup>9770</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), paras 14-15, 17.

<sup>9771</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), paras 14-15.

<sup>9772</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 15; Jonathon Riley, T. 18336-18337.

<sup>9773</sup> Jonathon Riley, T. 18334-18335; P2547 (VRS Main Staff direction on medical evacuation, 7 May 1995), pp. 1-2.

<sup>9774</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 17.

<sup>9775</sup> Jonathon Riley, T. 18334-18335.

<sup>9776</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 20.



two companies, Company A, had received a message that OP6A, OP6, and OP7 had been invaded and surrounded by heavily armed Serbs. It became clear to Riley that the crews of those OPs were being detained, which led him to order the remaining OPs to withdraw. According to the witness, the detainees were allowed to collect their belongings and were escorted in their vehicles to Višegrad and from there through Rogatica to Zvornik.<sup>9777</sup>

2290. Soon after the attack on Company A, Company B on the east bank of the Drina River was attacked by the Serbs. OP1 was attacked and withdrew under fire; OP2 was overpowered by the Bosnian Serbs who took the crew into custody in a house behind the OP; OP3 withdrew as Bosnian-Serb and Bosnian-Muslim forces began to fight for possession of the ground where it was located; and the remaining OPs along the east bank withdrew.<sup>9778</sup> The witness's troops did not fight alongside ABiH forces and never became an ally of the Bosnian government, but handed over their positions to the ABiH forces as, according to the witness, the Bosnian-Serb attack violated the TEZ and the ABiH forces were entitled to defend their territory.<sup>9779</sup>

2291. Altogether, 33 of his soldiers were taken 'hostage' that day, although six who were injured were released thereafter.<sup>9780</sup> The witness learned from his soldiers who were taken 'hostage' that they had been organised in pairs and dropped off at military installations in groups of varying size in locations between Bileća and Zvornik, spanning approximately 200 kilometres in distance, and that they had been treated correctly throughout their capture and detention.<sup>9781</sup> At least one of the captured soldiers told the witness that he had been led to believe that he was a POW, and as far as the witness knew, his soldiers were treated as such.<sup>9782</sup> According to the witness, the OP2 crew maintained their weapons and radio contact until being taken to Bileća in the

<sup>9777</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 21; Jonathon Riley, T. 18306, 18337; P2544 (Map depicting detention locations).

<sup>9778</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), paras 22, 27; Jonathon Riley, T. 18338-18340.

<sup>9779</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 22; Jonathon Riley, T. 18338, 18346, 18373; D390 (UNPROFOR Directive, 29 May 1995), para. 4b.

<sup>9780</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 31; Jonathon Riley, T. 18310-18313.

<sup>9781</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), paras 21-22; Jonathon Riley, T. 18306, 18308-18309, 18312; P2544 (Map depicting detention locations); P2545 (DK command, 27 May 1995), paras 3, 5.

<sup>9782</sup> Jonathon Riley, T. 18362; P2545 (DK command, 27 May 1995), para. 5.

morning of 29 May 1995.<sup>9783</sup> The witness believed the 'hostage-taking' to be a tactic to prevent further NATO air strikes against the Bosnian Serbs.<sup>9784</sup>

2292. Still on 28 May 1995, Milovanović sent a report to the Bosnian-Serb President stating that the DK had captured 27 English members of the UN force and four vehicles.<sup>9785</sup>

<sup>9783</sup> P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 22; Jonathon Riley, T. 18305-18306; P2544 (Map depicting detention locations).

<sup>9784</sup> Jonathon Riley, T. 18305, 18312.

<sup>9785</sup> P2546 (VRS Main Staff situation report, 28 May 1995), p. 6.

## 6.6 Release of UN hostages

2293. On 28 May 1995, Milovanović sent a report to the Bosnian-Serb President in which he mentioned, *inter alia*, that the exchange of the captured UNPROFOR soldiers for VRS soldiers would be discussed within the framework of a general solution for the situation.<sup>9786</sup>

2294. On 29 May 1995, Mladić met with General De La Presle, who introduced himself as a representative of the French Government in Vlasenica.<sup>9787</sup> De La Presle specified that he did not represent the international community.<sup>9788</sup> De La Presle indicated that the French press reported Karadžić's statements that the 'POWs' were 'hostages and human shields'.<sup>9789</sup> He added that their release would be a political gesture which would be taken into account in the discussions concerning France's position on the nature of UNPROFOR's new mandate, humanitarian aid, air-strikes, and no-fly zones. De La Presle added that NATO's role was limited to a support role to UNPROFOR.<sup>9790</sup> De La Presle urged Mladić to immediately release the POWs.<sup>9791</sup>

2295. During a meeting held on 1 June 1995, Victor Bezrouchenko and Andrey Demurenko met with Marko Lugonja and Milenko Indić, both from the SRK. Lugonja and Indić both stressed that they were not authorised to make any decisions as to the issue of UN 'hostages' and detainees because these were to be taken at the highest political level. Lugonja indicated that the hostage situation would possibly be resolved in the following four or five days. Lugonja and Indić were of the opinion that the NATO air strikes against Bosnian Serbs were a *de facto* declaration of war, Serbs at large had lost their confidence in UNPROFOR after events in Slavonia, and UNPROFOR had effectively sided with Croats and Bosnians.<sup>9792</sup>

2296. On 2 and 6 June 1995, Karadžić ordered the VRS Main Staff to carry out the necessary preparations for the release of captured UNPROFOR members from various units.<sup>9793</sup> On 2 June, he ordered the release of 120 of them. This order further requested

<sup>9786</sup> P2546 (VRS Main Staff situation report, 28 May 1995), p. 6.

<sup>9787</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 151.

<sup>9788</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 152.

<sup>9789</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 153.

<sup>9790</sup> P345 (Mladić notebook, 27 January-5 September 1995), pp. 153-155.

<sup>9791</sup> P345 (Mladić notebook, 27 January-5 September 1995), p. 164.

<sup>9792</sup> D1588 (Victor Bezrouchenko's meeting memo, regarding *inter alia* the hostage situation, 1 June 1995), p. 1.

<sup>9793</sup> P5231 (Order of Radovan Karadžić to release the captured UNPROFOR members, 2 June 1995); P5232 (Order of Radovan Karadžić to release the captured UNPROFOR members, 6 June 1995).

that the captured UNPROFOR members be gathered along with their personal weapons in the area of Pale. On 6 June, he ordered the release of 95 of them. This second order further requested that the captured UNPROFOR members be gathered along with their personal weapons by 1 p.m. on 7 June in the area of Bijeljina and Višegrad.<sup>9794</sup> They were to be handed over to the MUP, which was tasked to organise their transport to the FRY.<sup>9795</sup> The VRS was ordered to take maximum security measures and to submit a detailed report to the Bosnian-Serb President on the completed task.<sup>9796</sup> On 2 and 6 June 1995, in compliance with the orders from Karadžić, Mladić ordered the commands of various VRS corps to release a total of 215 UNPROFOR personnel detained in the Pale, Zvornik, Vlasenica, Bijeljina, and Višegrad sector.<sup>9797</sup> Mladić further ordered the commands of the SRK, DK, and IBK to hand over most of the detainees to various MUP organs of the Bosnian-Serb Republic.<sup>9798</sup> Mladić further ordered the VRS not to divulge any information on the status, number, or redeployment of the remaining captured UNPROFOR members and UNMOs.<sup>9799</sup>

2297. In a meeting held on 4 June 1995, General Janvier informed Mladić that all UN personnel held as ‘hostages’ by the VRS should be liberated immediately and their equipment returned in order to avoid the arrival of a multinational brigade tasked with increasing the security of UN personnel.<sup>9800</sup> In response, Mladić stated that the liberation of the POWs was directly linked to a guarantee that air strikes will not take place again in the future. Mladić requested the immediate ratification of an agreement with UNPROFOR stating that (i) the VRS would no longer threaten the life and security of UNPROFOR members; (ii) UNPROFOR would not engage any of its forces or air

<sup>9794</sup> P5232 (Order of Radovan Karadžić to release the captured UNPROFOR members, 6 June 1995).

<sup>9795</sup> P5231 (Order of Radovan Karadžić to release the captured UNPROFOR members, 2 June 1995); P5232 (Order of Radovan Karadžić to release the captured UNPROFOR members, 6 June 1995).

<sup>9796</sup> P5231 (Order of Radovan Karadžić to release the captured UNPROFOR members, 2 June 1995).

<sup>9797</sup> P2480 (VRS Main Staff Order by Ratko Mladić on the release of UNPROFOR ‘POWs’, 6 June 1995), pp. 2-3; P2481 (VRS Main Staff Order by Ratko Mladić on the release of UNPROFOR ‘POWs’, 2 June 1995), pp. 1-2.

<sup>9798</sup> P2480 (VRS Main Staff Order by Ratko Mladić on the release of UNPROFOR ‘POWs’, 6 June 1995), p. 2; P2481 (VRS Main Staff Order by Ratko Mladić on the release of UNPROFOR ‘POWs’, 2 June 1995), pp. 1-2.

<sup>9799</sup> P2480 (VRS Main Staff Order by Ratko Mladić on the release of UNPROFOR ‘POWs’, 6 June 1995), p. 3.

<sup>9800</sup> P2196 (Summary of a meeting between General Janvier and Mladić, 4 June 1995), p. 1. *See also* P345 (Mladić notebook, 27 January-5 September 1995), pp. 166-167.

strikes against Serb objectives or territory; and (iii) upon signing of the agreement, all POWs would be liberated.<sup>9801</sup>

2298. In a report to various SRK units dated 8 June 1995, Colonel Marko Lugonja confirmed that the VRS had captured 367 UNPROFOR members and UNMOs, including 37 Russians who were released the day following their capture. The report stated that as of 8 June 1995, 230 UNPROFOR members had been released. The capture was condemned by 'the West'. The United Kingdom and France had started to send naval and land forces to support UN forces in Bosnia-Herzegovina and to potentially launch an operation which would free the captured UNPROFOR members and break the blockade of Sarajevo. The suspected aims of the operation were to liberate the captured UN members; to capture the VRS members to exchange as hostages; and to capture Butmir airport and to break the blockade of Sarajevo by force along the Igman-Sarajevo and Kiseljak-Sarajevo axes.<sup>9802</sup> Ten to twelve thousand troops were preparing to carry out the operation, which was to start suddenly and be carried out in several stages. Many troops had already been dispatched to the Adriatic. In the event of an operation to free the 'hostages' using special troops and helicopter airborne assaults, the NATO combat Air Force would carry out support activities including air surveillance, 'cleansing and softening' of the assault area, and providing immediate fire support to the troops.<sup>9803</sup> According to Lugonja's sources, a special formation of approximately 5,000 men had been established to liberate the captured UN members. The media were demonizing Serbs to justify possible military engagement against them.<sup>9804</sup> The liberated UN members were to be transferred to Croatia, Italy, and onto ships in the Adriatic. UNPROFOR was to be reinforced by extra troops from France, the United Kingdom, USA, Germany, and Turkey regardless of the fate of the hostages.<sup>9805</sup>

2299. During a meeting held in Pale on 8 June 1995, Karadžić referred to the release of 'POWs' as 'a great thing'.<sup>9806</sup> On 10 June 1995, Mladić met with Momčilo Perišić, who conveyed to Mladić that Slobodan Milošević indicated that he wanted the release of the rest of the 'POWs'.<sup>9807</sup>

<sup>9801</sup> P2196 (Summary of a meeting between General Janvier and Mladić, 4 June 1995), p. 4. *See also* P345 (Mladić notebook, 27 January-5 September 1995), pp. 166-167.

<sup>9802</sup> P5233 (Report of the SRK, signed by Colonel Marko Lugonja, 8 June 1995), p. 1.

<sup>9803</sup> P5233 (Report of the SRK, signed by Colonel Marko Lugonja, 8 June 1995), p. 2.

<sup>9804</sup> P5233 (Report of the SRK, signed by Colonel Marko Lugonja, 8 June 1995), p. 3.

<sup>9805</sup> P5233 (Report of the SRK, signed by Colonel Marko Lugonja, 8 June 1995), p. 4.

<sup>9806</sup> P345 (Mladić notebook, 27 January-5 September 1995), pp. 168, 174.

<sup>9807</sup> P345 (Mladić notebook, 27 January-5 September 1995), pp. 178-179.

2300. In a letter dated 12 June 1995 addressed to General Janvier, Mladić asked for the release of four members of the VRS, as the VRS had already released 231 UN personnel.<sup>9808</sup>

2301. According to an order dated 13 June 1995, Karadžić ordered the release of all captured UNPROFOR and UNMOs on that day, the hand-over of the detainees to Jovica Stanišić, and the restitution of their personal effects and weapons but excluded the release of 15 UNMOs, set to be released on 18 June 1995.<sup>9809</sup> Also on 13 June 1995, a total of 18 UNPROFOR soldiers and eight UNMOs detained by the VRS were released in Novi Sad: 14 French, six British, two Polish, one Russian, one Norwegian, one Swedish, and one Czech.<sup>9810</sup> According to an UNPROFOR cable, out of the 15 detained UNMOs who had yet to be released, nine were last seen in Pale on 13 June 1995, four were at the Jaharina radar station<sup>9811</sup> on 13 June 1995, whereas the whereabouts of two UNMOs from the Banja Luka Team were unknown.<sup>9812</sup> During the 51st session of the Bosnian-Serb Assembly held on 14-15 June 1995, Karadžić, referring to the detention of UN personnel, stated: '[W]e ordered the arrest, we didn't go into detail as to when they would be tied up, but it had a good effect, it was very shocking for the world [...]'.<sup>9813</sup> Concerning the release of the detained UN personnel, he added: '[We] couldn't let them all go at once, but in proportions, we even left 15 until the end of this week so we could keep the weapons we have in Sarajevo, knowing about the offensive and planning to do something in Sarajevo'.<sup>9814</sup>

2302. On 16 June 1995, the UNSC demanded that the Bosnian-Serb forces immediately release all remaining detained UNPROFOR personnel.<sup>9815</sup> During a meeting between General Janvier and Mladić held on 17 June 1995, Janvier demanded the immediate release of the remaining hostages, as well as of their vehicles and

<sup>9808</sup> P2197 (Letter from Mladić to General Janvier, 12 June 1995).

<sup>9809</sup> P2805 (Order signed by Karadžić concerning the release of UNMOs, 13 June 1995), p. 1.

<sup>9810</sup> P2806 (Daily Report to the UNSC from UNPF in Zagreb, 14 June 1995); P2807 (UNPROFOR cable on hostages released on 13 June 1995, 14 June 1995) pp. 1, 3; P2808 (UNPROFOR cable on the handover of detained UN personnel, 14 June 1995), p. 1.

<sup>9811</sup> The Trial Chamber understands this to be a reference to the Jahorina radar station.

<sup>9812</sup> P2808 (UNPROFOR cable on the handover of detained UN personnel, 14 June 1995), pp. 2-3.

<sup>9813</sup> P2001 (Robert Donia, Report on the highlights of deliberations in the Bosnian-Serb Assembly, 18 February 2013), p. 101.

<sup>9814</sup> P2001 (Robert Donia, Report on the highlights of deliberations in the Bosnian-Serb Assembly, 18 February 2013), p. 102.

<sup>9815</sup> P26 (UNSC resolution 998, 16 June 1995), p. 2.

arms.<sup>9816</sup> On 17 June 1995, Karadžić ordered the VRS Main Staff to hand over at 2 p.m. on 18 June 1995 all remaining UN detainees to Jovica Stanišić in Pale.<sup>9817</sup> On 17 June 1995, pursuant to an order of the Bosnian-Serb President concerning the release of all UN personnel, Mladić ordered SRK Command to release 26 UN personnel by 2 p.m. on 18 June 1995 in exchange for the release of four captured VRS members.<sup>9818</sup>

2303. **Smith** testified that the ‘hostages’ were released in stages between 2 and 18 June 1995.<sup>9819</sup> **Witness RM-120** testified that on 2 June 1995, 63 ‘hostages’ were released.<sup>9820</sup> **Harland** testified that 120 ‘hostages’ were released by 3 June 1995.<sup>9821</sup> Around 3 June 1995, following a meeting of the ‘VRS Supreme Command’, a press release was issued presenting the ‘hostage-taking’ of UN personnel as an act of self-defence and stating that the ‘hostages’ as well as the surrounded UN personnel would remain under VRS control until the UN guaranteed the end of air strikes. A few days later, Karadžić said that any attempt to liberate the ‘hostages’ would result in bloodshed.<sup>9822</sup> On 7 June 1995, another 111 detained UN personnel were released, with another 150 remaining under Serb control.<sup>9823</sup> According to an UNPROFOR daily report to the UNSC, 58 Ukrainian, 17 British, two Spanish, and one Brazilian, were among the released detainees.<sup>9824</sup> **Banbury** testified that on 7 June 1995 at a UN briefing it was reported that 108 ‘hostages’ had been released on the previous day.<sup>9825</sup> According to an UNPROFOR weekly situation report, 11 Canbat personnel and UNMO ‘hostages’ detained by the Bosnian Serbs were released in Pale on 18 June 1995 in exchange for four Bosnian-Serb soldiers held by UNPROFOR.<sup>9826</sup> On 17 and 18 June 1995, the Serbs released the last 26 UNPROFOR ‘hostages’.<sup>9827</sup> **Harland** testified that the last UNPROFOR ‘hostages’ were released by 24 June 1995.<sup>9828</sup>

2304. **Nightingale** provided evidence about the release of British UNPROFOR soldiers. On the seventh day of the detention of the soldiers, the tank officer in charge of

<sup>9816</sup> P2198 (Summary of a meeting between General Janvier and Mladić, 17 June 1995), p. 3. *See also* P345 (Mladić notebook, 27 January-5 September 1995), pp. 189-190.

<sup>9817</sup> D4 (Karadžić order, 17 June 1995).

<sup>9818</sup> P2560 (VRS Order to release detained UN members, 17 June 1995).

<sup>9819</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 136.

<sup>9820</sup> P807 (Witness RM-120, witness statement, undated), p. 77.

<sup>9821</sup> P1 (David Harland, witness statement, 4 September 2009), paras 186-187, 189.

<sup>9822</sup> P1 (David Harland, witness statement, 4 September 2009), para. 187.

<sup>9823</sup> P1 (David Harland, witness statement, 4 September 2009), para. 191.

<sup>9824</sup> D159 (UNPROFOR daily report to UNSC, 8 June 1995).

<sup>9825</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 173.

<sup>9826</sup> D163 (UNPROFOR weekly situation report, 18 June 1995), p. 2.

<sup>9827</sup> P991 (UNPROFOR weekly situation report, 24 June 1995), p. 2.

their capture told them to prepare their kit for departure.<sup>9829</sup> The officer then returned with four other guards, blindfolded Nightingale and his fellow ‘hostage’, and placed them in the back of the troop carrier. The troop carrier picked up four of Nightingale’s troops as well as the injured men from the hospital, and the group was taken to a police station in what Nightingale believes was Višegrad.<sup>9830</sup> They were handed over to Serb authorities and driven over the border, where they met Stanišić. They were then driven by coach to Novi Sad where they met the *Chargé d’affaires* from the British Embassy in Belgrade, Ivor Roberts, and subsequently they were flown back to the United Kingdom.<sup>9831</sup>

2305. **Witness RM-403** provided evidence about the release of French UNPROFOR soldiers. On 5 June 1995, Bosnian-Serb military policemen returned the head of the UNPROFOR unit and a soldier named Ferry, detained at the Doboj ammunition depot (in this respect, see the witness’s evidence reviewed in chapter 6.4), to a house on the outskirts of Doboj.<sup>9832</sup> In this house, they were reunited with the other 13 UNPROFOR soldiers, who had also been transported from the Bijeljina barracks to Doboj with them.<sup>9833</sup> They further heard that they had all been held at military sites, including hospitals, command posts, artillery firing positions, and ammunition depots.<sup>9834</sup> On 6 June, they were transported to Bijeljina in a Bosnian-Serb military bus, carrying Ukrainian soldiers, and then towards the Serbian border in a Serbian Special Forces bus. They were joined by another bus with UNPROFOR soldiers from the 4th Infantry Battalion taken hostage at Lukavica, and under guard of three or four Serbian Special Forces soldiers.<sup>9835</sup> The head of the UNPROFOR unit also learned that six UNPROFOR

<sup>9828</sup> P1 (David Harland, witness statement, 4 September 2009), para. 193.

<sup>9829</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), pp. 2, 5.

<sup>9830</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 5. *See also* P2543 (Jonathon Riley, witness statement, 15 April 1996), para. 31; Jonathon Riley, T. 18310-18313.

<sup>9831</sup> P398 (Hugh Nightingale, witness statement, 5 February 1996), p. 5.

<sup>9832</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31, 34; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012).

<sup>9833</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 27-31, 34; *See also* P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3; P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9834</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 34; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012). *See also* P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3; P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9835</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 34-35; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012).



soldiers who had remained in Bijeljina had been released earlier.<sup>9836</sup> They crossed into Serbia at the Zvornik bridge and were received in Novi Sad by Colonel Philippe, Commander-in-Chief of Serbian Special Forces, who told them they were free and guests of Serbia.<sup>9837</sup>

2306. The second group of French soldiers from the Poljine WCP were brought back to Bijeljina on 2 June 1995 and brought to Zvornik, Novi Sad, and Belgrade while the members of the first group were all reunited in Dobož on 5 June 1995.<sup>9838</sup> The French soldiers from the OP Sierra Victor, detained at the Lukavica Barracks, were released on 13 June 1995. One member was released on 27 May 1995, one escaped during the night of 28 May 1995, and the remaining ten were released on 14 June 1995.<sup>9839</sup>

2307. With regard to the release of the Frebat Commander and two UNMOs, **Witness RM-409** stated that on 2 June 1995, the Commander of the military police asked the Frebat Commander and the two UNMOs detained in the building of the military police in Lukavica to gather their belongings and to get onboard a bus already filled with members of Beauregard's platoon. Indić and Brane were present. The Frebat Commander refused to board without his men and was taken to the building located at the entrance of the barracks where he was detained.<sup>9840</sup> On 6 June, a 'Serb regular militiaman' and a 'civilian' drove the Frebat Commander to Pale in a civilian vehicle where he was temporarily held in a 'container' with two UNMOs who were Spanish and Brazilian respectively. Later, the three of them were taken in a small army van to the Serbian border and eventually released in Novi Sad.<sup>9841</sup> The Frebat Commander remained in Lukavica until 7 June 1995.<sup>9842</sup>

2308. With regard to the release of Ukrainian UNPROFOR soldiers, **Vishnevski** stated that on 6 June 1995, all soldiers who were taken 'hostage' were brought together again to Banja Luka and from there transferred to Novi Sad where they boarded a plane for Zagreb.<sup>9843</sup>

<sup>9836</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), para. 35.

<sup>9837</sup> P3576 (Procès-verbal of Witness RM-403, 10 March 1998), paras 35-37; P3577 (Witness RM-403, *Karadžić* transcript, 25 January 2011), pp. 10728-10729; P3578 (Map showing the transport of UN hostages in 1995, 6 June 2012).

<sup>9838</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 1.

<sup>9839</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9840</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 46-48.

<sup>9841</sup> P3586 (Witness RM-409, witness statement, 18 March 1998), paras 49-50.

<sup>9842</sup> P5234 (UNPROFOR Questionnaire, 8 July 1995), p. 2.

<sup>9843</sup> P399 (Aleksandr Vishnevski, witness statement, 5 February 1996), p. 3.

2309. Finally, with regard to the release of UNMOs, the Trial Chamber received evidence from a number of witnesses. According to **Kalbarczyk**, between 2 and 4 June 1995, Mladić and a number of other individuals, all in civilian clothing, briefly visited the detained UNMOs.<sup>9844</sup> The detainees were filmed by the same journalist and the same cameraman, who had previously filmed them during their detention.<sup>9845</sup> Later on, Captain Vojvodić drove the detainees to their respective accommodations and offices so that they could retrieve some of their belongings and call their relatives.<sup>9846</sup> **Rechner** testified that in the guard house at the Koran Military Barracks, the detained UNMOs were provided food and water, but not permitted to meet with a doctor until 5 June 1995; on 8 June 1995 the UNMOs were finally visited by delegates of the ICRC, following which they received clothing and toiletry, and on 10 June they could call home.<sup>9847</sup> **Gelissen** stated that following the ICRC visit, they were also allowed to write messages, which were checked by Vojvodić's superiors, to their next of kin. During the doctor's visit, five of the detainees were found to be in a bad condition.<sup>9848</sup> **Rechner** testified that Bolajić, the President of the Bosnian-Serb Exchange Commission, stated that they were official POWs because they were combatants, with which the witness disagreed since they were not involved in any hostilities.<sup>9849</sup> Several witnesses testified that UNMOs Romero and Huelin were released in early June due to their bad health.<sup>9850</sup>

2310. **Kalbarczyk** testified that on 13 June 1995, Captain Vojvodić informed the detainees about their upcoming release.<sup>9851</sup> **Kalbarczyk** last saw Evans, Rechner, and Zidlik at the barracks in Pale on 13 June.<sup>9852</sup> Shortly after, he was taken to the Pale police station and then placed in a nearby container where other UN military personnel,

<sup>9844</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 5-6; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), p. 10860; Janusz Kalbarczyk, T. 19362-19365, 19371-19374.

<sup>9845</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 3-5.

<sup>9846</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5. *See also* P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 6.

<sup>9847</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 56, 66-68; D391 (UN questionnaire, completed by Patrick Rechner), para. 16; Patrick Rechner, T. 18492; D392 (Order to the DK Command, Milenko Živanović, 27 May 1995), p. 2; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), pp. 13-14. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5; P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 7; P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5.

<sup>9848</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 7.

<sup>9849</sup> Patrick Rechner, T. 18514; D391 (UN questionnaire, completed by Patrick Rechner), para. 20.

<sup>9850</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5; P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5; P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 7.

<sup>9851</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 5; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), pp. 10861-10862.

including Kozusnik and Wojtasiak, were also waiting to be released.<sup>9853</sup> **Helgers** stated that Wojtasiak was released on 13 June 1995.<sup>9854</sup> **Gelissen** stated that on 13 and 14 June 1995, four UNMOs, Mohamad Al Lawwama, Jotham Njagi, Jarmo Laine, and Guy Schandeler, were brought to the police station.<sup>9855</sup> **Evans** stated that on 15 June 1995, two UNMOs from the Banja Luka Team arrived.<sup>9856</sup> **Helgers** stated that they were joined by Westlund, Bello, and Kratky, who had previously been driven from the Jahorina radar station to a hotel complex on the hill where they met Major Manzoor. They were taken to the military police station in Pale, near the Koran hospital, and were given uniforms.<sup>9857</sup> The witness was given a Dutch uniform, which was not his.<sup>9858</sup> **Kalbarczyk** testified that Wojtasiak told him that he had been kept at the Jahorina radar station during the entire period of his captivity. Approximately four hours later, special police forces from the FRY, wearing red berets, arrived on two buses. They called the names of the detainees who could board the buses.<sup>9859</sup> The buses then drove to Novi Sad where they were taken to a holiday resort.<sup>9860</sup> During the trip and overnight stay, the detainees remained under the custody of the Serbian army.<sup>9861</sup> The next morning the detainees left Novi Sad for Belgrade and from there they were flown to Zagreb on UN airplanes.<sup>9862</sup>

2311. **Westlund** stated that on 13 June 1995, he and Manzoor were brought to a school in Pale by two Bosnian-Serb police officers where another five French and British

<sup>9852</sup> P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), pp. 10870-10872; P2808 (UNPROFOR cable on the handover of detained UN personnel, 14 June 1995).

<sup>9853</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), pp. 5-6; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), pp. 10861-10864, 10868-10869; P2806 (UNPROFOR cable, Daily Reporting to the UNSC, 14 June 1995), para. 1. *See also* P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 5.

<sup>9854</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9855</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 7. *See also* P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 5; P3581 (Marcus Helgers, witness statement, 3 August 1995), pp. 3-4.

<sup>9856</sup> P396 (Griffiths Evans, Rule 92bis material), witness statement, p. 5.

<sup>9857</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10758-10759; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995).

<sup>9858</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 3.

<sup>9859</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 6; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), p. 10863.

<sup>9860</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 6; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), pp. 10862, 10868.

<sup>9861</sup> P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), p. 10868.

<sup>9862</sup> P2801 (Janusz Kalbarczyk, witness statement, 22 November 1995), p. 6; P2802 (Janusz Kalbarczyk, *Karadžić* transcript, 28 January 2011), p. 10869.

UNMOs and one Polish UNMO from his team were released.<sup>9863</sup> At the school, the witness and the other ‘POWs’ were escorted by the chief of the Serb Special Forces, a Colonel, and by ten soldiers in red berets to Belgrade where he was released to fly to Zagreb.<sup>9864</sup> **Evans** stated that Bello, Kratky, Laine, Al Lawwama, Njagi, Schandeler, and Helgers were also released on that day.<sup>9865</sup>

2312. On 15 June 1995, **Rechner** met with Koljević who told him that the extremely high magnitude of the crisis precipitated by the bombing warranted the response of the Bosnian-Serb government to take UN peacekeepers hostage.<sup>9866</sup> He also said that the plan was to evacuate all detainees to Belgrade but that their release was delayed due to some technical difficulties.<sup>9867</sup>

2313. On 17 June 1995, **Evans** and the remaining detainees were informed by Vojvodić of their potential release. Alongside eleven Canadian UN soldiers, Evans and the remaining detainees were taken to the Koran hospital and visited by Koljević. While being filmed by the local TV crew, Koljević confirmed their release and apologized for what had happened.<sup>9868</sup> They were then taken to Novi Sad and from there by plane to Zagreb.<sup>9869</sup>

2314. **Gelissen** stated that on 18 June 1995 at 11 a.m., he, Rechner, and the other detainees were informed that they would be released. They were taken to the Pale police station where Koljević made a speech to Pale TV explaining why the Bosnian Serbs had taken ‘hostages’.<sup>9870</sup> **Helgers** stated that Koljević explained that he was sorry that they were forced to take them, that they were going to be released to the Serb government, and that he hoped it would not be necessary to do such a thing again.<sup>9871</sup> Later on, Lieutenant-Colonel Indić arrived to release them; he and a man from the Serb security

<sup>9863</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), pp. 5-6. *See also* P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5; P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4.

<sup>9864</sup> P400 (Gunnar Westlund, witness statement, 22 November 1995), p. 7.

<sup>9865</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5. *See also* P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4.

<sup>9866</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 62; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), p. 11.

<sup>9867</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 65.

<sup>9868</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 5.

<sup>9869</sup> P396 (Griffiths Evans, Rule 92*bis* material), witness statement, p. 6.

<sup>9870</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 8. *See also* P2554 (Patrick Rechner, witness statement, 31 January 2011), paras 69, 73; D393 (UN Memo with final reports on detention of UNMOs, 30 June 1995), pp. 16-17.

<sup>9871</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10744.

forces with a red beret signed a document, and they were handed over to the security forces.<sup>9872</sup> Pale TV filmed this.<sup>9873</sup> **Gelissen** stated that at 3:30 p.m., the detainees were officially handed over and taken to the Bosnian-Serb Government in Pale. The detainees refused to talk to the assembled journalists, but Koljević asked one of them, Rechner, to give a statement. Serbian Special forces with red berets were present.<sup>9874</sup> Before departing Pale, **Rechner** made a brief statement to the press on behalf of all the 'hostages'.<sup>9875</sup> **Helgers** stated that they were taken by bus to the Presidency in Pale where the international press took photographs and they met with Milošević's security chief, who told them that Milošević had brokered their release.<sup>9876</sup> **Gelissen** stated that they were driven to Novi Sad in Serbia and the next day they were brought to Belgrade from where they flew to Zagreb.<sup>9877</sup> In mid-June 1995, **Lalović** reported on UNPROFOR members leaving Pale to go to Serbia.<sup>9878</sup>

<sup>9872</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), p. 10761.

<sup>9873</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4.

<sup>9874</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 8. *See also* Patrick Rechner, T. 18521-18522.

<sup>9875</sup> P2554 (Patrick Rechner, witness statement, 31 January 2011), para. 73; D394 (Excerpt from video with Rechner making a statement on 18 June 1995).

<sup>9876</sup> P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4.

<sup>9877</sup> P397 (Joseph Gelissen, witness statement, 18 January 1996), p. 8. *See also* P3581 (Marcus Helgers, witness statement, 3 August 1995), p. 4; P3582 (Marcus Helgers, *Karadžić* transcript, 26 January 2011), pp. 10758-10759; P3583 (Map detailing hostage locations in Bosnia-Herzegovina, 28 May 1995).

<sup>9878</sup> D858 (Snježan Lalović, witness statement, 13 August 2014), paras 18-19.

### 6.7 The Trial Chamber's findings

2315. Based on the foregoing, the Trial Chamber finds that between 25 and 27 May 1995, VRS officers and soldiers and, in one case, a police commander and police officers wearing violet uniforms surrounded or arrested several UNMOs stationed in Pale and in the Sarajevo area. Some of these arrests were ordered by the VRS Command or the Bosnian-Serb Presidency. The UNMOs arrested by police officers were then placed in VRS custody. The VRS detained the UNMOs until 18 June 1995 and tied them with chains or handcuffs, and at times at gunpoint, to various strategic locations which were potential targets of, or targets that had previously been hit by, NATO air strikes. These were located in and around the Koran military Barracks in Pale, for example inside the ammunition bunker complex in Jahorinski Potok, the Jahorina radar site, and a bridge leading to Pale.<sup>9879</sup> The UNMOs remained there while NATO planes were flying above them and were filmed, *inter alia*, by VRS soldiers and officers. VRS soldiers and personnel and police officers made various threats to the detainees' lives on several occasions, including at the time of their arrest and immediately before that. The threats were made directly to the UNMOs as well as to UNMO headquarters, to exert leverage over NATO in order to secure the end of air strikes. Lieutenant-Colonel Indić was in charge of all detained UNMOs in the Sarajevo area. Major Batinić and his subordinate, Captain Vojvodić, both VRS officers,<sup>9880</sup> were in charge of the UNMOs detained at the Koran military Barracks. On one occasion, Captain Vojvodić sent back the soldiers who had made threats to the life of the UNMOs.

2316. The Trial Chamber further finds that between 25 and 28 May 1995, VRS members, including members of the military police, and, in some cases in the presence of militias such as the Vasilje Vidović a.k.a. Vasko gang and men under the command of Slavko Aleksić a.k.a. Duke, and members of the regular police forces captured UNPROFOR soldiers. The captured soldiers included approximately 30 soldiers from the Ukrainian 240th battalion, manning *inter alia* the Zaria and Palub checkpoints around Ilidža, French soldiers stationed in various OPs and WCPs around Sarajevo, and soldiers stationed in various OPs in Goražde. The VRS Main Staff more particularly

<sup>9879</sup> The Trial Chamber considered Šehovac's evidence on the absence of the use of restraints. The Trial Chamber considers it reasonable that some UNMOs may not have been restrained during their detention. However, in light of the large amount of reliable evidence on the restraints used during the detention of some UNMOs, the Trial Chamber will not consider his evidence on this issue further.

ordered the capture of the UNPROFOR soldiers in the Goražde area. The Ukrainian UNPROFOR soldiers and the soldiers stationed in the Goražde area were disarmed by their captors who resorted at times to threats with the force of arms to compel them to comply. The Bosnian-Serb military police detained 14 of the Ukrainian UNPROFOR soldiers at a military compound in Banja Luka until 6 June 1995. The French UNPROFOR soldiers were placed under the custody of the VRS, including the military police, and held in different military positions until 24 June 1995, including at the Dobož ammunition depot, in Bileća, at the Lukavica Barracks, and in the military police building in Lukavica. VRS forces detained the UNPROFOR soldiers captured in the Goražde area for approximately a week at different military installations in Višegrad and between Bileća and Zvornik. Živanović ordered that the UNPROFOR soldiers captured in the Goražde area be treated as POWs. The Bosnian-Serb military police informed other UNPROFOR soldiers that they were being held as POWs, exposed them to intimidation techniques, and made threats to their lives during their detention. During their detention, some of the UNPROFOR soldiers were handcuffed to military equipment and, in some cases, filmed. Others were used as shields to allow the VRS to cross Bosnian lines of fire or, after being placed at potential NATO targets, to exert leverage over NATO to stop air strikes. VRS soldiers and officers, including Indić, threatened the lives of some of the UNPROFOR detainees on several occasions during their capture. They also threatened the lives of some of these detainees during their detention, including during an exchange attempt. VRS soldiers further told the detainees that they would be killed if the NATO air strikes were to continue. The Trial Chamber further finds that Dragomir Milošević and Indić pretended to carry out executions of the detainees during a conversation with UNPROFOR officials to obtain their withdrawal from their position as well as to secure an exchange with Serb prisoners. The Trial Chamber finds that some of the UNPROFOR detainees were captured because of the NATO bombing of Pale while others were captured in order to recover Serb weapons under UNPROFOR control. Based on the overall evidence on the capture and detention of UNPROFOR and UNMO personnel during that period and the circumstances of their release, the Trial Chamber finds that the UNPROFOR soldiers captured in the Goražde area were detained pursuant to the 27 May 1995 VRS Main Staff order and to prevent further NATO air strikes against Bosnian Serbs.

<sup>9880</sup> See D1224 (Radoje Vojvodić, witness statement, 8 August 2014), para. 2; Radoje Vojvodić, T. 38806, 38843.

2317. The Trial Chamber will further consider the above mentioned incidents in relation to Count 11 of the Indictment in chapter 8 below.

2318. The Trial Chamber will address the evidence related to the alleged fourth JCE and, in particular, the Accused's alleged responsibility (some of which has been reviewed above in this chapter) in chapter 9.



## 7. Srebrenica

### 7.1 The take-over of the Srebrenica enclave

#### *7.1.1 1992 - July 1995*

2319. In this chapter, the Trial Chamber will review the evidence and make findings concerning the lead-up to the fall of the Srebrenica enclave. The Trial Chamber took judicial notice of a number of Adjudicated Facts relating to these events. It further received evidence from **Richard Butler**, an intelligence research specialist;<sup>9881</sup> **Mujo Subašić**, a Bosnian Muslim from Podžeplje, Han Pijesak Municipality, who worked as a nurse in the Srebrenica Hospital from April 1993 until 11 July 1995;<sup>9882</sup> **Pyers Tucker**, a British army officer, who served with UNPROFOR as military assistant to General Philippe Morillon from October 1992 to March 1993;<sup>9883</sup> **Ratko Nikolić**, from the Serb village Opravdići close to Kravica;<sup>9884</sup> **Momir Deurić**, member of the Vlasenica TO until the beginning of the war in 1992 and assigned to providing security for one of the TO facilities in Sušica from April to September 1992;<sup>9885</sup> **Witness RM-306**, a Serb from Bratunac;<sup>9886</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>9887</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>9888</sup> **Pieter Boering**, a former DutchBat Major who served as liaison officer with the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>9889</sup> **Eelco Koster**, a member of DutchBat,<sup>9890</sup> as well as documentary evidence; and finds that this evidence is consistent with the Adjudicated Facts.<sup>9891</sup> The

<sup>9881</sup> Richard Butler, T. 16108; P2094 (Richard Butler, *curriculum vitae*, 10 June 2011).

<sup>9882</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), p. 1, paras 3, 10-11, 29, 31.

<sup>9883</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751.

<sup>9884</sup> Ratko Nikolić, T. 34905, 34907.

<sup>9885</sup> D797 (Momir Deurić, witness statement, 16 February 2012), paras 2, 15; Momir Deurić, T. 28702, 28725, 28733.

<sup>9886</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9357-9358; Witness RM-306, T. 11446; D293 (Witness RM-306, statement to the Bosnian-Serb MUP, 26 December 2005), pp. 1-2.

<sup>9887</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>9888</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>9889</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21, and 22 September 2006), pp. 1867-1873; Pieter Boering, T. 10025.

<sup>9890</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1.

<sup>9891</sup> **Richard Butler**: P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), paras 3.0-3.1. **Mujo Subašić**: P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 6-7, 10, 20, 22-23. **Pyers Tucker**: P317 (Pyers Tucker, witness statement, 10 May 2010), paras 11, 133,

Trial Chamber also received evidence from **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>9892</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>9893</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>9894</sup> **Alma Gabeljić**, a Bosnian Muslim from Bučinovići Village in Srebrenica Municipality;<sup>9895</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>9896</sup> **Lazar Ristić**, the Acting Commander of the 4th Infantry Battalion of the Zvornik Brigade between 1 July and 18 July 1995;<sup>9897</sup> **Razija Pašagić**, a Bosnian Muslim from Srebrenica Town;<sup>9898</sup> and **Evert Rave**, a member of the DutchBat who served as a Security and Liaison Officer in Srebrenica from January to late July 1995.<sup>9899</sup>

### *General*

2320. The town of Srebrenica is nestled in a valley in eastern Bosnia-Herzegovina, about 15 kilometres from the Serbian border.<sup>9900</sup> The town is one kilometre wide and

167, 173-181, 194-195, 201, 219-220, 222, 225, 228-232, 237, 254, 302; P318 (Corrections to Tucker's statement); Pyers Tucker, T. 3791-3792, 3807-3808, 3838, 3842-3843, 3846; P560 (Report of Major Dudley concerning Srebrenica including report of Tucker), p. 2; P557 (Medical summary on conditions in Srebrenica dated 22 February 1993); P559 (Extract of UNMO Bosnia-Herzegovina North Report). **Ratko Nikolić**: T. 34908-34913, 34915, 34917-34920, 34923, 34930, 34932. **Momir Deurić**: D797 (Momir Deurić, witness statement, 16 February 2012), para. 26; Momir Deurić, T. 28703, 28705; P6935 (Combat order from the DK Command, 12 February 1993), para. 5.3. **Witness RM-306**: T. 11487. **Robert Franken**: P1417 (Robert Franken, witness statement, 15 January 2012), paras 15-16, 31-33, 35; Robert Franken, T. 10768-10771, 10773-10775; D278 (Debriefing report of General Franken with the Dutch authorities, 31 March 1999), paras 7, 41; D279 (Letter from UNPROFOR headquarters addressed to the commander of the ABiH Main Staff, 26 June 1995), p. 2. **Eelco Koster**: P57 (Eelco Koster, witness statement, 26 September 1995), p. 2; Eelco Koster, T. 1242. **Momir Nikolić**: T. 11801-11802. **Pieter Boering**: P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1910-1911; Pieter Boering, T. 10036-10038. **Documentary evidence**: P2051 (Report of the UNSC mission, 30 April 1993), p. 5. D275 (Article from 'Oslobodjenje', 23 August 1996), pp. 2-3.

<sup>9892</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6.

<sup>9893</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

<sup>9894</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>9895</sup> P3460 (Alma Gabeljić witness statement 24 May 2004) p.1. para. 2.

<sup>9896</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>9897</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10035, 10037.

<sup>9898</sup> P1043 (Razija Pašagić, witness statement, 15 June 2000), pp. 1-2; P1044 (Razija Pašagić, statement taken by the Cantonal Court in Tuzla, 15 June 2000), p. 1.

<sup>9899</sup> P1149 (Evert Rave, witness statement, 17 February 1998), p. 1, paras 1, 61-62; Evert Rave, T. 10255.

<sup>9900</sup> Adjudicated Facts II, no. 1271.

two kilometres long.<sup>9901</sup> Before the war, many of Srebrenica's residents worked in the factories at Potočari, a few kilometres north of Srebrenica, or in the zinc and bauxite mines to the south and northeast of the town.<sup>9902</sup> In 1991, the population of the Srebrenica municipality was 37,000, of which 73 per cent were Muslim and 25 per cent were Serb.<sup>9903</sup>

2321. During the conflict, the Central Podrinje Region, which included Srebrenica, was an area of significant strategic importance.<sup>9904</sup> For the Bosnian Serbs, control of this region was necessary in order to achieve their minimum goal of forming a political entity in Bosnia-Herzegovina.<sup>9905</sup> Despite Srebrenica's predominantly Muslim population, Serb paramilitaries from the area and neighbouring parts of eastern Bosnia-Herzegovina gained control of the town for several weeks early in 1992.<sup>9906</sup> On 12 May 1992, Momčilo Krajišnik, the President of the Bosnian-Serb Assembly, signed the 'Decision on Strategic Objectives of the Serbian People', which included one objective relating to the area of Srebrenica, namely, to 'establish a corridor in the Drina river valley, that is eliminate the Drina as a border separating Serb states'.<sup>9907</sup> **Richard Butler** testified that the Bosnian-Serb corridor connected the Serb Krajina territory to Serb-held territory in Eastern Bosnia.<sup>9908</sup>

2322. In May 1992, a group of Bosnian-Muslim fighters under the leadership of Naser Orić managed to recapture Srebrenica.<sup>9909</sup> Over the next several months, Orić and his men pressed outward in a series of raids.<sup>9910</sup> By September 1992, Bosnian-Muslim forces from Srebrenica had linked up with those in Žepa, a Muslim-held town to the south of Srebrenica.<sup>9911</sup> **Mujo Subašić** stated that the Commander of the ABiH Žepa Brigade was Avdo Palić.<sup>9912</sup>

2323. On 19 November 1992, Mladić issued operational Directive 4.<sup>9913</sup> Mladić stated that the Muslim forces and the HVO had the goal of 'annihilating the Serbs' and the

<sup>9901</sup> Adjudicated Facts II, no. 1272.

<sup>9902</sup> Adjudicated Facts II, no. 1273.

<sup>9903</sup> Adjudicated Facts II, no. 1274.

<sup>9904</sup> Adjudicated Facts II, no. 1275.

<sup>9905</sup> Adjudicated Facts II, no. 1275.

<sup>9906</sup> Adjudicated Facts II, no. 1276.

<sup>9907</sup> Adjudicated Facts II, no. 1278.

<sup>9908</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.1.

<sup>9909</sup> Adjudicated Facts II, no. 1277.

<sup>9910</sup> Adjudicated Facts II, no. 1277.

<sup>9911</sup> Adjudicated Facts II, no. 1279.

<sup>9912</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 6.

<sup>9913</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992).

‘genocide of the Serbian people’.<sup>9914</sup> To prevent this, he had decided to launch offensive operations, describing that the aim of all VRS units was to launch offensive operations ‘to crush large HVO and Muslim groups in the territory of RS and force them into unconditionally surrendering their weapons, or destroy them’.<sup>9915</sup> He ordered, *inter alia*, that DK forces in the wider Podrinje region should exhaust the enemy, ‘inflict the heaviest possible losses on them and force them to leave the Birač, Žepa, and Goražde areas with the Muslim population’.<sup>9916</sup> Mladić further ordered that the units should ‘first offer the disarming of able-bodied and armed men, and if they refuse, destroy them.’<sup>9917</sup> In accordance with a decision of 24 November 1992, signed by Milenko Živanović of the DK and sent to the Commander of the Zvornik Light Infantry Brigade, various units were ordered to launch an attack aimed at inflicting the highest possible losses on the enemy, and forcing the ‘Muslim local population to abandon the areas of Cerska, Žepa, Srebrenica, and Goražde’.<sup>9918</sup> The Bratunac Light Infantry Brigade was instructed to consolidate the Fakovići Battalion and give it the task to penetrate as deep as possible into the area of Srebrenica and attack the enclave.<sup>9919</sup> Before initiating any kind of operation, the respective unit members were to be informed about the ‘crucial importance’ of the operation for ‘the realisation of the aim of the Serbian people, namely, the creation and establishment of a Serbian state’.<sup>9920</sup>

2324. By January 1993, the Srebrenica enclave had been expanded to include the Bosnian Muslim-held enclave of Cerska located to the west of Srebrenica.<sup>9921</sup> At this time the enclave reached its peak size of 900 square kilometres, although it was never linked to the main area of Bosnian-held land in the west and remained an island amid Serb-controlled territory.<sup>9922</sup> **Pyers Tucker** testified that during a meeting with Major Pandurević on 7 February 1993, he saw maps on Pandurević’s office wall detailing the VRS’s advance on the eastern enclaves.<sup>9923</sup> These demonstrated the progressive ‘squeezing’ of the enclaves through rings marked on the maps with correlating dates,

<sup>9914</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992), pp. 1-3.

<sup>9915</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992), pp. 3-4.

<sup>9916</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992), p. 5.

<sup>9917</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992), p. 5.

<sup>9918</sup> P2095 (DK Command Order, 24 November 1992), para. 1.

<sup>9919</sup> P2095 (DK Command Order, 24 November 1992), para. 2.2.

<sup>9920</sup> P2095 (DK Command Order, 24 November 1992), para. 2.3.c.

<sup>9921</sup> Adjudicated Facts II, no. 1280.

<sup>9922</sup> Adjudicated Facts II, no. 1280.

<sup>9923</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 155.

the first date being 7 February 1993.<sup>9924</sup> The witness described the ‘Bosnian-Serb method’ as the following pattern: first a small number of villages were shelled, then after two or three days some infantry, a couple of tanks, and APCs attacked; however by the time of such attacks the civilian population had mostly left due to the previous shelling.<sup>9925</sup>

2325. The witness was shown the ‘Directive for further operations of the Army of Republika Srpska’ dated 19 November 1992 and signed by Mladić and testified that it accorded with the maps that he had seen in Pandurević’s office, depicting the first offensive which appeared to have been launched on 7 February 1993.<sup>9926</sup> Tucker further explained that while the Bosnian-Muslim attacks on Serb civilians had certainly enraged the Bosnian Serbs, the orders show that the VRS had envisaged and planned an offensive well before February 1993 with the aim to capture and eradicate the eastern enclaves.<sup>9927</sup>

2326. Another set of documents shown to Tucker about various shelling incidents accorded with his observations of the use of heavy artillery against fleeing civilians.<sup>9928</sup> A ‘combat order for the liberation of Kamenica, Cerska, and Konjević Polje’ sent from the DK Command to its brigades on 1 February 1993, further supported the offensive portrayed on the maps hung in Pandurević’s office.<sup>9929</sup> According to the order ‘the enemy’s morale has been rather shaken for the following reasons: [...] the impossibility of normal living conditions due to the constant firing of our artillery’ which in the witness’s view referred to the use of artillery against civilians.<sup>9930</sup>

2327. An assessment of the situation in the Srebrenica enclave sent from the ABiH Command ‘Main Kiseljak’ to ‘HQ UNPROFOR Zagreb’ and dated 15 March 1993 stated that systematic cleansing of the Srebrenica enclave had been ‘going on full force’ since at least the beginning of March 1993 and possibly as early as January of that year and that the Muslim forces were unlikely to be able to stop a concerted advance.<sup>9931</sup>

<sup>9924</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 155.

<sup>9925</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 157; Pyers Tucker, T. 3789-3790.

<sup>9926</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 155, 264, 268.

<sup>9927</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 269.

<sup>9928</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 270, 272-274.

<sup>9929</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 155, 271; P556 (DK Command combat order dated 1 February 1993).

<sup>9930</sup> P556 (DK Command combat order dated 1 February 1993), p. 2. *See also* P317 (Pyers Tucker, witness statement, 10 May 2010), paras 271-272.

<sup>9931</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 201, 203.

Tucker explained that he and Morillon only learned later that the plan to seize the eastern enclaves had already been ordered in November 1992.<sup>9932</sup>

2328. During his travels to eastern Bosnia, Tucker observed that in parts of the enclaves houses of the fleeing population had been burned down by Bosnian-Serb forces.<sup>9933</sup> Specifically he witnessed this happening in the area around Srebrenica and a number of villages in the Srebrenica pocket.<sup>9934</sup>

2329. In January 1993, Bosnian-Muslim forces attacked the Bosnian-Serb village of Kravica.<sup>9935</sup> Over the next few months, the Bosnian Serbs responded with a counter-offensive, eventually capturing the villages of Konjević Polje and Cerska, severing the link between Srebrenica and Žepa and reducing the size of the Srebrenica enclave to 150 square kilometres.<sup>9936</sup> Bosnian-Muslim residents of the outlying areas converged on Srebrenica Town and its population swelled to between 50,000 and 60,000 people.<sup>9937</sup> According to a UNSC report dated 30 April 1993 on the UNSC mission to Srebrenica, on 25 April 1993, Srebrenica Town had a population of approximately 20,000 to 28,000 people in April 1993 of whom between 8,000 and 10,000 were locals and the remainder were displaced persons from the surrounding villages.<sup>9938</sup> The whole enclave was overcrowded and held 70,000 people.<sup>9939</sup>

#### *Conditions in Srebrenica Town*

2330. By March 1993, the advancing Bosnian-Serb forces had destroyed the town's water supplies and there was almost no running water.<sup>9940</sup> People relied on makeshift generators for electricity.<sup>9941</sup> Food, medicine, and other essentials were extremely scarce.<sup>9942</sup> **Tucker** testified that during a meeting with Morillon on 8 March 1993 with *inter alios* Gvero; Raković, Chef de Cabinet to Karadžić; Kovadević; and Ratko Adžić, Minister of the Interior in Pale, a cease fire was agreed around Konjević Polje for a

<sup>9932</sup> Pyers Tucker, T. 3792.

<sup>9933</sup> Pyers Tucker, T. 3772.

<sup>9934</sup> Pyers Tucker, T. 3785.

<sup>9935</sup> Adjudicated Facts II, no. 1281.

<sup>9936</sup> Adjudicated Facts II, no. 1281.

<sup>9937</sup> Adjudicated Facts II, no. 1282.

<sup>9938</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 4-5.

<sup>9939</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 5, 13.

<sup>9940</sup> Adjudicated Facts II, no. 1283.

<sup>9941</sup> Adjudicated Facts II, no. 1283.

<sup>9942</sup> Adjudicated Facts II, no. 1283.

military convoy to pass through to evacuate civilians who had been injured during the fall of Cerska in early March 1993.<sup>9943</sup> In addition, Gvero authorised a humanitarian aid convoy to go to Srebrenica on 11 March 1993 on the condition that the ABiH would stop attacks in other areas.<sup>9944</sup> Tucker learned from the ABiH Command headquarters and British officers accompanying the convoy that upon arrival of the military convoy in Konjević Polje during the night of 11 March 1993, it was surrounded by local Bosnian Muslims who demanded a cease-fire and prevented the convoy to move.<sup>9945</sup> The crowd was still gathered around the convoy in the morning of 12 March 1993 when Bosnian-Serb forces started to attack the village, firing directly into the crowd, and killing and injuring many people.<sup>9946</sup> The remainder of the convoy was escorted back to Zvornik the following day.<sup>9947</sup>

2331. By March 1993, when French General Philippe Morillon, the Commander of UNPROFOR, visited Srebrenica, the town was overcrowded and siege conditions prevailed.<sup>9948</sup> Before leaving, General Morillon told the residents of Srebrenica at a public gathering that the town was under the protection of the UN and that he would never abandon them.<sup>9949</sup> Between March and April 1993, approximately 8,000 to 9,000 Bosnian Muslims were evacuated from Srebrenica under the auspices of the UNHCR.<sup>9950</sup> The evacuations were, however, opposed by the Bosnian-Muslim government in Sarajevo as contributing to the 'ethnic cleansing' of the territory.<sup>9951</sup>

2332. **Tucker** reported to his headquarters in Zagreb on 18 March 1993 that there were craters along the main refugee routes which confirmed the claims of the people having been shelled while fleeing.<sup>9952</sup> The witness reported on 19 March 1993, that a multiple rocket launcher fired and hit Srebrenica at 2:45 p.m., killing two people and wounding three children, all Bosnian-Muslim civilians.<sup>9953</sup> On 20 March 1993, Morillon and the witness accompanied a convoy with 673 women, children and about 100 wounded

<sup>9943</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 160, 163, 165.

<sup>9944</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 165-166.

<sup>9945</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 188, 190.

<sup>9946</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 189-190.

<sup>9947</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 189-190.

<sup>9948</sup> Adjudicated Facts II, no. 1284.

<sup>9949</sup> Adjudicated Facts II, no. 1284.

<sup>9950</sup> Adjudicated Facts II, no. 1285.

<sup>9951</sup> Adjudicated Facts II, no. 1285.

<sup>9952</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 204.

<sup>9953</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 209.

people from Srebrenica to Bratunac.<sup>9954</sup> After Bosnian-Serb soldiers searched the convoy and checked whether any men were among the people on it, the convoy continued towards Tuzla and Morillon and the witness returned to Srebrenica.<sup>9955</sup>

2333. According to a UNSC report dated 30 April 1993 on the UNSC mission to Srebrenica, on 25 April 1993, Srebrenica had no sanitation or basic medical assistance.<sup>9956</sup> The Bosnian-Serbs did not allow surgeons to enter the city although there were many wounded requiring surgery.<sup>9957</sup> Many people were sleeping on the streets, which were also used as toilet facilities.<sup>9958</sup> More than 50 per cent of the town's houses and public facilities had been damaged or destroyed, a situation which the report described as hazardous with the potential to lead to epidemics.<sup>9959</sup> The mutilated remains of 15 children who had been killed by mortar fire while playing soccer at school in the beginning of April 1993 were still scattered in the area two weeks later.<sup>9960</sup> According to the report, the Bosnian-Serbs were determined to show their effective control of the town and that it was at their mercy.<sup>9961</sup> They constantly harassed humanitarian aid convoys and helicopters that flew out the wounded and sick.<sup>9962</sup> Srebrenica was described in the report as 'the equivalent of an open jail in which its people can wander around but are controlled and terrorized by the increasing presence of Serb tanks and other heavy weapons in its immediate surroundings' and was described by the UNHCR representative as a 'bad refugee camp'.<sup>9963</sup> The Bosnian-Serbs only allowed the departure of the sick, wounded, and dependent women and children.<sup>9964</sup>

2334. **Subašić** stated that from April 1993 until January 1995, basic commodities such as water, food, detergent, and soap were in insufficient supply, resulting in epidemics and causing starvation of the population of Srebrenica Town.<sup>9965</sup> In particular, in April 1993 Srebrenica Hospital staff had no medicine, including no antibiotics, and had to

<sup>9954</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 212.

<sup>9955</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 212.

<sup>9956</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9957</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 6.

<sup>9958</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9959</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9960</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 6-7, 13.

<sup>9961</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9962</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9963</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 6.

<sup>9964</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 7.

<sup>9965</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 19-20, 23.



make bandages out of sheets and re-use gauzes.<sup>9966</sup> Around the end of 1993 or beginning of 1994, MSF and the ICRC provided basic medical supplies and electricity to the hospital using ICRC generators.<sup>9967</sup> Between 1993 and 1995, the food and supply convoys were insufficient.<sup>9968</sup> **Razija Pašagić** stated that people in Srebrenica were starving during this time.<sup>9969</sup> Food only became available when international organisations began delivering relief parcels.<sup>9970</sup> Some people died due to injuries from fighting over the food parcels.<sup>9971</sup> By early 1995, fewer and fewer supply convoys were making it through to the Srebrenica enclave.<sup>9972</sup> The already meagre resources of the civilian population dwindled further, and even UN forces started running low on food, medicine, fuel, and ammunition.<sup>9973</sup> Eventually, the peacekeepers had so little fuel that they were forced to start patrolling the enclave on foot.<sup>9974</sup> By February 1995, the restriction of international convoys impacted the rotation and readiness of DutchBat troops and caused further deterioration of the humanitarian situation in the Srebrenica enclave.<sup>9975</sup> DutchBat soldiers who went out of the area on leave were not allowed to return and their numbers dropped from 600 to 400 men.<sup>9976</sup> The military capability of DutchBat was hampered by the VRS's refusal to allow soldiers re-entry into the enclave after their leave.<sup>9977</sup>

2335. **Pieter Boering** estimated that during the first few months of 1995 there were 30,000 people living in the enclave.<sup>9978</sup> Water supply was limited, resulting in poor sanitation, and people had scant access to medical care, with health professionals having limited medical equipment.<sup>9979</sup> There was only one hospital in Srebrenica supported by MSF and a few local doctors' stations, so people went to Tuzla for additional medical treatment.<sup>9980</sup> **Franken** testified that at some point around March 1995, MSF stopped providing medical care because of a conflict with the Srebrenica Town authorities, but

<sup>9966</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 11, 13, 16.

<sup>9967</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 17.

<sup>9968</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 20.

<sup>9969</sup> P1043 (Razija Pašagić, witness statement, 15 June 2000), p. 3.

<sup>9970</sup> P1043 (Razija Pašagić, witness statement, 15 June 2000), p. 3.

<sup>9971</sup> P1043 (Razija Pašagić, witness statement, 15 June 2000), p. 3.

<sup>9972</sup> Adjudicated Facts II, no. 1306.

<sup>9973</sup> Adjudicated Facts II, nos 1303, 1307.

<sup>9974</sup> Adjudicated Facts II, no. 1309.

<sup>9975</sup> Adjudicated Facts II, no. 1310.

<sup>9976</sup> Adjudicated Facts II, nos 1303, 1311.

<sup>9977</sup> Adjudicated Facts II, no. 1312.

<sup>9978</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1891.

<sup>9979</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1891-1893.

<sup>9980</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1891-1892.

DutchBat continued to provide medical care until it was unable to operate its mobile medical stations due to lack of fuel.<sup>9981</sup> **Subašić** stated that the inhabitants of Srebrenica had just enough to survive, felt helpless, desperate, and desolate, and wanted to leave.<sup>9982</sup> **Witness RM-311** testified that from May to July 1995, the living conditions for her family in Srebrenica were difficult as they had very little food and clothing.<sup>9983</sup> In 1995, representatives of the ICRC and UNHCR told **Momir Nikolić** that the situation in Srebrenica was terrible as those in the enclave suffered from contagious diseases and lice.<sup>9984</sup>

2336. **Subašić** stated that in 1995, the number of convoys decreased, resulting in a decrease in the medical supplies provided by the ICRC and MSF.<sup>9985</sup> The witness heard from a hospital staff member in charge of food supplies and, on a separate occasion from a woman from MSF, that the Serbs sometimes stopped convoys, preventing them from entering Srebrenica, or would only allow trucks with one kind of supply, for instance soybeans, to enter Srebrenica.<sup>9986</sup> **Boering** testified that the population of Srebrenica wished to leave the enclave as early as May or June 1995.<sup>9987</sup> Between May and July 1995, the situation deteriorated considerably and the number of relief supplies that UNHCR brought in for the population decreased due to increasing threats from the VRS, including more shootings, as well as a growing number of ‘refugees’.<sup>9988</sup>

#### *UN safe areas and the demilitarisation of Srebrenica*

2337. On 16 April 1993, the UNSC passed Resolution 819, declaring that ‘all parties and others treat Srebrenica and its surroundings as a “safe area” that should be free from armed attack or any other hostile act.’<sup>9989</sup> At the same time, the UNSC created, with Resolution 824, two other UN protected enclaves, Žepa and Goražde.<sup>9990</sup> The UNSC stated in Resolution 819 that it ‘condemns and rejects the deliberate actions of the Bosnian-Serb party to force the evacuation of the civilian population from Srebrenica

<sup>9981</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 27.

<sup>9982</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 23.

<sup>9983</sup> P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3305-3306.

<sup>9984</sup> Momir Nikolić, T. 11801-11802.

<sup>9985</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 22.

<sup>9986</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 20-22.

<sup>9987</sup> Pieter Boering, T. 10057-10058.

<sup>9988</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1894-1895.

<sup>9989</sup> Adjudicated Facts II, no. 1286.

<sup>9990</sup> Adjudicated Facts II, no. 1286.

and its surrounding areas [...] as part of its abhorrent campaign of ethnic cleansing'.<sup>9991</sup> Resolution 819 further called for 'the immediate cessation of armed attacks by Bosnian-Serb paramilitary units against Srebrenica and their immediate withdrawal from the areas surrounding Srebrenica.'<sup>9992</sup> When the 'safe area' of Srebrenica was established, the UNSC called upon the Secretary-General to 'take immediate steps to increase the presence of the United Nations Protection Forces in Srebrenica and its surroundings.'<sup>9993</sup>

2338. According to a UNSC report, on 17 April 1993, Sefer Halilović and Mladić concluded an Agreement for the Demilitarisation of Srebrenica.<sup>9994</sup> The parties agreed, *inter alia*, upon a total cease-fire in the Srebrenica area, effective from 1:59 a.m. on 18 April 1993; the demilitarisation of Srebrenica within 72 hours of the arrival of UNPROFOR in Srebrenica; the opening of an air corridor between Tuzla and Srebrenica *via* Zvornik in order to evacuate the seriously wounded and ill; and freedom of movement, including allowing humanitarian aid into the enclave.<sup>9995</sup> The parties also agreed to establish a working group to decide the details of the demilitarisation and to make recommendations on carrying out an exchange of detainees.<sup>9996</sup> However, instead of Serb paramilitary forces withdrawing from the enclave as demanded by UNSC Resolution 819, 47 new trenches had been dug and tanks and heavy weapons could be seen at a distance of 900 metres from one UNPROFOR OP, increasing the pressure on the town.<sup>9997</sup>

2339. Before the conclusion of the agreement, Srebrenica Town was under intense shelling, surrounded and totally isolated.<sup>9998</sup> This situation forced the Srebrenica local authorities to agree to a settlement whereby only the Bosnian-Muslim side was to disarm under the supervision of UNPROFOR.<sup>9999</sup> According to the UNSC report, the Bosnian-Muslim side signed the agreement under duress after UNPROFOR officers informed the President and Vice-President of Bosnia-Herzegovina that no outside support would come and that they were defenceless.<sup>10000</sup> The report further stated that

<sup>9991</sup> Adjudicated Facts II, no. 1287.

<sup>9992</sup> Adjudicated Facts II, no. 1288.

<sup>9993</sup> Adjudicated Facts II, no. 1290.

<sup>9994</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 15-16.

<sup>9995</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 15-16.

<sup>9996</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 15-16.

<sup>9997</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 7.

<sup>9998</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 5.

<sup>9999</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 5-6.

<sup>10000</sup> P2051 (Report of the UNSC mission, 30 April 1993), pp. 5-6, 15.

there was ‘no doubt that had this agreement not been reached, most probably a massacre would have taken place’.<sup>10001</sup>

2340. On 18 April 1993, the first group of UNPROFOR troops arrived in Srebrenica.<sup>10002</sup> Fresh troops were rotated approximately every six months after 18 April 1993.<sup>10003</sup> The peacekeepers were lightly armed and at any one time numbered no more than 600 men, a much smaller force than had been originally requested.<sup>10004</sup> They established a small command centre, the ‘Bravo Company compound’, in Srebrenica itself and a larger main compound about five kilometres north of the town in Potočari.<sup>10005</sup>

2341. On 20 April 1993, Sefer Halilović informed the Commander of the ABiH 2nd Corps, Naser Orić, that on 19 April 1993, the ‘aggressor’ insisted that all units at the defence lines surrender their weapons, which was contrary to the agreement signed by Mladić on the demilitarisation of Srebrenica Town.<sup>10006</sup>

2342. According to an agreement on the demilitarisation of Srebrenica and Žepa of 8 May 1993, Mladić and Halilović, in the presence of Morillon, declared that the areas of Srebrenica and Žepa be demilitarised.<sup>10007</sup> The agreed demilitarisation included that every military or paramilitary unit withdraws or hands over weapons to UNPROFOR.<sup>10008</sup>

2343. In January 1995, a new set of UNPROFOR troops, a battalion from the Netherlands, referred to as ‘DutchBat’, rotated into the enclave.<sup>10009</sup> Initially, DutchBat had eight OPs around the perimeter of the enclave; four additional OPs were added between February and July 1995.<sup>10010</sup> **Boering** testified that in April 1995, an OP was established in Lozine, a village in the southern part of the enclave, which met the resistance of local Muslim civilian and military leaders.<sup>10011</sup> The OPs were to report on people entering and leaving the enclave, taking note of their Serb or Muslim ethnicity,

<sup>10001</sup> P2051 (Report of the UNSC mission, 30 April 1993), p. 6.

<sup>10002</sup> Adjudicated Facts II, no. 1291.

<sup>10003</sup> Adjudicated Facts II, no. 1292.

<sup>10004</sup> Adjudicated Facts II, no. 1293.

<sup>10005</sup> Adjudicated Facts II, no. 1294.

<sup>10006</sup> D366 (Document on demilitarisation of Srebrenica from Sefer Halilović to ABiH 2nd Corps Commander Naser Orić, 20 April 1993), pp.1-2.

<sup>10007</sup> P23 (Demilitarization agreement, 8 May 1993), pp. 1, 4.

<sup>10008</sup> P23 (Demilitarization agreement, 8 May 1993), p. 2.

<sup>10009</sup> Adjudicated Facts II, no. 1295.

<sup>10010</sup> Adjudicated Facts II, no. 1296.

and to secure the border.<sup>10012</sup> Most of the time, groups of Bosnian-Serb and Bosnian-Muslim soldiers maintained shadow positions near the OPs marking the perimeter of the enclave.<sup>10013</sup> The Bosnian-Serb forces from three DK brigades surrounding the enclave were equipped with tanks, armoured vehicles, artillery, and mortars.<sup>10014</sup> **Franken** testified that DutchBat patrols and OPs were increasingly targeted, mostly from Bosnian-Serb positions, with increasing frequency beginning in April and May 1995.<sup>10015</sup> In several instances, wounded civilians were transported by DutchBat to the hospital in Srebrenica.<sup>10016</sup> Due to circumstances such as increased attacks on DutchBat patrols and positions, there was some discussion between DutchBat and the Chief of Staff of the 28th Division of the ABiH about a coordinated defence in the event of a Serb attack on the enclave whereby DutchBat would limit itself to the authorised protection of its OPs, while the ABiH would defend the areas between the OPs.<sup>10017</sup>

*Military activity after the conclusion of the safe area agreement*

2344. Both parties to the conflict violated the ‘safe area’ agreement.<sup>10018</sup> Insofar as the ABiH was concerned, immediately after signing the ‘safe area’ agreement, General Halilović ordered members of the ABiH in Srebrenica to pull all armed personnel and military equipment out of the newly established demilitarised zone.<sup>10019</sup> He also ordered that no serviceable weapons or ammunition be handed over to UNPROFOR.<sup>10020</sup> Accordingly, only old and dysfunctional weapons were handed over and anything that was still in working order was retained.<sup>10021</sup> Bosnian-Muslim helicopters flew in violation of the no-fly zone; the ABiH opened fire toward Bosnian-Serb lines and

<sup>10011</sup> Pieter Boering, T. 10044-10046; D272 (Instructions for action in connection with UNPROFOR’s intention to set up an OP in Srebrenica addressed to the 2nd Corps Command, 29 April 1995).

<sup>10012</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1872.

<sup>10013</sup> Adjudicated Facts II, no. 1297.

<sup>10014</sup> Adjudicated Facts II, no. 1298.

<sup>10015</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 32-33.

<sup>10016</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 33.

<sup>10017</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 36-37; Robert Franken, T. 10760-10761.

<sup>10018</sup> Adjudicated Facts II, no. 1302. By ‘safe area’ agreement, the Trial Chamber understands from the context within which it is referred to, that this relates to the demilitarisation agreement concluded between Mladić and Sefer Halilović on 8 May 1993 as a consequence of UN Security Council Resolution 819, adopted on 16 April 1993. The Trial Chamber understands ‘safe area’ to refer to Srebrenica and its surrounding areas, determined by UN Security Council Resolution 819 to be free from armed attack or any other hostile act.

<sup>10019</sup> Adjudicated Facts II, no. 1304.

<sup>10020</sup> Adjudicated Facts II, no. 1304.

<sup>10021</sup> Adjudicated Facts II, no. 1304.

moved through the 'safe area'; the 28th Division was continuously arming itself; and at least some humanitarian aid coming into the enclave was appropriated by the ABiH.<sup>10022</sup> The 28th Division of the ABiH forces that remained in the enclave lacked a firm command structure and communications system, and some ABiH soldiers carried old hunting rifles or no weapons at all.<sup>10023</sup>

2345. **Momir Nikolić** testified that General Mladić had visited the Bratunac Brigade in early July 1994.<sup>10024</sup> On 4 July 1994, Lieutenant Colonel Slavko Ognjenović of the 1st Bratunac Brigade Command sent a report to the 3rd Infantry Battalion.<sup>10025</sup> Ognjenović reported that the commander of the VRS Main Staff had recently visited the Corps Command and had indicated that he would soon visit some of the Corps' units, including the Bratunac Brigade.<sup>10026</sup> Ognjenović further reported that the Serbs had won the war in Podrinje, but had not beaten the Muslims completely.<sup>10027</sup> Ognjenović set out the final goal of attaining an entirely Serbian Podrinje and militarily defeating the enclaves of Srebrenica, Žepa, and Goražde.<sup>10028</sup> The witness testified that the term Podrinje referred to the municipalities along the upper part of the Drina: Foča, Goražde, Višegrad, Srebrenica, Bratunac, Zvornik, and Bijeljina.<sup>10029</sup> Ognjenović wrote that the enemy's life was to be made so unbearable and their temporary stay in the enclave so impossible that they realise that they cannot survive there and leave the enclave *en masse* as soon as possible.<sup>10030</sup> The witness interpreted the enemy as mentioned in this part of the order to relate to the opposing military forces.<sup>10031</sup> Ognjenović further wrote that the Serbs must continue to arm, train, and prepare the VRS for the crucial task of expelling the Muslims from the Srebrenica enclave.<sup>10032</sup> The witness interpreted the expulsion of Muslims mentioned in this part of the order to refer to emptying the enclave of its Muslim population entirely (including civilians).<sup>10033</sup> The witness considered that this expulsion was directed against the civilian population and was, as

<sup>10022</sup> Adjudicated Facts II, no. 1305.

<sup>10023</sup> Adjudicated Facts V, no. 1.

<sup>10024</sup> Momir Nikolić, T. 11786.

<sup>10025</sup> Momir Nikolić, T. 11786, 11789-11790; P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994).

<sup>10026</sup> P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994), p. 1.

<sup>10027</sup> P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994), pp. 2-3.

<sup>10028</sup> P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994), p. 3.

<sup>10029</sup> Momir Nikolić, T. 11785-11786.

<sup>10030</sup> P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994), p. 3.

<sup>10031</sup> Momir Nikolić, T. 11787, 11995-11996.

<sup>10032</sup> P1505 (Report to the 3rd Infantry Battalion Brigade members, Slavko Ognjenović, 4 July 1994), p. 3.

<sup>10033</sup> Momir Nikolić, T. 11788, 11995-11996.

such, not a military task and should not have been included in the document.<sup>10034</sup> According to the witness, these instructions to make life unbearable for the Muslim population had the effect of giving Bratunac Brigade members permission to fire freely at civilians.<sup>10035</sup> Sniping incidents intensified as a result.<sup>10036</sup> When the witness confronted Brigade members, they would respond that they had permission to open fire from the commander.<sup>10037</sup> The witness requested the commander to suspend such permission and undertook efforts to limit the incidents.<sup>10038</sup> The witness recommended that those undisciplined VRS members be punished.<sup>10039</sup>

2346. **Paul Groenewegen** observed during the first months of his assignment which started in January 1995 and ended in July 1995, that there was military activity between the two sides, including shooting back and forth, and occasionally he heard an explosion.<sup>10040</sup> **Franken** testified that the 28th Division had its headquarters in a classroom in Potočari and in a house in the village of Pale as well as offices in the former post office in Srebrenica Town.<sup>10041</sup> **Groenewegen** testified that during patrols, the ABiH members he observed in the enclave on three or four occasions consisted of groups of about five to ten men, armed with small calibre weapons.<sup>10042</sup> While some of these men wore camouflage uniforms, the witness considered them to be groups of ‘civilians’ protecting their enclave.<sup>10043</sup>

2347. According to a report by Naser Orić, Commander of the Srebrenica 8th OG, to the ABiH General Staff in January 1995, UNPROFOR representatives were aware of specific amounts of weapons and ammunition in the possession of armed formations in Srebrenica, and that they were trying to collect all such weapons, frequently taking weapons from individuals who carried them.<sup>10044</sup> **Franken** testified that DutchBat conducted regular patrols of the enclave, but demilitarisation was unsuccessful because it was not authorised to enter private homes to search for weapons, although they knew

<sup>10034</sup> Momir Nikolić, T. 11788.

<sup>10035</sup> Momir Nikolić, T. 11790-11792.

<sup>10036</sup> Momir Nikolić, T. 12001.

<sup>10037</sup> Momir Nikolić, T. 11791-11792.

<sup>10038</sup> Momir Nikolić, T. 11792, 12001-12002.

<sup>10039</sup> Momir Nikolić, T. 11790-11791.

<sup>10040</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 4, 7, 9; Paul Groenewegen, T. 10541.

<sup>10041</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 12.

<sup>10042</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 10-11; Paul Groenewegen, T. 10542-10544.

<sup>10043</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 10.

that the ABiH had 4,000 to 4,500 small arms and some mortars.<sup>10045</sup> **Momir Nikolić** testified that in 1995, he served as liaison officer in the Srebrenica demilitarized zone and was in contact with DutchBat.<sup>10046</sup> He spoke to DutchBat about violations of the demilitarised zones, for instance by Serb forces setting up new positions or by Bosnian-Muslim groups setting up ambushes or carrying out sabotage works in Serb territory.<sup>10047</sup> On 11 January 1995, Nikolić informed the DK Command that in accordance with their order, the VRS 1st Bratunac Light Infantry Brigade lodged an official protest to the commander of DutchBat and military observers regarding the incident in the Osoje-Kik Brdo area.<sup>10048</sup> The 1st Bratunac Light Infantry Brigade reported that it was informed, in response to the protest, that Bosnian Muslims blocked the access road from Srebrenica to the Osoje area for UNPROFOR, and it further reported that the behaviour of the Bosnian Muslims, including the failure to demilitarise, indicated that they did not wish for a peaceful solution to Srebrenica.<sup>10049</sup>

2348. In the spring of 1995, there were many skirmishes between VRS soldiers and ABiH soldiers.<sup>10050</sup> **Momir Nikolić** testified that he spoke to DutchBat about incidents of VRS Brigade members firing at civilians.<sup>10051</sup> According to the witness, some undisciplined soldiers from his brigade, being the 1st Bratunac Light Infantry Brigade, with whom he had already had problems, regularly fired semi-automatic rifles from their positions at unarmed civilians 200 to 300 metres away.<sup>10052</sup> The witness reported on such incidents along the chain of command and informed the security and intelligence organ about them.<sup>10053</sup> In the months before the Srebrenica attack, elements of the Bratunac Brigade shelled and opened sniper fire on the enclave.<sup>10054</sup> **Franken** testified that DutchBat identified about 16 VRS artillery and mortar positions, in the area of the Milići Brigade on the west side of the enclave, and a few positions of self-propelled mechanised guns.<sup>10055</sup>

<sup>10044</sup> D277 (Communication from the Command of the 8th OG of the ABiH addressed to the ABiH Main Staff, 1 January 1995). See also Robert Franken, T. 10766-10767.

<sup>10045</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 15, 17, 19; Robert Franken, T. 10752, 10765-10766.

<sup>10046</sup> Momir Nikolić, T. 11781.

<sup>10047</sup> Momir Nikolić, T. 11783, 12003, 12006.

<sup>10048</sup> D365 (Report from 1st Bratunac Light Infantry Brigade to DK Command, 11 January 1995), pp. 1-2.

<sup>10049</sup> D365 (Report from 1st Bratunac Light Infantry Brigade to DK Command, 11 January 1995), p. 1.

<sup>10050</sup> Adjudicated Facts II, no. 1314.

<sup>10051</sup> Momir Nikolić, T. 11783, 11790-11791.

<sup>10052</sup> Momir Nikolić, T. 11783, 11790-11791.

<sup>10053</sup> Momir Nikolić, T. 12002.

<sup>10054</sup> Adjudicated Facts II, no. 1315.

<sup>10055</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 19.



2349. **Eelco Koster** testified that around 18 February 1995, he joined a patrol around the compound in which he was posted.<sup>10056</sup> The patrol passed through part of Srebrenica, where the witness saw that some of the houses had been hit by shells and were burned out.<sup>10057</sup> In the beginning of March 1995, the witness heard increased machine-gun fire and rifle shots coming from the north, but could not see who was firing.<sup>10058</sup> **Miroslav Deronjić** stated that during a meeting with Karadžić sometime in May 1995, Karadžić told him, as President of the Bratunac Municipality Crisis Staff, that a military operation was on its way regarding Srebrenica and asked him to be prepared to make arrangements when needed.<sup>10059</sup> In May 1995, **Koster** noticed a further increase in machine-gun fire and rifle shots, and OPs and patrols sometimes came under fire from the Serb side, i.e. from outside the Srebrenica enclave, but were not actually hit.<sup>10060</sup> The Bratunac Brigade opened fire on Srebrenica on 25 May 1995.<sup>10061</sup> **Alma Gabeljić** stated that on 25 May 1995, between 7 and 8 p.m., artillery shelling impacted outside her house causing one of the walls to collapse.<sup>10062</sup> She distinguished this sound from tank projectiles as she had heard both sounds prior to the incident.<sup>10063</sup> The impact killed the witness's sister Jasna and seriously injured the witness in her upper left arm.<sup>10064</sup>

2350. **Subašić** stated that in June 1995, he heard that the VRS Special Forces Sabotage Group, positioned in the Vidikovac settlement in Srebrenica and supported with heavy fire by the Serb forces positioned on the hills, launched an attack against Srebrenica with automatic rifles, machine guns, and small calibre mortars.<sup>10065</sup> This resulted in chaos and panic in the hospital and in the city.<sup>10066</sup> **Boering** testified that at the end of June 1995, the inhabitants of the Swedish Shelter project, a centre hosting 4,000 'refugees' in the South of the enclave, had to leave because of shelling.<sup>10067</sup> **Milovan**

<sup>10056</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 3.

<sup>10057</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 3; Eelco Koster, T. 1238-1239; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 4.

<sup>10058</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 3.

<sup>10059</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6382-6384.

<sup>10060</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 4.

<sup>10061</sup> Adjudicated Facts II, no. 1316.

<sup>10062</sup> P3460 (Alma Gabeljić witness statement 24 May 2004) paras 2-3.

<sup>10063</sup> P3460 (Alma Gabeljić witness statement 24 May 2004) para. 3.

<sup>10064</sup> P3460 (Alma Gabeljić witness statement 24 May 2004), paras 3-5; P3461 (Certificate concerning Alma Gabeljić by the Tuzla office of Srebrenica Municipality, 30 September 1998); P3462 (Certificate concerning Jasna Gabeljić by the Tuzla office of Srebrenica municipality, 17 November 1996).

<sup>10065</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 24.

<sup>10066</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 24.

<sup>10067</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1898.

**Milutinović** testified that on 27 June 1995, dozens of inhabitants were killed in the village of Višnjica; cattle were stolen, and houses were set on fire by Muslim forces from the UN safe area of Srebrenica.<sup>10068</sup> The witness visited the scene the following day and saw bodies around houses, which were still burning.<sup>10069</sup> According to the witness the VRS Main Staff lodged protests on several occasions with the UNPROFOR Command in Bosnia-Herzegovina against such crimes committed by the ABiH in the safe area of Srebrenica.<sup>10070</sup>

2351. In June and July 1995, **Boering** could see, from the DutchBat headquarters in Potočari, Bosnian-Muslim houses facing the headquarters being shelled from the direction of the VRS position in Bratunac.<sup>10071</sup> According to the witness, the Bosnian Muslims living in these houses fled towards Potočari and Srebrenica after the shelling, and local authorities and hospitals reported to DutchBat that many of the Bosnian Muslims were killed or injured.<sup>10072</sup>

#### *Operation Krivaja '95*

2352. **Momir Nikolić** testified that some 15-20 days prior to the take-over of Srebrenica, General Živanović visited the Bratunac Brigade and told him, Major Trisić, and other officers about the plan to attack the Srebrenica enclave.<sup>10073</sup> The witness testified that the first, military intention of the attack was to physically separate the two enclaves of Žepa and Srebrenica, to liberate the Zelenci–Jadar–Jasenova–Milići road, and then reduce the Srebrenica enclave to the town area.<sup>10074</sup> According to the witness, from the moment the enclave was set up, the VRS forces had the goal to make it disappear, for it to be emptied, and for it to become Serbian territory.<sup>10075</sup> The decision to forcibly

<sup>10068</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 69-70.

<sup>10069</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 70-71.

<sup>10070</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 69, 72.

<sup>10071</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1895-1897.

<sup>10072</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1896.

<sup>10073</sup> Momir Nikolić, T. 12077-12078.

<sup>10074</sup> Momir Nikolić, T. 12079, 12082-12085; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 1; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 1.

<sup>10075</sup> Momir Nikolić, T. 12084-12086; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 1; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 1.

remove the entire Bosnian-Muslim population from Srebrenica came as a result of the fall of the enclave.<sup>10076</sup>

2353. **Lazar Ristić** stated that a meeting was held at the Zvornik Brigade headquarters on 1 July 1995.<sup>10077</sup> Lieutenant Colonel Pandurević, the Commander of the Zvornik Brigade, explained the work that was to take place in the coming period and said that he was going to Srebrenica with a certain number of troops.<sup>10078</sup> Pandurević said that the rest of the troops were to stay and that Major Obrenović, the Chief of Staff and Deputy Brigade Commander of the Zvornik Brigade, would be in charge.<sup>10079</sup> The Intervention Platoon was ordered to be ready on 4 July 1995 at the assembly point in Konjević Polje to go to Srebrenica.<sup>10080</sup> The then-commander of the DK, General-Major Milenko Živanović, signed two orders on 2 July 1995, laying out the plans for the attack on the enclave and ordering various units of the DK to ready themselves for combat.<sup>10081</sup> The operation was code-named 'Krivaja 95'.<sup>10082</sup> The DK was the VRS military formation tasked with planning and carrying out operation Krivaja 95, which culminated in the capture of Srebrenica town on 11 July 1995.<sup>10083</sup> General Krstić was to command the Krivaja 95 operation.<sup>10084</sup> He was fully apprised of the VRS territorial goals in the Srebrenica enclave, which included cleansing the area of the Bosnian-Muslim population.<sup>10085</sup> The initial Krivaja 95 plan did not include taking of Srebrenica Town.<sup>10086</sup> An assessment had been made by the VRS Command that conditions were not right at that moment for capturing Srebrenica Town.<sup>10087</sup>

2354. **Groenewegen** testified that before 11 July 1995, the VRS was positioned outside the borders of the enclave.<sup>10088</sup> In the first week of July 1995, VRS forces shot at OPs with small and large calibre weapons, as well as mortar shells.<sup>10089</sup> According to the

<sup>10076</sup> Momir Nikolić, T. 12084-12086; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 1; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 1.

<sup>10077</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10041-10042.

<sup>10078</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10040-10042.

<sup>10079</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10040-10041, 10044.

<sup>10080</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), p. 10041.

<sup>10081</sup> Adjudicated Facts II, no. 1318.

<sup>10082</sup> Adjudicated Facts II, no. 1318.

<sup>10083</sup> Adjudicated Facts II, no. 1326.

<sup>10084</sup> Adjudicated Facts II, no. 1334.

<sup>10085</sup> Adjudicated Facts II, no. 1335.

<sup>10086</sup> Adjudicated Facts II, no. 1360.

<sup>10087</sup> Adjudicated Facts II, no. 1360.

<sup>10088</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 9; Paul Groenewegen, T. 10544.

<sup>10089</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 14-15.

witness, because no one was hit the shooting was a provocation, aimed at cutting off the road towards Potočari and thereby preventing the population from leaving.<sup>10090</sup>

2355. **Witness RM-322** testified that on 4 July 1995, Vinko Pandurević, together with a unit of 420 to 450 men from the Zvornik Brigade, including members of its elite and command, left the headquarters to take part in the Krivaja 95 operation against Srebrenica.<sup>10091</sup> People who had come from Sućeska told **Subašić** on 4 July 1995 that the Serbs were grouping at the border of the enclave.<sup>10092</sup>

2356. **Momir Nikolić** testified that on 4 or 5 July 1995, Commander Blagojević showed him and the Bratunac Brigade Command a DK Command order for active combat dated 2 July 1995.<sup>10093</sup> According to the order, the recipients were to abide by the Geneva Conventions in all dealings with POWs and the civilian population.<sup>10094</sup> On 5 July 1995, Blagojević issued an order implementing the DK's order of 2 July 1995, repeating the instruction to treat POWs and the population in accordance with the Geneva Conventions.<sup>10095</sup> Recalling an increase of the number of wounded to be treated at the Srebrenica hospital between 4 and 11 July 1995, **Subašić** stated that most of the people hit by grenade shrapnel were civilians from Srebrenica.<sup>10096</sup> Srebrenica remained under fire until the enclave fell under the complete control of the VRS on 11 July 1995.<sup>10097</sup>

2357. On 1 March 1995, Akashi informed Annan that despite the acceptance of the COHA on 31 December 1994, Bosnia-Herzegovina had obstructed attempts by UNPROFOR to improve liaison, observe confrontation lines, and instead had imposed restrictions on UNPROFOR movement and threatened the lives of the 'BSA' liaison officers.<sup>10098</sup> In January 1995, Bosnia- Herzegovina imposed a blockade of 'Sector North East' to protest the presence of the 'BSA LO' at the Tuzla Air Base, and

<sup>10090</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 15.

<sup>10091</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1; Witness RM-322, T. 11627, 11686-11689.

<sup>10092</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 26.

<sup>10093</sup> Momir Nikolić, T. 12128-12129, 12135; D302 (Order for active combat operations, Command of the DK, Major General Milenko Živanović, 2 July 1995).

<sup>10094</sup> D302 (Order for active combat operations, Command of the DK, Major General Milenko Živanović, 2 July 1995), p. 5.

<sup>10095</sup> Momir Nikolić, T. 12137, 12139, 12141; D303 (Order for active combat operations, Command of the 1st Bratunac Light Infantry Brigade, Colonel Vidoje Blagojević, 5 July 1995), p. 5.

<sup>10096</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 25.

<sup>10097</sup> Adjudicated Facts II, no. 1366.

<sup>10098</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), pp. 1-2.

restricted UNPROFOR movement in the Sapna Thumb and the west of Srebrenica enclave.<sup>10099</sup> On 24 February 1995, Bosnia-Herzegovina also imposed a blockade of 'Sector South as a protest against the presence of the 'BSA' liaison officers in Gornji Vakuf and demanded to inspect UN vehicles and to limit the amount of fuel supplies being transported to UN posts.<sup>10100</sup> On 25 February 1995, the road was blocked and 31 illegal checkpoints were placed throughout the 'sector'.<sup>10101</sup> In Akashi's view, there were indicators suggesting that Bosnia-Herzegovina was considering an offensive in the near future, including the refusal to accept the 'BSA' liaison officers, mobilisation, continuous moving of troops through the demilitarized zone and radio propaganda advising that certain towns 'must be retaken' from the 'BSA'.<sup>10102</sup> Akashi informed Annan that 'BSA' liaison officers had an important role in demarcating confrontation lines, intensifying observation and liaison and separating forces where necessary to discourage new outbreaks of conflict.<sup>10103</sup> UNPROFOR, however, had no access to Serb-controlled areas.<sup>10104</sup> In addition, Serbs restricted fuel deliveries to the enclaves.<sup>10105</sup>

*The Trial Chamber's findings*

2358. Based on the foregoing, the Trial Chamber finds that Srebrenica Town, in Srebrenica Municipality in eastern Bosnia-Herzegovina, was of significant strategic significance to the Bosnian Serbs as it formed part of the Central Podrinje Region, control over which was necessary in order to form a political entity in Bosnia-Herzegovina. In 1991, the population of Srebrenica Municipality was 37,000 of which 73 per cent were Muslim, and 25 per cent were Serb.

<sup>10099</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), p. 2.

<sup>10100</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), pp. 2-3.

<sup>10101</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), p. 3.

<sup>10102</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), pp. 2-4.

<sup>10103</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), p. 3.

<sup>10104</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), p. 5.

<sup>10105</sup> D368 (Code cable 'Attitude of the Bosnian Government to UNPROFOR' from Akashi to Annan, 1 March 1995), p. 5.

2359. Between early 1992 and the beginning of July 1995, the VRS and the ABiH were engaged in combat in Srebrenica Town and the enclave. On 12 May 1992, Momčilo Krajišnik, the President of the Bosnian-Serb Assembly, signed the 'Decision on Strategic Objectives of the Serbian People', which included an objective relating to the Srebrenica area, and that was to eliminate the Drina as a border separating Serb states by establishing a corridor in the Drina river valley. The Srebrenica enclave consisted of ABiH-held territory, which was the result of a series of raids conducted by Naser Orić as of May 1992. Geographically the enclave reached its peak of 900 square kilometres in January 1993, when it had expanded to include the Bosnian-Muslim enclave of Cerska, which lies to the west of Srebrenica. The Srebrenica enclave was not linked to the main area of Bosnian-held land to the west and remained in the middle of Serb-controlled territory. On 19 November 1992, Mladić issued Directive 4, in which he ordered the DK to inflict the heaviest possible losses on the ABiH and force them to leave the Birač, Žepa, and Goražde areas with the Muslim population. On 24 November 1992, Milenko Živanović of the DK sent a decision to the Commander of the Zvornik Light Infantry Brigade, in which various units were ordered to inflict the highest possible losses on the enemy, forcing the Bosnian-Muslim population to abandon the areas of Cerska, Žepa, Srebrenica, and Goražde. The Bratunac Brigade was instructed to consolidate the Fakovići Battalion and give it the task to penetrate as deep as possible into the area of Srebrenica and attack the enclave. Unit members were to be informed before any kind of operation, 'the realisation of the aim of the Serbian people, namely, the creation and establishment of a Serbian state'. Directive 4 was implemented by VRS forces in February 1993. As a result of the Bosnian-Serb counter-offensive to ABiH activity in the first few months of 1993, the size of the Srebrenica enclave was reduced to 150 square kilometres. In April 1993 some 20,000 to 28,000 people were living in Srebrenica Town comprising displaced persons from surrounding villages and 8,000 to 10,000 locals most of whom were Bosnian Muslims. The Bosnian-Muslim population of Srebrenica Town at times swelled to between 50,000 to 60,000 as a result of people being displaced from the surrounding villages and the whole enclave was comprised of 70,000 people in April 1993.

2360. By March 1993, Srebrenica Town had almost no running water as VRS forces had destroyed the town's water supplies. Food, medicine, and other essentials were extremely scarce. There was no access to medical assistance and the VRS prevented

surgeons from entering the city, despite many people needing surgery. The town was overcrowded and siege conditions prevailed. Between March and April 1993, approximately 8,000 to 9,000 Bosnian Muslims were evacuated from Srebrenica under the auspices of the UNHCR. The VRS were determined to show their effective control of the town and that it was at their mercy. The VRS placed restrictions on humanitarian aid convoys, with few convoys making it into the Srebrenica enclave by early 1995.

2361. On 16 April 1993, the UNSC adopted Resolution 819, declaring Srebrenica and its surrounding area a 'safe area', free from armed attack or any other hostile act. On 17 April 1993, the VRS and the ABiH concluded a demilitarisation agreement, including a total cease-fire in the Srebrenica area. Following Resolution 819, UNPROFOR troops arrived in Srebrenica on 18 April 1993, with DutchBat arriving in the enclave in January 1995. Mladić and Halilović concluded a second demilitarisation agreement on 8 May 1993, declaring that the areas of Srebrenica and Žepa be demilitarised. Both parties to the conflict violated the demilitarisation agreement, with military activity between the two sides. In July 1994, Lieutenant Colonel Slavko Ognjenović of the Bratunac Brigade Command reported to the 3rd Infantry Battalion, that the war in Podrinje had been won, but that the Bosnian Muslims had not been completely defeated. He set out a plan to achieve the final goal of attaining an entirely Serbian Podrinje and militarily defeating the Srebrenica, Žepa, and Goražde enclaves. This plan included making the conditions in the enclave so unbearable that the ABiH would leave *en masse*. The VRS was to be armed, trained, and prepared for the task of expelling the Bosnian Muslims from the Srebrenica enclave, this expulsion being directed against the civilian population. As a result, sniping incidents by Bratunac Brigade members intensified and Momir Nikolić requested that the Bratunac Brigade Commander suspend the perceived permission. Momir Nikolić undertook efforts to limit incidents and recommended that undisciplined VRS members be punished. In May 1995, Karadžić told Miroslav Deronjić, President of the Bratunac Municipality Crisis Staff, that a military operation was on its way regarding Srebrenica and asked him to be prepared to make arrangements when needed.

2362. Approximately 15 to 20 days before the take-over of Srebrenica, General Živanović visited the Bratunac Brigade, where he outlined to Momir Nikolić, Major Trisić, and other officers the plan to attack the Srebrenica enclave. The attack was to physically separate the Žepa and Srebrenica enclaves, to liberate the Zelani Jadar-Jasenova-Milići road and then reduce the Srebrenica enclave to the town area. The VRS

intended to make the enclave disappear, to empty it, and to make it Serb territory, and the decision to forcibly remove the Bosnian-Muslim population from Srebrenica came as a result of the fall of the enclave. On 1 July 1995, during a meeting held at the Zvornik Brigade headquarters, Lieutenant Colonel Pandurević, Commander of the Zvornik Brigade, outlined plans for an operation in Srebrenica. On 2 July 1995, DK Commander General Major Milenko Živanović signed two orders laying out plans for an attack on the enclave and ordering various DK units to ready themselves for combat. This operation was code-named ‘*Krivaja 95*’ and did not include taking Srebrenica Town, as the VRS command assessed that the conditions were not right at that moment for capturing the town. General Krstić was to command the ‘*Krivaja ‘95*’ operation and the DK was the military formation tasked with planning and carrying out the operation. He was fully apprised of the VRS’s territorial goals in the Srebrenica enclave, which included cleansing the area of the Bosnian-Muslim population. An order for active combat dated 2 July 1995 stated that the recipients were to abide by the Geneva Conventions in all dealings with POWs and the civilian population. On 5 July 1995, Blagojević issued an order implementing the DK’s order of 2 July 1995, repeating this instruction. The Trial Chamber will consider the events following this order in chapter 7.1.2.

2363. The Trial Chamber will address the evidence related to the alleged Srebrenica JCE and, in particular, the Accused’s alleged responsibility (some of which has been reviewed above in this chapter) in chapter 9.

#### *7.1.2 Directives no. 7 and no. 7/1*

2364. In this chapter, the Trial Chamber will review the evidence and make findings on Directive no. 7 and Directive no. 7/1 signed by Karadžić on 8 March 1995 and by Mladić on 31 March 1995, respectively.<sup>10106</sup> The Prosecution argued that in March 1995, Radivoje Miletić and the VRS Main Staff drafted the ‘Directive for further Operations No. 7’.<sup>10107</sup> Following the creation of the safe areas, Mladić and Karadžić were running out of time to take the enclaves and thus issued Directive no. 7 to ‘create an unbearable situation’, that would leave the Muslim population with no choice but to

<sup>10106</sup> P1469 (Main Staff memo forwarding Directive 7, 17 March 1995); P1470 (VRS Main Staff Directive for further operations No. 7/1, Ratko Mladić, 31 March 1995).

<sup>10107</sup> Prosecution Final Brief, para. 426.



leave the area.<sup>10108</sup> According to the Prosecution, Directive no. 7 escalated the dire humanitarian situation in the enclaves.<sup>10109</sup> The Prosecution further argued that the 2 July 1995 *Krivaja-95* attack plan reflected the strategy set out in Directive no. 7.<sup>10110</sup> This strategy remained in force until 9 July 1995, when the strategy changed to include the take over of the Srebrenica enclave.<sup>10111</sup> Mladić approved and was fully informed of Directive no. 7's content prior to it being sent to the VRS Corps Commands.<sup>10112</sup> Before it was issued, he expressed words and intentions that were reflected in the language of the directive.<sup>10113</sup> Regarding Directive no. 7/1 issued by Mladić on 31 March 1995, the Prosecution argued that it did not rescind the unlawful language of Directive no. 7 but rather confirmed its content.<sup>10114</sup> According to the Prosecution, had Mladić intended to rescind the language, he would not have cited Directive no. 7 in the instructions addressed to the DK in Directive no. 7/1 nor referred to it in his order to the DK dated 26 March 1995, in which the corps was tasked to 'continue to execute their combat tasks in conformity with Directive no. 7'.<sup>10115</sup>

2365. The Defence submitted that Directive no. 7 illustrated the disagreements between Mladić and Karadžić because: (i) the latter sent orders directly to Milovanović and to the VRS Corps – rather than to Mladić – in an attempt to circumvent Mladić;<sup>10116</sup> and (ii) Directive no. 7 was eventually amended by Mladić when he issued Directive no. 7/1, which did not contain the orders regarding the creation of 'an unbearable situation of total insecurity' or 'complete physical separation' of the Srebrenica and Žepa enclaves.<sup>10117</sup>

2366. The Trial Chamber received evidence from **Richard Butler**, an intelligence research specialist;<sup>10118</sup> **Mitar Kovač**, a researcher at the Institute of Strategic Research;<sup>10119</sup> **Mirko Trivić**, Commander of the 2nd Romanija Motorised Brigade from

<sup>10108</sup> Prosecution Final Brief, para. 428; T. 44328-44329, 44531.

<sup>10109</sup> Prosecution Final Brief, paras 418, 429, 435-448.

<sup>10110</sup> Prosecution Final Brief, para. 428; T. 44329.

<sup>10111</sup> Prosecution Final Brief, para. 428; T. 44329.

<sup>10112</sup> Prosecution Final Brief, para. 430.

<sup>10113</sup> Prosecution Final Brief, paras 430-431, T. 44336.

<sup>10114</sup> Prosecution Final Brief, para. 432.

<sup>10115</sup> Prosecution Final Brief, para. 432.

<sup>10116</sup> Defence Final Brief, paras 570-571, 642.

<sup>10117</sup> Defence Final Brief, paras 571-572, 2859.

<sup>10118</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.28-7.30; Richard Butler, T. 16108.

<sup>10119</sup> Mitar Kovač, T. 41295.

August 1994;<sup>10120</sup> **Manojlo Milovanović**, the Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>10121</sup> **Ljubomir Obradović**, Deputy Chief of Operations and Training of the VRS Main Staff from September 1994 onwards,<sup>10122</sup> and documentary evidence.

*Context and content of Directive no. 7*

2367. **Richard Butler** testified that by early January 1995, the Bosnian-Serb Government had decided to apply additional pressure to the Eastern ‘safe areas’.<sup>10123</sup> Part of this pressure consisted in the restriction of movement of UN forces in Eastern Bosnia, particularly with regard to the supply convoys to the three ‘safe areas’.<sup>10124</sup> On 8 March 1995, Colonel Miletic drafted the Bosnian-Serb Supreme Command Directive no. 7, which, according to Butler, clearly spelled out the strategy of the Bosnian-Serb Republic for the DK concerning these areas.<sup>10125</sup> The DK was to ‘create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica’.<sup>10126</sup> According to Butler, Directive no. 7 was drafted on behalf of Mladić and signed by Karadžić, the Supreme Commander.<sup>10127</sup> He testified that in shaping the goals spelled out in Directive no. 7, the VRS Main Staff exercised significant control over issues that directly impacted the combat capability of UNPROFOR, particularly those forces garrisoned inside the Eastern enclaves.<sup>10128</sup> As early as March 1995, the political and military leaders of the Bosnian-Serb Republic realized that they had to either militarily end the conflict or set the stages for a negotiated settlement favourable to them by the end of the year.<sup>10129</sup> There were indications that the Croat-Muslim’s alliance would not continue the current cease-fire, and that the alliance was preparing a

<sup>10120</sup> P1463 (Mirko Trivić, *Popović et al.* transcript, 18, 21 May 2007), p. 11795.

<sup>10121</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *Curriculum Vitae* of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995).

<sup>10122</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11929, 11931-11932; P1784 (VRS Main Staff structure, July 1995).

<sup>10123</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.9.

<sup>10124</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.9.

<sup>10125</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.10.

<sup>10126</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.10.

<sup>10127</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.10.

<sup>10128</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.11.

<sup>10129</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 1.30.

series of major offensives against the Bosnian-Serb Republic and the RSK.<sup>10130</sup> According to Butler, Directive no. 7 reflected this assessment.<sup>10131</sup>

2368. Butler further testified that in Directive no. 7, the Supreme Command of the VRS outlined the four main priorities of the armed forces for the upcoming period: (i) through resolute offensive and defensive military operations, impose a military situation which the international community would be compelled to accept; (ii) improve the operational and strategic position of the VRS; (iii) reduce the front-line, and create conditions for the economic revival of the Bosnian-Serb Republic by sending a number of military conscripts home; and (iv) create the conditions for the state and political leadership to negotiate a peace agreement and accomplish the strategic objectives of the war.<sup>10132</sup>

2369. **Mitar Kovač** testified that the Bosnian-Serb President signed ‘documents’ proposed to him by the VRS Main Staff with confidence.<sup>10133</sup> Kovač explained that a directive was not an executive document, but constituted the basis for executive documents such as, commands, orders and plans, which offered possibilities to correct what was not formulated well in the directive.<sup>10134</sup>

2370. Directive no. 7 ordered that the DK carry out the ‘complete physical separation of Srebrenica and Žepa [...] as soon as possible, preventing even communication between individuals in the two enclaves’, and ‘by planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa’.<sup>10135</sup> The directive further set out that if UNPROFOR forces left Žepa and Srebrenica, the DK Command should ‘plan an operation named *Jadar* with the task of breaking up and destroying the Muslims forces in these enclaves and definitively liberating the Drina valley region’.<sup>10136</sup>

<sup>10130</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 1.30.

<sup>10131</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 1.30.

<sup>10132</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 1.31.

<sup>10133</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84.

<sup>10134</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84.

<sup>10135</sup> P1469 (VRS Main Staff memo forwarding Directive 7, 17 March 1995), p. 10.

<sup>10136</sup> P1469 (VRS Main Staff memo forwarding Directive 7, 17 March 1995), p. 11.

2371. On 17 March 1995, Manojlo Milovanović, Chief of Staff of the VRS (*see* chapter 3), forwarded Directive no. 7, signed by Karadžić, to the 1KK command.<sup>10137</sup> **Manojlo Milovanović** testified that he only signed an urgent transmittal letter on 17 March 1995, forwarding Directive no. 7 to the 1KK after Miletić, who had drafted the directive, had told him that a copy was omitted in the first round on 8 March 1995 and only sent to the 2KK.<sup>10138</sup> Milovanović could not remember whether he verified with Mladić if he had approved of this Directive.<sup>10139</sup> Milovanović added that the directive constituted a political decision and even if he had been aware of the content, he could have done nothing because Karadžić had signed it.<sup>10140</sup> According to the witness, the instructions with regard to the creation of an ‘unbearable situation of total insecurity with no hope or further survival or life for the inhabitants of Srebrenica and Žepa’ in Directive no. 7 would have been unlawful if they were subsequently formulated into a combat order since, according to the Geneva Conventions, the civilian population is never a legitimate target or objective.<sup>10141</sup> Milovanović considered it a mistake that the directive was directly sent to the corps commands.<sup>10142</sup> Instead, it should have only reached Mladić because the corps commanders could not take any measures on the basis of Directive no. 7; Mladić was to issue orders based on this directive.<sup>10143</sup>

2372. **Ljubomir Obradović** testified that Directive no. 7, drafted by Miletić, was drafted pursuant to the full method, which meant that the drafting involved all staff organs, *i.e.* sectors and administrations.<sup>10144</sup> Directive no. 7 was both a military and political document, as the first item of the directive contained a description of the military-political situation.<sup>10145</sup> Obradović testified that while this directive was from the Supreme Command, participation of the sectors and administrations of the VRS Main Staff in its creation was inevitable since the Supreme Command and the civilian leadership lacked the professional staff to cover all segments of the directive.<sup>10146</sup>

<sup>10137</sup> P1469 (VRS Main Staff memo forwarding Directive 7, 17 March 1995).

<sup>10138</sup> Manojlo Milovanović, T. 16988-16989, 16995-16999, 17138; P2248 (Transmittal letters of Directive 7 to the DK, SRK, and HK, 17 March 1995).

<sup>10139</sup> Manojlo Milovanović, T. 16992, 16999.

<sup>10140</sup> Manojlo Milovanović, T. 16992, 16999.

<sup>10141</sup> Manojlo Milovanović, T. 16991-16992.

<sup>10142</sup> Manojlo Milovanović, T. 16993, 17002.

<sup>10143</sup> Manojlo Milovanović, T. 16993, 16995.

<sup>10144</sup> Ljubomir Obradović, T. 14530-14532, 14585.

<sup>10145</sup> Ljubomir Obradović, T. 14559.

<sup>10146</sup> Ljubomir Obradović, T. 14532-14533.

2373. Obradović further testified that a directive only stated which operation should be implemented, whereas the planning of an operation was left to the corps commands, which included the manner in which the objective was to be reached.<sup>10147</sup> In this context, with respect to the portion of Directive no. 7 dealing with Srebrenica operations, Obradović confirmed that, in contrast to what is set out in the directive, the SRK did not take part in the operation against Srebrenica which was, in fact, an operation run by the DK.<sup>10148</sup> A portion of Directive no. 7 refers to operation *Krivaja 95* to be carried out by the HK, in a plan to reach the Neretva river valley.<sup>10149</sup> Every operation had a different code-name and the name *Krivaja* was not mentioned in Directive no. 7 in relation to the DK, nor did he know who, in the DK, chose this code-name for the operation against Srebrenica.<sup>10150</sup> Directive no. 7 ordered the DK to carry out a certain operation under a certain code-name when the time came to implement that task.<sup>10151</sup> The DK was duty bound, pursuant to the directive, to submit documents pursuant to which it would execute the operation, to the superior command, i.e. Mladić, for approval prior to carrying out the operation.<sup>10152</sup> **Mirko Trivić** testified that on 20 March 1995, the DK Command issued an order to the commands of its subordinated units recalling the tasks of the DK stated in Directive no. 7.<sup>10153</sup>

2374. On 26 March 1995, Karadžić ordered a mobilisation of all human and material resources to ‘finally crush and defeat the enemy’ and, pursuant to this order, Mladić ordered VRS Corps Commands and units to ‘continue to execute combat tasks in conformity with Directive no. 7’.<sup>10154</sup> On 27 March 1995, the DK Commander, Milenko Živanović, forwarded Mladić’s order dated 26 March 1995 to its subordinates units.<sup>10155</sup>

2375. Mladić recorded in his notebook a meeting held on 30 March 1995 with ‘the inner core’ of the VRS Main Staff Command members, during which a discussion took

<sup>10147</sup> Ljubomir Obradović, T. 14560.

<sup>10148</sup> Ljubomir Obradović, T. 14560.

<sup>10149</sup> Ljubomir Obradović, T. 14564-14565.

<sup>10150</sup> Ljubomir Obradović, T. 14564-14565.

<sup>10151</sup> Ljubomir Obradović, T. 14568.

<sup>10152</sup> Ljubomir Obradović, T. 14565, 14567-14568.

<sup>10153</sup> Mirko Trivić, T. 11368; P1468 (DK Command order, Radovan Karadžić, 20 March 1995), pp. 6, 8; P1469 (Main Staff memo forwarding Directive 7, 17 March 1995), p. 10.

<sup>10154</sup> P802 (Karadžić mobilisation order, 26 March 1995); P803 (Mladić mobilisation order, 26 March 1995).

<sup>10155</sup> P804 (DK mobilisation order, 27 March 1995). The order was forwarded to: the 1st Zvornik Infantry Brigade, the 1st Bihać Infantry Brigade, the 1st Vlasenica Light Infantry Brigade, the 1st Milići Light Infantry Brigade, the 2nd Romanija Motorised Brigade, the 1st Bratunac Light Infantry Brigade, the 1st and 5th Podrinje Light Infantry Brigades, the mixed artillery regiment, the Skelani Independent Infantry

place on the operation undertaken pursuant to Directive no. 7.<sup>10156</sup> He further recorded ‘carry out operation Spreča in April so that the results give it the dimensions of a strategic operation’.<sup>10157</sup>

*Directive no. 7/1*

2376. **Trivić** testified that on 31 March 1995, the VRS Main Staff issued Directive no. 7/1, signed by Mladić.<sup>10158</sup> According to **Milovanović**, the directive was drafted by Miletić.<sup>10159</sup> **Kovač** testified that the directive number indicates that it was a follow-up document to Directive no. 7.<sup>10160</sup> In this directive, Mladić repeated most of the tasks of the VRS outlined in Directive no. 7 and stated that he had decided to conduct, with the VRS main forces, including the 1KK, IBK, DK, and Air Force and Anti-Aircraft Defence, a strategic operation under the code-name *Sadejstvo 95*. The operation’s objectives included inflicting the heaviest possible losses on the enemy, restoring the reputation of the VRS, widening the Posavina corridor, and removing the threat of a breakthrough from Doboj and the joining up of coalition forces in the Brčko area, thereby forcing the Muslim leadership to accept an end to the war at the achieved lines.<sup>10161</sup>

2377. **Obradović** testified that the fact that Mladić signed Directive no. 7/1 suggests that he approved the parts as drafted by the various sectors.<sup>10162</sup> Directive no. 7/1 was addressed to the 1KK, IBK, DK, and the Air Force and Anti-aircraft Defence. The Directive was also addressed, for their information, to the 2KK, the SRK, and the HK.<sup>10163</sup> The witness testified that the tasks of the DK as set out in Directive no. 7/1 were aimed at tying down enemy forces around the enclaves, and not at the separation or capture of the enclaves.<sup>10164</sup> He further testified that when a new directive was issued,

Battalion, the 5th Engineer Battalion, the 5th Communications Battalion, and the 5th Military Police Battalion.

<sup>10156</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 71.

<sup>10157</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 73.

<sup>10158</sup> Mirko Trivić, T. 11261; P1470 (VRS Main Staff Directive for further operations No. 7/1, Ratko Mladić, 31 March 1995). *See also* D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84. Manojlo Milovanović, T. 16993-16994.

<sup>10159</sup> Manojlo Milovanović, T. 16994-16995.

<sup>10160</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84.

<sup>10161</sup> P1470 (VRS Main Staff Directive for further operations no. 7/1, 31 March 1995), pp. 3-4.

<sup>10162</sup> Ljubomir Obradović, T. 14533.

<sup>10163</sup> P1470 (VRS Main Staff Directive for further operations No. 7/1, 31 March 1995).

<sup>10164</sup> Ljubomir Obradović, T. 14569-14570.

the previous directive was no longer in force.<sup>10165</sup> In this context, Obradović testified that Directive no. 7 remained in force with respect to the 2KK, SRK and the HK, but that the main body of the force consisting of the 1KK, IBK, and DK, were now tasked with what was set out in Directive no. 7/1.<sup>10166</sup>

2378. According to **Kovač**, Directive no. 7/1 altered a few elements contained in Directive no. 7, primarily by omitting the incriminatory sentence on the tasks of the DK contained therein.<sup>10167</sup> It meant that there was no intention to put civilians in jeopardy and that the formulation of Directive no. 7 on this point was to be attributed to the ‘poor judgement’ of an operations officer of the Main Staff who wrote the document.<sup>10168</sup> This ‘mistake’ was later noticed and removed from Directive no. 7/1.<sup>10169</sup> **Milovanović** testified that Mladić omitted the two controversial sentences from Directive no. 7 which referred to the creation of unbearable conditions and the separation of Srebrenica and Žepa by force.<sup>10170</sup> The witness’s presumption was that Mladić intentionally withdrew this part of the order as he considered it to be unlawful.<sup>10171</sup> The witness, however, stated that there is nothing in Directive no. 7/1 explicitly rescinding the controversial parts and he agreed that somebody reading the reference to Directive no. 7 in Directive no. 7/1 would have to look at Directive no. 7 in order to be able to fully implement it.<sup>10172</sup>

*VRS actions undertaken pursuant to Directive no. 7 and no. 7/1*

2379. **Butler** testified that on 31 May 1995, elements of the DK undertook operation *Jadar-95*, a scaled-down version of that envisioned in Directive no. 7. This operation forced the DutchBat troops to abandon OP Echo south of Srebrenica ultimately leading to the fall of the village of Zeleni Jadar.<sup>10173</sup>

<sup>10165</sup> Ljubomir Obradović, T. 14560.

<sup>10166</sup> Ljubomir Obradović, T. 14571-14572, 14631-14632.

<sup>10167</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84; Mitar Kovač, T. 41867.

<sup>10168</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84; Mitar Kovač, T. 41868.

<sup>10169</sup> D1661 (Mitar Kovač, Report on the command authority of Ratko Mladić, 2013), para. 5.84.

<sup>10170</sup> Manojlo Milovanović, T. 16993-16996, 17002-17003, 17079.

<sup>10171</sup> Manojlo Milovanović, T. 16996, 17000, 17003, 17020-17021.

<sup>10172</sup> Manojlo Milovanović, T. 17000, 17002, 17126-17127, 17079-17081.

<sup>10173</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 3.14.

2380. On 3 August 1995, Mladić issued a directive to the Commands of 1st and 2KK, VRS Main Staff and the SVK instructing VRS forces to prevent further advances of the enemy along all axes, then to re-group and move into counter-attack along the Livno axis.<sup>10174</sup> According to this directive, Mladić was to be personally in charge of the entire operation *Vaganj-95*, which was to be executed in the spirit of Directive no. 7 and Directive no. 7/1.<sup>10175</sup>

2381. On 11 October 1995, Mladić sent an order to *inter alia*, the Corps Commands and the MUP, to carry out combat security ‘as per Directive no. 7’.<sup>10176</sup>

*The Trial Chamber’s findings*

2382. Based on the above, the Trial Chamber finds that in March 1995 Radivoje Miletić (*see* chapter 3) and the VRS Main Staff drafted Directive no. 7. The directive was signed by Karadžić, Supreme Commander of the VRS (*see* chapter 2.1.1) on 8 March 1995. The directive was addressed to the 1KK, 2KK, SRK, IBK, HK, DK, Air Force and Anti-Aircraft Defence, and the Centre of Military Schools of the VRS.

2383. In Directive no. 7, Karadžić outlined the four main priorities of the VRS: (i) through resolute offensive and defensive military operations, impose a military situation which the international community would be compelled to accept; (ii) improve the operational and strategic position of the VRS; (iii) reduce the front-line, and create conditions for the economic revival of the Bosnian-Serb Republic by sending a number of military conscripts home; and (iv) create the conditions for the state and political leadership to negotiate a peace agreement and accomplish the strategic objectives of the war. The DK was to carry out the ‘complete physical separation of Srebrenica and Žepa [...] as soon as possible, preventing even communication between individuals in the two enclaves’, and ‘by planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa’.

2384. On 31 March 1995, the VRS Main Staff issued Directive no. 7/1, signed by Mladić and sent to the 1KK, IBK, DK, and the Air Force and Anti-Aircraft Defence

<sup>10174</sup> P5048 (Directive no. 8, signed by Ratko Mladić, 3 August 1995), p. 2.

<sup>10175</sup> P5048 (Directive no. 8, signed by Ratko Mladić, 3 August 1995), p. 6.

<sup>10176</sup> P4317 (Combat order by Mladić to the commands of various VRS corps and units, 11 October 1995).



(and to the 2KK, SRK, and HK, for their information). In this directive, Mladić repeated most of the tasks of the VRS outlined in Directive no. 7 and stated that he had decided to conduct, with the VRS main forces, including the 1KK, IBK, DK, and Air Force and Anti-Aircraft Defence, a strategic operation under the code-name *Sadejstvo 95*.

2385. Regarding the issue of whether Directive no. 7/1, as issued by Mladić, rescinded, amended or corrected, Directive no. 7 issued by Karadžić, as argued by the Defence, the Trial Chamber considered Obradović and Milovanović's evidence, as well as documentary evidence.<sup>10177</sup> The Trial Chamber notes that Obradović testified that when a new directive was issued, the previous directive was no longer in force. He also testified that Directive no. 7 remained in force with respect to the 2KK, SRK and the HK, as stated in Directive no. 7/1, but that the main body of the force consisting of the 1KK, IBK, and DK, were tasked with what was set out in Directive no. 7/1. The Trial Chamber further considered Milovanović's evidence that there is nothing in Directive no. 7/1 explicitly rescinding the controversial parts of Directive no. 7 and that in order to fully implement Directive no. 7/1 one would have to look at Directive no. 7. Further, the Trial Chamber reviewed exhibits P803, P345, P5048 and P4317 stating that: (i) on 26 March 1995, following an order on mobilisation issued by Karadžić, Mladić ordered VRS Corps Commands and units to, *inter alia*, 'continue to execute combat tasks in conformity with Directive no. 7'; (ii) on 30 March 1995, Mladić recorded in his notebook a meeting held on 30 March 1995 with the VRS Main Staff Command during which a discussion took place on the operation undertaken pursuant to Directive no. 7; (iii) on 3 August 1995, Mladić issued a directive instructing VRS forces to prevent further advances of the enemy along all axes and this operation was to be executed in the spirit of Directive no. 7 and Directive no. 7/1; and (iv) on 11 October 1995, Mladić sent an order to, *inter alia*, the Corps Commands and the MUP, to carry out combat security 'as per Directive no. 7'.

2386. Based on the above, the Trial Chamber finds that Directive no. 7/1 did not rescind or amend the content of Directive no. 7, but rather translated it into operational military tasks. The Trial Chamber thus rejects the Defence's arguments in this regard.

<sup>10177</sup> See exhibits P803 (Mladić mobilisation order, 26 March 1995), P5048 (Directive no. 8, signed by Ratko Mladić, 3 August 1995) and P4317 (Combat order by Mladić to the commands of various VRS corps and units, 11 October 1995).

2387. The Trial Chamber will analyze the events on the ground during the take-over of the Srebrenica enclave in chapters 7.1.1 and 7.1.3.

### 7.1.3 *The fall of Srebrenica and the gathering of people in Potočari*

2388. In this chapter, the Trial Chamber will review the evidence and make findings concerning the fall of Srebrenica and the gathering of people in Potočari in July 1995. The Trial Chamber took judicial notice of a number of Adjudicated Facts relating to the events surrounding the fall of Srebrenica and the gathering of people in Potočari. It further received evidence from **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>10178</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>10179</sup> **Lazar Ristić**, the Acting Commander of the 4th Infantry Battalion of the Zvornik Brigade between 1 July and 18 July 1995;<sup>10180</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>10181</sup> **Pieter Boering**, a former DutchBat Major who served as liaison officer with the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>10182</sup> **Eelco Koster**, a member of DutchBat;<sup>10183</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>10184</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>10185</sup> **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>10186</sup> **Witness RM-204**, a Bosnian Muslim from Srebrenica;<sup>10187</sup> **Mujo Subašić**, a Bosnian Muslim from Podžeplje, who worked as a

<sup>10178</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>10179</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

<sup>10180</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10035, 10037.

<sup>10181</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>10182</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1867-1873; Pieter Boering, T. 10025.

<sup>10183</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1.

<sup>10184</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>10185</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>10186</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6.

<sup>10187</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 1.

nurse in the Srebrenica hospital from April 1993 until 11 July 1995;<sup>10188</sup> **Mevludin Orić, Behara Krdžić, Witness RM-311, Witness RM-249, Witness RM-255, Witness RM-362, Mirsada Gabeljić, Šifa Hafizović, Witness RM-312, Nura Efendić, Samila Salčinović, Hana Mehmedović, Šehra Ibišević**, all Bosnian Muslims from Srebrenica Municipality;<sup>10189</sup> **Evert Rave**, a member of DutchBat who served as a Security and Liaison Officer in Srebrenica from January to late July 1995;<sup>10190</sup> **Dražen Erdemović**, a Bosnian-Croat member of the VRS 10th Sabotage Detachment;<sup>10191</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>10192</sup> The Trial Chamber

<sup>10188</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), p. 1, paras 3, 10-11, 29, 31.

<sup>10189</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869. P1024 (Behara Krdžić, witness statement, 16 June 2000), pp. 1-2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 1. P3520 (Witness RM-311, witness statement, 5 December 2004), pp. 1-2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), p. 3306. P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 1-2; Witness RM-249, T. 15410-15411 (Witness RM-249's evidence is also reviewed in chapter 7.1.5). P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2. P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302. P1029 (Mirsada Gabeljić, witness statement, 18 June 2000), pp. 1-2; P1030 (Mirsada Gabeljić, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 1. P1045 (Šifa Hafizović, witness statement, 16 June 2000), pp. 1-2; P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 1. P3488 (Witness RM-312, witness statement, 16 October 2002), pp. 1-2; P3489 (Witness RM-312, *Popović et al.* transcript, 6 November 2006), pp. 3594-3595, 3598. P1027 (Nura Efendić, witness statement, 21 June 2000), pp. 1-2; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), pp. 1-2. P1016 (Samila Salčinović, witness statement, 18 June 2000), pp. 1-2; P1017 (Samila Salčinović, statement taken by the Tuzla Cantonal Court, 18 June 2000), pp. 1-2. P1038 (Hana Mehmedović, witness statement, 17 June 2000), pp. 1-2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. P1021 (Šehra Ibišević, witness statement, 21 June 2000), pp. 1-2; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2.

<sup>10190</sup> P1149 (Evert Rave, witness statement, 17 February 1998), p. 1, paras 1, 61-62; Evert Rave, T. 10255.

<sup>10191</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 832, 834-835.

<sup>10192</sup> **Momir Nikolić**: Momir Nikolić, T. 11806. **Lazar Ristić**: P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), p. 10042. **Witness RM-255**: P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1186-1187. **Paul Groenewegen**: P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 18-19, 21-22, 47; Paul Groenewegen, T. 10483-10484, 10538. **Evert Rave**: P1149 (Evert Rave, witness statement, 17 February 1998), paras 16, 18; Evert Rave, T. 10167-10169, 10170, 10191, 10233-10234, 10285-10288, 10292-10293; P1152 (UNPROFOR warning to the VRS, 9 July 1995), p. 2. **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2. **Mevludin Orić**: P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 869-870. **Robert Franken**: Robert Franken, T. 10731-10735, 10784-10785, 10791-10792; P1417 (Robert Franken, witness statement, 15 January 2012), paras 48-51, 58, 60, 65; P1422 (Aerial image of Potočari marked by the witness). **Rupert Smith**: P785 (Rupert Smith, witness statement, 27 October 2009), paras 150-151. **Anthony Banbury**: P874 (Anthony Banbury, witness statement, 19 May 2009), para. 180. **Mirsada Gabeljić**: P1029 (Mirsada Gabeljić, witness statement, 18 June 2000), pp. 1-2; P1030 (Mirsada Gabeljić, statement taken by the Tuzla Cantonal Court, 18 June 2000), pp. 1-2. **Šifa Hafizović**: P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), pp. 1-2. **Witness RM-312**: P3488 (Witness RM-312, witness statement, 16 October 2002), p. 2; P3489 (Witness RM-312, *Popović et al.* transcript, 6 November 2006), pp. 3595, 3598-3600. **Nura Efendić**: P1027 (Nura Efendić, witness statement, 21 June 2000), p. 2; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2. **Samila Salčinović**: P1016 (Samila Salčinović, witness statement, 18 June 2000), p. 2; P1017 (Samila Salčinović, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 2. **Witness RM-249**: P1990 (Witness RM-249, witness statement, 24 January 1996), p. 2, 18, 19; Witness RM-249, T. 15410. **Witness RM-362**: P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17304-17306, 17307. **Witness RM-311**: P3520 (Witness RM-311, witness statement, 5 December 2004),

further received evidence from **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>10193</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>10194</sup> **Witness RM-257**, a Bosnian Muslim;<sup>10195</sup> **Joseph Kingori**, an UNMO present in the Srebrenica enclave from March 1995 to around 20 July 1995;<sup>10196</sup> **Leendert van Duijn**, a DutchBat platoon commander who was stationed in Potočari from January to July 1995;<sup>10197</sup> **Witness RM-284**, a Bosnian Serb;<sup>10198</sup> **Mendeljev Đurić**, a.k.a. Mane, the Bosnian-Serb commander of the 1st Company of the Special Police Brigade at the Jahorina training centre in July 1995;<sup>10199</sup> **Pero Andrić**, a Serb member of the military police platoon of the Bratunac Brigade from 1994 until July 1995;<sup>10200</sup> **Nenad Deronjić**, a Serb policeman in Bratunac and Srebrenica from 1991 until 1996;<sup>10201</sup> **Nedo Jovičić**, a member of the Special Police Brigade as the driver to Deputy Commander of the brigade Ljubomir Borovčanin during 1995;<sup>10202</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>10203</sup> **Zoran Kovačević**, a company commander in the Bratunac Brigade as of

p. 2, and pp 6-11 (B/C/S version); P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3310-3311. **Mujo Subašić**: P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 28, 32. **Behara Krdžić**: P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2. **Eelco Koster**: Eelco Koster, T. 1211-1212, 1266-1267; P57 (Eelco Koster, witness statement, 26 September 1995), pp. 9, 14; P58 (Map showing the Srebrenica-Bratunac area with location of UN Dutch compound in Potočari and Yellow Bridge marked). **Dražen Erdemović**: Dražen Erdemović, T. 13739-13740. **Pieter Boering**: P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1871-1872, 1920-1925, 1927-1929, 1931-1932, 1937-1939; Pieter Boering, T. 10034, 10058-10059, 10062-10063; D273 (Situation report on Srebrenica addressed to UNMO Headquarters, 11 July 1995). **Hana Mehmedović**: P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. **Šehra Ibišević**: P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 2; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2. The evidence of Witness RM-311 is also reviewed in chapter 7.1.6; Pieter Boering's evidence is also reviewed in chapter 7.1.4; Witness RM-333's evidence is also reviewed in chapter 7.1.5.

<sup>10193</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756.

<sup>10194</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>10195</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 1.

<sup>10196</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 3, 7.

<sup>10197</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2256-2258, 2261.

<sup>10198</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

<sup>10199</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10790, 10793, 10796-10797.

<sup>10200</sup> Pero Andrić, T. 34096-34097, 34130-34131; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2.

<sup>10201</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 1-4; Nenad Deronjić, T. 24428.

<sup>10202</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>10203</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

April 1992;<sup>10204</sup> **Zlatan Čelanović**, who in 1995 was a member of the VRS Bratunac Light Infantry Brigade;<sup>10205</sup> **Witness RM-260**, member of the Civilian Protection staff in Bratunac Municipality in July 1995;<sup>10206</sup> **Dušan Mičić**, a military policeman of the TO from early May 1992 until March 1993 and later commander of a PJP unit in Bratunac;<sup>10207</sup> **Witness RM-268**, a member of the Special Police Brigade in 1995;<sup>10208</sup> **Tomislav Savkić**, the former Commander of the 1st Infantry Battalion in Milići and from 1 November 1993 President of the Milići Municipal Assembly;<sup>10209</sup> **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and the Bosnian-Serb Republic in 1995;<sup>10210</sup> **Saliha Osmanović** and **Hanifa Hafizović**, both Bosnian Muslims from Srebrenica Municipality;<sup>10211</sup> **András Riedlmayer**, a bibliographer and art documentation specialist,<sup>10212</sup> and documentary evidence.<sup>10213</sup>

*The attack on the enclave*

2389. The VRS offensive on Srebrenica began in earnest on 6 July 1995.<sup>10214</sup> **Robert Franken** testified that the VRS attacked the enclave *inter alia* with tank and heavy machine gun fire.<sup>10215</sup> A report from the Command of the 28th Division of the ABiH dated 6 July 1995, mentioned an ‘exceptionally difficult’ humanitarian situation: a convoy set to arrive on 6 July did not arrive; elderly and weak persons were in an exceptionally difficult situation due to starvation; and the first people to die of hunger in the area of Srebrenica were registered on that day. The report further mentions numerous attacks from ‘the aggressor’, launched with heavy artillery and tanks, against

<sup>10204</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), paras 2, 4-5, 7.

<sup>10205</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), p.6626.

<sup>10206</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7861-7862.

<sup>10207</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758.

<sup>10208</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567.

<sup>10209</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 2.

<sup>10210</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1.

<sup>10211</sup> P1461 (Saliha Osmanović, witness statement, 18 June 2000), p. 1, para. 1; Saliha Osmanović, T. 11177-11178. P1008 (Hanifa Hafizović, witness statement, 16 June 2000), pp. 1, 3; P1009 (Hanifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 1.

<sup>10212</sup> P2503 (Expert report of András Riedlmayer, December 2012), para. 75; András Riedlmayer, T. 17888; P2504 (*Curriculum vitae* of András Riedlmayer), p. 1. With regard to the Trial Chamber’s approach concerning Riedlmayer’s evidence, see Appendix B.

<sup>10213</sup> This includes evidence tendered through the witnesses hereby considered as well as P6862 and P1147.

<sup>10214</sup> Adjudicated Facts II, no. 1363.

<sup>10215</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 45-46.

all lines of defence in the zone of responsibility of the 28th Division.<sup>10216</sup> In particular, the wider area of Sućeska was shelled around 2 p.m.<sup>10217</sup> On that day, over 20 shells fell on the town and several ‘civilians’ were killed or wounded in the zone of responsibility of the 28th Division.<sup>10218</sup>

2390. **Witness RM-257** stated that the shelling was continuous until 10 July 1995.<sup>10219</sup> Shelling on 7 and 8 July 1995 was relatively quiet due to weather conditions but intensified on 9 July 1995.<sup>10220</sup> **Witness RM-204** stated that on 8 or 9 July 1995 the first shell hit the Slapovići settlement of Srebrenica from the direction of the ‘Chetnik’ front lines.<sup>10221</sup> The shelling continued for two or three days.<sup>10222</sup>

2391. Targets included Srebrenica Town, Potočari, and DutchBat positions.<sup>10223</sup> **Franken** testified that at the beginning of the attack, Bravo Company reported random shelling of the city of Srebrenica Town and ‘civilians’ being brought to the hospital, and there was firing directed at the UN base in Potočari and its surroundings.<sup>10224</sup> Early in the morning of 6 July 1995, five rockets exploded near the DutchBat headquarters in Potočari.<sup>10225</sup> **Witness RM-255** testified that the enclave was constantly shelled for seven days before 11 July 1995, with shells coming from the directions of Zeleni Jadar, Zvijezda, and Caus.<sup>10226</sup> **Evert Rave** testified that on 7 July 1995, the VRS resumed its attack against the enclave, firing into the safe area, targeting UN facilities, and causing several civilian deaths.<sup>10227</sup> On 8 July 1995, Dutchbat troops were forced to retire.<sup>10228</sup> **Franken** testified that while withdrawing they were fired upon by members of the 28th Division of the ABiH, resulting in the death of a private.<sup>10229</sup> OPs Delta, Sierra, and Mike also came under fire from what DutchBat had concluded to be members of the

<sup>10216</sup> P6862 (Combat report from the Command of the 28th Division of the ABiH to the 2nd Corps Command in Tuzla, 6 July 1995), pp.1-2.

<sup>10217</sup> P6862 (Combat report from the Command of the 28th Division of the ABiH to the 2nd Corps Command in Tuzla, 6 July 1995), p. 1.

<sup>10218</sup> P6862 (Combat report from the Command of the 28th Division of the ABiH to the 2nd Corps Command in Tuzla, 6 July 1995), pp. 1-2.

<sup>10219</sup> P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3502-3504.

<sup>10220</sup> Adjudicated Facts II, no. 1365.

<sup>10221</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2.

<sup>10222</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2.

<sup>10223</sup> Adjudicated Facts II, no. 1365.

<sup>10224</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 46.

<sup>10225</sup> Adjudicated Facts II, no. 1364.

<sup>10226</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1186-1187.

<sup>10227</sup> Evert Rave, T. 10285-10288; P1152 (UNPROFOR warning to the VRS, 9 July 1995), p. 2.

<sup>10228</sup> P1152 (UNPROFOR warning to VRS, 9 July 1995), p. 2.

<sup>10229</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 47; Robert Franken, T. 10784, 10788-10790.

ABiH.<sup>10230</sup> On 8 July 1995, one peacekeeper was mortally wounded and two UN OPs were overrun by the VRS.<sup>10231</sup> Soldiers at the OPs were detained and forced to hand over their equipment, including in one case an APC.<sup>10232</sup> Some of the Dutch soldiers retreated into the enclave after their posts were attacked, but the crews of other OPs surrendered into Bosnian-Serb custody.<sup>10233</sup> The DutchBat soldiers who were detained were taken to Bratunac and Milići.<sup>10234</sup>

2392. **Witness RM-204** stated that on 8 or 9 July 1995, when the first shell hit the Slapovići settlement of Srebrenica from the direction of the ‘Chetnik’ front lines, some residents decided to leave the settlement in the direction of Sućeska. When they reached the village of Vijogor most of the women and children went to Potočari while the men and some of the women stayed in Vijogor for one night.<sup>10235</sup>

2393. In the days following 6 July 1995, the five UNPROFOR OPs in the southern part of the enclave fell one by one in the face of the advance of the Bosnian-Serb forces.<sup>10236</sup> By the evening of 9 July 1995, the VRS DK had pressed four kilometres deep into the enclave, halting just one kilometre short of Srebrenica Town.<sup>10237</sup> **Franken** testified that DutchBat was ordered by UNPROFOR Command to defend Srebrenica Town with all military means necessary, even though its military effectiveness had been greatly reduced to the point that it relied on machine-guns and rifles only.<sup>10238</sup> Upon receiving the order to defend the town, DutchBat concluded that its mandate had changed.<sup>10239</sup> Franken issued an order that evening which he noted was a ‘seriously intended green assignment’ to DutchBat’s Bravo Company, augmented by Quick Reaction Forces, to take blocking positions on the southern edge of Srebrenica to prevent the Serbs from entering the town.<sup>10240</sup> Franken testified that ‘green’ orders meant normal military-like operations, whereas ‘blue’ orders meant orders related to less aggressive policing operations and that he had included a reference to a green assignment to make clear that

<sup>10230</sup> Robert Franken, T. 10785-10787; D280 (Debriefing of General Franken with the Dutch Ministry of Defence, 22 July 1995), p. 2.

<sup>10231</sup> P1152 (UNPROFOR warning to VRS, 9 July 1995), p. 2.

<sup>10232</sup> Adjudicated Facts II, no. 1368.

<sup>10233</sup> Adjudicated Facts II, no. 1369.

<sup>10234</sup> Adjudicated Facts II, no. 1370.

<sup>10235</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2.

<sup>10236</sup> Adjudicated Facts II, no. 1367.

<sup>10237</sup> Adjudicated Facts II, no. 1374.

<sup>10238</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 52; Robert Franken, T. 10725-10729, 10752-10754; P1421 (Order from General Franken addressed to Captain Groen, 9 July 1995).

<sup>10239</sup> Robert Franken, T. 10752-10753.

the defence of Srebrenica was meant as a military action.<sup>10241</sup> **Rave** testified that Franken's order was issued on or about 9 July 1995 and as a result of it the Dutchbat became less visible and moved 'more into a military situation'; they were now allowed to fire back, if there was any fire at the battalion, but they only fired overhead.<sup>10242</sup>

2394. Also on 9 July 1995, Rupert Smith informed the VRS that the 7 and 8 July attacks against the UN OPs and the UN-declared safe area were unacceptable.<sup>10243</sup> The UNPROFOR demanded that the VRS withdraw to the perimeter of the demilitarised zone and that the Dutch peacekeepers be released. The VRS was further informed that the Dutchbat had been ordered to establish a blocking position to the south of the town, and that if this position was attacked, the NATO Close Air support would be employed. The VRS was reminded of the grave consequences of ignoring this warning.<sup>10244</sup> **Franken** testified that the VRS responded to the ultimatum over the radio with an ultimatum of its own, read by a DutchBat detainee, that if the DutchBat stopped all hostile activity and agreed to leave its equipment and weapons behind, its personnel and the civilian population would be allowed to leave the enclave.<sup>10245</sup>

2395. The blocking positions on the southern edge of Srebrenica Town were generally established early in the morning on 10 July 1995.<sup>10246</sup> On that day, the DutchBat blocking positions were under Bosnian-Serb tank and artillery fire and there was 'massive' shelling of Srebrenica Town and the DutchBat compound from over 160 rounds fired by approximately 32 artillery or mortar positions and about six main battle tanks, resulting in the wounded being taken to the civilian hospital in Srebrenica.<sup>10247</sup> **Pieter Boering** testified that a mortar grenade fell close to the UNPROFOR Bravo Company compound, wounding a little boy.<sup>10248</sup> On the same morning, residents in Srebrenica Town, some armed, crowded the streets.<sup>10249</sup> Simultaneously, the defending ABiH forces came under heavy fire and were pushed back towards the town.<sup>10250</sup> Once

<sup>10240</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 52; Robert Franken, T. 10725-10729, 10752-10754; P1421 (Order from General Franken addressed to Captain Groen, 9 July 1995).

<sup>10241</sup> Robert Franken, T. 10727-10729; P1421 (Order from General Franken addressed to Captain Groen, 9 July 1995), p. 1.

<sup>10242</sup> Evert Rave, T. 10207-10210, 10212-10216.

<sup>10243</sup> P1152 (UNPROFOR warning to the VRS, 9 July 1995).

<sup>10244</sup> P1152 (UNPROFOR warning to the VRS, 9 July 1995), p. 2.

<sup>10245</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 56.

<sup>10246</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 52, 54.

<sup>10247</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 53, 55.

<sup>10248</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1932, 1938.

<sup>10249</sup> Adjudicated Facts II, no. 1375.

<sup>10250</sup> Adjudicated Facts II, no. 1371.



the southern perimeter began to collapse, about 4,000 Bosnian-Muslim residents, who had been living in a nearby Swedish housing complex for refugees, fled north into Srebrenica Town.<sup>10251</sup> **Rave** testified that on the same day, people began putting tree logs on the road leading to the UN compound and gathering in front. According to the witness, they were afraid that the UN would leave Srebrenica.<sup>10252</sup>

2396. **Franken** testified that at some point during the attack on the enclave, DutchBat allowed members of the ABiH 28th Division to take the weapons that were being stored in the WCP in the UN compound.<sup>10253</sup> During the evening or night of 10 July, members of the 28th Division stopped a column of Bosnian-Muslim ‘civilians’ on the Srebrenica-Potočari road and asked them to return to Srebrenica. The last sighting of members of the 28th Division in Srebrenica was in the late evening of 10 July when Colonel Karremans apparently saw them at the market place in the town. By the morning of 11 July 1995, the 28th Division had left the area.<sup>10254</sup> The DutchBat OPs continued to be taken over by the VRS on that day, and in most cases, when the VRS took over an OP, the DutchBat soldiers there had to hand in their small arms and were all eventually detained by the VRS and transported to Bratunac, with the exception of OP Alpha personnel who were directed to return to Potočari.<sup>10255</sup>

2397. **Mujo Subašić** stated that he heard while working at the hospital that on 10 July 1995 a counter-attack was launched by the ABiH against the Serb forces, which had gathered at the border of the enclave.<sup>10256</sup> The day after, Serb forces took over the villages of Ljubisavići and Pasmulići and torched houses.<sup>10257</sup> As the inhabitants of this area had started leaving, the witness decided to bring his family, residing in the neighbouring village of Bajramovići, to the Vezionica factory in Srebrenica, then used by UNPROFOR.<sup>10258</sup>

2398. **Franken** testified that on 13 July 1995, he informed the Commander of Bravo Company in writing about the VRS ultimatum and the UN’s reaction, which was that

<sup>10251</sup> Adjudicated Facts II, no. 1373.

<sup>10252</sup> Evert Rave, T. 10166-10167.

<sup>10253</sup> Robert Franken, T. 10761.

<sup>10254</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 57.

<sup>10255</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 58-59.

<sup>10256</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 26-27.

<sup>10257</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 28.

<sup>10258</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 28.

the VRS should withdraw or face air attacks on VRS targets in and around the enclave.<sup>10259</sup>

*Forces participating in the attack on Srebrenica*

2399. With regard to the forces participating in the attack, **Momir Nikolić** testified that when the attack on Srebrenica started on 6 July 1995, the Bratunac Brigade's IKM was located at Pribičevac.<sup>10260</sup> A few days after the start of combat, Mladić visited the Brigade.<sup>10261</sup> On 8 or 9 July 1995, Radoslav Janković of the Main Staff Intelligence Administration visited the witness and told him that he had come to the Bratunac Brigade on the orders of the VRS Main Staff in order to assist him.<sup>10262</sup> From this moment on, Janković and the witness shared an office in the Bratunac Brigade headquarters in Bratunac.<sup>10263</sup> Janković took over the contact with members of DutchBat and international organizations and the witness and Janković drafted intelligence and security reports jointly.<sup>10264</sup> In the days before 11 July 1995, the witness saw a number of VRS Main Staff officers at the Bratunac Brigade headquarters in Bratunac, including Mladić, Janković, and many DK Command officers, including General Krstić, Lieutenant Colonel Popović, Lieutenant Colonel Kosorić, and Vinko Pandurević.<sup>10265</sup> **Witness RM-284** testified that on 9 and 10 July 1995, Mladić was almost always at the Bratunac Brigade's IKM.<sup>10266</sup> Mladić was receiving information from Krstić and Zivanović on how the attack on Srebrenica was progressing.<sup>10267</sup>

2400. **Dražen Erdemović** testified that in the afternoon of 10 July 1995, he and the other members of the Bijeljina platoon of the 10th Sabotage Detachment travelled to Bratunac pursuant to an order from their commander, Pelemiš.<sup>10268</sup> In Bratunac, they were joined by the Vlasenica platoon of the 10th Sabotage Detachment.<sup>10269</sup> The members of the two platoons then boarded military vehicles and moved towards

<sup>10259</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 56; P1427 (Order from General Franken addressed to Captain Groen, 13 July 1995).

<sup>10260</sup> Momir Nikolić, T. 12143.

<sup>10261</sup> Momir Nikolić, T. 12143-12144.

<sup>10262</sup> Momir Nikolić, T. 11805.

<sup>10263</sup> Momir Nikolić, T. 11804, 11806, 11812, 11959.

<sup>10264</sup> Momir Nikolić, T. 11805, 11812-11814.

<sup>10265</sup> Momir Nikolić, T. 11804.

<sup>10266</sup> Witness RM-284, T. 11120-11121.

<sup>10267</sup> Witness RM-284, T. 11121.

<sup>10268</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 836; Dražen Erdemović, T. 13726-13727; D320 (VRS 10th Sabotage Detachment order no. 123-2/95, 10 July 1995), pp. 1-2.

Srebrenica in order to take part in an attack on the enclave.<sup>10270</sup> The members of the 10th Sabotage Detachment arrived near Srebrenica that evening and spent the night at an elevation above the town.<sup>10271</sup>

2401. **Witness RM-333** testified that on 10 July 1995, based on an order by the VRS Supreme Commander and in order to crush the enemy offensive from the Srebrenica protected zone, Tomislav Kovač, Headquarters Commander in the Office of the Minister of the Interior, ordered a company from the MUP training centre in Jahorina, Pale Municipality; the 2nd Special Police Detachment from Šekovići, commanded by Miloš Stupar and Rado Čturić; the 1st Company of the Zvornik Special Police Unit of the Zvornik CSB; one company of joint forces of the RSK MUP, the Serbian MUP, and the Bosnian-Serb MUP, and one company from the Jahorina police training centre to join an independent unit of MUP forces which was to be sent to the Srebrenica sector on 11 July 1995 to participate in the *Srebrenica 95* operation.<sup>10272</sup> Pursuant to the same order, Kovač appointed Ljubiša Borovčanin, the Deputy Commander of the Special Police Brigade, to command this MUP unit.<sup>10273</sup> Kovač further ordered Borovčanin to contact General Krstić upon arrival at the destination.<sup>10274</sup> Borovčanin arrived in Bratunac around noon on 11 July 1995, and contacted Mladić, who, according to Borovčanin's report, personally commanded the operation. Mladić ordered him to go with all available manpower and equipment to Potočari and Milačevići. Borovčanin reported that he found the task to be unrealistic since none of the envisaged MUP forces had arrived yet. Mladić had ordered Borovčanin to launch an attack in the early morning hours of 12 July 1995. At about 3 a.m., the 2nd Special Police Detachment from Šekovići arrived in Bratunac.<sup>10275</sup>

2402. **Witness RM-333** testified that around 11 July 1995, Duško Jević and an officer whom the witness believed to be of higher rank ordered all conscripts from the Jahorina

<sup>10269</sup> Dražen Erdemović, T. 13726-13727.

<sup>10270</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 836; Dražen Erdemović, T. 13726-13727.

<sup>10271</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 836; Dražen Erdemović, T. 13727, 13739.

<sup>10272</sup> Witness RM-333, T. 6759, 6762-6763; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) pp. 1, 6; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1.

<sup>10273</sup> Witness RM-333, T. 6790; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p.1.

<sup>10274</sup> D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 2.

police training centre to leave for Potočari.<sup>10276</sup> The 1st Company left Jahorina ahead of the 2nd Company, the latter left for Trnovo the following day.<sup>10277</sup> The 1st Company arrived late afternoon at a school in Bjelovac, Bratunac Municipality, located close to the Drina river.<sup>10278</sup> No other police or army units were present at that location when they arrived on 11 July 1995.<sup>10279</sup>

2403. **András Riedlmayer** testified that the Čaršjska, Petrička, and Vidikovac mosques, located in Srebrenica Town, were destroyed with explosives.<sup>10280</sup> The Čaršjska mosque was destroyed a few days after 14 July 1995, the Petrička mosque sometime after 14 July 1995, and the Vidikovac mosque sometime between 14 July 1995 and the end of the war.<sup>10281</sup> According to an article published in a Serbian magazine in July 1995 and reproduced in Riedlmayer's report, soldiers positioned further explosives in the Čaršjska mosque after its minaret was blown up.<sup>10282</sup> The Čaršjska mosque's ruins were razed, its rubble cleared, and the site levelled after the summer of 1996.<sup>10283</sup> After the first half of 1996, the Petrička mosque was razed and its rubble bulldozed.<sup>10284</sup> According to Riedlmayer, the buildings adjacent to the Čaršjska mosque were lightly damaged, while the buildings adjacent to the Petrička and Vidikovac mosques were in good condition.<sup>10285</sup>

<sup>10275</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 2.

<sup>10276</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14800-14802, 14869-14870, 14904

<sup>10277</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14801-14802, 14871; Witness RM-333, T. 6774-6775.

<sup>10278</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14801-14802, 14871; Witness RM-333, T. 6749, 6774-6775. *See also* P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995), p. 2.

<sup>10279</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14802.

<sup>10280</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 218-219, 222-223, 250, 265-267; P2511 (Survey database for expert report of András Riedlmayer); P2513 (Annex to András Riedlmayer's expert report, 30 September 2013), pp. 35-36, 38-39; P2514 (Excel spreadsheet provided as an update to András Riedlmayer's expert report, 27 September 2013).

<sup>10281</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 218-219, 222-223, 250-251, 265-267; P2511 (Survey database for expert report of András Riedlmayer); P2513 (Annex to András Riedlmayer's expert report, 30 September 2013), pp. 35-36, 38-39; András Riedlmayer, T. 17950-17951.

<sup>10282</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 218-219, 223; P2511 (Survey database for expert report of András Riedlmayer).

<sup>10283</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 218-219, 224-227; P2511 (Survey database for expert report of András Riedlmayer); P2513 (Annex to András Riedlmayer's expert report, 30 September 2013), p. 35.

<sup>10284</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 250, 253; P2511 (Survey database for expert report of András Riedlmayer); P2513 (Annex to András Riedlmayer's expert report, 30 September 2013), pp. 36-37.

<sup>10285</sup> P2510 (Formatted entries to expert report of András Riedlmayer), pp. 218, 250; P2511 (Survey database for expert report of András Riedlmayer).

2404. Two religious buildings located in Srebrenica Town were burned: the White mosque sometime after 19 July 1995 and before the end of the war and the building housing the archive and library of the Medžlis of the Islamic Community of Srebrenica, sometime after 11 July 1995 and before the end of the war.<sup>10286</sup> The ruins of the White mosque were blown up before the end of the war.<sup>10287</sup> In January 1993, an aircraft coming from the direction of Serbia dropped a bomb near the Crvena Rijeka mosque, which stood next to the building housing the archive and library, during the war, damaging the mosque, which was later repaired by residents of the neighbourhood. The mosque was destroyed, its ruins razed, and the site levelled sometime after 11 July 1995.<sup>10288</sup> According to Riedlmayer, the buildings adjacent to the White mosque were lightly damaged, those adjacent to the Crvena Rijeka mosque were heavily damaged, and those adjacent to the archive and library of the Medžlis of the Islamic Community of Srebrenica were completely destroyed.<sup>10289</sup>

2405. The Srebrenica Town Catholic church's roof and interior were damaged as a result of shelling during the siege of Srebrenica.<sup>10290</sup> According to Riedlmayer, the buildings adjacent to the church were in good condition.<sup>10291</sup> The Slapovići mosque in Srebrenica Municipality was burned sometime after 11 July 1995 and before the end of the war.<sup>10292</sup> The Sućeska mosque in Srebrenica Municipality, which had been shelled by Serb forces in 1992 and 1993, was again heavily shelled in July 1995.<sup>10293</sup>

<sup>10286</sup> P2503 (Expert report of Andrés Riedlmayer, December 2012), paras 40, 42, 62; P2510 (Formatted entries to expert report of Andrés Riedlmayer), pp. 254, 256, 263; P2511 (Survey database for expert report of Andrés Riedlmayer); P2513 (Annex to Andrés Riedlmayer's expert report, 30 September 2013), pp. 33-34, 37-38; P2514 (Excel spreadsheet provided as an update to Andrés Riedlmayer's expert report, 27 September 2013).

<sup>10287</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), p. 254; P2511 (Survey database for expert report of Andrés Riedlmayer); P2513 (Annex to Andrés Riedlmayer's expert report, 30 September 2013), p. 37.

<sup>10288</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), pp. 259, 263; P2511 (Survey database for expert report of Andrés Riedlmayer); P2513 (Annex to Andrés Riedlmayer's expert report, 30 September 2013), pp. 33-34, 37-38.

<sup>10289</sup> P2511 (Survey database for expert report of Andrés Riedlmayer).

<sup>10290</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), p. 269; P2511 (Survey database for expert report of Andrés Riedlmayer); P2514 (Excel spreadsheet provided as an update to Andrés Riedlmayer's expert report, 27 September 2013).

<sup>10291</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), p. 269; P2511 (Survey database for expert report of Andrés Riedlmayer).

<sup>10292</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), pp. 275-276; P2511 (Survey database for expert report of Andrés Riedlmayer).

<sup>10293</sup> P2510 (Formatted entries to expert report of Andrés Riedlmayer), pp. 229-230; P2511 (Survey database for expert report of Andrés Riedlmayer); P2513 (Annex to Andrés Riedlmayer's expert report, 30 September 2013), p. 39; P2514 (Excel spreadsheet provided as an update to Andrés Riedlmayer's expert report, 27 September 2013).

2406. With regard to Riedlmayer's evidence on the destruction of other religious buildings,<sup>10294</sup> and as explained previously,<sup>10295</sup> the Trial Chamber will not rely on the witness's evidence with regard to the date and perpetrators of these incidents of destruction. Thus, in the absence of additional evidence on the date and perpetrators of these incidents of destruction, the Trial Chamber will not further consider these incidents in relation to any counts of the Indictment.

*The fall of Srebrenica*

2407. **Witness RM-311** testified that in July of 1995, just prior to the fall of Srebrenica, she and her family fled from their homes, along with many other inhabitants from surrounding villages who were trying to escape from the 'shooting from all sides'.<sup>10296</sup> The witness and her family spent the night in a relative's house in Srebrenica Town. The next morning there was extensive shelling, breaking some of the windows in the house.<sup>10297</sup>

2408. **Erdemović** testified that on the morning of 11 July 1995, on the orders of Pelemiš, the 10th Sabotage Detachment descended into the town of Srebrenica.<sup>10298</sup> Before leaving for Srebrenica, Pelemiš ordered the members of the unit not to fire at or otherwise harm the civilian population.<sup>10299</sup> He also ordered the soldiers to direct any civilians towards the football stadium in town.<sup>10300</sup> When the witness and his unit approached the first houses in Srebrenica, two airborne bombs exploded near them.<sup>10301</sup>

<sup>10294</sup> These other religious buildings are: Dobrak Mosque, Osmaće Mosque, Osat Mosque, Tokoljaci New Mosque, Tokoljaci Old Mosque, Liješće Mosque, Peći Old Mosque, Peći New Mosque, Sase Mosque, and Gornji Potočari Mosque. P2503 (Expert report of Andrés Riedlmayer, December 2012), para. 47; P2510 (Formatted entries to expert report of Andrés Riedlmayer), pp. 232-238, 240-244, 246-249, 272-274; P2511 (Survey database for expert report of Andrés Riedlmayer); P2513 (Annex to Andrés Riedlmayer's expert report, 30 September 2013), pp. 34-35, 39; P2514 (Excel spreadsheet provided as an update to Andrés Riedlmayer's expert report, 27 September 2013).

<sup>10295</sup> See Appendix B.

<sup>10296</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3306-3307.

<sup>10297</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), p. 3307.

<sup>10298</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 837; Dražen Erdemović, T. 13739.

<sup>10299</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 837-838; Dražen Erdemović, T. 13739, 13741-13742.

<sup>10300</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 837; Dražen Erdemović, T. 13739.

<sup>10301</sup> Dražen Erdemović, T. 13739-13740.

According to the witness, these bombs were dropped by NATO warplanes.<sup>10302</sup> Other than this incident, the unit encountered no resistance and did not see any armed Bosnian Muslims when entering Srebrenica.<sup>10303</sup> Upon their arrival in Srebrenica Town, members of the 10th Sabotage Detachment were calling on the few people who remained there to leave their houses.<sup>10304</sup> When the unit called on the inhabitants of the town to leave their houses and go to the football stadium, only 100 to 200 people, mostly elderly, responded.<sup>10305</sup> Once the members of the unit reached the centre of the town, a Bosnian-Muslim man, around the age of 30, surrendered to them.<sup>10306</sup> However, contrary to the terms of his previous order, Pelemiš instructed a man named Zoran to kill the Bosnian Muslim.<sup>10307</sup> According to the witness, this man carried out this order by slitting the man's throat.<sup>10308</sup> The body of the victim was left behind, in plain view.<sup>10309</sup> After this killing, Pelemiš ordered Erdemović and two or three other members of the detachment to go back to the entrance of Srebrenica Town, form a checkpoint, and report back as soon as Mladić passed by.<sup>10310</sup> The group accordingly went back to the outskirts of the town and established a checkpoint.<sup>10311</sup> After about one or two hours, the witness saw Mladić pass by his checkpoint, riding in an ex-JNA military vehicle.<sup>10312</sup> Erdemović reported this to Pelemiš.<sup>10313</sup>

2409. DutchBat Commander Colonel Thomas Karremans sent urgent requests for NATO air support to defend the town, but no assistance was forthcoming until around 2:30 p.m. on 11 July 1995, when NATO bombed VRS tanks advancing towards the

<sup>10302</sup> Dražen Erdemović, T. 13740.

<sup>10303</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 852.

<sup>10304</sup> Adjudicated Facts II, no. 1386.

<sup>10305</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 837; Dražen Erdemović, T. 13743.

<sup>10306</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 837-838; Dražen Erdemović, T. 13711.

<sup>10307</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 838; Dražen Erdemović, T. 13710-13711, 13741-13742.

<sup>10308</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 838, 852; Dražen Erdemović, T. 13711.

<sup>10309</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 839; Dražen Erdemović, T. 13710-13711; P1148 (Srebrenica Trial Video stills book), p. 53.

<sup>10310</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 839; Dražen Erdemović, T. 13741-13742.

<sup>10311</sup> Dražen Erdemović, T. 13741-13742.

<sup>10312</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 839, 853; Dražen Erdemović, T. 13741-13742, 13780-13781.

<sup>10313</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 839; Dražen Erdemović, T. 13742.

town.<sup>10314</sup> NATO planes attempted to bomb VRS artillery positions overlooking the town, but had to abort the operation due to poor visibility.<sup>10315</sup>

2410. Srebrenica remained under fire until the enclave fell on 11 July 1995 when the VRS entered Srebrenica Town.<sup>10316</sup> **Witness RM-284** testified that he was present when Mladić, Krstić, and the VRS entered Srebrenica around 11 a.m. or noon on that day.<sup>10317</sup> Upon arrival in Srebrenica, Mladić said: ‘Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet great Serb holiday, we give this town to the Serb people as a gift. Finally, after the [R]ebellion against the Dahis, the time has come to take revenge on the Turks in this region’.<sup>10318</sup> Soldiers from the 10th Sabotage Detachment were present at a checkpoint during the VRS victory walk through Srebrenica on 11 July 1995 and the Commander of that unit, Miso Pelemiš<sup>10319</sup> was in the centre of Srebrenica Town on that day.<sup>10320</sup>

2411. On 11 July 1995, President Karadžić appointed Miroslav Deronjić as the Civilian Commissioner of the ‘Serb Municipality of Srebrenica’.<sup>10321</sup> The Trial Chamber also considered the evidence of Witness RM-260 on the fall of Srebrenica, which has been placed in the confidential annex in Appendix D.

2412. **Witness RM-362**, who was living in Srebrenica Municipality, testified that on 11 July 1995, after the fall of Srebrenica, his neighbours told him that someone from the ‘civilian protection’ had come and told them that the old and infirm should go to the UNPROFOR compound in Potočari whereas the military-age men should ‘go through the forest’.<sup>10322</sup> The witness and the female members of his family joined a column of people heading towards Potočari and arrived there around 9 p.m. There they spent the night at the compound of a nearby factory, approximately 500 metres away from the UNPROFOR compound, having been told that they could not enter the compound.<sup>10323</sup> **Šehra Ibišević** stated that she and members of her family walked from Kutlići to the UNPROFOR base in Potočari, after Srebrenica fell on 11 July 1995. According to the

<sup>10314</sup> Adjudicated Facts II, no. 1383.

<sup>10315</sup> Adjudicated Facts II, no. 1384.

<sup>10316</sup> Adjudicated Facts II, nos 1366, 1377.

<sup>10317</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14583-14584.

<sup>10318</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 11.

<sup>10319</sup> The Trial Chamber understands this to be a reference to Milorad Pelemiš (*see* chapter 3.1.2).

<sup>10320</sup> Adjudicated Facts II, no. 1387.

<sup>10321</sup> Adjudicated Facts II, no. 1388.

<sup>10322</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17304-17305.

<sup>10323</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17304-17306, 17307.



witness, the 'military leadership in Srebrenica' told mothers with children to head for the UNPROFOR base.<sup>10324</sup>

2413. The VRS embarked upon a campaign of burning Bosnian-Muslim houses.<sup>10325</sup> In the early morning on 12 July 1995, VRS soldiers with German Shepherd dogs in the northern direction of the enclave threw hand grenades into civilian houses in Potočari.<sup>10326</sup> As a result, the inhabitants were forced to flee from their houses to the UN compound.<sup>10327</sup> The refugees in the compound could see Serb soldiers setting houses and haystacks on fire.<sup>10328</sup>

2414. **Paul Groenewegen** testified that on 12 July during the day, he saw heavily armed infantry VRS forces approaching Potočari from Bratunac in the north.<sup>10329</sup> According to the witness, the first soldiers wore all sorts of camouflage, including purple and green tints, while some were dressed in partial camouflage uniforms with black pants.<sup>10330</sup> This group wore a variety of emblems.<sup>10331</sup> While these forces were approaching, other troops were coming over the hills.<sup>10332</sup> The witness heard shelling explosions and saw houses catching fire, first from the northern direction towards OP Papa and then continuously closer to Potočari.<sup>10333</sup> About 20 or 30 minutes later, other groups which appeared to be composed of members of the press and officers arrived. According to the witness, these groups appeared to be acting in coordination with the group of VRS forces who had previously arrived.<sup>10334</sup>

*The gathering of Bosnian Muslims in Srebrenica Town and in Potočari*

2415. On 11 July 1995, thousands of residents crowded around the UNPROFOR Bravo Company compound in Srebrenica, eventually forcing their way inside.<sup>10335</sup> Around

<sup>10324</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 2; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2.

<sup>10325</sup> Adjudicated Facts II, no. 1381.

<sup>10326</sup> Adjudicated Facts II, no. 1397.

<sup>10327</sup> Adjudicated Facts II, no. 1398.

<sup>10328</sup> Adjudicated Facts II, no. 1396.

<sup>10329</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 25-26.

<sup>10330</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 25; Paul Groenewegen, T. 10519.

<sup>10331</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 25; Paul Groenewegen, T. 10519.

<sup>10332</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 26.

<sup>10333</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 26.

<sup>10334</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 26.

<sup>10335</sup> Adjudicated Facts II, no. 1378.

noon on the same day, mortar shells landed inside the compound, wounding several people.<sup>10336</sup> Following the shelling of Bravo Company and with the encouragement of the DutchBat troops, Bosnian-Muslim residents from Srebrenica began to move north towards Potočari.<sup>10337</sup>

2416. Once Srebrenica had fallen under the control of Bosnian-Serb forces, thousands of Bosnian-Muslim residents from Srebrenica fled to Potočari seeking protection within the UN compound.<sup>10338</sup> **Eelco Koster** testified that a message was received that the approach route to the compound should be cleared for the fleeing Muslim population.<sup>10339</sup> **Franken** testified that he ordered Bravo Company to withdraw from Srebrenica since the town was empty and to move along with the rear of the column headed north towards Potočari so as to stay between the column and the advancing Serb forces.<sup>10340</sup> Franken received reports of the column being shelled by mostly mortar and artillery fire, and DutchBat personnel transported wounded from the column and brought them to Potočari.<sup>10341</sup> **Rave** testified that the fire was coming from VRS positions.<sup>10342</sup> According to the witness, this was a deliberate attempt to ‘steer’ the ‘refugees’ towards Potočari.<sup>10343</sup>

2417. **Šifa Hafizović** stated that the residents that moved towards Potočari included women, children, and elderly men.<sup>10344</sup> **Rave** testified that he could not exclude the possibility that there were members of the ABiH among the men going to Potočari.<sup>10345</sup> At about 5 p.m., the witness arrived in Potočari where he was informed that the road from Potočari to Bratunac was being shelled, which, according to the witness, could indicate that the Serbs wanted the Muslim ‘refugees’ to remain in Potočari.<sup>10346</sup> On the same day, Lieutenant Versteeg from the Reconnaissance Platoon informed the witness

<sup>10336</sup> Adjudicated Facts II, no. 1379.

<sup>10337</sup> Adjudicated Facts II, no. 1380. The Trial Chamber understands this Adjudicated Fact to refer to the shelling of the company’s compound.

<sup>10338</sup> Adjudicated Facts II, no. 1390.

<sup>10339</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 8.

<sup>10340</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 60-61; Robert Franken, T. 10731-10735; P1422 (Aerial image of Potočari marked by the witness).

<sup>10341</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 61. *See also* P1149 (Evert Rave, witness statement, 17 February 1998), para. 18, Evert Rave, T. 10234-10235.

<sup>10342</sup> <sup>10343</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 18; Evert Rave, T. 10171, 10234-10236.

<sup>10344</sup> P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), pp. 1-2. *See also* P57 (Eelco Koster, witness statement, 26 September 1995), p. 10.

<sup>10345</sup> Evert Rave, T. 10191-10199, 10235-10238.

<sup>10346</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 19; Evert Rave, T. 10235-10236.

that he saw houses in the southern part of the enclave being ‘cleansed’.<sup>10347</sup> **Nikolić** testified that on the afternoon of 11 July 1995, at an OP of the 2nd Infantry Battalion at Borići in the Kokarde sector, he observed that civilians moved *en masse* from the area of Srebrenica to the area of Potočari.<sup>10348</sup> Given the size of the group and based on the information available to them, the 2nd Infantry Battalion Command and the witness assessed that there were 1,000 to 2,000 military-aged, able-bodied men at Potočari amongst the crowd.<sup>10349</sup> The witness assessed that a number, although not all, of these able-bodied men were actively involved in the Muslim Srebrenica Brigade, 28th Division.<sup>10350</sup> The witness and Janković wrote reports to the DK Command and the VRS Main Staff with the information available to them.<sup>10351</sup> The reports included the information regarding the able-bodied men at Potočari and were sent prior to the Hotel Fontana meetings (*see* chapter 7.1.4).<sup>10352</sup>

2418. **Subašić** stated that on 11 July 1995, the Srebrenica hospital personnel decided to bring the injured persons at the hospital to the Potočari UNPROFOR base.<sup>10353</sup> Some of the witness’s colleagues decided to seek refuge in Potočari with the hope of receiving protection as medical personnel. According to the witness, his colleagues were taken with the other men and never came back.<sup>10354</sup>

2419. **Franken** testified that DutchBat received close-air support for the first and only time at around 2 p.m., and then received a message in English over one of the APCs that had been captured by the VRS and taken to Bratunac warning that the air support had to stop immediately or the VRS would shell the DutchBat compound including where the Bosnian Muslims were, and kill the DutchBat ‘POW’s’ of whom there were 55.<sup>10355</sup> He took the VRS threat to shell the compound very seriously because the VRS had fired on

<sup>10347</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 17.

<sup>10348</sup> Momir Nikolić, T. 11806, 11809.

<sup>10349</sup> Momir Nikolić, T. 11807-11808; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 2.

<sup>10350</sup> Momir Nikolić, T. 11807-11808, 12003, 12088-12089.

<sup>10351</sup> Momir Nikolić, T. 11812-11813; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 2.

<sup>10352</sup> Momir Nikolić, T. 11812-11813; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 1; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 2.

<sup>10353</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 29, 32.

<sup>10354</sup> P3306 (Mujo Subašić, witness statement, 2-3 October 2012), para. 30.

<sup>10355</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 65; Robert Franken, T. 10791-10792.

'refugees' with all their means before. In particular, shortly after receiving this threat, the VRS had shelled the area of the bus station, wounding some of the civilians.<sup>10356</sup>

2420. The witness further testified that he decided that the people coming from Srebrenica be placed in a building so that DutchBat would be able to function militarily and also for cover, so that the people would not be visible to the VRS and in the line of artillery and tank fire. Once the building was full, the people gathered around the area of the bus station and factories as well as on the western side of the road.<sup>10357</sup> **Koster** testified that the first small groups of 'refugees' consisting of women and children who were overwrought and in tears, were accommodated in the nearby bus depot.<sup>10358</sup> Soon after, thousands of Muslim people started arriving on foot, and three or four UN trucks which had driven ahead with wounded Muslim people also arrived.<sup>10359</sup> The stream of 'refugees' kept increasing and some 'refugees' were allowed into the compound, including those who were injured or near childbirth.<sup>10360</sup> The rest were kept back by red and white tape which was put across the road.<sup>10361</sup> **Groenewegen** heard from a colleague that a man, who had previously tried to get inside the compound, hit his head with a stone to be let inside.<sup>10362</sup> Towards the evening shelling began from the north, but the shells landed near the road and no one was hit.<sup>10363</sup> The shells hit houses and destroyed them.<sup>10364</sup> This lasted for approximately 15 minutes, after which rifle shots came from the same direction, causing the people to panic and run in the direction of the factory buildings.<sup>10365</sup>

2421. By the end of 11 July 1995, Bosnian Muslims were gathered in Potočari.<sup>10366</sup> Several thousand had pressed inside the UN compound itself, while the rest were spread

<sup>10356</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 65.

<sup>10357</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 64.

<sup>10358</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 9; Eelco Koster, T.1212-1214; P59 (Aerial image of Potočari dated 13 July 1995, titled 'Overview, marked by Eelco Koster). *See also*, P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10359</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 9-10.

<sup>10360</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 10.

<sup>10361</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 11; Eelco Koster, T. 1220-1221, 1223-1225, 1230-1231; P61 (Aerial image of Potočari dated 12 July 1995); P62 (Aerial image of Potočari dated 13 July 1995, titled 'Buses and Trucks Lined Up', marked by Eelco Koster).

<sup>10362</sup> Paul Groenewegen, T. 10484.

<sup>10363</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 10. *See also* P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10364</sup> Eelco Koster, T. 1239.

<sup>10365</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 10.

<sup>10366</sup> Adjudicated Facts II, no. 1391.

throughout the neighbouring factories and fields.<sup>10367</sup> **Franken** testified that by the evening of 11 July 1995, the crowd at Potočari was very large with people completely exhausted and lethargic, and DutchBat estimated that Bosnian-Muslim men inside the compound numbered 300.<sup>10368</sup> **Boering** testified that the DutchBat only had food ratio for a few days and could only provide water to the ‘refugees’.<sup>10369</sup> The water supply available was insufficient for the refugees who were outside the UNPROFOR compound.<sup>10370</sup> Many of the refugees seeking shelter in the UNPROFOR headquarters were injured and there was a shortage of medical supplies.<sup>10371</sup> **Boering** testified that the only medical help available was coming from MSF but was insufficient for all the wounded.<sup>10372</sup> The presence of armed members of the Bratunac Brigade in Potočari contributed to the intimidation of the Bosnian-Muslim refugees there.<sup>10373</sup> **Groenewegen** testified that during the night of 11 and 12 July 1995, DutchBat soldiers assisted mothers, children and elderly men outside the UN compound, including those who were forced to spend the night in the open.<sup>10374</sup>

2422. **Witness RM-268** stated that on 11 July 1995, Borovčanin instructed the 1st company of the Jahorina Detachment to go to Bratunac.<sup>10375</sup> Borovčanin was in possession of an order which had been issued by Tomislav Kovač on the previous day and in which Borovčanin was designated as ‘MUP unit commander’.<sup>10376</sup> Members of the 1st Company and its commander, Mendeljev Đurić, reached Bratunac in the afternoon.<sup>10377</sup> **Mendeljev Đurić** stated that the company was billeted in a nearby village school.<sup>10378</sup> **Witness RM-268** stated that afterwards, Borovčanin ordered the MUP Special Police Brigade to carry out a reconnaissance tour of the Potočari area, the UNPROFOR base, and the access routes to Srebrenica and to report back to him. A

<sup>10367</sup> Adjudicated Facts II, no. 1391.

<sup>10368</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 66-67.

<sup>10369</sup> Pieter Boering, T. 10058-10059, 10062-10063; D273 (Situation report on Srebrenica addressed to UNMO Headquarters, 11 July 1995).

<sup>10370</sup> Adjudicated Facts II, no. 1393.

<sup>10371</sup> Adjudicated Facts II, no. 1394.

<sup>10372</sup> Pieter Boering, T. 10058-10059, 10062-10063; D273 (Situation report on Srebrenica addressed to UNMO Headquarters, 11 July 1995).

<sup>10373</sup> Adjudicated Facts II, no. 1407.

<sup>10374</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 23-24.

<sup>10375</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8573-8574. *See also* P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10797-10800.

<sup>10376</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8573-8575. *See also* P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10797-10800.

<sup>10377</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8573-8574, 8576. *See also* P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), p. 10799.

<sup>10378</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10797, 10799.

number of officers of the MUP Special Police Brigade, assisted by a local policeman, carried out the reconnaissance before nightfall and reported to Borovčanin that a large number of people had gathered at the 'UNPROFOR base area'.<sup>10379</sup> During a meeting held in an hotel in Bratunac, it was decided that the civilians were to be evacuated from the Potočari area.<sup>10380</sup> Following this meeting, Borovčanin told the MUP Special Police Brigade that the task for the following day was to go to Potočari and secure the UNPROFOR and the Bosnian-Muslim population until the start of the evacuation.<sup>10381</sup> **Đurić** stated that he was ordered by Jević to take his company the following day to Potočari to protect a large group of civilians arriving from Srebrenica to Potočari.<sup>10382</sup> The witness's instructions also included preventing any contact between the civilians and anyone else.<sup>10383</sup> Jević intimated to the witness that the civilians were likely to be transported to the Tuzla area.<sup>10384</sup>

2423. **Rave** testified that on 12 July 1995, at 9.03 a.m., VRS tanks fired the first round and two more rounds followed at 9.04 a.m. and 9.07 a.m. Rounds flew over the witness and landed in the vicinity of the compound.<sup>10385</sup> This was contrary to the information given by Mladić to the UNPROFOR during a meeting in Hotel Fontana the night before that the cease-fire would remain in place until 10 a.m. on 12 July 1992.<sup>10386</sup> At 9.07 a.m., Serb infantry advanced from the north towards Potočari; they could be seen coming from the mountains.<sup>10387</sup>

2424. **Witness RM-268** stated that early in the morning on 12 July 1995, members of the 1st Company of the Jahorina Detachment of the Special Police Brigade went to Potočari.<sup>10388</sup> A Zvornik PJP unit was also moving towards Potočari.<sup>10389</sup> At around 9 or 10 a.m., Borovčanin arrived in Potočari and ordered that two platoons from the 1st Company of the Jahorina Detachment be sent to secure the Konjević Polje-Bratunac road and to leave another platoon in Potočari because of the planned evacuation.<sup>10390</sup>

<sup>10379</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8579.

<sup>10380</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8580.

<sup>10381</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8580.

<sup>10382</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10797, 10804.

<sup>10383</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), p. 10804.

<sup>10384</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10797, 10804.

<sup>10385</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 36.

<sup>10386</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 23, 26, 36.

<sup>10387</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 36; Evert Rave, T. 10174.

<sup>10388</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8567, 8576, 8580-8581.

<sup>10389</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8580-8581.

<sup>10390</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8581.

Thereafter Borovčanin and a DutchBat member entered the UNPROFOR base in order to check whether there were any civilians there. There were civilians, some of them injured, in what he described as a hangar.<sup>10391</sup> The witness stated that Vaso Mijović, a member of the Serbian MUP in 1993 was present during the distribution of food to the population in Potočari.<sup>10392</sup> On 12 July 1995, there was a large military presence in Potočari, involving various VRS units, including a unit of the Bratunac Brigade Military Police, and a number of police units, including a company from the Zvornik PJP.<sup>10393</sup>

2425. According to a document from the Special Police Brigade dated 13 July 1995, on 12 July 1995, the combat unit of the MUP Special Police Brigade, composed of the 2nd Special Police Detachment, a MUP company of the Zvornik Special Police Unit, and a mixed company of the Janja MUP, reported that it took control of Potočari and the Budak and Milačevići features. According to the report, there was no ‘strong’ armed resistance from the Muslims. The MUP combat unit sealed off the main UN base in Potočari where a throng of between 25,000 and 30,000 ‘civilians’ had gathered, approximately five percent of whom were able-bodied men.<sup>10394</sup>

2426. **Hana Mehmedović** stated that at approximately 9 a.m. on 12 July in Potočari, she could hear ‘Chetniks’ shouting from the surrounding hills, which caused panic among the ‘refugees’.<sup>10395</sup> **Groenewegen** testified that when VRS forces arrived in Potočari, the ‘refugees’ gathered in Potočari tried to move in the opposite direction again, back towards Srebrenica; but ended up staying after ‘they were spoken to’.<sup>10396</sup>

2427. **Franken** testified that shortly after 10 a.m. on 12 July, the VRS moved in an attack formation toward the DutchBat compound.<sup>10397</sup> Upon arrival, some of them were permitted by Franken to check, under DutchBat escort, whether parts of the 28th Division were in the compound. The VRS personnel looked like militia wearing several kinds of uniforms comprising a mix of civilian and military clothing and appeared to be from different units.<sup>10398</sup> In footage of MUP Forces and Armour entering Potočari on 12 July 1995, Duško Jević, Lalović, and Pantić discussed with a DutchBat member through

<sup>10391</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8583-8585.

<sup>10392</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8581-8584.

<sup>10393</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8592-8593.

<sup>10394</sup> P2117 (Special Police Brigade document to Pale Police Staff Janja, 13 July 1995), p. 1.

<sup>10395</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2.

<sup>10396</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 25, 27.

<sup>10397</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 69.

<sup>10398</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 70.

the fence about how many civilians there were in the compound.<sup>10399</sup> The DutchBat member told Jević there were approximately 4,000 civilians inside, mostly women and children with a few men but no soldiers.<sup>10400</sup> Over the radio, a male voice could be heard asking if Pantić could secure vehicles to come here to transport civilians if he had a connection.<sup>10401</sup> Pantić responded over the radio that he was coming and that all civilians should be down at the road ready to be transported further.<sup>10402</sup> The male voice asked Pantić to mention that no one should touch them and that everything was alright and that they would proceed according to the plan.<sup>10403</sup> Meanwhile, Lalović demanded that the DutchBat member hand over his gun.<sup>10404</sup> Another DutchBat member responded that they would not do that but they would lay the guns down on the ground and not use them.<sup>10405</sup> **Ljubodrag Gajić** described the same event. He testified that in the morning of 12 July 1995, the 1st Company of the Jahorina training centre set out towards Srebrenica.<sup>10406</sup> When encountering Dutch troops upon arrival in Srebrenica, Gajić functioned as an interpreter to Jević.<sup>10407</sup> Jević and Borovčanin wanted to enter the factory in order to see whether the people inside were civilians or soldiers.<sup>10408</sup> At some point Borovčanin, Jević, Goran Marković, and the witness entered the facility, where they found between 350 and 500 people, including Muslim ‘civilians’.<sup>10409</sup>

2428. **Groenewegen** testified that the DutchBat created a buffer zone outside the UN compound to prevent contact between the ‘refugees’ and the VRS since the VRS soldiers approached the population aggressively.<sup>10410</sup> Ultimately, the DutchBat was not capable of keeping the groups separated.<sup>10411</sup>

2429. **Witness RM-362** testified that in the morning of 12 July 1995, people went to the UNPROFOR base to ask what would happen to them and upon return told the witness that transportation to Tuzla would be arranged. At around 2 p.m., the witness

<sup>10399</sup> P1147 (Updated Srebrenica Trial video with Transcript), pp. 44-46.

<sup>10400</sup> P1147 (Updated Srebrenica Trial video with Transcript), pp. 44-45.

<sup>10401</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 45.

<sup>10402</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 46.

<sup>10403</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 46.

<sup>10404</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 46.

<sup>10405</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 46.

<sup>10406</sup> Ljubodrag Gajić, T. 40270-40271.

<sup>10407</sup> Ljubodrag Gajić, T. 40271, 40274.

<sup>10408</sup> Ljubodrag Gajić, T. 40274-40275.

<sup>10409</sup> Ljubodrag Gajić, T. 40277-40278.

<sup>10410</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 28-30; Paul Groenewegen, T. 10489, 10493, 10502-10504, 10521-10522; P1158 (Aerial image marked by Paul Groenewegen, 13 July 1995); P1160 (Aerial image marked by Paul Groenewegen, 13 July 1995); P1164 (Video clip of DutchBat, VRS, and people gathered in Potočari, 12 July 1995).



was told that a convoy of vehicles had arrived to transport people.<sup>10412</sup> The witness went to the road and saw about ten Serb soldiers in dark green camouflage uniforms lined up down the road towards a number of trucks and buses, by the battery factory.<sup>10413</sup> Some other soldiers were just standing around.<sup>10414</sup> When the witness passed a roadblock upon approaching the buses, a Serb soldier took him by the shoulder and directed him to the other end of the road where around 20 elderly men were already standing.<sup>10415</sup> The witness asked the Serb soldier why he was separating him from his family, and was told that women and the children should be transported first. The witness saw that his family reached the buses.<sup>10416</sup>

2430. **Mehmedović** stated that the ‘Chetniks’ arrived among the UNPROFOR peacekeepers and immediately began removing men from the group, taking them past an iron fence to the far side of a wheat field bordering a creek. Mehmedović stated that some women reported hearing shouting and yelling and some heard that ‘Chetniks’ were killing the men by the creek. The witness saw men taken through the field by ‘Chetniks’, but she did not see any killings.<sup>10417</sup> **Šehra Ibišević** stated that ‘Chetniks’ used dogs to move people around the base.<sup>10418</sup> The ‘Chetniks’ took control of the base, confiscating weapons and clothing from UNPROFOR soldiers and taking men, boys, and girls away.<sup>10419</sup> **Mehmedović** stated that the ‘Chetniks’ continued to take men throughout that day and night, and those taken to the creek did not return.<sup>10420</sup> Mehmedović heard that ‘Chetniks’ were also taking young women from the group and raping them.<sup>10421</sup> **Behara Krdžić** identified these individuals as ‘Serb soldiers’.<sup>10422</sup>

<sup>10411</sup> Paul Groenewegen, T. 10523.

<sup>10412</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17307.

<sup>10413</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17307-17309.

<sup>10414</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17309.

<sup>10415</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17309-17310.

<sup>10416</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17310.

<sup>10417</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2.

<sup>10418</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 2.

<sup>10419</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), pp. 2-3; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 3.

<sup>10420</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. *See also* P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 3; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 3; P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1191.

<sup>10421</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. *See also* P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2.

<sup>10422</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2.

2431. **Zlatan Čelanović** testified that on 12 July 1995, he drove Dr. Vesna Ivanovic and an unidentified nurse from Bratunac to Potočari to provide medical assistance to the people there.<sup>10423</sup> When they arrived in Potočari, Čelanović saw many buses waiting to receive people. Approximately 100 metres away from a building owned by an electric company, there was a small group of DutchBat soldiers who formed a line.<sup>10424</sup> **Witness RM-255** testified he did not make an attempt to board the buses, as there were too many people in front of him.<sup>10425</sup> A factory building had been emptied, and the ‘Chetniks’ did not let anyone in.<sup>10426</sup>

2432. Screams, gunshots and other noise were audible throughout the night between 12 and 13 July 1995 and no one could sleep.<sup>10427</sup> Soldiers were picking people out of the crowd and taking them away; some returned, others did not.<sup>10428</sup> As a consequence of the threatening atmosphere, several refugees committed suicide, or attempted to do so.<sup>10429</sup> **Hanifa Hafizović** testified that during their second night at the UNPROFOR base in Potočari after the attack on Srebrenica, the ‘Chetnik’ soldiers started beating, killing, and raping people.<sup>10430</sup> They also took the men away and slaughtered them.<sup>10431</sup> Across the road, in Donji Potočari, there was a pale house, belonging to a certain Ibrahim Husanović. The witness stated that the ‘Chetniks’ brought men to this house and killed them there, and that she saw the blood running under the door of the house.<sup>10432</sup>

2433. **Robert Franken** testified that from 12 to 13 July, due to the hot weather and the lack of food, water, and toilets; the living conditions at the DutchBat compound began deteriorating rapidly for the 5,000 Bosnian Muslims who had taken refuge in the factory building of the compound. People were afraid to go outside and used the factory hall as a toilet and sleeping area, and by this time there had already been one death due to dehydration. Franken testified that he did not know exactly how many people died during this time, but DutchBat buried eleven bodies at the back of the base, including

<sup>10423</sup> Zlatan Čelanović, T. 11097.

<sup>10424</sup> Zlatan Čelanović, T. 11108.

<sup>10425</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1170, 1190-1191.

<sup>10426</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2.

<sup>10427</sup> Adjudicated Facts II, no. 1399.

<sup>10428</sup> Adjudicated Facts II, no. 1399.

<sup>10429</sup> Adjudicated Facts II, no. 1400.

<sup>10430</sup> P1008 (Hanifa Hafizović, witness statement, 16 June 2000), p. 2.

<sup>10431</sup> P1008 (Hanifa Hafizović, witness statement, 16 June 2000), p. 2; P1009 (Hafizović Hanifa, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

children who likely died of exhaustion or dehydration, two elderly people who died of exhaustion, and two elderly who had died from their wounds.<sup>10433</sup>

2434. **Zoran Kovacević** testified that he neither witnessed any mistreatment of the Muslim population gathered there, nor saw the men being separated from the women and children or the Muslim population boarding buses.<sup>10434</sup>

2435. **Tomislav Savkić** testified that on or around 11 July 1995, he received information that ‘our forces’ had entered Srebrenica, and that 12,000-14,000 Muslim soldiers had begun a breakthrough towards Tuzla while Muslim civilians had moved in the direction of Potočari, towards the UN base.<sup>10435</sup>

*Mladić’s visit to Potočari on 12 July 1995*

2436. **Koster** testified that during the afternoon of 12 July 1995 he heard, via walkie-talkie, that a Serb delegation was driving towards the UN compound in Potočari. There were about 40 Serb soldiers, about four passenger cars, and six German Shepard dogs.<sup>10436</sup> **Kovačević** testified that Mladić was present in Potočari and told the witness to ‘press ahead towards Milačevići’.<sup>10437</sup>

2437. **Mile Janjić** testified that he saw officers of the VRS Main Staff and Mladić in Potočari on that day.<sup>10438</sup> He saw Mladić staying a while at the barrier next to the civilians who were waiting to board the buses.<sup>10439</sup> **Koster** observed many Serb soldiers arriving, and then he saw a man arrive and was told by his interpreter that it was Mladić.<sup>10440</sup> The witness later recognized him on television.<sup>10441</sup> **Koster** asked Mladić what he wanted, and then saw two or three old city buses arriving, and Mladić told him

<sup>10432</sup> P1008 (Hanifa Hafizović, witness statement, 16 June 2000), p. 2.

<sup>10433</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 96.

<sup>10434</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), para. 20.

<sup>10435</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 72.

<sup>10436</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 11.

<sup>10437</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), para. 18; Zoran Kovačević, T. 24589.

<sup>10438</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9770-9771; Mile Janjić, T. 11001. *See also* P1147 (Updated Srebrenica Trial video with Transcript), p. 89.

<sup>10439</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9771-9772; Mile Janjić, T. 11029.

<sup>10440</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 3.

<sup>10441</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12.

that he wanted to evacuate the refugees.<sup>10442</sup> Mladić walked amongst the refugees, stroking children's heads, and when the witness received orders to protest against Mladić's wish to evacuate the 'refugees', Mladić became annoyed and irritated.<sup>10443</sup> He told the witness that he could not give a shit about the UN and that he would do as he wanted, and that he was now going to evacuate.<sup>10444</sup> He also said [i]f you oppose me, you will be in trouble.<sup>10445</sup> Mladić then addressed the crowd of 'refugees present', telling them that anyone who wished to be transported would be, regardless how big, small, young or old they were. The crowd thanked him. Mladić told them not to be afraid or panic and that nobody would harm them. He added that they should let the women and children go first, and that 30 buses would arrive to transport them to Kladanj from where they would go to territory controlled by 'Alija's' forces. A journalist asked Mladić what would happen to the several hundred Muslim civilians located in the newly- liberated Srebrenica. Mladić responded that 'representatives of the population' had asked him for assistance to enable the 'civilians' who wanted to leave Srebrenica to go to the territory controlled by the Muslims and Croats. Mladić said that transportation had been arranged for them along with food, water, and medicine and that the 'civilians' and UNPROFOR were never the VRS's targets. Women, children, and the elderly would be the first evacuated on that day without any kind of force along with anyone else who wanted to leave.<sup>10446</sup> Several witnesses testified that Mladić addressed the group of Bosnian Muslims. **Nedo Jovičić** testified that Mladić addressed the large group, including women and children, who had gathered at Potočari.<sup>10447</sup> **Janjić** later heard from persons who were standing close to Mladić at that moment, that Mladić had told the civilians that buses would arrive soon and bring them to Kladanj or wherever they wanted to be taken, that they were safe, but that women and children should leave first because they were a priority, while men should wait longer and be patient.<sup>10448</sup>

<sup>10442</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12; Eelco Koster, T. 1221; P61 (Aerial image of Potočari dated 12 July 1995). *See also* P1147 (Updated Srebrenica Trial video with Transcript), p. 55.

<sup>10443</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12; Eelco Koster, T. 1230.

<sup>10444</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 3. *See also* P1147 (Updated Srebrenica Trial video with Transcript), p. 55.

<sup>10445</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 3.

<sup>10446</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 55.

<sup>10447</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 15, 21. *See also* P57 (Eelco Koster, witness statement, 26 September 1995), pp. 11-12; Eelco Koster, T. 1230. P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 2008.

<sup>10448</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9772.

**Groenewegen** testified that Mladić told the ‘refugees’ that they were free to stay or, if they wanted to leave, that they would be transported to Kladanj.<sup>10449</sup> **Milovan Milutinović** testified that Mladić introduced himself to the people gathered there, told them there was no reason to be afraid, and that everyone would be transported to the Federation of Bosnia-Herzegovina.<sup>10450</sup> According to the witness, Mladić said that they must all reach the Federation of Bosnia-Herzegovina alive, and that they were to be treated humanely.<sup>10451</sup> According to **Saliha Osmanović**, Mladić ordered the Bosnian-Muslim women and children to move towards buses and trucks, and leave all their possessions behind.<sup>10452</sup> **Ljubodrag Gajić** testified that this was around 10:30 or 11 a.m.<sup>10453</sup> Mladić mentioned that he had issued an order to the civilian authorities in Bratunac to provide a convoy for the transportation of the population in the area.<sup>10454</sup>

2438. **Witness RM-255** testified that ‘Chetniks’ started to distribute bread, water, and chocolate.<sup>10455</sup> The interpreters told **Koster** that while the soldiers were handing things to the ‘refugees’, they made remarks such as ‘here you are, filthy swine’.<sup>10456</sup> The witness spoke to two men: one acting as a spokesman and whom the witness did not know, and another one who introduced himself as Major Nikolić.<sup>10457</sup> Both said they wanted to take a look, and were allowed into the compound.<sup>10458</sup> Some shots came from Čauš Mountain, but no one was hit; the witness saw eight Serb soldiers standing on the hillside.<sup>10459</sup> **Witness RM-255** overheard a ‘Chetnik’ telling a UN soldier that the Srebrenica enclave was ‘finished’ and that Žepa and Goražde were to follow.<sup>10460</sup> Several witnesses testified that Mladić participated in the food distribution. **Osmanović** testified that Mladić and VRS soldiers handed out chocolates, water, and bread to the

<sup>10449</sup> P1164 (Video clip of DutchBat, VRS, and people gathered in Potočari, 12 July 1995).

<sup>10450</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 83. *See also* Joseph Kingori, T. 1049.

<sup>10451</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 83.

<sup>10452</sup> P1461 (Saliha Osmanović, witness statement, 18 June 2000), para. 10; Saliha Osmanović, T. 11178, 11181, 11193, 11199-11201.

<sup>10453</sup> Ljubodrag Gajić, T. 40278-40279.

<sup>10454</sup> Ljubodrag Gajić, T. 40280-40281.

<sup>10455</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1188-1190; D24 (Extract from video capturing the bread distribution in Potočari).

<sup>10456</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12.

<sup>10457</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 11; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 3.

<sup>10458</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 11.

<sup>10459</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 11-12.

<sup>10460</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1172.

displaced people in Potočari.<sup>10461</sup> **Milovan Milutinović** saw Mladić handing sweets to the children. Mladić had bought the candy in a store on his way to Potočari and asked the vendor to invoice the VRS Main Staff. According to the witness, Mladić did not hand out the sweets because of the video being made, but because 'he was a man like that'.<sup>10462</sup> **Pero Andrić** testified that he saw that Mladić threw juice packs into the crowd of refugees and told them that they would be taken to the place they wanted to go.<sup>10463</sup> **Dušan Mičić** testified that he saw Mladić handing out food and cigarettes to the people but no soldiers or policemen near them. He also saw Borovčanin in the vicinity of Mladić. Later, he also saw policemen handing out food and water to the gathered people.<sup>10464</sup> Several witnesses testified that the food distribution was filmed by a Serbian TV crew.<sup>10465</sup> **Milutinović** testified that Mladić ordered him to sell the footage to foreign agencies, with funds being paid to the VRS Main Staff Financial Service.<sup>10466</sup> **Koster** testified that when the cameraman stopped filming, they stopped giving these things to the refugees.<sup>10467</sup> **Joseph Kingori** testified that on several occasions he witnessed VRS soldiers and at times General Mladić himself handing out candy and drinks to the displaced people in front of UNMOs or TV cameras, only to take it back when the observers left or the cameras were switched off.<sup>10468</sup>

2439. **Jovičić** testified that he observed that a few army officers started taking the juice and chocolate and Mladić reprimanded those officers by cursing and pushing someone, and ordered the witness and others to assist with the distribution.<sup>10469</sup> **Janjić** saw Mladić shouting at the members of the Logistics Battalion.<sup>10470</sup> He testified that after Mladić

<sup>10461</sup> Saliha Osmanović, T. 11178-11181, 11193-11195. On Mladić's role in the distribution, *see also* P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2277, 2280; Evert Rave, T. 10177-10179, 10252-10253.

<sup>10462</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 82.

<sup>10463</sup> Pero Andrić, T. 34101.

<sup>10464</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), para. 23.

<sup>10465</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 22; Nedo Jovičić, T. 33699. *See also* D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 82. P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 2008-2009. P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 31; Paul Groenewegen, T. 10517. P57 (Eelco Koster, witness statement, 26 September 1995), pp. 11-12; Eelco Koster, T. 1230. P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1188-1190; D24 (Extract from video capturing the bread distribution in Potočari).

<sup>10466</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 84.

<sup>10467</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 12.

<sup>10468</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 148-150, 154; Joseph Kingori, T. 1046; P50 (Situation Report from UNMOs in Srebrenica, forwarded by UNPROFOR headquarters Sector Northeast, 12 July 1995), pp. 4-5; D15 (Debrief of UNMOs from the Srebrenica Enclave, 24 July 1995), para. 27.

<sup>10469</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 22; Nedo Jovičić, T. 33699.

<sup>10470</sup> Mile Janjić, T. 11029-11031.

had left he observed members of the Logistics Battalion distributing water and food to the people along the road and on the buses.<sup>10471</sup> The witness was later told by members of the Logistics Battalion that Mladić had ordered that all the food was to be distributed to the people who were leaving and not to the military policemen or the members of the Special Police.<sup>10472</sup>

2440. The witness also testified that on that day UNPROFOR members and some women from Ljubovija, who came along with the vehicles transporting the food, handed out food, including canned food, bread, chocolate, and juice.<sup>10473</sup>

2441. On 12 July 1995 in Potočari, Krstić and other VRS soldiers also gave press interviews. Krstić told a reporter that the DK was successfully carrying out the liberation of Srebrenica but the operation would not be finished until they had successfully liberated the entire territory of the Srebrenica Municipality. Krstić guaranteed the safety of the civilian population and said they would be safely transported wherever they wished to go. Krstić found the NATO air raids to be puzzling considering NATO was asking the VRS to guarantee the safety of the DutchBat on their territory.<sup>10474</sup>

2442. **Andrić** testified that on 13 July 1995, he and a group of five or six military policemen escorted Mladić in a convoy to Srebrenica *via* Potočari, moving in the direction of the Suseca settlement and Vijogor Village, and then back to Bratunac.<sup>10475</sup> The policemen followed Mladić's vehicle in a '*Pinzgauer*' military vehicle.<sup>10476</sup> Close to the gas station in Srebrenica, Mladić ordered them to take on board some elderly Muslim women and drop them off close to the UN compound in Potočari, which the policemen did.<sup>10477</sup> In the afternoon, the convoy continued towards Konjević Polje and Vlasenica.<sup>10478</sup>

<sup>10471</sup> Mile Janjić, T. 11029-11031, 11047.

<sup>10472</sup> Mile Janjić, T. 11029-11031.

<sup>10473</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 22; Nedo Jovičić, T. 33698-33699.

<sup>10474</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 57.

<sup>10475</sup> Pero Andrić, T. 34101, 34103-34105, 34107, 34148; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 21.

<sup>10476</sup> Pero Andrić, T. 34104; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 20.

<sup>10477</sup> Pero Andrić, T. 34105; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 21

<sup>10478</sup> Pero Andrić, T. 34107-34108.

***The Trial Chamber's findings***

*The fall of Srebrenica*

2443. Based on the foregoing, the Trial Chamber finds that the VRS attack on the Srebrenica enclave began on 6 July 1995. Members of the VRS 10th Sabotage Detachment participated in the attack. On 10 July 1995 pursuant to an order from the VRS Supreme Commander, the Bosnian-Serb MUP ordered various MUP units, including a company from the MUP training centre in Jahorina, the 2nd Special Police Detachment from Šekovići, the 1st Company of the Zvornik Special Police Unit of the Zvornik CSB, and one company of joint forces of the RSK MUP, the Serbian MUP, and the MUP, to form a combined unit of MUP forces. The order further tasked this unit, commanded by Ljubiša Borovčanin, to participate in the '*Krivaja 95*' operation.

2444. On 10 July 1995, the UN sent an ultimatum to the VRS demanding its withdrawal from the enclave, which responded with an ultimatum of its own that if the DutchBat stopped all hostile activity and agreed to leave its equipment and weapons behind, its personnel and the civilian population would be allowed to leave the enclave. During the attack on the enclave, the defending ABiH forces came under heavy fire and were pushed back towards Srebrenica Town. The town, the UNPROFOR compound in Potočari, DutchBat positions in the municipality, and Bosnian-Muslim villages in the enclave were targeted by shells, grenades, and machine guns.

2445. During the attack, about 4,000 Bosnian-Muslim residents of the enclave, who had been living in a nearby Swedish housing complex for refugees, fled north into Srebrenica Town. Others, including civilians, fled their villages in the municipality to escape the shooting and moved towards Srebrenica Town. On 10 July 1995, a mortar grenade fell close to the UNPROFOR Bravo Company compound, wounding a little boy. On 11 July 1995, in execution of Pelemiš's order, members of the 10th Sabotage Detachment who were approaching Srebrenica Town called the inhabitants to leave their houses and go towards the football stadium in town. About 100 to 200 people, mostly elderly, responded to that call. The VRS entered Srebrenica Town on that day. Thousands of residents crowded around the UNPROFOR Bravo Company compound in town, eventually forcing their way inside. Around noon, mortar shells landed inside the compound, wounding several people. Some Bosnian Muslims left Srebrenica Town after they started hearing shots.



2446. Still on 11 July 1995, the military leadership in Srebrenica told mothers and children to head for the UNPROFOR compound in Potočari. A member of the civilian protection also told Bosnian Muslims in Srebrenica Town that the elderly and infirm should go to the UNPROFOR compound in Potočari. Similarly, when the VRS entered some villages of the municipality, it ordered the villagers to go to the UNPROFOR compound in Potočari. Following the shelling of the UNPROFOR Bravo Company compound in Srebrenica Town and encouraged by the DutchBat troops, who had been ordered by the UNPROFOR Command to withdraw, Bosnian Muslims from Srebrenica began to move towards Potočari. Thousands of Bosnian Muslims, mostly women, children, and elderly and about 1,000 to 2,000 able-bodied men, fled to Potočari seeking protection within the UNPROFOR compound. Some of these able-bodied men were members of the ABiH 28th Division. The VRS fired mortars near the road taken by the Bosnian Muslims fleeing towards Potočari. The shelling ceased upon the arrival of NATO planes. Corpses and people crying for help were found on the road.

2447. Civilians died as a result of the attack on the enclave. In particular, when the 10th Sabotage Detachment arrived in Srebrenica Town on 11 July 1995, Pelemiš ordered Zoran Goronja to kill a Bosnian-Muslim man who had surrendered to them. Goronja slit the man's throat in execution of Pelemiš's order. Srebrenica remained under fire until the enclave fell under the complete control of the VRS on 11 July 1995.

2448. During the attack on the enclave, the VRS embarked upon a campaign of burning Bosnian-Muslim houses in the enclave, including in Potočari, Ljubisavići, and Pasmulići. During the attack on Sućeska on 6 July 1995, Bosnian-Serb forces<sup>10479</sup> heavily shelled the Sućeska mosque. On 8 or 9 July 1995, soldiers identified as 'Chetniks' burned the Slapovići mosque during the attack on the settlement. Around 11 July 1995, the VRS destroyed with explosives the Čaršjska, Petrička, and Vidikovac mosques, burned the White mosque and the building housing the archive and library of the Medžlis of the Islamic Community of Srebrenica, destroyed the Crvena Rijeka mosque, and shelled the Srebrenica Town Catholic church. In the early morning of 12 July 1995, VRS soldiers with German Shepherd dogs in the northern area of the enclave threw hand grenades into civilian houses in Potočari. As a result, inhabitants were forced to flee from their houses to the UNPROFOR compound.

<sup>10479</sup> The Trial Chamber understands the reference to the 'aggressor' in Exhibit P6862 to be a reference to Bosnian-Serb forces.

*Gathering of people in Potočari and living conditions*

2449. By the end of 11 July 1995, Bosnian Muslims from the municipality, mainly women, children, elderly men, and injured, were gathered in Potočari: several thousands had pressed inside the UNPROFOR compound, while the rest were spread throughout the neighbouring factories and fields and bus depot and were kept back by red and white tape which was put across the road. On the same day, the VRS shelled the area of the bus station wounding some of the Bosnian Muslims and threatened to shell the UNPROFOR compound unless air support provided to the DutchBat was to stop. A man, who had previously tried to get inside the compound, hit his head with a stone to be let inside 'Chetniks' could be heard shouting from the hills which caused panic among the Bosnian Muslims.

2450. The water supply was insufficient for the Bosnian Muslims who had gathered outside the compound and the DutchBat only had food rations for a few days. Many of the people were injured and there was a shortage of medical supplies. People were exhausted, lethargic, and frightened. The presence of armed members of the Bratunac Brigade in Potočari contributed to the intimidation of the Bosnian Muslims there.

2451. Towards the evening of 11 July shelling began from the north, but the shells landed near the road but no one was hit. Rifle shots came from the same direction as the shells, causing people to panic and run in the direction of the factory buildings. During the night of 11 and 12 July 1995, some of the Bosnian Muslims were forced to spend the night in the open.

2452. On 11 and 12 July 1995, various VRS units, including a unit of the Bratunac Brigade Military Police, and police units, members of the 1st Company of the Jahorina Detachment of the Special Police Brigade and a company from the Zvornik PJP were present in Potočari. Two platoons from the 1st company were ordered to secure the Konjević Polje-Bratunac road and one to stay in Potočari because of the planned evacuation. On 12 July 1995, the combat unit of the MUP Special Police Brigade, composed of the 2nd Special Police Detachment, a MUP company of the Zvornik Special Police Unit, and a mixed company of the Janja MUP, was present in Potočari and sealed off the compound.

2453. By 12 July 1995, 25,000 to 30,000 civilians had gathered in Potočari, five percent of whom were able-bodied men. On the same day, the VRS fired mortar rounds which landed in the vicinity of the compound and Serb infantry advanced from the north towards Potočari down the mountains. Screams, gunshots and other noises, including from women and children, were audible throughout the night between 12 and 13 July 1995 and no one could sleep. Soldiers were picking people out of the crowd and taking them away; some returned, others did not. In particular, some men were killed in a house across the road from the compound. As a consequence of the threatening atmosphere, several Bosnian Muslims committed suicide, or attempted to do so. Members of the units present in Potočari used dogs to move people around the compound, confiscating weapons and clothing from UNPROFOR soldiers and taking men, boys, and girls away. Still on 12 July 1995, members of the units present in Potočari raped people in the area of the compound. On the same day, DutchBat tried to create a buffer zone outside the UNPROFOR compound to prevent contact between the Bosnian Muslims and the VRS since the VRS soldiers approached the population aggressively. DutchBat was not capable of keeping the groups separated.

2454. The living conditions in Potočari deteriorated from 12 to 13 July due to hot weather, lack of food, water, and toilets, in particular for the Bosnian Muslims staying in the factory building of the compound. People were afraid to go outside and used the factory hall as a toilet and sleeping area. A nurse was present there on that day. Eleven bodies were buried at the compound, including those of children, two elderly people who are said to have died from dehydration, and two others who died from their wounds. Serb women and soldiers distributed food and beverages to Bosnian Muslims. Some of the soldiers told them things such as ‘here you are, filthy swine’, and the distribution was filmed. Policemen and VRS soldiers also took part in the distribution. Some of the soldiers only handed out chocolate and cigarettes when a cameraman was filming and took them back when the filming stopped.

2455. The Trial Chamber will further consider these findings in relation to Counts 2, 3, 7, and 8 of the Indictment in chapters 8 below.

2456. The Trial Chamber will address the evidence related to the alleged Srebrenica JCE and, in particular, the Accused's alleged contribution to such JCE (some of which has been reviewed above in this chapter such as the Accused's role and whereabouts

during the attack on Srebrenica and the transfer of Bosnian Muslims out of Potočari) in chapter 9.

#### 7.1.4 The Hotel Fontana meetings

2457. According to the Prosecution, from 11 to 12 July 1995, three meetings took place at Hotel Fontana in Bratunac involving the Accused, his subordinates, members of DutchBat, and, for the second and third meetings, representatives of the Bosnian Muslims in Srebrenica.<sup>10480</sup> The Trial Chamber has received evidence about these meetings from **Pieter Boering**, a former DutchBat Major who served as Liaison Officer with the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>10481</sup> **Evert Rave**, a member of the DutchBat who served as Security and Liaison Officer in Srebrenica from January to late July 1995;<sup>10482</sup> **Witness RM-294**, a Bosnian Muslim from Srebrenica Municipality;<sup>10483</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>10484</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>10485</sup> **Milovan Milutinović** Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>10486</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>10487</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>10488</sup> **Witness RM-284**, a Bosnian Serb,<sup>10489</sup> as well as documentary evidence.

<sup>10480</sup> Prosecution Final Brief, paras 1159-1183.

<sup>10481</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1867-1873;

Pieter Boering, T. 10025.

<sup>10482</sup> P1149 (Evert Rave, witness statement, 17 February 1998), p. 1, paras 1, 61-62; Evert Rave, T. 10255.

<sup>10483</sup> Witness RM-294, T. 9838, 9840; P1136 (Pseudonym sheet for Witness RM-294, 16 April 2013).

<sup>10484</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>10485</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>10486</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>10487</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>10488</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756.

<sup>10489</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

*First Hotel Fontana Meeting*

2458. **Momir Nikolić** testified that Colonel Radoslav Janković of the Main Staff informed him that DutchBat members had surrendered at Hotel Fontana and had requested a meeting between Mladić and DutchBat Colonel Karremans.<sup>10490</sup> The witness was tasked with preparing the hotel and providing security for the meeting.<sup>10491</sup>

**Mile Janjić** testified that on 11 July 1995 Nikolić ordered him and 10-15 other military police officers to go to the hotel.<sup>10492</sup> Outside the hotel, the military police officers were greeted by three men in VRS uniforms who introduced themselves as Mladić's personal security detail and who gave them tasks of providing security.<sup>10493</sup> **Nikolić** testified that at 8 p.m. Mladić and Karremans met in the conference room of the hotel.<sup>10494</sup> Milenko Živanović and Radislav Janković attended the meeting as well.<sup>10495</sup>

2459. **Pieter Boering** and **Evert Rave** provided their accounts of the meeting. **Boering** testified that he attended the meeting with Karremans and Rave of DutchBat, Mladić, Janković, Momir Nikolić, possibly Krstić, a person called Kosorić, a UN interpreter named Petar, as well as some other VRS members.<sup>10496</sup> **Rave** specified that Živanović was present as well, in addition to about ten Serbs in military uniforms, a man referred to as Mladić's lawyer, a number of Serb civilians, and a camera crew which was recording the entire event.<sup>10497</sup> When the witness entered, he noticed that in a separate

<sup>10490</sup> Momir Nikolić, T. 11804, 11809-11810.

<sup>10491</sup> Momir Nikolić, T. 11810; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 2.

<sup>10492</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9759-9760.

<sup>10493</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9759-9760; Mile Janjić, T. 11002.

<sup>10494</sup> Momir Nikolić, T. 11810-11811, 12145; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 3. *See also* P1149 (Evert Rave, witness statement, 17 February 1998), paras 20-21, 23-24, 26.

<sup>10495</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 3.

<sup>10496</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1941-1944, 1947-1948; Pieter Boering, T. 10007-10009; P1142 (Srebrenica Compilation Video); P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 1; P1146 (Transcript to compilation video, 10 or 11 July 1995), pp. 14-15. *See also* P1147 (Updated Srebrenica Trial Video with Transcript), 33:33-35:53, pp. 44-46. Boering testified that he could not recall whether the VRS officer was named Kosorić or Kosović. Having considered additional evidence in this regard, the Trial Chamber finds that Boering was referring to Colonel Svetozar Kosorić (*see* Momir Nikolić, T. 11779, 11819-11820; P1138 (Declaration of the representatives of the civilian authorities of the enclave of Srebrenica, 17 July 1995), p. 1).

<sup>10497</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 20-21, 23-24, 26. *See also* P1147 (Updated Srebrenica Trial Video with Transcript), 33:33-35:53, pp. 44-46.

room some Dutch soldiers were held under guard by the VRS soldiers.<sup>10498</sup> According to **Boering**, the DutchBat soldiers did not have the freedom to leave and looked like they were under threat.<sup>10499</sup>

2460. Mladić said during the meeting that neither the UNPROFOR forces, nor the Muslim population were the objective of his operations, and that he wanted to help the Muslim civilian population because they were not responsible for what had happened.<sup>10500</sup> Mladić offered to discuss a peaceful agreement to resolve the issues facing the civilian population, DutchBat, and the ABiH.<sup>10501</sup> He also offered to ‘accept’ wounded Muslims.<sup>10502</sup>

2461. According to **Boering**, Mladić, *inter alia*, said that he was in charge and that ‘[w]e can do as we please with you’.<sup>10503</sup> He moreover warned that if the air strikes continued, harm would befall the DutchBat soldiers held hostage, the Potočari compound, and the refugees, with bombs possibly being used.<sup>10504</sup> Mladić said that every DutchBat soldier only has one life, which the witness considered to be a clear threat.<sup>10505</sup> During the meeting, the witness felt intimidated and Mladić used threatening language and behaved in an imperious manner.<sup>10506</sup> **Robert Franken** testified that he believed Mladić’s statements at the meeting about the possibilities of the Bosnian Muslims and DutchBat going away, staying, or dying; as well as Mladić’s comments about DutchBat ‘POWs’ no longer being treated as guests, were implicit threats.<sup>10507</sup>

2462. According to **Rave**, Mladić was very upset about, and blamed DutchBat for, the air strikes inflicted on his troops earlier that day.<sup>10508</sup> Mladić threatened that if the air

<sup>10498</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 23. *See also* P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1942; Pieter Boering, T. 10014-10015, 10053.

<sup>10499</sup> Pieter Boering, T. 10014-10015, 10053.

<sup>10500</sup> P1147 (Updated Srebrenica Trial Video), pp. 13, 25-26, 29.

<sup>10501</sup> P1147 (Updated Srebrenica Trial Video), pp. 26-27.

<sup>10502</sup> P1147 (Updated Srebrenica Trial Video), pp. 29.

<sup>10503</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1946.

<sup>10504</sup> Pieter Boering, T. 10011; P1142 (Srebrenica Compilation Video); P1146 (Transcript to compilation video, 10 or 11 July 1995), p. 21; P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 1.

<sup>10505</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1946; Pieter Boering, T. 10012-10014; P1142 (Srebrenica Compilation Video); P1146 (Transcript to compilation video, 10 or 11 July 1995), p. 29. *See also* P1147 (Updated Srebrenica Trial Video), 59:13-01:02:10.

<sup>10506</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1945-1946; Pieter Boering, T. 10010-10011. *See also* P1147 (Updated Srebrenica Trial Video), 47:13-48:15.

<sup>10507</sup> Robert Franken, T. 10801-10804. *See also* P1147 (Updated Srebrenica Trial Video), 00:59:10-01:03:25, pp. 13-32.

<sup>10508</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 25; Evert Rave, T. 10171-10172, 10239-10240.

attacks continued, he would retaliate by shelling the Potočari compound and killing the DutchBat hostages then held by the VRS.<sup>10509</sup> In the beginning of the meeting Mladić threatened the Dutch representatives, saying that he would target the UN compound, that they only had one life, and asking whether they wanted to see their families again. The witness even wondered whether they would all be taken outside and shot.<sup>10510</sup> Mladić told the witness and others that a cease-fire was in effect and would remain in place until 10 a.m. the next day, and instructed them to return in the evening with Muslim civilian and military representatives. Mladić said that he wanted the Muslim troops to be disarmed.<sup>10511</sup> Mladić allowed Karremans to see his soldiers who were held hostage in a room of the hotel, but only after he and Karremans would have a drink together 'like true warriors'.<sup>10512</sup> As wine was being served, photographs were taken.<sup>10513</sup>

2463. **Milovan Milutinović** testified that Karremans asked for a suspension of combat activities and presented the request of the Muslim population that wanted to leave Srebrenica.<sup>10514</sup> Mladić accepted his proposal and requested that a delegation of Muslim representatives meet with him for talks the following day.<sup>10515</sup>

2464. **Boering** testified that after the meeting, he and Karremans drove back to Potočari and found a former teacher that Boering knew named Nesib Mandžić, who agreed to act as a representative of the population during the second meeting at Hotel Fontana.<sup>10516</sup> During the preparations for the second meeting, the witness and Karremans considered the various organisations which could help transport the population out of the enclave, noting that the wounded should be the first to be evacuated, followed by the elderly, then the remainder of the population.<sup>10517</sup>

<sup>10509</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 25.

<sup>10510</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 25; Evert Rave, T. 10172, 10240-10241.

<sup>10511</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 26.

<sup>10512</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 27.

<sup>10513</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 27-28.

<sup>10514</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 77.

<sup>10515</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 77.

<sup>10516</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1950-1952.

<sup>10517</sup> Pieter Boering, T. 10067-10068. *See also* P1147 (Updated Srebrenica Trial Video), 1:26:45-1:29:13.

*Second Hotel Fontana Meeting*

2465. **Franken** testified that after the first meeting at the Hotel Fontana in the evening of 11 July 1995, he, under orders from Karremans, located a representative of the Muslim population for a second meeting. Mandžić acted as this representative in the second Hotel Fontana meeting and was very nervous and almost panicking afterward because of the responsibility placed on him.<sup>10518</sup> **Nikolić** testified that he prepared Hotel Fontana and provided security for the second meeting.<sup>10519</sup>

2466. **Boering** testified that at 11 p.m. on 11 July 1995, he and Karremans attended this meeting, which lasted around 30 minutes, with the following participants: Rave of DutchBat; Mladić, Nikolić, Krstić, Janković, and a person called Kosorić of the VRS; Mladić's bodyguard, an interpreter named Petar, Nesib Mandžić, and some other civilians.<sup>10520</sup> **Rave** testified that Ljubisav Simić, the Mayor of Bratunac, and a camera crew were also present.<sup>10521</sup> Soon after the beginning of the meeting, a VRS soldier standing next to a window pulled back the window's curtains and opened the window.<sup>10522</sup> The sound of a pig being slaughtered under the window could be heard.<sup>10523</sup> The window was closed afterwards and the witness believed that the slaughter was staged to unnerve the DutchBat and to intimidate the Muslim representative.<sup>10524</sup> **Boering** testified that a broken part of a sign from the Srebrenica town hall was placed on the table in front of Mandžić, which the witness interpreted as signifying that the VRS was now in charge of Srebrenica.<sup>10525</sup>

<sup>10518</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 68.

<sup>10519</sup> Momir Nikolić, T. 11810-11811, 11819; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 2.

<sup>10520</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1951-1957, 1959; Pieter Boering, T. 10015; P1142 (Srebrenica Compilation Video), 1:16:09-1:42:31; P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 1; P1146 (Transcript to compilation video), p. 38. *See also* Witness RM-294, T. 9863, 9864-9866, 9870; Momir Nikolić, T. 11819; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 3.

<sup>10521</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 29, 31, 34; Evert Rave, T. 10172-10174.

<sup>10522</sup> Evert Rave, T. 10173.

<sup>10523</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 30; Evert Rave, T. 10173-10174, 10241-10242, 10248-10250. *See also* Witness RM-294, T. 9866.

<sup>10524</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 30; Evert Rave, T. 10173-10174, 10248-10250. *See also* Witness RM-294, T. 9866.

<sup>10525</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1959-1960; P1145 (Video still of border sign taken from second meeting at Hotel Fontana). *See also* P1149 (Evert Rave, witness statement, 17 February 1998), para. 32; Witness RM-294, T. 9870-9871, 9960.



2467. During the meeting, Mladić reiterated that the ‘innocent Muslim population’ was not the target of the VRS operations.<sup>10526</sup> He offered to provide buses for their transportation out of Potočari, if others provided the fuel.<sup>10527</sup> **Boering** testified that Karremans stated that those who remained around the village of Potočari were mostly women, children, and elderly.<sup>10528</sup> Mladić agreed to a ceasefire until 10 a.m. on 12 July and demanded the retreat of the ABiH from the enclave and the handover of their weapons in exchange for treatment of the wounded ‘refugees’.<sup>10529</sup> Mladić indicated that there would be more shelling in case of non-compliance.<sup>10530</sup> **Witness RM-294** testified that Karremans also described the extremely poor humanitarian situation in Potočari to Mladić, stating that the population had to be evacuated, and referred Mladić to Mandžić to discuss where the population wanted to go.<sup>10531</sup> The latter told Mladić that he believed there were over 25,000, if not 30,000 people in Potočari, that he was not an official representative and that he was not prepared to say where the population wanted to go.<sup>10532</sup> Mandžić started to say that international organisations should be involved in the evacuation when Mladić interrupted him telling him that his people would either live or vanish and that their fate, not only in Srebrenica but elsewhere, was in Mandžić’s hands.<sup>10533</sup> **Rave** testified that Mladić informed Mandžić that the civilian population was free to go or stay and that the Serbs would provide transport for them.<sup>10534</sup>

2468. **Boering** testified that back in Potočari, Mandžić expressed his concern that he would need more representatives to support him in the next meeting, and then went off to look for others to join the delegation.<sup>10535</sup> In a letter to the UNPROFOR Headquarters, Karremans indicated that he was unable to defend the ‘refugees’ and his

<sup>10526</sup> P1147 (Updated Srebrenica Trial Video), pp. 33, 41.

<sup>10527</sup> P1147 (Updated Srebrenica Trial Video), p. 41. *See also* P1417 (Robert Franken, witness statement, 15 January 2012), para. 72.

<sup>10528</sup> Pieter Boering, T. 10064-10066; P1142 (Srebrenica Compilation Video); P1146 (Transcript to compilation video, 10 or 11 July 1995), p. 39. *See also* P1147 (Updated Srebrenica Trial Video), 1:16:08-1:16:30.

<sup>10529</sup> P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 2. *See also* P1417 (Robert Franken, witness statement, 15 January 2012), para. 68.

<sup>10530</sup> P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 1; P1142 (Srebrenica Compilation Video); P1146 (Transcript to compilation video, 10 or 11 July 1995), pp. 47-48.

<sup>10531</sup> Witness RM-294, T. 9869, 9872.

<sup>10532</sup> Witness RM-294, T. 9873-9874. *See also* P1147 (Updated Srebrenica Trial Video), 01:32:40-01:32:58.

<sup>10533</sup> Witness RM-294, T. 9874-9875, 9902, 9904. *See also* P1147 (Updated Srebrenica Trial Video), 01:35:12, 01:36:52-01:36:59; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 3.

<sup>10534</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 33.

<sup>10535</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1962.

battalion, to find suitable military and civilian representatives, and to meet Mladić's demands.<sup>10536</sup>

*Third Hotel Fontana Meeting*

2469. **Miroslav Deronjić** stated that he met Mladić at Hotel Fontana in the morning of 12 July 1995.<sup>10537</sup> At that meeting, Deronjić conveyed Karadžić's position with respect to civilians to Mladić as well as the role Deronjić was supposed to take therein.<sup>10538</sup> Deronjić described the conversation as 'unpleasant' as Mladić 'disrespectfully' inquired where Deronjić and Karadžić had been during the fall of Srebrenica.<sup>10539</sup>

2470. **Momir Nikolić** testified that on 12 July 1995, he prepared the Hotel Fontana and provided security for another meeting at 10 a.m.<sup>10540</sup> **Boering** testified that he attended this meeting, which lasted around 30 minutes, with the following participants: Commander Karremans of DutchBat; Mladić, Nikolić, Krstić, Janković, a person called Kosorić, who was responsible for transporting the refugees, all of the VRS; Mladić's bodyguard, an interpreter named Petar, Nesib Mandžić, and two others that had been selected to act as representatives of the enclave: Čamila Omanović and Ibro Nuhanović.<sup>10541</sup> At the meeting, attempts were made to reach a solution for evacuating the refugees; however, some issues such as who would bear the responsibility for the transport of refugees and the welfare of the civilian population, along with the provision of fuel, could not be resolved.<sup>10542</sup> The screening of men aged between 16 and 60 for

<sup>10536</sup> P1143 (Report from Colonel Karremans on meetings with Mladić to the UNPROFOR Headquarters, 12 July 1995), p. 2.

<sup>10537</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6195, 6286.

<sup>10538</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6195-6196.

<sup>10539</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6196.

<sup>10540</sup> Momir Nikolić, T. 11819-11820, 11828; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>10541</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1949-1951, 1962, 1968-1972, 1974; Pieter Boering, T. 10016-10017, 10019-10021; P1142 (Srebrenica Compilation Video), 01:41:37-01:42:42, 01:42:45-01:42:50, 01:43:13, 01:44:55, 01:45:07; P1146 (Transcript to compilation video, 10 or 11 July 1995), pp. 48-53. *See also* Witness RM-294, T. 9847, 9876, 9878-9880, 9883-9984, 9896; P1135 (Video still of Pieter Boering taken from second meeting at Hotel Fontana, 11 July 1995); P1148 (Updated Srebrenica Trial Video Stills Book), pp. 64-66. Boering testified that he was not sure of the exact names of the two other representatives. Having considered additional evidence in this regard, the Trial Chamber finds that Boering was referring to Čamila Omanović and Ibro Nuhanović (*see* Witness RM-294, T. 9876, 9941; Momir Nikolić, T. 11972; P1146 (Transcript to compilation video, 10 or 11 July 1995), p. 49; P1148 (Updated Srebrenica Trial Video Stills Book), p. 64.).

<sup>10542</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1974-1975; Pieter Boering, T. 10072-10073; P1146 (Transcript to compilation video, 10 or 11 July 1995), p. 53. *See also* P1147 (Updated Srebrenica Trial Video), 13:00-14:17.

possible war crimes or other criminal behaviour was also discussed at the meeting.<sup>10543</sup> After two soldiers entered the meeting room, Krstić stepped out and later called other people out.<sup>10544</sup> According to the witness, Mladić said that if the Muslim soldiers would not surrender, the enclave would be attacked and bombed by his troops.<sup>10545</sup>

2471. **Witness RM-294** testified that during the meeting, Mladić reminded the Bosniak delegation what he had told them the night before, namely that they could either survive or disappear, and demanded that should they want to survive, all their armed men, even those who had committed crimes against his people should surrender their weapons to the VRS.<sup>10546</sup> Mladić added that, after surrendering the weapons, they could choose to stay in the territory if they so wished, or go where they wished and that he would let everyone go regardless of the fact that some may have been involved in crimes.<sup>10547</sup> According to the witness, the people gathered in Potočari had nothing with them let alone weapons and the Bosniak delegation to which Mladić addressed his demands could not influence the Bosnian military authorities to surrender their weapons.<sup>10548</sup>

2472. **Milovan Milutinović** testified that Mladić gave the Muslim delegation his word that everyone gathered at Potočari who had surrendered their weapons could chose whether to go to ‘Yugoslavia, the Federation’ or to stay in the Bosnian-Serb Republic, and guaranteed them full rights and freedoms.<sup>10549</sup> Mladić stated that all soldiers could leave apart from those who had committed crimes against Serbs, as proceedings would be instituted against them.<sup>10550</sup> He ordered his subordinates to ensure that there was transportation, food, and fuel for the population.<sup>10551</sup> UNPROFOR representatives informed those present that Muslim forces were opening mortar fire from positions around Srebrenica on ‘columns of their compatriots’, which were moving towards the UN base in Potočari. According to the witness, they wanted to prevent their gathering in

<sup>10543</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1969, 1974-1975; Pieter Boering, T. 10018-10019.

<sup>10544</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1975.

<sup>10545</sup> Pieter Boering, T. 10017-10018.

<sup>10546</sup> Witness RM-294, T. 9891.

<sup>10547</sup> Witness RM-294, T. 9891, 9943. *See also* P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6237-6238.

<sup>10548</sup> Witness RM-294, T. 9891-9892.

<sup>10549</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 78-79; Milovan Milutinović, T. 30120-30121. Although there are discrepancies in the dates and sequence of meetings described by Milutinović, the Trial Chamber understands his evidence to refer to two meetings on 11 July, followed by a third meeting on 12 July.

<sup>10550</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 80; Milovan Milutinović, T. 30120-30122.

<sup>10551</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 80.

Potočari and their departure from Srebrenica.<sup>10552</sup> When discussing how many vehicles would be needed for transportation, the Muslim representatives informed those present that the number of people in Srebrenica had been considerably exaggerated by the Srebrenica authorities, in order to receive more humanitarian aid.<sup>10553</sup> After talking to the Muslim delegation, Mladić told Krstić that they should ‘behave like knights’; that he had given his word as a general, and that no one must be harmed.<sup>10554</sup> When the witness returned to Hotel Fontana the following morning, he was informed that all the Muslims wanted to leave Srebrenica and head for Tuzla.<sup>10555</sup>

2473. **Boering** testified that after the meeting, he returned to Potočari with Karremans and discussed its outcome; as the areas of agreement were unclear, Karremans sent the witness back to Hotel Fontana. At Hotel Fontana, the witness ran into Momir Nikolić who told him that everything had been agreed upon, that Boering had no business there and he should ‘get lost,’ that things had already started, and that Boering should leave immediately.<sup>10556</sup>

2474. A document signed by the DutchBat Deputy Commander Major Franken, Miroslav Deronjić, and Nesib Mandžić on 17 July 1995 states that at the 12 July 1995 meeting the Serb side was represented by the Civil Affairs Commissioner for Srebrenica Miroslav Deronjić, Mladić, the President of Bratunac Municipality Ljubisav Simić, the Chief Executive of Bratunac Municipality Srbislav Davidović, the Chief of the Zvornik police with the last name Vasić, Krstić, Popović and Kosorić.<sup>10557</sup> It describes that the participants agreed that each civilian could decide to ‘remain in the enclave or evacuate’, the Bosniak representatives had decided that civilians wanting ‘to evacuate’ were to evacuate to Kladanj Municipality, and that the evacuation would be carried out by the VRS and Bosnian-Serb Republic police under UNPROFOR supervision and escort.<sup>10558</sup>

<sup>10552</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 88.

<sup>10553</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 89.

<sup>10554</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 79.

<sup>10555</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 81.

<sup>10556</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1976.

<sup>10557</sup> P1138 (Declaration of the representatives of the civilian authorities of the enclave of Srebrenica, 17 July 1995), pp. 1-2.

<sup>10558</sup> Witness RM-294, T. 9895; P1138 (Declaration of the representatives of the civilian authorities of the enclave of Srebrenica, 17 July 1995), pp. 1-3.

*The Trial Chamber's findings*

2475. The Defence submitted that the testimony of Momir Nikolić with regard to the Hotel Fontana meetings is not credible because, *inter alia*, he downplayed his role in the meetings, which is in contrast to the evidence of Boering who testified that Nikolić was 'in charge of everything at that point'.<sup>10559</sup> The Trial Chamber notes, however, that the evidence of Boering cited by the Defence relates to meetings with Nikolić other than the Hotel Fontana meetings alleged to have taken place on 11 and 12 July 1995.<sup>10560</sup> The Trial Chamber, therefore, finds the Defence submissions in this regard to be unpersuasive.

2476. Based on the foregoing, the Trial Chamber finds that on 11 and 12 July 1995, three meetings were held at Hotel Fontana in Bratunac. The first meeting was between members of the VRS and DutchBat officers. In the subsequent two meetings, one or more designated representatives of the Bosnian Muslims in Potočari were also present. These individuals had been designated by the Serb side.<sup>10561</sup> At the meetings, the fate of those who had gathered in Potočari was discussed. These meetings were filmed by a camera crew. The first meeting took place at approximately 8 p.m. on 11 July, and was attended by, *inter alios*, Mladić, Živanović, Janković, Nikolić, Krstić, Kosorić, some other VRS members, as well as DutchBat representatives. Also present was a camera team and a UN interpreter. During this meeting unarmed DutchBat soldiers were being detained by the VRS in an adjacent room. Mladić led the meeting in an intimidating atmosphere, using threatening language. He was upset about NATO air strikes earlier that day and warned that if they were to continue the detained DutchBat soldiers would be killed. He further threatened to target the UN compound, stating that each DutchBat soldier and officer had only one life to live and he believed that they did not want to lose it there. He also stated that neither UNPROFOR nor the civilian Muslim population were the objective of the VRS. Mladić offered to discuss a peaceful agreement to resolve the situation of the civilian population, DutchBat and the ABiH and stated his willingness to accept wounded Muslims. He allowed Karremans to see his detained soldiers, but only after they had a drink together. As wine was being served, photographs were taken. Mladić instructed the DutchBat officers to return for a

<sup>10559</sup> Defence Final Brief, para. 2567.

<sup>10560</sup> See P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1878-1879.

<sup>10561</sup> The Trial Chamber has throughout the Judgment referred to these individuals as 'designated representatives' or 'representatives'.

subsequent meeting scheduled for that same evening together with Muslim civilian and military representatives.

2477. On the same evening at approximately 10 or 11 p.m., the second meeting took place. It was attended by the same participants, in addition to Ljubisav Simić, the Mayor of Bratunac, and Nesib Mandžić, who had been asked by Karremans and Boering to act as a representative for the Bosnian-Muslim population gathered in Potočari. Soon after the start of the meeting, a VRS soldier pulled back some curtains and opened a window. The sound of a pig being slaughtered just outside could be heard, after which the window was closed. During the meeting, a broken sign of the Srebrenica town hall was placed on the table in front of Mandžić. The evacuation of the civilian population out of Potočari was again discussed and Mladić reiterated that they were not the target of the VRS and were free to go or stay. He offered to provide buses for their transport, if others provided the fuel. When Mandžić proposed that international organizations should be involved in the evacuation process, Mladić told him that his people were to either live or vanish and that their fate was in Mandžić's hands. Mladić agreed to a ceasefire until 10 a.m. the following day, demanding the retreat of ABiH soldiers from the enclave and the handover of all weapons and threatened with more shelling in case of non-compliance.

2478. The following morning, on 12 July 1995, a third meeting took place at around 10 a.m. attended by Mladić, several VRS officers, including Krstić, as well as Miroslav Deronjić, two DutchBat officers Karremans and Boering as well as three Bosnian Muslims who were acting as representatives of the civilian population in Potočari, Nesib Mandžić, Ibro Nuhanović and Čamila Omanović. Mladić repeated his demand for the surrender of all armed Bosnian-Muslim men and weapons, and stated that 'you can either survive or disappear'. Mladić stated that the civilians could stay or go where they wished and that he would let everyone go regardless of the fact that some of them may have been involved in crimes. On 17 July 1995, a document was signed by Franken, Deronjić, and Mandžić stating that an agreement had been reached that the civilians were to be 'evacuated' to Kladanj Municipality by the VRS and Bosnian-Serb Republic police forces under the supervision and escort of UNPROFOR. The screening of men aged between 16 and 60 was also discussed. For Boering, some issues remained unresolved after the meeting, such as who would bear the ultimate responsibility for the transport or the provision of fuel, however when he sought clarification, Nikolić told

him that everything had been agreed upon, that things had already started, and that he should ‘get lost’ and leave immediately.

### 7.1.5 Transportation from Potočari

2479. In this chapter, the Trial Chamber will review the evidence and make findings concerning the transportation of people out of Potočari, including organisation of the transportation of Bosnian Muslims out of the enclave and the separation of Bosnian-Muslim men from the rest of the population in Potočari. The Trial Chamber took judicial notice of a number of Adjudicated Facts relating to this event.<sup>10562</sup> It further received evidence from **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>10563</sup> **Miladin Mladenović**, a watchman at the Vihor vehicle fleet in Borkovac during the Srebrenica operation;<sup>10564</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>10565</sup> **Mendeljev Đurić**, a.k.a. Mane, the Bosnian-Serb Commander of the 1st Company of the Special Police Brigade at the Jahorina training centre in July 1995;<sup>10566</sup> **Witness RM-306**, a Serb from Bratunac;<sup>10567</sup> **Nedo Jovičić**, a member of the Special Police Brigade as the driver to Deputy Commander of the Special Police Brigade Ljubomir Borovčanin during 1995;<sup>10568</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>10569</sup> **Dušan Mičić**, a military policeman of the TO from early May 1992 until March 1993 and later commander of a PJP unit in Bratunac;<sup>10570</sup> **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and the Bosnian-Serb Republic in 1995;<sup>10571</sup> **Nebojša Jeremić**, member of the military police of the Zvornik Brigade from April 1993 until

<sup>10562</sup> Adjudicated Facts numbers 1558, 1560, 1561, and 1564 are reviewed in chapter 7.6.

<sup>10563</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>10564</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), paras 2, 4.

<sup>10565</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756.

<sup>10566</sup> P2174 (Mendeljev Đurić, Popović *et al.* transcript, 1-3 May 2007), pp. 10790, 10793, 10796.

<sup>10567</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9357-9358; Witness RM-306, T. 11446; D293 (Witness RM-306, statement to the Bosnian-Serb MUP, 26 December 2005), pp. 1-2.

<sup>10568</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>10569</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

<sup>10570</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758.

<sup>10571</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1.

the end of July 1995;<sup>10572</sup> **Witness RM-265**, a member of the Bratunac Brigade;<sup>10573</sup> **Pieter Boering**, a DutchBat Major who served as liaison officer with the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>10574</sup> **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>10575</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>10576</sup> **Eelco Koster**, a member of DutchBat;<sup>10577</sup> **Witness RM-372**, an UNPROFOR official stationed in Bosnia-Herzegovina as of January 1995;<sup>10578</sup> **Rupert Smith**, UNPROFOR commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>10579</sup> **Witness RM-314**, a Bosnian-Muslim TO member who worked in Srebrenica during the war;<sup>10580</sup> **Saliha Osmanović**, **Mirsada Gabeljić**, **Šifa Hafizović**, **Witness RM-311**, **Witness RM-312**, **Nura Efendić**, **Witness RM-249**, **Samila Salčinović**, **Razija Pašagić**, **Hanifa Hafizović**, **Witness RM-255**, **Hana Mehmedović**, **Šehra Ibišević**, **Behara Krdžić**, **Witness RM-362**, all Bosnian Muslims from Srebrenica Municipality;<sup>10581</sup> **Evert Rave**, a member of the DutchBat who served as a

<sup>10572</sup> Nebojša Jeremić, T. 34273, 34299.

<sup>10573</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800; P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282.

<sup>10574</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 1867-1873; Pieter Boering, T. 10025.

<sup>10575</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6.

<sup>10576</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>10577</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1.

<sup>10578</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 3.

<sup>10579</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>10580</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 1-2; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 1; P1437 (Witness statement, 14 June 1999), p. 1; Witness RM-314, T. 10849-10850, 10869-10872, 10896, 10912; P1434 (Pseudonym sheet of Witness RM-314). Witness RM-314's evidence is reviewed in chapter 7.2.

<sup>10581</sup> P1029 (Mirsada Gabeljić, witness statement, 18 June 2000), pp. 1-2; P1030 (Mirsada Gabeljić, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 1. P1045 (Šifa Hafizović, witness statement, 16 June 2000), pp. 1-2; P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 1. P3520 (Witness RM-311, witness statement, 5 December 2004), pp. 1-2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), p. 3306. P3488 (Witness RM-312, witness statement, 16 October 2002), pp. 1-2; P3489 (Witness RM-312, *Popović et al.* transcript, 6 November 2006), pp. 3594-3595, 3598. P1027 (Nura Efendić, witness statement, 21 June 2000), pp. 1-2; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), pp. 1-2. P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 1-2; Witness RM-249, T. 15410-15411. P1016 (Samila Salčinović, witness statement, 18 June 2000), pp. 1-2; P1017 (Samila Salčinović, statement taken by the Tuzla Cantonal Court, 18 June 2000), pp. 1-2. P1043 (Razija Pašagić, witness statement, 15 June 2000), pp. 1-2; P1044 (Razija Pašagić, statement taken by the Cantonal Court in Tuzla, 15 June 2000), p. 1. P1008 (Hanifa Hafizović, witness statement, 16 June 2000), pp. 1, 3; P1009 (Hanifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 1. P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2. Witness RM-255's evidence is also reviewed in chapter 7.1.3. P1038 (Hana Mehmedović, witness statement, 17 June 2000), pp. 1-2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. P1021 (Šehra Ibišević, witness statement, 21 June 2000), pp. 1-2; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2. P1024 (Behara Krdžić, witness statement, 16 June 2000), pp. 1-2; P1025 (Behara Krdžić, statement



Security and Liaison Officer in Srebrenica from January to late July 1995;<sup>10582</sup> **Witness RM-268**, a member of the Special Police Brigade in 1995;<sup>10583</sup> as well as documentary evidence and finds that this evidence is consistent with the Adjudicated Facts.<sup>10584</sup> The

taken by the Tuzla Cantonal Court, 16 June 2000), p. 1. P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302.

<sup>10582</sup> P1149 (Evert Rave, witness statement, 17 February 1998), p. 1, paras 1, 61-62; Evert Rave, T. 10255.

<sup>10583</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567.

<sup>10584</sup> **Momir Nikolić**: Momir Nikolić, T. 11834, 11836, 11840-11841; P1510 (Report of the DK Forward Command Post Bratunac, Vujadin Popović, 12 July 1995), p. 2; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 6, 9; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 3. **Miladin Mladenović**: D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 5; Miladin Mladenović, T. T. 27239-27240; 27242, 27245-27246, 27248-27251; P6844 (Aerial photograph of Bratunac with Vihor company and route to Potočari and Tišća marked by Miladin Mladenović). **Mile Janjić**: P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9770-9771, 9784-9785; P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), pp. 17941-17942, 17944; Mile Janjić, T. 11001, 11005. **Mendeljev Đurić**: P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10790, 10793, 10796, 10806, 10808, 10811-10812, 10822, 10833-10834, 10836-10837, 10870-10871. **Witness RM-306**: P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9493-9494, 9512-9513; Witness RM-306, T. 11440; P1477 (Excerpt from Bratunac Health Centre patient log). **Nedo Jovičić**: D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 25-26. **Ljubodrag Gajić**: T. 40295-40296, 40305. **Dušan Mičić**: D977 (Dušan Mičić, witness statement, 24 March 2013), paras 24, 31. **Witness RM-333**: P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14812-14816, 14818-14819, 14876; Witness RM-333, T. 6752, 6787-6788. **Nebojša Jeremić**: Nebojša Jeremić, T. 34279-34280, 34351. **Witness RM-265**: P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3809. **Pieter Boering**: P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 1976, 2008-2009-2010, 2015-2025; Pieter Boering, T. 10074-10076, 10082-10083; P1141 (Photograph of White House). **Paul Groenewegen**: P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 32, 38, 41, 43-45, 48-49, 56; Paul Groenewegen, T. 10485, 10490-10494, 10511-10513, 10516, 10538; P1159 (Aerial image marked by Paul Groenewegen, 13 July 1995); P1160 (Aerial image marked by Paul Groenewegen, 13 July 1995). **Robert Franken**: P1417 (Robert Franken, witness statement, 15 January 2012), paras 79, 82-84, 86-88, 100; Robert Franken, T. 10731-10732, 10735-10737; P1422 (Aerial image of Potočari marked by the witness); P1423 (Photograph showing burning personal belongings, undated); P1428 (Aerial image of Potočari annotated by the Prosecution, undated); P1429 (Aerial image of Potočari dated 13 July 1995, marked by the witness); P1432 (UNMO situation report, 12 July 1995). **Eelco Koster**: P57 (Eelco Koster, witness statement, 26 September 1995), pp. 11-13, 15; Eelco Koster, T. 1214-1216, 1231, 1233-1234, 1276; P60 (Aerial image of Potočari marked by Eelco Koster). **Witness RM-372**: P3499 (Witness RM-372, witness statement, 6 October 2013), paras 4-5, 7. **Rupert Smith**: P785 (Rupert Smith, witness statement, 27 October 2009), para. 151. **Witness RM-314**: P1435 (Witness RM-314, witness statement, 16 August 1995), p. 4. **Saliha Osmanović**: P1461 (Saliha Osmanović, witness statement, 18 June 2000), paras 8-10, 12; Saliha Osmanović, T. 11179, 11193-11194. **Mirsada Gabeljić**: P1029 (Mirsada Gabeljić, witness statement, 18 June 2000), p. 2; P1030 (Mirsada Gabeljić, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 2. **Šifa Hafizović**: P1045 (Šifa Hafizović, witness statement, 16 June 2000), p. 2; P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2. **Witness RM-311**: P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3110, 3312-3313. **Witness RM-312**: P3488 (Witness RM-312, witness statement, 16 October 2002), pp. 2-3; P3489 (Witness RM-312, *Popović et al.* transcript, 6 November 2006), pp. 3611, 3620. **Nura Efendić**: P1027 (Nura Efendić, witness statement, 21 June 2000), pp. 2-3; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2. **Witness RM-249**: P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 2-4, 11-12, 14; P1991 (Witness RM-249, prior testimony, 18 March 2010), T. 670-671, 723-724; Witness RM-249, T. 15454-15456, 15458. **Samila Salčinović**: P1016 (Samila Salčinović, witness statement, 18 June 2000), p. 2; P1017 (Samila Salčinović, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 2. **Razija Pašagić**: P1043 (Razija Pašagić, witness statement, 15 June 2000), pp. 2-3; P1044 (Razija Pašagić, statement taken by the Cantonal Court in Tuzla, 15 June 2000), pp. 1-2. **Hanifa Hafizović**: P1008 (Hanifa Hafizović, witness statement, 16 June 2000), pp. 2-3; P1009 (Hanifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), pp. 1-2. **Witness RM-255**: P55 (Witness RM-255,

Trial Chamber further received evidence from **Vincentius Egbers**, a member of the DutchBat as Commander of the 3rd platoon manning OP Alpha in the West of the Srebrenica enclave between January 1995 and 21 July 1995;<sup>10585</sup> **Witness RM-294**, a Bosnian Muslim from the Srebrenica municipality;<sup>10586</sup> **Leendert van Duijn**, a DutchBat platoon commander stationed in Potočari from January to July 1995;<sup>10587</sup> **Witness RM-284**, a Bosnian Serb;<sup>10588</sup> **Petar Skrbić**, the Assistant Commander for Organisation, Mobilisation, and Personnel affairs of the VRS Main Staff in July 1995;<sup>10589</sup> **Witness RM-374**, a Bosnian Serb from Zvornik;<sup>10590</sup> **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>10591</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>10592</sup> **Zoran Petrović**, a journalist from Belgrade who travelled the area around Bratunac with Borovčanin from 13 to 15 July 1995;<sup>10593</sup> **Zlatan Čelanović**, who in 1995 was a member of the VRS Bratunac Light Infantry Brigade;<sup>10594</sup> and **Zoran Kovačević**, Commander of various companies of the 2nd Battalion of the Bratunac Brigade as of April 1992.<sup>10595</sup>

*Organisation of the transportation of Bosnian Muslims out of the enclave*

2480. **Robert Franken** testified that the transportation of Bosnian Muslims out of Potočari to Kladanj was not a decision made by the designated Bosnian-Muslim

witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1170-1173, 1187, 1193, 1196-1197. **Hana Mehmedović**: P1038 (Hana Mehmedović, witness statement, 17 June 2000), pp. 2-3; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), pp. 2-3. **Šehra Ibišević**: P1021 (Šehra Ibišević, witness statement, 21 June 2000), pp. 2-3; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), pp. 2-3. **Behara Krdžić**: P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2. **Evert Rave**: P1149 (Evert Rave, witness statement, 17 February 1998), paras 36, 39-40, 45-46, 50; Evert Rave, T. 10175-10179. **Witness RM-268**: P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8569, 8586-8588-8592, 8619. Witness RM-314's evidence is reviewed in chapter 7.2.

<sup>10585</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), pp. 2201-2203; D307 (Undated UN ICTY UN Peacekeeper interview questionnaire), p. 1.

<sup>10586</sup> Witness RM-294, T. 9838, 9840; P1136 (Pseudonym sheet for Witness RM-294, 16 April 2013).

<sup>10587</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2256-2258, 2261.

<sup>10588</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

<sup>10589</sup> Petar Skrbić, T. 13981.

<sup>10590</sup> P1576 (Witness RM-374, *Popović* transcript, 28 February and 1 March 2007), p. 7935.

<sup>10591</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676.

<sup>10592</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>10593</sup> P3347 (Zoran Petrović, *Popović et al.* transcript 4 December 2007), pp. 18738, 18764-18765, 18830.

<sup>10594</sup> P1451 (Zlatan Čelanović, *Popović et al.* transcript, 31 January 2007), p.6626. Zlatan Čelanović's evidence is reviewed in chapter 7.1.3.

<sup>10595</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), paras 2, 4-5, 7.

representatives there, but rather ordered by Mladić.<sup>10596</sup> In an intercepted conversation dated 12 July 1995, between Mladić and an unidentified individual, Mladić inquired about the departure of buses and trucks and stated that they all surrendered and should be evacuated including those who did not want to leave. Mladić told the unidentified individual that a corridor towards Kladanj would be opened for the evacuation. He further instructed the individual to take a patrol to remove the mines and obstacles.<sup>10597</sup> **Franken** further testified that the content of the conversation was consistent with the reality that he witnessed on the ground at the time.<sup>10598</sup>

2481. **Petar Škrbić** testified that late at night on 11 July 1995 he was requested via telephone by someone from the operation centre located at Crna Rijeka to mobilize buses.<sup>10599</sup> The witness knew that the request came from Mladić.<sup>10600</sup>

2482. On 12 July 1995 at around 4:30 a.m., the 1st Company of the Zvornik Special Police Unit and a MUP company from Jahorina had taken their starting positions on both sides of the Žuti Most near Potočari. The MUP companies took control of the UN checkpoint on the bridge without incident and without resistance from the DutchBat soldiers. Borovčanin estimated that there were 25,000 to 28,000 ‘civilians’ gathered in Potočari on that day.<sup>10601</sup>

2483. Still on 12 July 1995, Dragomir Vasić, Chief of the Zvornik SJB, reported that that morning at 8 a.m., Mladić and General Krstić had met at the Bratunac Brigade Command and assigned tasks to all participants at the meeting.<sup>10602</sup> **Momir Nikolić** confirmed that Mladić, Vasić, and other senior officers from the police and the army attended the meeting in the morning of 12 July 1995.<sup>10603</sup> According to Vasić’s report, the military operations were proceeding according to plan: the ‘Turks’ were fleeing towards Sućeska, while around 15,000 ‘civilians’ had gathered in Potočari. Vasić reported that at 10 a.m. that morning, a meeting would be held with representatives of UNPROFOR, the International Red Cross, and the Muslims from Srebrenica, at which

<sup>10596</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 105.

<sup>10597</sup> P1235 (Intercept of a communication between Mladić and an unidentified individual, 12 July 1995).

<sup>10598</sup> Robert Franken, T. 10746-10747; P1235 (Intercept of a communication between Mladić and an unidentified individual, 12 July 1995).

<sup>10599</sup> Petar Škrbić, T. 13981, 13984.

<sup>10600</sup> Petar Škrbić, T. 13984-13985, 14020.

<sup>10601</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 2.

<sup>10602</sup> P1509 (Report of the Zvornik Public Security Centre on meeting in Bratunac, Dragomir Vasić, 12 July 1995); *See also* Momir Nikolić, T. 11814-11815.

<sup>10603</sup> Momir Nikolić, T. 11814-11815.

an agreement would be reached on the evacuation of the civilian population from Potočari to Kladanj, to which he added: 'for them to have more problems there'. One hundred trailer trucks had been provided for transport. Joint police forces were advancing on Potočari to take UNPROFOR personnel prisoner, surround the entire civilian population, and clear the terrain of enemy groups.<sup>10604</sup>

2484. Also in the early morning of 12 July, General Živanović signed an order addressed to all the subordinate units of the DK directing that 'all buses and mini-buses belonging to the VRS be secured for use by the DK,' arrive at the Bratunac stadium by 4:30 p.m., and follow instructions about locations for fuel distribution.<sup>10605</sup> The order further stated that the DK Command had sent a message to the Bosnian-Serb MoD asking for private buses to be mobilised.<sup>10606</sup> The same morning, the Bosnian-Serb MoD sent three orders to its local secretariats directing them to procure buses and send them to Bratunac.<sup>10607</sup> **Skrbić** testified that on that day, he sent an urgent written request to the MoD to mobilise all buses available in the Pale, Sokolac, Rogatica, Višegrad, Han Pijesak, Vlasenica, Milići, Bratunac, and Zvornik Municipalities.<sup>10608</sup> At least 50 buses were to be mobilised and sent to the Bratunac stadium by 2:30 p.m.<sup>10609</sup> According to a document dated 12 July 1995, the DK Command sent a request to the VRS Main Staff for additional approval of 10,000 litres of diesel fuel and 2,000 litres of petrol, referring to the order to provide 50 buses for 'evacuation from the Srebrenica enclave'.<sup>10610</sup> Traffic police and the military police of the 65th Protection Motorised Regiment were tasked to monitor the movement of the buses from the DK area to the SRK area.<sup>10611</sup> The Commander of the 65th Protection Motorised Regiment was Milomir Savčić, whose commander was Mladić.<sup>10612</sup>

2485. General Krstić ordered the procurement of buses for the transportation of the Bosnian-Muslim population from Potočari on 12 and 13 July 1995. He issued orders to his subordinates about securing the road along which the buses would travel to Kladanj

<sup>10604</sup> P1509 (Report of the Zvornik Public Security Centre on meeting in Bratunac, Dragomir Vasić, 12 July 1995).

<sup>10605</sup> Adjudicated Facts II, no. 1411.

<sup>10606</sup> Adjudicated Facts II, no. 1412.

<sup>10607</sup> Adjudicated Facts II, no. 1413.

<sup>10608</sup> P1710 (VRS Main Staff Order 09/31/12-3/154 to the Ministry of Defence, 12 July 1995). *See also* P1714 (DK Command Request 21/6-686 to the Main Staff of the VRS, 12 July 1995).

<sup>10609</sup> P1710 (VRS Main Staff Order 09/31/12-3/154 to the Ministry of Defence, 12 July 1995).

<sup>10610</sup> P1714 (DK Command Request 21/6-686 to the Main Staff of the VRS, 12 July 1995).

<sup>10611</sup> Petar Skrbić, T. 13987-13988, 14022.

<sup>10612</sup> Petar Skrbić, T. 13988.

and he generally supervised the transportation operation.<sup>10613</sup> **Witness RM-284** testified that on the morning of 12 July 1995, he heard Krstić ordering that buses be secured from Zvornik and other municipalities.<sup>10614</sup> He further heard a conversation between Krstić and Popović in front of Hotel Fontana, still on the same day, wherein Krstić asked Popović about how to structure the column of buses to ensure safe passage for the ‘civilian’ Muslim population that was gathering in Potočari near Srebrenica to the Muslim side.<sup>10615</sup> In front of Hotel Fontana, the witness also heard Mladić asking Krstić how everything was going. Krstić replied that he believed everything was going according to plan but that he was ‘going to check’. Krstić then went inside Hotel Fontana.<sup>10616</sup> On 12 July 1995, dozens of buses and trucks arrived in Potočari to collect the Bosnian-Muslim women, children, and elderly.<sup>10617</sup>

2486. **Miladin Mladenović** testified that between 1 and 2 p.m. still on 12 July, two employees from Vihor – a driver and an electrician named Milenko Jovanović from Bratunac – came to his house.<sup>10618</sup> They told him that his boss at Vihor, a man named Stević who was the head of transport, had ordered that the witness get a bus and drive Muslims to Kladanj.<sup>10619</sup> The director of Vihor was Dragan Jovanović.<sup>10620</sup> The witness reported to the foreman at Vihor who issued him fuel and a white TAM bus with a blue horizontal line and a Vihor logo.<sup>10621</sup> The witness was told to go to Potočari to transport Muslims.<sup>10622</sup> Driving to Potočari, the witness saw approximately 50 buses and heavy-duty vehicles, such as lorries, driving in the direction of Bratunac towards Kladanj.<sup>10623</sup> When he arrived in Potočari, VRS soldiers directed him to park his bus within the grounds of the White House.<sup>10624</sup>

<sup>10613</sup> Adjudicated Facts II, no. 1405.

<sup>10614</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), p. 14589; Witness RM-284, T. 11126-11127.

<sup>10615</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14589-14591; Witness RM-284, T. 11126-11128.

<sup>10616</sup> Witness RM-284, T. 11128.

<sup>10617</sup> Adjudicated Facts II, no. 1409.

<sup>10618</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 4; Miladin Mladenović, T. 27245.

<sup>10619</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), paras 2-4.

<sup>10620</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 3.

<sup>10621</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 4; Miladin Mladenović, T. 27245-27248; P6844 (Aerial photograph of Bratunac with Vihor company and route to Potočari and Tišća marked by Miladin Mladenović).

<sup>10622</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 4.

<sup>10623</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 5; Miladin Mladenović, T. 27241-27242, 27248-27250; P6844 (Aerial photograph of Bratunac with Vihor company and route to Potočari and Tišća marked by Miladin Mladenović); P6845 (Aerial photograph of Bratunac on 12 July 1995 at approximately 2 p.m.).

<sup>10624</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 5; Miladin Mladenović, T. 27251.

2487. On 12 July 1995, at 5:30 p.m., Lieutenant Colonel Vujadin Popović of the DK IKM sent a report to, amongst others, the DK Command and the VRS Main Staff.<sup>10625</sup> Popović reported that there had been no heavy exchange of fire with the *'balijas'* that day, as MUP forces had entered Potočari without combat.<sup>10626</sup> Popović further reported that around 30,000 to 35,000 women, children, elderly, infirm, and sick persons were located near the UNPROFOR base on the road and in former factories.<sup>10627</sup> UNPROFOR soldiers were assisting in loading women and children into the vehicles.<sup>10628</sup> **Nikolić** and Janković also estimated that there were around 30,000 to 40,000 people at Potočari.<sup>10629</sup> At the end of the day, Nikolić compiled a report with all the intelligence information at his disposal and sent it to the DK Command.<sup>10630</sup> That evening, Nikolić also reported verbally to his commander, Blagojević, and they discussed the operation to transport woman and children to Kladanj and to separate, detain, and kill able-bodied Muslim men in Potočari.<sup>10631</sup> The witness generally informed Colonel Blagojević of everything that was happening in the Bratunac Brigade's zone of responsibility on the days around 12 July 1995.<sup>10632</sup>

2488. On 12 July 1995, part of the MUP forces were also involved in organizing the evacuation of 'civilians' from Srebrenica to Kladanj.<sup>10633</sup> On 13 July 1995, at 9:30 a.m., Mladić, Colonel Vasić, Lieutenant Colonel Popović, and General Krstić met at the Bratunac Brigade headquarters.<sup>10634</sup> Mladić informed Vasić, Chief of Zvornik SJB, that part of the MUP forces was delegated the task of organising the evacuation of approximately 15,000 civilians from Srebrenica to Kladanj by bus.<sup>10635</sup> Following this meeting, Blagojević tasked Nikolić with continuing the Potočari operation to transport Muslim women and children to Kladanj and separate and detain able-bodied Muslim men.<sup>10636</sup>

<sup>10625</sup> P1510 (Report of the DK Forward Command Post Bratunac, Vujadin Popović, 12 July 1995).

<sup>10626</sup> P1510 (Report of the DK Forward Command Post Bratunac, Vujadin Popović, 12 July 1995), p. 1.

<sup>10627</sup> P1510 (Report of the DK Forward Command Post Bratunac, Vujadin Popović, 12 July 1995), p. 2.

<sup>10628</sup> P1510 (Report of the DK Forward Command Post Bratunac, Vujadin Popović, 12 July 1995), p. 2.

<sup>10629</sup> Momir Nikolić, T. 11835.

<sup>10630</sup> Momir Nikolić, T. 11840.

<sup>10631</sup> Momir Nikolić, T. 11840; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10632</sup> Momir Nikolić, T. 12108.

<sup>10633</sup> P2117 (Special Police Brigade document to Pale Police Staff Janja, 13 July 1995), p. 1.

<sup>10634</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 8.

<sup>10635</sup> P2118 (Zvornik SJB Report 13 July 1995).

<sup>10636</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 8.

2489. When the evacuation began, Nikolić saw the following persons in Potočari: Mladić; Ljubiša Borovčanin; Colonel Janković; Popović and Kosorić, both of the DK intelligence and security; Acamović, Assistant Commander for logistics; Krsmanović, Head of the traffic service in Potočari, and a number of officers from the brigades engaged in the attack on the enclave.<sup>10637</sup> The witness identified several units ‘engaged’ in Potočari around that day: part of Bratunac Brigade military police, members of the 65th Protection Regiment from Nova Kasaba and part of the Military Police Battalion of the DK, whom the witness knew and recognized; the 2nd Infantry Battalion; a unit which carried out an attack from the area of Pribičevac; the Wolves from Drina, who were members of the Zvornik Brigade; police units, including members of the Bratunac SJB, the MUP Special Brigade under the command of Ljubiša Borovčanin, and a company of the PJP; and parts of the 10th Sabotage Detachment under the responsibility of the VRS Main Staff.<sup>10638</sup> The units of the DK present in Potočari on 12 July 1995 were under the command of Vujadin Popović and Kosorić.<sup>10639</sup> According to the witness, General Krstić was in command of all units taking part in the *Krivaja* operation until Mladić arrived and took over command of all units engaged in the combat operations, which were completed on 11 July 1995.<sup>10640</sup> According to the witness, as of 12 July 1995, the units present in Potočari were under the direct command of their commanders.<sup>10641</sup> When carrying out joint tasks with the army, police officers maintained command and control over their own units when participating in a joint operation.<sup>10642</sup> Prior to this, the engagement of MUP units was discussed at the level of the Minister of the Interior and senior officers of the VRS.<sup>10643</sup>

2490. **Mendeljev Đurić** stated that on 12 July 1995, he deployed the 1st Company of the Special Police Brigade largely around the civilians near the UN compound.<sup>10644</sup> Members of this company were also tasked to secure civilians in Potočari on 13 July 1995.<sup>10645</sup> Members of this company, together with DutchBat, led by a lieutenant called

<sup>10637</sup> Momir Nikolić, T. 11832-11833.

<sup>10638</sup> Momir Nikolić, T. 11831-11832, 12089-12090, 12092-12096; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10639</sup> Momir Nikolić, T. 12092.

<sup>10640</sup> Momir Nikolić, T. 12090-12091.

<sup>10641</sup> Momir Nikolić, T. 12091-12092.

<sup>10642</sup> Momir Nikolić, T. 12093-12096.

<sup>10643</sup> Momir Nikolić, T. 12095-12096.

<sup>10644</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10805-10808.

<sup>10645</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10811, 10822, 10870-10871.

Van Duijn, were directing the ‘civilians’ until late afternoon on 12 July 1995.<sup>10646</sup> **Witness RM-333** testified that around 12 July 1995, Đurić ordered a company from the Jahorina police training centre to go to Potočari and secure perimeters on a road close to the UN compound where ‘civilians’ were expected to be sent to Tuzla or exchanged with the Bosnian government.<sup>10647</sup> Members of the company were tasked to protect the ‘civilians’ from attacks by the ABiH and to ensure the safe evacuation of the ‘civilians’.<sup>10648</sup> Members of the company left the Bjelovac School, where it was stationed, for Potočari on foot around 9 a.m. and arrived at the UN compound two to three hours later.<sup>10649</sup> The company passed the OP Papa, manned by Dutch UN soldiers, without incident.<sup>10650</sup> At the UN compound, lots of ‘civilians’, including women and children were present: they were scared and the children were crying.<sup>10651</sup> Members of the Drina Wolves and individuals wearing green one-piece camouflage uniforms with insignia with a white eagle were present there.<sup>10652</sup> This company from the Jahorina police training centre was deployed around the UN compound, in a mostly scattered and disorganised fashion, with each member covering an area of around 15 to 100 metres.<sup>10653</sup> The company stayed at the same location until approximately 4:30 to 5 p.m.<sup>10654</sup>

2491. **Leendert van Duijn** testified that on 12 July 1995, he was approached by a Serb military official and his interpreter, ‘Miki’, at the factory sites near the UN Compound in Potočari.<sup>10655</sup> Through his interpreter, the Serb military official introduced himself as ‘Mane’<sup>10656</sup> and told Van Duijn that he was the captain of a military police unit and the

<sup>10646</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10790, 10793, 10796, 10808, 10811-10812, 10836-10837.

<sup>10647</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14802-14804, 14807, 14904; Witness RM-333, T. 6751.

<sup>10648</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14802-14805, 14807; Witness RM-333, T. 6749-6751, 6796.

<sup>10649</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14808-14809; Witness RM-333, T. 6774, 6795.

<sup>10650</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14873.

<sup>10651</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14809-14810, 14820.

<sup>10652</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14810-14812; Witness RM-333, T. 6751.

<sup>10653</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14812, 14874, 14900; Witness RM-333, T. 6737-6739, 6752; P723 (Aerial photo of Potočari, 13 July 1994).

<sup>10654</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14813-14814; Witness RM-333, T. 6752.

<sup>10655</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2272, 2277-2278; Leendert van Duijn, T. 10406.

<sup>10656</sup> The Trial Chamber understands this to be a reference to Mendeljev Đurić and will use his full name and his nickname alternatively in this chapter.



local commander of the Serb forces in the area.<sup>10657</sup> Mane also told the witness that his superior was an individual who went by the code name ‘Stalin’.<sup>10658</sup> Mane went on to describe Stalin as a short man with a big pair of Ray-Ban sunglasses, and subsequently pointed him out to the witness.<sup>10659</sup> During the course of their conversation, Mane informed Van Duijn that he had a liaison with the Drina Wolves, but that he was not part of that unit.<sup>10660</sup> Mane then stated that there would be 200 buses to pick up the Bosnian Muslims in Potočari and transport them out of the Srebrenica enclave.<sup>10661</sup> He enquired with the witness whether the UN forces would stay or whether they would withdraw to the UN Compound. The witness considered it to be a part of DutchBat’s assignment to stay in order to provide humanitarian aid to the Bosnian Muslims in Potočari.<sup>10662</sup> He and other members of DutchBat therefore remained on the scene to try to calm down the Bosnian Muslims; it was hot and people were collapsing from dehydration.<sup>10663</sup> Shortly after, a large number of buses and trucks began to arrive.<sup>10664</sup> Around the same time, Van Duijn had contact with his superior, Major Franken, who told the witness that he had heard about the plans for the evacuation of the Bosnian Muslims from the enclave but appeared to be surprised that the process was already underway.<sup>10665</sup> As for the process whereby the Bosnian Muslims were boarded onto the buses and trucks, the witness testified that Mane would tell him how many people could board.<sup>10666</sup> The witness would then give orders to the DutchBat soldiers to let people through in small groups to ensure families could stay together and to prevent people from trampling on each other.<sup>10667</sup> The witness and Mane agreed on separated designated areas: one for Serb soldiers and another one for the Dutch soldiers and the

<sup>10657</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2277-2278, 2282; Leendert van Duijn, T. 10313; P1155 (Compilation of photos of Bosnian Serbs), pp. 60-61.

<sup>10658</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2278. Leendert van Duijn, T. 10314.

<sup>10659</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2278-2279, 2282-2283; P1155 (Compilation of photos of Bosnian Serbs), p. 41.

<sup>10660</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2278.

<sup>10661</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2284-2285.

<sup>10662</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2285.

<sup>10663</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2285-2286; Leendert van Duijn, T. 10312.

<sup>10664</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2285.

<sup>10665</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2285; Leendert van Duijn, T. 10378-10379.

<sup>10666</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2286; Leendert van Duijn, T. 10313.

<sup>10667</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2286.

‘refugees’.<sup>10668</sup> Both agreed that Serb soldiers would not cross over to the area designated for the Dutch soldiers and the ‘refugees’ and vice versa.<sup>10669</sup>

2492. **Boering** testified that on 12 July 1995 he informed Karremans about Mladić’s presence and that Karremans sent him to Mladić with the request that the injured, elderly, and women be transported first.<sup>10670</sup> Mladić considered the request but did not act upon it; buses and trucks were filled with people without any selection.<sup>10671</sup> The witness, however, saw mostly women, children, elderly, and a few men between the ages of 16 and 60 boarding the first convoys.<sup>10672</sup> He did not see any vehicles bringing bread to the population.<sup>10673</sup> In at least one case, he saw a man being refused entry into a bus.<sup>10674</sup> UNMOs and UNPROFOR members were present during this selection.<sup>10675</sup>

2493. **Franken** testified that when the bus convoys first arrived, people in the crowd were eager to board, but he believed that this was only because they were afraid and had no other choice.<sup>10676</sup> Later, the Bosnian-Serb soldiers used some force to get a lot of people in a bus, which caused DutchBat to begin preparing busloads of people.<sup>10677</sup>

2494. The DK was instrumental in procuring the buses and other vehicles that were used to transport the Bosnian-Muslim women, children, and elderly out of the Potočari compound on 12 and 13 July 1995, as well as the fuel needed to accomplish this task.<sup>10678</sup> DK Command officers and units were present in Potočari monitoring the transportation of the Bosnian-Muslim civilians out of the area on 12 and 13 July 1995.<sup>10679</sup> General Krstić was present within the area of the former Srebrenica enclave at least up until the evening of 13 July, by which time the first mass executions had already taken place.<sup>10680</sup> The Bratunac Brigade monitored fuel disbursements to buses

<sup>10668</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2291; Leendert van Duijn, T. 10313-10314, 10318.

<sup>10669</sup> Leendert van Duijn, T. 10318.

<sup>10670</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2008-2009.

<sup>10671</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2009-2010; Pieter Boering, T. 10074.

<sup>10672</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), p. 2010.

<sup>10673</sup> Pieter Boering, T. 10075.

<sup>10674</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), p. 2015.

<sup>10675</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), p. 2010; Pieter Boering, T. 10074-10076, 10080.

<sup>10676</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 80.

<sup>10677</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 81.

<sup>10678</sup> Adjudicated Facts II, no. 1419.

<sup>10679</sup> Adjudicated Facts II, no. 1420.

<sup>10680</sup> Adjudicated Facts II, no. 1406.

and trucks on 12 and 13 July.<sup>10681</sup> It also participated in this operation by contributing two buses and fuel, and by regulating traffic as the buses passed through Bratunac on their way to Konjević Polje.<sup>10682</sup>

2495. **Groenewegen** testified that he saw Mladić in Potočari on both 12 and 13 July 1995.<sup>10683</sup> **Eelco Koster** testified that on 13 July 1995, as it had happened the day before, a Serb film crew arrived. He also saw two trucks with military personnel and Mladić in a military jeep, driving past and in the direction of Srebrenica.<sup>10684</sup> They returned later that day, but Mladić did not get out of the vehicle. The compound was also visited by the Serb airborne troops, who wore bright red berets and had insignia.<sup>10685</sup> There were about four or five of them and they arrived in two jeeps, stayed for approximately 15 minutes, looked around a bit, and spoke to two Serb commanders, Mickey and Mane.<sup>10686</sup> Most buses and trucks taking away refugees were escorted by UN jeeps. The wounded were collected later by people from the Red Cross.<sup>10687</sup>

*Separation of Bosnian-Muslim men from the rest of the population in Potočari*

2496. Having reviewed the evidence on the organization of the transportation of Bosnian Muslims out of the enclave in the previous section, the Trial Chamber will now review the evidence on the separation of Bosnian-Muslim men from the rest of the population in Potočari.

2497. **Nikolić** testified that in the afternoon of 12 July 1995, he went to Potočari.<sup>10688</sup> He was present at Potočari several times that day.<sup>10689</sup> DutchBat, the police, and the forces present in Potočari maintained order while the buses arrived.<sup>10690</sup> When the first

<sup>10681</sup> Adjudicated Facts II, no. 1414.

<sup>10682</sup> Adjudicated Facts II, no. 1416.

<sup>10683</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 57; Paul Groenewegen, T. 10487, 10540.

<sup>10684</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 15; Eelco Koster, T. 1234, 1277.

<sup>10685</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 15.

<sup>10686</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 13, 15; Eelco Koster, T. 1232-1233, 1274-1275. The Trial Chamber understands that the reference to 'Mickey' is in fact a reference to the man identified as 'Miki' and known as Mendeljev Đurić's interpreter.

<sup>10687</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 15.

<sup>10688</sup> Momir Nikolić, T. 11828, 11831; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10689</sup> Momir Nikolić, T. 11831-11832, 11839; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 2.

<sup>10690</sup> Momir Nikolić, T. 11833.

convoy boarded the buses, the men were not separated from the women.<sup>10691</sup> Images of this first convoy were filmed and later broadcast by a press service of the DK Command.<sup>10692</sup> The witness concluded that these images of the first convoy (which included men) were used for propaganda purposes, to indicate that nothing unusual or bad had happened.<sup>10693</sup> According to the witness, the men on the first convoy were separated at checkpoints before reaching Kladanj.<sup>10694</sup> **Boering** testified that the convoy stopped in Tišća, where people got out of the vehicles.<sup>10695</sup> The Trial Chamber took judicial notice of Adjudicated Facts number 1560, 1561, and 1564, concerning the presence of DK personnel upon orders from the DK Command at the Tišća checkpoint on that day, reviewed in chapter 7.6. In particular, Major Sarkić, the Chief of Staff of the Milići Brigade, and his troops were present upon orders of the DK Command, including General Krstić. **Boering** testified that a group of approximately ten able-bodied men were separated from the group and taken away in the direction of a forest by VRS soldiers under the command of Major Sarkić, Liaison Officer for the Milići Brigade.<sup>10696</sup> When the witness inquired about the separation of these men from the group, Sarkić responded that he was getting orders to act and had to execute these orders, adding that he did not have a complete picture of what was going on.<sup>10697</sup> The witness tried to follow the group into the forest but was stopped by VRS soldiers.<sup>10698</sup> The convoy resumed and reached a no man's land, where people were asked to disembark and walk to Kladanj in Muslim-held territory.<sup>10699</sup>

2498. **Nikolić** testified that after the first convoy, the women and children were separated from the men.<sup>10700</sup> As the Bosnian-Muslim refugees began boarding the buses, Bosnian-Serb soldiers systematically separated out men of military age who were trying to clamour aboard. Occasionally, younger and older men were stopped as well.<sup>10701</sup> **Nikolić** testified that separation was ordered on the pretext that women and children

<sup>10691</sup> Momir Nikolić, T. 11833-11834; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10692</sup> Momir Nikolić, T. 11836-11837.

<sup>10693</sup> Momir Nikolić, T. 11837; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10694</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6.

<sup>10695</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2021-2022.

<sup>10696</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2022-2023.

<sup>10697</sup> Pieter Boering, T. 10021-10022.

<sup>10698</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2022-2024.

<sup>10699</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2024-2025.

<sup>10700</sup> Momir Nikolić, T. 11834.

<sup>10701</sup> Adjudicated Facts II, no. 1487.

should have the priority to board the buses and that the men would be let through later.<sup>10702</sup> **Mile Janjić** testified that when the yard of the White House was full of people unrest started and the witness heard Colonel Janković tell the people that there was no need for concern and that they would join their families later.<sup>10703</sup>

2499. **Witness RM-374** testified that *Drinatrans* was an entity engaged in the transportation to Zvornik of ‘POWs’ from Bratunac, Kravica, and other locations unknown to him.<sup>10704</sup> A *Drinatrans* driver told him that male Muslim detainees being transported in Bratunac Municipality took weapons from two Serbian policemen or soldiers escorting the bus and began shooting.<sup>10705</sup> Following this, general shooting between Muslim detainees and Serbian policemen or soldiers, both on and outside the bus, ensued.<sup>10706</sup> The witness recalled that it was unknown to the driver he spoke with how many Muslims or Serbs died.<sup>10707</sup>

2500. **Franken** testified that as the transportation was being carried out, he had information gained from a debriefing, that at one of the meetings with DutchBat members, Mladić, and individuals designated as representatives of the Bosnian Muslims, Mladić had said that he wanted to interrogate the men aged 16 to 60 because they were potential soldiers and he wanted to check if they were war criminals.<sup>10708</sup> The separation of Bosnian-Muslim males from the women in Potočari began around 2 p.m. on 12 July, around the same time that the second convoy of buses was nearly full.<sup>10709</sup> Franken challenged Janković with regard to the separation of able-bodied men, and Janković responded by promising to treat the Bosnian-Muslim soldiers in accordance with the Geneva Conventions.<sup>10710</sup> According to the witness’s interpretation, the normal procedure when dealing with a large group of people in war time was to separate the group into civilians and military; as well as dividing the group into men, women,

<sup>10702</sup> Momir Nikolić, T. 11834.

<sup>10703</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9786-9787; Mile Janjić, T. 11039. See also P1016 (Samila Salčinović, witness statement, 18 June 2000), p. 2; P1017 (Samila Salčinović, statement taken by the Tuzla Cantonal Court, 18 June 2000), p. 2.

<sup>10704</sup> Witness RM-374, T. 12775-12777, 12779.

<sup>10705</sup> Witness RM-374, T. 12776-12779.

<sup>10706</sup> Witness RM-374, T. 12777-12778.

<sup>10707</sup> Witness RM-374, T. 12778.

<sup>10708</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 86; Robert Franken, T. 10808-10809

<sup>10709</sup> Robert Franken, T. 10812.

<sup>10710</sup> Robert Franken, T. 10823-10825, 10829-10830; D278 (Debriefing report of General Franken with the Dutch authorities, 31 March 1999), para. 30.

children and elderly was a normal procedure.<sup>10711</sup> According to the witness, the ‘existence of war crimes’ did not have a role in that procedure.<sup>10712</sup>

2501. **Rave** testified that on 12 July 1995 he saw the Muslim men and boys being crammed into the buses.<sup>10713</sup> Sometimes the Serb soldiers beat them and ordered them to keep their heads down.<sup>10714</sup> Mladić and Janković were present when the separation was taking place.<sup>10715</sup> According to the witness, about 300 to 500 men were separated from their families on that occasion.<sup>10716</sup> During the separation the witness continuously heard firing from small calibre weapons, although there were no ongoing hostilities at the time.<sup>10717</sup> **Groenewegen** testified that he was told by some of the people among the population that the younger men stayed behind the hills since they considered it was better to remain and fight rather than go along willingly.<sup>10718</sup> According to the witness, the vast majority of the people gathered in Potočari did not want to leave and those who left did so out of fear.<sup>10719</sup> Initially, people were allowed to board the buses themselves but after a while, Serb soldiers forced those who did not want to leave.<sup>10720</sup> At first, Serb soldiers shouted at the people and called them names to get them onto the buses and used weapons to force them to board the buses.<sup>10721</sup> During the night of 12 to 13 July 1995, the people remaining in and around the UN compound in Potočari were those who did not want to leave with the buses. The witness did not see any VRS troops then.<sup>10722</sup> The people gathered in Potočari had very few belongings with them and therefore very few belongings were left behind in the compound after they left.<sup>10723</sup> **Koster** testified that buses arrived at 7 a.m on 13 July 1995, the Serbian soldiers loaded the refugees onto them, and there was chaos. It was a very hot day and people were

<sup>10711</sup> Robert Franken, T. 10823-10825.

<sup>10712</sup> Robert Franken, T. 10824.

<sup>10713</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 40; Evert Rave, T. 10178-10179.

<sup>10714</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 40.

<sup>10715</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 42-43; Evert Rave, T. 10176, 10179.

<sup>10716</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 40.

<sup>10717</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 41-42.

<sup>10718</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 42; Paul Groenewegen, T. 10501-10502.

<sup>10719</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 38-39; Paul Groenewegen, T. 10484-10485, 10520-10521.

<sup>10720</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 32, 34-35; Paul Groenewegen, T. 10515.

<sup>10721</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 32, 35-36.

<sup>10722</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 46.

<sup>10723</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 68; Paul Groenewegen, T. 10517-10518.

collapsing, mothers and children became separated from one another, and babies of mothers who had become ill were abandoned to their fate.<sup>10724</sup>

2502. The Trial Chamber received extensive evidence from people who were separated and transported from Potočari on 12 and 13 July 1995. **Šifa Hafizović** stated that at some point, soldiers began separating women from men.<sup>10725</sup> The soldiers ordered the witness and her neighbour, Tima Klempić, to board trucks and buses along with other women and small children and drove them away. Klempić tried to board the truck with her three sons, but two of them, aged 12 and 14, were taken away from her by the soldiers and she has never seen them again.<sup>10726</sup> The witness stated that she could not return to Potočari because their family house had been burnt down.<sup>10727</sup>

2503. **Nura Efendić** stated that after the Serb army entered her village in July 1995, she went to the UNPROFOR base with her husband where they stayed for one night and were among the last ones to leave the day after.<sup>10728</sup> On that day, the witness and others were lined up on the road and women and children were separated from the men and boys over twelve years old.<sup>10729</sup> The women were put on trucks.<sup>10730</sup> One of the witness's neighbours climbed on the truck with her twelve-year-old twins but the Serbs separated the boys from their mother and took them away.<sup>10731</sup> The witness saw men filming when she was climbing onto the truck.<sup>10732</sup> The witness arrived in Kladanj and lived at different places before moving to Sarajevo a few years later. The witness has not seen her husband since they were separated and she has not seen her sons Meho and Asim since they left for the woods.<sup>10733</sup> The witness stated that her neighbours told her that they had seen a film on television, which was apparently made in Potočari, in which

<sup>10724</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 14.

<sup>10725</sup> P1045 (Šifa Hafizović, witness statement, 16 June 2000), p. 2; P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10726</sup> P1045 (Šifa Hafizović, witness statement, 16 June 2000), p. 2; P1046 (Šifa Hafizović, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10727</sup> P1045 (Šifa Hafizović, witness statement, 16 June 2000), p. 3.

<sup>10728</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), p. 2; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>10729</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), pp. 2-3; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>10730</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), p. 3; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>10731</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), p. 2.

<sup>10732</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), p. 3.

<sup>10733</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), p. 3; P1028 (Nura Efendić, statement taken by the Sarajevo Cantonal Court, 21 June 2000), p. 2.

they could recognize the witness's husband and cousins, Kasim and Senaid Hafizović.<sup>10734</sup>

2504. **Witness RM-255** saw approximately seven 'Chetniks' walking around with dogs among the crowd in Potočari in the morning of 13 July 1995.<sup>10735</sup> Around 9 a.m., when the witness and his family set out towards the buses, the witness noticed two barricades.<sup>10736</sup> The witness was not sure whether the first barricade was manned by UNPROFOR or the 'Serb army'.<sup>10737</sup> Only about 200 to 250 people were allowed to go through that barricade.<sup>10738</sup> The second barricade was placed 50 meters further down and was manned by the soldiers of the 'Serb Army', who were wearing camouflage or multi-coloured clothes.<sup>10739</sup> The witness overheard that the men were told that they would be questioned and then sent to Tuzla.<sup>10740</sup>

2505. **Witness RM-311** testified that on 13 July 1995, she and some of her family members decided that they should leave Potočari.<sup>10741</sup> When they reached the area allocated for the vehicles, the witness heard that the Serbs told Sabhudin Šečić that he had to step aside and was not permitted to board.<sup>10742</sup> She never saw Sabhudin Šečić again and his body was subsequently discovered in a mass grave in Pilica.<sup>10743</sup> In September 2003, she went to a morgue in Visoko where she viewed the remains of Sakib Muhić, which were discovered in Cerska and identified through DNA testing.<sup>10744</sup>

2506. **Hana Mehmedović** stated that there was a line of yellow tape or rope blocking the road, at which men were directed toward buses and women toward trucks. The witness stated that the last time she saw her husband was when he got on the bus,

<sup>10734</sup> P1027 (Nura Efendić, witness statement, 21 June 2000), pp. 3-5.

<sup>10735</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2.

<sup>10736</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1170-1171, 1191.

<sup>10737</sup> Witness RM-255, T. 1196-1197.

<sup>10738</sup> Witness RM-255, T. 1170.

<sup>10739</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1170-1171, 1196-1197.

<sup>10740</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 2; Witness RM-255, T. 1170-1171, 1187, 1193.

<sup>10741</sup> P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3110, 3312.

<sup>10742</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), p. 3312.

<sup>10743</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3312-3314.

<sup>10744</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), pp. 2-3. P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), pp. 3313-3314.



wearing a white pullover and a backpack.<sup>10745</sup> The witness stated that near Konjević Polje she saw Serb forces surrounding and pointing their weapons at a large group of captured, shirtless Bosnian soldiers sitting in a field beside their bags and backpacks. Further along that road, a single ‘Chetnik’ stopped the truck, demanded that the women give him their money, and threatened to slaughter them with a knife if they did not comply.<sup>10746</sup>

2507. **Behara Krdžić** stated that on 13 July 1995, she and her husband, Nazif, were told to move towards trucks and buses in columns.<sup>10747</sup> Her husband was first and the witness was following with some members of her husband’s family.<sup>10748</sup> As they were approaching a truck, her husband was separated from her by a uniformed soldier of the VRS.<sup>10749</sup> The soldier grabbed her husband and told him to come with him.<sup>10750</sup> When she asked to stay with her husband the soldier replied: ‘You can stay, but you’ll meet the same fate as he!’. Her husband stayed in Srebrenica, and she never saw him, or anyone who remained at Potočari on that day, again.<sup>10751</sup>

2508. **Miroslav Deronjić** stated that when he learned, on 12 July 1995, about separations going on at Potočari, he asked Vasić to contact Mladić and tell him that this should stop.<sup>10752</sup> Vasić later confirmed to Deronjić that he conveyed the message to Mladić.<sup>10753</sup>

2509. The separations were frequently aggressive. DutchBat members protested, especially when the men were too young or too old to reasonably be screened for war criminals or to be considered members of the military, and when the soldiers were being violent.<sup>10754</sup> According to **Janjić**, he did not see that the population was subjected to any abuses or ill-treatment, because due to Mladić’s presence the level of discipline was

<sup>10745</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 3; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2.

<sup>10746</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 4.

<sup>10747</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10748</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2.

<sup>10749</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10750</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2.

<sup>10751</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10752</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6273, 6412.

<sup>10753</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6274, 6412.

<sup>10754</sup> Adjudicated Facts IV, no. 1402.

very high.<sup>10755</sup> On 12 July 1995, **Miladin Mladenović** neither saw abuse nor maltreatment, nor did he see anyone separated from their families, including in the area around the White House while he was sent on assignment in Potočari to drive Muslims in the direction of Bratunac.<sup>10756</sup> **Franken** testified that on 12 or 13 July, it was reported to him that a soldier of C Company had seen two Serb soldiers execute a Muslim man directly east of the bus station.<sup>10757</sup> **Witness RM-372** stated that one man, carrying two small children, who was about to get on a bus was removed from the line, assaulted, and placed with the rest of the separated men.<sup>10758</sup>

2510. **Zoran Kovačević** testified that, on 12 July 1995, the 4th Company of the Bratunac Brigade 2nd Battalion arrived at the UN checkpoint at Likari and Elevation 707, in the direction of Potočari.<sup>10759</sup> In Potočari, Mladić was present and told the witness to 'press ahead towards Milačevići'.<sup>10760</sup> Kovačević testified that he neither witnessed any mistreatment of the Muslim population gathered there, nor saw the men being separated from the women and children or the Muslim population boarding buses.<sup>10761</sup>

2511. **Witness RM-333** testified that a member of the joint MUP forces of the RSK, Serbia and the Bosnian-Serb Republic saw from a distance vehicles on the main road in front of the UN compound as well empty buses and trucks arriving from the direction of Bratunac and returning crowded with people back towards Bratunac but did not observe the grouping, separation or boarding of 'civilians' in buses.<sup>10762</sup> That member was told by one of his colleagues that 500 people from the UN compound and approximately 5,000 people from Potočari had been evacuated and that some soldiers and policemen had separated 'civilians' before they boarded the buses.<sup>10763</sup> The company gathered in front of the UN Compound between 7 and 10 p.m., at which point the evacuation of

<sup>10755</sup> Mile Janjić, T. 11034.

<sup>10756</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), paras 4-5; Miladin Mladenović, T. 27240-27242, 27248-27250; P6844 (Aerial photograph of Bratunac with Vihor company and route to Potočari and Tišća marked by Miladin Mladenović); P6845 (Aerial photograph of Bratunac on 12 July 1995 at approximately 2 p.m.).

<sup>10757</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 95; Robert Franken, T. 10738-10739; P1422 (Aerial image of Potočari marked by the witness, undated).

<sup>10758</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 6.

<sup>10759</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), paras 13-14.

<sup>10760</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), para. 18; Zoran Kovačević, T. 24589.

<sup>10761</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), para. 20.

<sup>10762</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14812-14815, 14876; Witness RM-333, T. 6752.

<sup>10763</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14816, 14818-14819; Witness RM-333, T. 6787-6788.

‘civilians’ was over, and returned by bus to a school in Bratunac around 9 or 10 p.m.<sup>10764</sup>

2512. **Witness RM-312** stated that around 10 a.m. on 12 July 1995, Serb soldiers started to arrive from different directions, including Pećišta and Budak, and surrounded Potočari.<sup>10765</sup> The witness’s brother was separated and when she wanted to bring his bag to him, the soldiers told her that he would not need it anymore.<sup>10766</sup> When she tried to follow her brother, a soldier pulled her hair, pushed her to the ground and kicked her with his army boots.<sup>10767</sup> She saw her brother walk towards a house and followed him to that house to look for him, but he was not there.<sup>10768</sup> The house was made of red bricks and men dressed in civilian clothes were held inside by guards.<sup>10769</sup> While walking back from the house, the witness saw lorries parked on the road.<sup>10770</sup> Men were being forcibly loaded on to a lorry by soldiers who were kicking and hitting them with rifle butts.<sup>10771</sup>

2513. Elements of the Bratunac Brigade participated in the separation of Bosnian-Muslim men from the Bosnian women, children, and elderly in Potočari. Members of the Bratunac Brigade Military Police participated in the separation, by actively separating men from their families and by providing security for the other units engaged in the separations.<sup>10772</sup> The assistant commander for security and intelligence, Captain Nikolić, participated in the separations of Bosnian-Muslim men from the rest of the Bosnian-Muslim population in Potočari.<sup>10773</sup> **Janjić** testified that he observed that members of the MUP’s Special Police units, including their commander Mane or Manić, directed the women and children towards the buses, while they brought the men away, towards the yard of the White House on the other side of the Srebrenica-Bratunac

<sup>10764</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14820-14821, 14876, 14878; Witness RM-333, T. 6754, 6788.

<sup>10765</sup> P3488 (Witness RM-312, witness statement, 16 October 2002), p. 2.

<sup>10766</sup> P3488 (Witness RM-312, witness statement, 16 October 2002) pp. 2-3; P3489 (Witness RM-312, *Popović et al* transcript, 6 November 2006), p. 3611. The Trial Chamber notes discrepancies in Witness RM-312’s accounts of this incident found in P3488 and P3489. Therefore, the Trial Chamber considered the most detailed account of the events found in P3489.

<sup>10767</sup> P3489 (Witness RM-312, *Popović et al.* transcript, 6 November 2006), p. 3611.

<sup>10768</sup> P3488 (Witness RM-312, witness statement, 16 October 2002), p. 3; P3489 (Witness RM-312, *Popović et al* transcript, 6 November 2006), pp. 3612-3613, 3617; P3490 (Aerial image of Potočari, 13 July 1995).

<sup>10769</sup> P3488 (Witness RM-312, witness statement, 16 October 2002) p. 3; P3489 (Witness RM-312, *Popović et al* transcript, 6 November 2006), pp. 3612-3613.

<sup>10770</sup> P3489 (Witness RM-312, *Popović et al* transcript, 6 November 2006), pp. 3617, 3619; P3490 (Aerial image of Potočari, 13 July 1995).

<sup>10771</sup> P3489 (Witness RM-312, *Popović et al* transcript, 6 November 2006), pp. 3617-3618.

<sup>10772</sup> Adjudicated Facts II, no. 1401.

<sup>10773</sup> Adjudicated Facts II, no. 1403.

road.<sup>10774</sup> He asked members of the Special Police for the reason of this procedure and they told him that they were acting on Mladić's order.<sup>10775</sup>

2514. **Van Duijn** testified that when he questioned Mane about these separations, Mane responded that the Serb forces had a list of Muslim war criminals whom they intended to prosecute for their activities earlier in the war, and that they were separating the men in order to determine whether any of them were on that list.<sup>10776</sup> This explanation seemed credible to the witness at the time, as he found such a screening process to be a normal military procedure during the time of armed conflict.<sup>10777</sup> Later however, Van Duijn observed that individuals who were either too young or too old to take part in combat activities were also being taken away. He raised the issue with Mane who then made sure that the individuals in question could pass through and accompany their families onto the buses or trucks.<sup>10778</sup> In another instance, he saw a Serb soldier who was dressed in a black overall take hold of the throat of a young boy in order to prevent him from accompanying the group that was boarding the buses.<sup>10779</sup> Following an intervention by Van Duijn, Mane instructed the Serb soldier to let go of the boy and ultimately led the soldier away from that location.<sup>10780</sup> According to Van Duijn, he intervened on 12 and 13 July and was successful in preventing the separation of young boys and elderly men approximately 50 to 100 times a day.<sup>10781</sup> **Witness RM-372** stated that the soldiers loading people onto buses were guided by a VRS major, known by the witness to come from a local military base in Bratunac.<sup>10782</sup>

2515. The separated men were taken to a building in Potočari referred to as the 'White House'.<sup>10783</sup> **Van Duijn** testified that on 13 July the Serb forces led by Mane also

<sup>10774</sup> P1145 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9779-9782; P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), p. 17938; Mile Janjić, T. 11003-11004.

<sup>10775</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9780-9781; Mile Janjić, T. 11067-11068.

<sup>10776</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2287, 2289.

<sup>10777</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2287, 2289; Leendert van Duijn, T. 10383.

<sup>10778</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2289; Leendert van Duijn, T. 10312.

<sup>10779</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2291; Leendert van Duijn, T. 10394, 10396.

<sup>10780</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2291; Leendert van Duijn, T. 10393.

<sup>10781</sup> Leendert van Duijn, T. 10312-10313.

<sup>10782</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 5.

<sup>10783</sup> Adjudicated Facts II, no. 1488.

participated in the separation of men from women and children.<sup>10784</sup> When the men were taken to the White House, they were forced to leave their belongings, including their wallets and identification papers, in a large pile outside the building prior to entering.<sup>10785</sup> **Nikolić** testified that the police or soldiers who escorted the men, insulted them, hit them, and spat on them.<sup>10786</sup> **Franken** saw columns of 30 to 40 unarmed men in total, ten to fifteen of whom were wearing articles of military clothing, being led by uniformed Bosnian Serbs going in the direction of the White House, which was 80 to 90 metres from the Srebrenica-Bratunac road, and later saw piles of their personal belongings along that road.<sup>10787</sup> Franken ordered the UNMOs to the White House to monitor the situation there.<sup>10788</sup> DK officers were seen in the vicinity of the ‘White House’ during the time the separated men were detained there.<sup>10789</sup> DutchBat patrols attempted to monitor the situation but the VRS did not allow them to enter the White House.<sup>10790</sup> One Dutch officer was removed from the premises at gunpoint.<sup>10791</sup> **Groenewegen** testified that Serb soldiers separated men between the age of 16 and 60 from the crowd and took them to a house.<sup>10792</sup> The separation caused fear amongst the families.<sup>10793</sup> **Van Duijn** testified that he asked Mane why the men detained at the White House had relinquished their passports given that they required those documents in order to prove that they were not on the list of alleged war criminals.<sup>10794</sup> Mane grinned and, through his interpreter, told the witness that the men in the house would not need their passports anymore.<sup>10795</sup> This comment made the witness fear for the fate

<sup>10784</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2297-2298, 2300-2301.

<sup>10785</sup> Adjudicated Facts II, no. 1489.

<sup>10786</sup> Momir Nikolić, T. 11834; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 6; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 3.

<sup>10787</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 86-87; Robert Franken, T. 10731-10732, 10735-10736; P1422 (Aerial image of Potočari marked by the witness); P1428 (Aerial image of Potočari annotated by the Prosecution, undated); P1429 (Aerial image of Potočari dated 13 July 1995, marked by the witness).

<sup>10788</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 87.

<sup>10789</sup> Adjudicated Facts II, no. 1491.

<sup>10790</sup> Adjudicated Facts II, no. 1492.

<sup>10791</sup> Adjudicated Facts II, no. 1493.

<sup>10792</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 43-45; Paul Groenewegen, T. 10485, 10493, 10538, 10548-10550; P1160 (Aerial image marked by Paul Groenewegen, 13 July 1995).

<sup>10793</sup> Paul Groenewegen, T. 10485.

<sup>10794</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2304; Leendert van Duijn, T. 10321.

<sup>10795</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2304; Leendert van Duijn, T. 10321, 10388-10389.

of the men held at the White House.<sup>10796</sup> **Đurić** stated that he had not told any member of the DutchBat that people in the White House would not be needing their passports.<sup>10797</sup>

2516. **Boering** testified that he saw a group of VRS soldiers being led to the back of the building by Mladić's bodyguard, who told him to '[p]ay attention to what we're doing', but the witness could not follow them because VRS soldiers with dogs blocked his path.<sup>10798</sup> He then heard shots fired from behind the White House.<sup>10799</sup>

2517. **Witness RM-362** testified that some of the soldiers guarding the men in the house threatened that they would cut the men's throats on the night of the 12 July 1995. Not all soldiers guarding them were behaving the same; one of the soldiers was told by another that he should not touch the men.<sup>10800</sup> More men continued to arrive at the house until it was completely full and they had to sit outside.<sup>10801</sup> None of the men held at the house were young; some of them were even older than the witness, and used walking sticks.<sup>10802</sup> No water or food was given to them nor did the soldiers give them any reasons why they had been separated.<sup>10803</sup> At some point, an officer in camouflage uniform who the witness described as 'bare-headed', arrived at the house, escorted by three or four soldiers, asking the men why they did not stick with Fikret Abdić and Alija and telling them that he was going to exchange them for 180 Serbs captured and held in Tuzla.<sup>10804</sup>

2518. **Franken** noted that on 13 July, the reports he had received made it clear to him that treatment of the males in the White House was getting worse, so he tried to protect the Bosnian-Muslim men by first making as many UN IDs as possible to show that they were UN personnel, and then to register them with the intention of sending the list of names to the higher echelons in the UN command, to make the list known in hopes of mobilising the public.<sup>10805</sup> Franken asked the designated Muslim representatives to take

<sup>10796</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2304; Leendert van Duijn, T. 10389.

<sup>10797</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), p. 10887.

<sup>10798</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2012-2013, 2015-2016.

<sup>10799</sup> P1139 (Pieter Boering, *Popović* transcript, 19, 21 and 22 September 2006), pp. 2012-2013, 2016.

<sup>10800</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17311.

<sup>10801</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17312.

<sup>10802</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17313.

<sup>10803</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17311-17312.

<sup>10804</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17312-17313.

<sup>10805</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 90; Robert Franken, T. 10741-10742.

over the registration process and they began to register males inside and outside of the DutchBat compound, and ultimately about 60 to 70 men refused to be registered.<sup>10806</sup> The ‘representatives’ stopped registering men because they were massively intimidated by the Serb forces to the extent that the female in the group had a nervous breakdown and had to be taken to the hospital.<sup>10807</sup> In all, 251 males were registered, and Franken sent the list up his chain of command to the UN headquarters for sector north-east Tuzla, Bosnia-Herzegovina Command Sarajevo, and to The Hague Crisis Staff, letting Janković know that the list was known not only to the UN but also to the Dutch government, but Janković did not react.<sup>10808</sup> Franken did not show the list to Janković or any other VRS officer, but he brought the original list when DutchBat withdrew from the enclave.<sup>10809</sup> Franken testified that he did not know if the list ever reached the Tuzla or Bosnia-Herzegovina Commands because he did not get a confirmation of receipt from either entity.<sup>10810</sup>

2519. **Janjić** testified that in the morning of 13 July 1995, after he had provided security at Hotel Fontana over night, Momir Nikolić ordered him to go back to Potočari.<sup>10811</sup> When he arrived at Potočari, Janjić saw that the yard of the White House, to which the men had been brought the day before, was empty.<sup>10812</sup> Members of the MUP’s Special Police unit continued to separate men from women and children, leading women and children to trucks and buses, while the men were taken across the Srebrenica-Bratunac road to the yard of the White House.<sup>10813</sup> When the yard was full, the men were sent to a meadow close to the house.<sup>10814</sup> The witness estimated that the number of men separated around the white house was two to three times higher than on 12 July 1995.<sup>10815</sup> In front of the yard, the men boarded buses.<sup>10816</sup> Janjić noticed that

<sup>10806</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 91; Robert Franken, T. 10810-10811.

<sup>10807</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 91; Robert Franken, T. 10810-10812.

<sup>10808</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 91, 112; Robert Franken, T. 10742, 10825-10826. The Trial Chamber notes that Franken gave two numbers in his evidence but specified that he miscounted at the time and that the correct number is 251, P1417 (Robert Franken, witness statement, 15 January 2012), para. 91.

<sup>10809</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 91.

<sup>10810</sup> Robert Franken, T. 10825-10826.

<sup>10811</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9793-9794.

<sup>10812</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9796.

<sup>10813</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9797; P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), p. 17945; Mile Janjić, T. 11003-11004, 11006.

<sup>10814</sup> Mile Janjić, T. 11006.

<sup>10815</sup> P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), p. 17945.

military policemen also boarded the buses and then returned, very soon after, with the empty buses.<sup>10817</sup> Some of the military policemen told Janjić that their order was to bring the men to Bratunac and drop them at a school, where they would be guarded.<sup>10818</sup> At the end of the day, when all the buses had left, the witness followed Colonel Janković's order to drive towards Srebrenica and inform civilians that they might encounter *en route* that they should go to Potočari and wait there until they would be driven away on the next day.<sup>10819</sup>

2520. **Witness RM-372** stated that he heard from a colleague that at the White House, the men were being interrogated and screened for 'people the Serbs specifically wanted'. The witness also heard from that colleague that Muslim men were offering money to UNPROFOR, not as a bribe, but more in the sense that they had no more use for it.<sup>10820</sup> **Zoran Petrović** stated that in Potočari on 13 or 14 July 1995, he saw piles of bags, blankets, clothing, and a large number of people who had fled Srebrenica.<sup>10821</sup>

2521. Beginning on the afternoon of 12 July and continuing throughout 13 July, men detained in the White House were placed on separate buses from the women, children and elderly and were taken out of the Potočari compound to detention sites in Bratunac.<sup>10822</sup> **Witness RM-362** testified that about four hours after arriving at the house on 12 July 1995, when it was getting dark, Serb soldiers told the men to board two buses that had arrived; the buses were so full that some of the men had to stand.<sup>10823</sup> On the bus which the witness boarded, a soldier with an automatic rifle stood next to the bus driver and the bus set off, following a red car that had parked in front of the buses.<sup>10824</sup> **Janjić** testified that Colonel Janković, who had tasked the witness and others to count the people boarding the buses, ordered him to also include the men boarding separate buses into his counting.<sup>10825</sup> Janjić estimated that 10 to 15 buses, each loaded

<sup>10816</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9797-9798, 9805; Mile Janjić, T. 11003-11004.

<sup>10817</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9804-9805.

<sup>10818</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9805.

<sup>10819</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9799; Mile Janjić, T. 11011, 11051-11052.

<sup>10820</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 6.

<sup>10821</sup> P3347 (Zoran Petrović, *Popović et al.* transcript 4 December 2007), pp. 18764, 18830, 18847.

<sup>10822</sup> Adjudicated Facts II, no. 1495.

<sup>10823</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17313-17314.

<sup>10824</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17314-17315.

<sup>10825</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004) pp. 9784-9786; P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), pp. 17942, 17944.



with 50 to 70 men, left Potočari on that same day.<sup>10826</sup> The witness estimated that altogether more than 9,000 Bosnian men, women, and children were removed from Potočari on 12 July 1995.<sup>10827</sup> A member of the civilian police, Milisav Ilić, also counted the buses.<sup>10828</sup>

2522. **Franken** testified that DutchBat had originally been asked by the UN headquarters to organize the transportation of Bosnian Muslims out of Potočari, but was unable to do so because of its lack of resources, and it was then ordered to assist in the VRS transportation to ensure that it was done in a humanitarian way.<sup>10829</sup> Franken later became aware of the written agreement between General Smith and Mladić, but noted that this agreement did not include guidelines on transportation or how to assist. General Nicolai had said that DutchBat should undertake the transportation of the civilians itself, but Franken made it clear that this was, in his words, absolutely impossible.<sup>10830</sup> Franken heard from the commander on duty in the 'refugee-area' that Mladić came near the compound to address the crowd gathered there and had his soldiers hand out bread while being nice to the children in the presence of Serbian television.<sup>10831</sup> Karremans met Mladić just outside of the compound where Mladić told him that Colonel Acamović would be responsible for the transportation of the population from Potočari and Franken was ordered by Karremans to coordinate the possible support to the Serbs.<sup>10832</sup> At approximately 2 or 3 p.m., Acamović introduced himself to Franken and asked for support, in particular for transportation and fuel.<sup>10833</sup> Franken testified that the VRS was very aware that DutchBat did not have diesel fuel and he refused the request.<sup>10834</sup> When Franken met Acamović, General Krstić, whom he later identified from a video still, was standing in a group of officers in discussions.<sup>10835</sup> Also on 12 July, Franken met Colonel Janković, whom he identified from a picture, and who introduced himself as the General

<sup>10826</sup> P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), pp. 17941-17942, 17944; Mile Janjić, T. 11005.

<sup>10827</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24 May 2004), pp. 9770, 9775-9776.

<sup>10828</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24 May 2004), p. 9776.

<sup>10829</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 72; Robert Franken, T. 10815-10818.

<sup>10830</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 72.

<sup>10831</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 73.

<sup>10832</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 74.

<sup>10833</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 75.

<sup>10834</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 75.

<sup>10835</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 77; P1431 (Video still of Radislav Krstic from the second meeting at the hotel Fontana).

Staff Officer from Supreme Command.<sup>10836</sup> Janković added that he had been tasked with coordinating the withdrawal of DutchBat from the enclave but was not involved in the evacuation.<sup>10837</sup>

2523. DutchBat had estimated on the basis of the number of buses that there were approximately 30,000 people in the crowd at Potočari, with 600 to 700 men among them.<sup>10838</sup> In the evening of 12 July 1995, Ibro Nuhanović, one of the Bosnian-Muslim 'representatives', came to Franken asking for the transportation out of Potočari to be stopped because he feared for the fate of the Bosnian-Muslim males. Franken explained to him that he had to choose between the 800 to 1,000 males and 25,000 to 35,000 women and children and he chose the latter.<sup>10839</sup>

2524. On 13 July 1995, Franken accompanied Ibro Nuhanović out of the compound and saw that he boarded a bus together with his family.<sup>10840</sup> DutchBat estimated that approximately 1,000 able-bodied men were separated from the Bosnian Muslims gathered in Potočari, about 300 inside the DutchBat compound and about 700 outside.<sup>10841</sup> Franken opined that the transportation of so many people in such little time, would have been coordinated at the corps level or higher because it would have been a major challenge to organize all the civil vehicles for transportation, and the VRS had performed this task very smoothly.<sup>10842</sup>

2525. Buses procured by the DK were used for the transportation of Bosnian-Muslim prisoners to detention and execution sites.<sup>10843</sup> **Mladenović** testified that on 13 July 1995, the bosses at Vihor ordered him to go to Potočari at approximately 9 a.m.<sup>10844</sup> When he parked the bus within the grounds of the White House, he saw no luggage or

<sup>10836</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 76; Robert Franken, T. 10829-10830; P1430 (Photograph of Colonel Janković, undated); D278 (Debriefing report of Major Franken with the Dutch authorities, 31 March 1999), para. 28.

<sup>10837</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 76; Robert Franken, T. 10829-10830; D278 (Debriefing report of Major Franken with the Dutch authorities, 31 March 1999), para. 28.

<sup>10838</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 86; Robert Franken, T. 10826-10828.

<sup>10839</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 92.

<sup>10840</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 93.

<sup>10841</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 112; Robert Franken, T. 10826-10828.

<sup>10842</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 78.

<sup>10843</sup> Adjudicated Facts II, no. 1415.

<sup>10844</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 6; Miladin Mladenović, T. 27252-27254; P6846 (Aerial photograph of Potočari on 13 July 1995 at approximately 2 p.m. with 'White House' marked by Miladin Mladenović).

other personal items there.<sup>10845</sup> Following orders received from the VRS soldiers at Potočari, the witness drove approximately ten busloads of able-bodied Muslim men from the 'White House' to the sports hall at the elementary school in Bratunac.<sup>10846</sup> The witness estimated that he drove 450 to 500 Muslim men, an estimate he calculated on the basis that the bus had roughly 45 seats and no one was standing.<sup>10847</sup> At all times the witness was accompanied on the bus by at least one, sometimes two, military policemen from the Bratunac Brigade wearing the camouflage uniform of the VRS.<sup>10848</sup>

2526. The Bosnian-Muslim men who had been separated from the women, children and elderly in Potočari (numbering approximately 1,000) were transported to Bratunac and subsequently joined by Bosnian-Muslim men captured from the column.<sup>10849</sup> Ultimately they were taken to the Zvornik Brigade area of responsibility.<sup>10850</sup> From 13 July 1995, the Zvornik Brigade became aware of plans to transport Bosnian-Muslim prisoners to its zone of responsibility and began locating detention sites for them.<sup>10851</sup> No discernible effort was made to keep the prisoners from Potočari and the men captured from the column separate. These men were held in various locations, such as an abandoned warehouse, an old school and even in the buses and trucks that had brought them there.<sup>10852</sup> Identification papers and personal belongings were taken away from both Bosnian-Muslim men at Potočari and men captured from the column; their papers and belongings were piled up and eventually burnt.<sup>10853</sup> **Franken** testified that they were burnt by the VRS.<sup>10854</sup> The Bosnian-Muslim men, from Potočari as well as from Sandići and Nova Kasaba, who had spent the night on 13 July in Bratunac Town went in a long column of buses the following day to various temporary detention facilities and execution sites in the Bratunac and Zvornik municipalities.<sup>10855</sup>

2527. **Witness RM-372** stated that, in Potočari, apart from the buses being loaded with women and children, there was a bus being loaded with only men from the White house.

<sup>10845</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 6; Miladin Mladenović, T. 27243-27244, 27255, 27262-27263.

<sup>10846</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 6; Miladin Mladenović, T. 27261.

<sup>10847</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), para. 6.

<sup>10848</sup> Miladin Mladenović, T. 27243-27244, 27260-27261.

<sup>10849</sup> Adjudicated Facts II, no. 1496.

<sup>10850</sup> Adjudicated Facts II, no. 1498.

<sup>10851</sup> Adjudicated Facts II, no. 1566.

<sup>10852</sup> Adjudicated Facts II, no. 1497.

<sup>10853</sup> Adjudicated Facts II, no. 1499.

<sup>10854</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 100; Robert Franken, T. 10736-10737; P1423 (Photograph showing burning personal belongings, undated).

<sup>10855</sup> Adjudicated Facts II, no. 1565.

Two DutchBat members followed this bus to a school in Bratunac. A few ‘Serb soldiers’ approached them and warned them to return to Potočari saying that ‘there was nothing going on’. They refused to leave. Then, six men in military uniform arrived in two civilian vehicles, disarmed these two DutchBat members, took the keys of their vehicle and brought them to the Bratunac police station. After being dropped at the Northern checkpoint, they got a lift back to Potočari.<sup>10856</sup> Later the same day, after they had been released, these two DutchBat members escorted another convoy, but during the trip they were stopped by three armed individuals in military uniform, who forced them out of the vehicle and drove it off.<sup>10857</sup>

2528. **Nedo Jovičić** testified that on 13 July 1995, he saw people boarding buses in Potočari in the presence of Borovčanin and some policemen.<sup>10858</sup> In his opinion, they were being transported to Kladanj or Tuzla.<sup>10859</sup> **Dušan Mičić** testified that he saw buses and lorries passing through a side street in Bratunac towards Konjević Polje in the morning of 14 July 1995.<sup>10860</sup>

2529. **Ljubodrag Gajić** testified that on 13 July, he received a specific task, as a member of the MUP 1st Company of the Jahorina training centre, to evacuate the population present in the area by bus and trucks.<sup>10861</sup> The people wanted to leave voluntarily as it was an area affected by war.<sup>10862</sup> UNPROFOR forces were present.<sup>10863</sup> Food and water were distributed.<sup>10864</sup> DutchBat helped with the evacuation of the people in order to ensure fast transportation.<sup>10865</sup> The evacuation ended between 3 and 4 p.m. and the witness left Potočari around 6 p.m..<sup>10866</sup>

2530. **Rave** testified that at some point on 13 July 1995, he spoke to Mladić who asked him to tell the Bosnia-Herzegovina authorities to surrender.<sup>10867</sup> He said that the Srebrenica males were brought to a camp in Bijeljina.<sup>10868</sup> On 14 July 1995, on the way

<sup>10856</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 8.

<sup>10857</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), paras 8-9.

<sup>10858</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 25-26. *See also* P1147 (Updated Srebrenica Trial video with Transcript), p. 76.

<sup>10859</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 26.

<sup>10860</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 32, 34.

<sup>10861</sup> Ljubodrag Gajić, T. 40268-40269, 40294, 40311.

<sup>10862</sup> Ljubodrag Gajić, T. 40281, 40294.

<sup>10863</sup> Ljubodrag Gajić, T. 40294-40295.

<sup>10864</sup> Ljubodrag Gajić, T. 40295.

<sup>10865</sup> Ljubodrag Gajić, T. 40303-40304.

<sup>10866</sup> Ljubodrag Gajić, T. 40306.

<sup>10867</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 46, 48.

<sup>10868</sup> Evert Rave, T. 10178.

back from the Serb checkpoint 'JOVO', his vehicle was seized by VRS soldiers under the threat of arms.<sup>10869</sup>

2531. **Franken** testified that sometime after 13 July, Janković told him that the 28th Division had attempted to breakout of the enclave and that the VRS had captured 6,000 'POWs'.<sup>10870</sup> Franken testified that by adding the 6,000 to the 300 Bosnian-Muslim men that DutchBat estimated were inside the compound on 11 July, and the 600 to 800 they estimated were outside the compound, it appeared that there were up to 7,000 Bosnian-Muslim men involved.<sup>10871</sup>

2532. **Ljubomir Bojanović** stated that he spent the night of 14 to 15 July at the barracks of the Zvornik Brigade but did not see a bus with detainees there, whose presence had been recorded in the Zvornik Brigade duty officer logbook.<sup>10872</sup> According to the witness, the entry in the logbook was written by the duty officer of the barracks, who worked at the main gate, and neither he nor the duty operations officer who worked at the command could have been aware of the presence of the bus.<sup>10873</sup>

2533. As early as 14 July 1995, reports of missing Bosnian-Muslim men from Srebrenica began to surface in the international media.<sup>10874</sup> On that day, the UNSC expressed concern about the forced relocation of civilians from the Srebrenica 'safe area' by the Bosnian Serbs, asserting it was a clear violation of their human rights.<sup>10875</sup>

*Transportation of Bosnian Muslims out of the enclave*

2534. Having reviewed the evidence on the separation of Bosnian-Muslim men from the rest of the population in Potočari, the Trial Chamber will now review the evidence on the transportation of Bosnian Muslims out of the enclave.

2535. On 12 and 13 July 1995, about 25,000 Bosnian-Muslim civilians were bussed out of the enclave of Srebrenica to the territory under Bosnia-Herzegovina control.<sup>10876</sup>

<sup>10869</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 8, 52.

<sup>10870</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 112; Robert Franken, T. 10743, 10834-10835.

<sup>10871</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 113.

<sup>10872</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11758-11759; P3574 (Excerpt from the Zvornik Brigade Barracks Duty Officer logbook, 9/10 July to 16/17 July 1995), p. 6.

<sup>10873</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), p. 11759.

<sup>10874</sup> Adjudicated Facts II, no. 1650.

<sup>10875</sup> Adjudicated Facts II, no. 1437.

<sup>10876</sup> Adjudicated Facts II, no. 1424.

The Trial Chamber also took judicial notice of Adjudicated Fact number 1558 on the transportation of Bosnian-Muslim women, children, and elderly from Potočari to Kladanj on 13 and 14 July 1995 reviewed in chapter 7.6. The VRS transferred thousands of Bosnian-Muslim civilians from the Srebrenica enclave.<sup>10877</sup> Women, children, and elderly were bussed out of Potočari to Bosnian Muslim-held territory near Kladanj.<sup>10878</sup> The DK participated in the removal of the Bosnian-Muslim civilians from Potočari following the take-over of Srebrenica.<sup>10879</sup> They coordinated the boarding of the buses by the Bosnian-Muslim refugees.<sup>10880</sup> Some soldiers were hitting and abusing the refugees as they boarded the buses.<sup>10881</sup> **Witness RM-268** saw in various instances, civilians being pushed around and on one occasion, he saw Nedeljko Milodragović, an instructor of the Jahorina Detachment, hit a person.<sup>10882</sup> Along the road, some village residents taunted the passengers with the three-fingered Serb salute.<sup>10883</sup> Others threw stones at the passing buses.<sup>10884</sup> **Van Duijn** testified that in the evening of 12 July 1995 Mane told him that the Serb forces present in Potočari would go back to Bratunac in order to celebrate in Hotel Fontana.<sup>10885</sup> Mane instructed him to clear the asphalt road leading from the north to the south because the Serb forces would need the road to transport troops to the south.<sup>10886</sup> Mane also told him that on the next day, 13 July, they would resume the transport of ‘refugees’ again around 8:30 a.m.<sup>10887</sup>

2536. DutchBat soldiers attempted to escort the buses carrying the Bosnian-Muslim civilians out of Potočari. They succeeded in accompanying the first convoy of refugees on 12 July, but thereafter they were stopped by the VRS who stole 16 to 18 DutchBat jeeps, as well as around 100 small arms, which rendered further DutchBat escorts impossible.<sup>10888</sup> **Vincentius Egbers** testified that on 12 July 1995, Franken ordered 13 DutchBat soldiers, including the witness, to escort buses with Muslim women and children, to take food, water, and sleeping bags, and to radio any information they may

<sup>10877</sup> Adjudicated Facts II, no. 1421, 1438.

<sup>10878</sup> Adjudicated Facts II, no. 1421.

<sup>10879</sup> Adjudicated Facts II, no. 1410.

<sup>10880</sup> Adjudicated Facts II, no. 1428.

<sup>10881</sup> Adjudicated Facts II, no. 1423.

<sup>10882</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8569, 8589-8590.

<sup>10883</sup> Adjudicated Facts II, no. 1431.

<sup>10884</sup> Adjudicated Facts II, no. 1431.

<sup>10885</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2295.

<sup>10886</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2295-2296.

<sup>10887</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2296.

<sup>10888</sup> Adjudicated Facts II, no. 1426.

gather about these buses.<sup>10889</sup> Each bus contained about sixty persons.<sup>10890</sup> The buses travelled from Potočari to Bratunac, Konjevic Polje, Nova Kasaba, Milici, Lazenica, and Kladanj.<sup>10891</sup> While escorting the first convoy out of Potočari, the witness saw hundreds of ‘Bosnian Serbs’ celebrating, shouting, and throwing things at the bus in Bratunac.<sup>10892</sup> During the journey, the witness saw VRS infantry firing at the woods facing the enclave.<sup>10893</sup> He testified that VRS infantry stopped the convoy and told him that they were targeting Muslim fighters in the woods and that the convoy would be able to go through once they fire anti-aircraft guns at the woods with grad rockets.<sup>10894</sup> The witness did not hear any return fire from the woods. The witness saw hundreds of VRS infantry, dressed in green and armed with AK-47s, other types of machine-guns and equipped with vehicles with anti-aircraft guns with four barrels, between Sandići, Nova Kasaba, and Milici, in groups of five or six, positioned every 20 metres and facing the woods.<sup>10895</sup> The women, children, and elderly people disembarked the buses in the woods near the confrontation line and had to walk towards Kladanj.<sup>10896</sup> The women and children were terrified and gestured that they would be slaughtered.<sup>10897</sup>

2537. **Franken** testified that he received reports from the DutchBat escort teams that the initial convoy went well in that the men and women had been transported unharmed to an area near Kladanj, and Franken believed that the second convoy went according to plan as well, and that the situation was reflected in an UNMO report dated 12 July.<sup>10898</sup> After the second convoy, the Serb forces harassed the DutchBat escort teams and robbed them of 16 vehicles, weapons, flak jackets, ammunition, and/or the equipment in their jeeps. Franken believed that the harassment and robbing of the DutchBat escorts was organized in order to deter DutchBat from continuing to escort convoys and

<sup>10889</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), p. 2221; Vincentius Egbers, T. 13426.

<sup>10890</sup> Vincentius Egbers, T. 13375.

<sup>10891</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), p. 2224; Vincentius Egbers, T. 13426.

<sup>10892</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), pp. 2221-2222; Vincentius Egbers, T. 13426-12427.

<sup>10893</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), p. 2224; Vincentius Egbers, T. 13448.

<sup>10894</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), pp. 2224-2225. The Trial Chamber notes that the evidence uses the term ‘great rockets’ but understands this to be a reference to ‘grad’ rockets.

<sup>10895</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), p. 2225.

<sup>10896</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), pp. 2227-2229; Vincentius Egbers, T. 13374, 13427.

<sup>10897</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), p. 2228; Vincentius Egbers, T. 13374-13375.

<sup>10898</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 82-83; P1432 (UNMO situation report, 12 July 1995).

possibly witnessing whatever happened.<sup>10899</sup> Franken complained to Janković and, although Janković said that he would look into the matter, Franken did not observe that any action was ever taken.<sup>10900</sup>

2538. Most of the women, children, and elderly bussed out of Potočari arrived safely at Tišća.<sup>10901</sup> After disembarking, they were forced to continue on foot for several kilometres through the ‘no-man’s land’ between the Bosnian-Serb and Bosnian-Muslim lines to Kladanj.<sup>10902</sup> The removal of the Bosnian-Muslim civilian population from Potočari was completed on the evening of 13 July by 8 p.m.<sup>10903</sup> **Witness RM-268** stated that the transportation of Bosnian Muslims out of Potočari continued until 10 or 11 p.m.<sup>10904</sup> The witness and those members of the Jahorina Detachment who had been present in Potočari left for Bjelovac.<sup>10905</sup> The witness further stated that on 13 July 1995, after he had met with Borovčanin in Bratunac, members of the Jahorina Detachment of the Special Police Brigade participated in the evacuation of ‘civilians’ out of Potočari.<sup>10906</sup>

2539. **Šehra Ibišević** stated that on 12 July 1995, buses and trucks were organized to transport the ‘refugees’.<sup>10907</sup> She further stated that ‘Chetnik’ soldiers often stopped the bus to remove people or search for gold and money, and she specifically remembered a Serb soldier stopping the bus in Kravica and an incident in which ‘Chetniks’ took two girls who were not heard from again.<sup>10908</sup> Eight male members of Ibišević’s family did not survive the fall of Srebrenica.<sup>10909</sup> The houses of two of her relatives in Kutlići were burned or destroyed by explosives.<sup>10910</sup>

2540. **Witness RM-249** described how both Dutchbat soldiers and ‘Chetnik’ forces were present in the morning of 13 July 1995 and that the ‘Chetniks’ wore blue coloured

<sup>10899</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 84.

<sup>10900</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 85.

<sup>10901</sup> Adjudicated Facts II, no. 1432.

<sup>10902</sup> Adjudicated Facts II, no. 1433.

<sup>10903</sup> Adjudicated Facts II, no. 1435.

<sup>10904</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8586, 8607.

<sup>10905</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8607-8608, 8618.

<sup>10906</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8608, 8619.

<sup>10907</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 2.

<sup>10908</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 3; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2.

<sup>10909</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 3; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 3.

<sup>10910</sup> P1021 (Šehra Ibišević, witness statement, 21 June 2000), p. 4.



UN flak jackets and carried weapons of the Dutch soldiers.<sup>10911</sup> The witness managed to slip past a 'Chetnik checkpoint' and boarded a bus.<sup>10912</sup> There were approximately 60 women and children, one elderly man, and the witness with his daughter on the bus.<sup>10913</sup> The bus travelled from Potočari to Luke, close to the separation line via Bratunac, Kravica, Konjevic Polje, Milici, and Vlasenica.<sup>10914</sup> In the village of Magašaći the bus stopped and somebody asked whether there were any men on the bus.<sup>10915</sup> The two men on the bus went unnoticed and the bus was permitted to continue. The bus was stopped approximately nine or ten more times before reaching Luke. While passing through Kravica, the women in the bus started screaming as they recognised some of the men outside.<sup>10916</sup> The witness saw groups of 10 to 15 bodies in civilian clothing lying in the meadows on both sides of the road.<sup>10917</sup> He also saw groups of men walking towards the centre of Kravica, escorted by 'Chetnik' soldiers who wore camouflage uniforms and carried automatic weapons.<sup>10918</sup> The witness testified that the transportation of civilians out of Potočari was against the will of the Muslim population.<sup>10919</sup>

2541. **Behara Krdžić** stated that after being separated from her husband on 13 July 1995, she fainted and was taken on board the truck by her relatives.<sup>10920</sup> The truck drove to Kladanj and then Dubrave, where she received an injection from a doctor and then woke up.<sup>10921</sup>

2542. **Witness RM-265** stated that Mladić had personal guards as well as a military police detail providing security in Potočari.<sup>10922</sup> According to the witness, the military police secured the passage for the outgoing buses only on a precautionary basis in order to avoid any problems with embittered locals.<sup>10923</sup> On 13 July 1995, on orders of Momir Nikolić, Nikolić himself, Mirko Janković, and Mile Petrović, the deputy commander of

<sup>10911</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 3.

<sup>10912</sup> Witness RM-249, T. 15455-15456.

<sup>10913</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 3; Witness RM-249, T. 15456

<sup>10914</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 3; P1991 (Witness RM-249, prior testimony, 18 March 2010), T. 672; P1997 (Map marked by witness showing route taken from Potočari to Luke).

<sup>10915</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 3; P1997 (Map marked by witness showing route taken from Potočari to Luke).

<sup>10916</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 3.

<sup>10917</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 3-4, 13.

<sup>10918</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4.

<sup>10919</sup> P1991 (Witness RM-249, prior testimony, 18 March 2010), T. 723-724.

<sup>10920</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), p. 2.

<sup>10921</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), p. 2.

<sup>10922</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3806-3807, 3869.

<sup>10923</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3810-3811, 3856, 3868.

the military police, drove to Konjević Polje in a white Dutchbat APC bearing the UN sign.<sup>10924</sup> Shortly before the APC took off, Mladić walked up to Popović and started shouting.<sup>10925</sup> Upon arrival in Konjević Polje, the APC was parked at the intersection of the Bratunac and Kravica road.<sup>10926</sup> Two armed Dutchbat soldiers emerged from the forest and asked whether they could join.<sup>10927</sup> They were allowed to board the APC, which subsequently started driving very slowly towards Bratunac, following a blue-white police car with a male voice coming out of a loud-speaker.<sup>10928</sup> On board of the APC at that time were Janković, Nikolić, Petrović and the two Dutchbat soldiers.<sup>10929</sup> After the convoy drove for three kilometres along the Bratunac-Konjević Polje road, they made a U-turn and returned to Konjević Polje.<sup>10930</sup> En route, two ‘civilians’, who the witness believed were Muslims, boarded the APC and returned with it to Konjević Polje.<sup>10931</sup> Upon its return to Konjević Polje, the APC parked again at the intersection.<sup>10932</sup> The two DutchBat soldiers boarded a vehicle in an approaching convoy with women and children headed by a white UN jeep and left into the direction of Milici.<sup>10933</sup> In the late afternoon, Janković, Nikolić and Petrović returned to Bratunac in the APC.<sup>10934</sup> The witness saw between 500 to 1,000 Muslims escorted by about ten Serb soldiers walking in a column towards Konjević Polje.<sup>10935</sup>

2543. **Witness RM-306** testified that in the afternoon of 13 July 1995 he saw buses full of adults, elderly, women, and children going from Bratunac towards Konjević Polje.<sup>10936</sup> **Nebojša Jeremić** testified that some time between noon and 1 p.m. on a day in mid-July 1995, he saw a lot of buses with detainees, trucks with women and children and combat vehicles passing by the Zvornik Brigade barracks.<sup>10937</sup> VRS soldiers in camouflage uniforms were guarding the detainees in the buses.<sup>10938</sup> The detainees’

<sup>10924</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3812-3818, 3822.

<sup>10925</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3813.

<sup>10926</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3818.

<sup>10927</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3819-3821.

<sup>10928</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3818-3819, 3821, 3823.

<sup>10929</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3819.

<sup>10930</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3821-3823.

<sup>10931</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3822-3823.

<sup>10932</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3824.

<sup>10933</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3826.

<sup>10934</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3829.

<sup>10935</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3831.

<sup>10936</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9358-9359.

<sup>10937</sup> Nebojša Jeremić, T. 34279-34280, 34351.

<sup>10938</sup> Nebojša Jeremić, T. 34280.

hands were clasped behind their necks and their heads were bent down.<sup>10939</sup> They went along the main road from Zvornik to Bijeljina.<sup>10940</sup>

2544. According to an Annex to a UN daily report of 13 July 1995 from Akashi to Annan, UNMOs observed 34 to 46 full buses heading from Kladanj to Tuzla.<sup>10941</sup> At Kladanj, no males over the age of 12 with the exception of a few over 60, were observed.<sup>10942</sup> The 'refugees' present in Kladanj on 13 July 1995 told UNMOs that they had witnessed that men had been separated from others and were severely beaten, stoned, and sometimes stabbed.<sup>10943</sup> By 5:15 p.m. on 13 July 1995, the transport of all refugees from outside the compound had been completed and transport then focussed on those inside the compound.<sup>10944</sup> By 9:50 p.m. all refugees had left the compound, except for a few patients in the hospital within the compound.<sup>10945</sup> According to the UN daily report of 13 July 1995 from Akashi to Annan, as of the morning of 14 July 1995, 15,000 displaced persons had arrived in Tuzla, 3,000 were on their way on VRS buses, and another 3,000 were about to leave the DutchBat base in Srebrenica.<sup>10946</sup>

2545. **Nikolić** testified that on 18 July 1995, he and Janković wrote to the VRS Main Staff Intelligence Sector and the DK Command Intelligence Department.<sup>10947</sup> They asked whether to authorize the evacuation of the local staff of MSF and the interpreters of the UNMOs and of UNPROFOR personnel. They noted that the State Security Department had provided them with an opinion indicating that Karadžić had allegedly 'abolished' all local staff of UNPROFOR.<sup>10948</sup> **Nikolić** explained that abolished meant that Karadžić had pardoned or amnestied these persons.<sup>10949</sup> They proposed that the local staff should not be held.<sup>10950</sup> The witness explained that this meant that the local staff should be allowed to leave Potočari along with their employers and go wherever

<sup>10939</sup> Nebojša Jeremić, T. 34340.

<sup>10940</sup> Nebojša Jeremić, T. 34280, 34340.

<sup>10941</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), p. 5.

<sup>10942</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), pp. 5-7.

<sup>10943</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), pp. 5, 8.

<sup>10944</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), p. 6.

<sup>10945</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), pp. 6-7.

<sup>10946</sup> P793 (UN daily report from Akashi to Annan with annexes, 14 July 1995), p. 1.

<sup>10947</sup> Momir Nikolić, T. 11958-11960; P1515 (Report on Srebrenica region, Momir Nikolić, 18 July 1995), p. 1.

<sup>10948</sup> P1515 (Report on Srebrenica region, Momir Nikolić, 18 July 1995), p. 1.

<sup>10949</sup> Momir Nikolić, T. 11958-11959, 11970-11974.

<sup>10950</sup> Momir Nikolić, T. 11958-11959; P1515 (Report on Srebrenica region, Momir Nikolić, 18 July 1995), p. 1.

they chose.<sup>10951</sup> Janković told the witness that the local staff had been allowed to leave Potočari together with the DutchBat convoy.<sup>10952</sup>

2546. **Franken** testified that the only people left at the DutchBat base were MSF personnel with their patients, Mandžić, UNHCR personnel, interpreters, DutchBat and its local staff, and the UNMOs. The DutchBat personnel who had been held in Bratunac were sent home directly from Bratunac and did not come back to the base.<sup>10953</sup> There were also 59 wounded whom DutchBat had tried to evacuate during the transportation of ‘civilians’ out of Potočari, but who were sent back from the area of Kladanj and placed in the hospital in Bratunac.<sup>10954</sup> Franken tried to evacuate the wounded using a Norwegian medevac company stationed near Tuzla, but that company did not succeed in reaching the enclave. The Bosnian Serbs told Franken that he could hand over the wounded to them, but Franken chose to arrange an evacuation by the ICRC through MSF.<sup>10955</sup>

2547. On 17 July, the VRS and Serb civilian officials arrived for a meeting to coordinate the details of evacuating the wounded from Potočari and Bratunac.<sup>10956</sup> The delegation was led by Janković and included Major Nikolić and his bodyguard, a staff officer of the Bratunac Brigade, a lieutenant-colonel who said that he was a lawyer, a civilian who later on appeared to be the new mayor of Srebrenica, and someone that Franken described as a Mladić look-alike.<sup>10957</sup>

2548. During the meeting, Janković asked Mandžić and Franken to sign a declaration stating that the transportation of the Bosnian Muslims out of Potočari had been performed in a proper and humanitarian way in accordance with international law.<sup>10958</sup> Franken added a clause stating that the transportation was carried out in accordance with the law only ‘as far as convoys actually escorted by UN forces [were] concerned’ because DutchBat was not able to confirm that this was the case for any of the other

<sup>10951</sup> Momir Nikolić, T. 11959, 11971.

<sup>10952</sup> Momir Nikolić, T. 11972-11973.

<sup>10953</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 101.

<sup>10954</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 101; P1433 (Handwritten list of 59 names of people allegedly wounded in Potočari, undated).

<sup>10955</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 102.

<sup>10956</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 102.

<sup>10957</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 103.

<sup>10958</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 104. *See also* Witness RM-294, T. 9896, 9698; P1138 (Declaration of the representatives of the civilian authorities of the enclave of Srebrenica, 17 July 1995). pp. 1-3.

convoys.<sup>10959</sup> **Witness RM-294** testified that Mandžić and Major Franken agreed that the evacuation did not take place the way described in the statement, and for this reason it was added in handwriting that the affirmation only concerned the convoys escorted by UN forces.<sup>10960</sup> The witness confirmed that this related to only a few dozens of people that were escorted by UNPROFOR vehicles and soldiers to Bosnian Muslim-held territory, while it was incorrect for the rest of the evacuation.<sup>10961</sup> **Franken** testified that Janković smiled upon reading Franken's addition, but the colonel lawyer became angry.<sup>10962</sup> Franken signed and witnessed the signing of the document by the other two signatories together with his addition because Janković had made it clear that signing would positively influence the evacuation of the wounded from the DutchBat compound and Bratunac.<sup>10963</sup> The part of the agreement stating that the evacuation, and more particularly the supervision and the escort of Bosnian Muslims, was to be carried out by the VRS and the MUP was correct in theory. However, this cooperation did not happen during the whole process as illustrated by the difficulties encountered by DutchBat escorts.<sup>10964</sup> Franken further testified that the part of the document stating that the population could remain in the enclave or evacuate was nonsense, because the population did not have a choice to stay or move in any direction because they were tired, afraid, surrounded by Serbs, and did not have any medical care or means to survive.<sup>10965</sup> Franken testified that their only choice was to die slowly or get out.<sup>10966</sup>

2549. **Witness RM-294** testified that the declaration did not reflect the reality in that no one was given a choice either to remain or be evacuated; to the contrary there were killings not far from the DutchBat base so that people would be frightened and the deportation would be quicker, the conditions of the evacuation were never discussed but instead the evacuation was imposed and that document which had been prepared in advance by the military or civilian authorities was put to Mandžić for his signature on 17 July 1995 in circumstances in which very few persons remained in the compound

<sup>10959</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 106; Robert Franken, T. 10744-10745, 10841.

<sup>10960</sup> Witness RM-294, T. 9897; P1138 (Declaration of the representatives of the civilian authorities of the enclave of Srebrenica, 17 July 1995), pp. 1, 3.

<sup>10961</sup> Witness RM-294, T. 9897-9899.

<sup>10962</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 106.

<sup>10963</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 106-107; Robert Franken, T. 10745-10746.

<sup>10964</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 105.

<sup>10965</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 105; Robert Franken, T. 10743-10744,

<sup>10966</sup> Robert Franken, T. 10744.

and these were intimidated by the VRS.<sup>10967</sup> Killings took near the DutchBat compound to intimidate and frighten the remaining people in the compound and Camila Osmanović, member of the Bosnian ‘delegation’ at the Hotel Fontana, tried to kill herself.<sup>10968</sup> Only about 25 people were left in the DutchBat compound after 13 July and they were ordered by the commander of the VRS not to go anywhere, but to stay there ‘to the end’.<sup>10969</sup> VRS soldiers came inside the DutchBat compound to intimidate them.<sup>10970</sup>

2550. **Deronjić** stated that certain portions of the declaration were not a truthful reflection of the situation on the ground between 12 and 17 July 1995.<sup>10971</sup> In his view, it was impossible for any Muslim inhabitant of Srebrenica to remain in Srebrenica even if they had expressed a wish to do so; the circumstances at that time, especially after the take-over of Srebrenica by the VRS, simply did not leave such possibility open.<sup>10972</sup> According to Deronjić, it would have been impossible to provide security to Muslims who wanted to stay in Srebrenica during that period of time.<sup>10973</sup>

2551. **Rave** testified that on 17 July 1995, Janković and Nikolić came to the UN compound in Potočari, accompanied by an interpreter, and selected seven wounded men that were to be taken to Bratunac hospital and treated separately. These men were to be treated as ‘POWs’.<sup>10974</sup> On the same day people from the ICRC arrived to evacuate the remaining wounded persons to Bratunac Hospital.<sup>10975</sup> In Bratunac, a Dutch doctor called Schouten took care of the wounded. Schouten later informed the witness that while he was away for lunch or dinner, several wounded persons had disappeared from the Bratunac hospital.<sup>10976</sup>

2552. **Franken** testified that on 17 July 1995, he handed over the wounded to the ICRC and Nikolić insisted that the wounded be inspected, so the ICRC went to the hospital together with Nikolić and a security squad from DutchBat.<sup>10977</sup> Nikolić

<sup>10967</sup> Witness RM-294, T. 9897, 9899, 9901-9903, 9962, 9965.

<sup>10968</sup> Witness RM-294, T. 9899-9890, 9901-9903.

<sup>10969</sup> Witness RM-294, T. 9899, 9891.

<sup>10970</sup> Witness RM-294, T. 9899.

<sup>10971</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6216-6217, 6219.

<sup>10972</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6218.

<sup>10973</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6219-6220.

<sup>10974</sup> P1149 (Evert Rave, witness statement, 17 February 1998), paras 57-58.

<sup>10975</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 60.

<sup>10976</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 58.

<sup>10977</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 103, 107.

identified seven of the wounded men as soldiers and agreed with the ICRC that they would be treated as POWs and transferred to the Bosnian Serbs. These seven men were transferred to the hospital in Bratunac and the ICRC told Franken that they would monitor them and Franken had one of his DutchBat surgeons stay with them to make sure they were treated as wounded. The surgeon was called away to arrange something and reported that when he returned, the wounded men were gone.<sup>10978</sup> The remaining wounded left the UNPROFOR base the same day.<sup>10979</sup>

2553. In the course of events surrounding the signing of the document and transportation of the wounded, Colonel Janković appeared to Franken to be in charge: he was the only one who spoke with Franken and had sent Nikolić away at one point. Janković was also able to have an ICRC truck with emergency supplies released from the Serbian border after a short phone conversation with whom Franken concluded were members of the Serbian border troops.<sup>10980</sup> Between 13 July and 21 July when DutchBat withdrew from the base, they did not have any freedom of movement and Janković had made it clear that they were supposed to remain in the compound.<sup>10981</sup>

2554. **Rave** testified that on 21 July 1995, in the morning, Karremans and the witness met with Mladić to finalise the evacuation of the battalion.<sup>10982</sup> General Nicolai and Colonel De Ruiter were also present.<sup>10983</sup> When Karremans and Nicolai insisted that the UN equipment seized by the VRS be returned, Mladić explained that the equipment was not available, and that if they insisted any further, the entire battalion would walk off the enclave wearing their uniforms only.<sup>10984</sup> Around noon, DutchBat left the enclave with Mladić at the head of the convoy.<sup>10985</sup> The convoy stopped briefly at the Iron Bridge where photographs were taken of *inter alios* Mladić and Janković, before crossing the border into Serbia.<sup>10986</sup>

<sup>10978</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 103.

<sup>10979</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 107.

<sup>10980</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 108.

<sup>10981</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 109.

<sup>10982</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 61.

<sup>10983</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 61. The Trial Chamber notes that the name is spelled 'Nicolai' in P1149 but uses the correct spelling of this man's last name, as found in P1417.

<sup>10984</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 61.

<sup>10985</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 62; Evert Rave, T. 10179-10182.

<sup>10986</sup> P1149 (Evert Rave, witness statement, 17 February 1998), para. 62; Evert Rave, T. 10180-10182; P1150 (Photograph marked by Evert Rave); P1151 (Photograph marked by Evert Rave).

*The Trial Chamber's findings*

2555. The Trial Chamber received evidence from Mladenović, Janjić, Đurić, Kovačević, and Witness RM-333 that the Bosnian Muslims were not abused and maltreated nor separated on 12 July 1995 in Potočari. The Trial Chamber considers that this may reflect the observations of these witnesses. However, since they were not present in Potočari all the time, it finds that this evidence does not contradict Adjudicated Facts number 1401, 1402, and 1403 on the treatment and separation of Bosnian Muslims in Potočari on that day.

*Transportation of Bosnian Muslims out of the enclave*

2556. Based on the foregoing, the Trial Chamber finds that from 12 to 14 July 1995, the VRS, and more particularly the DK, assisted by members of the Bratunac Brigade Military Police and of the MUP Special Police Brigade, including the Jahorina Detachment, transferred about 25,000 Bosnian-Muslim, mostly women, children, and elderly, out of the enclave of Srebrenica to the territory under ABiH control in buses and trucks.

2557. The people boarding the convoys were told that the men would follow later. Initially, they were allowed to board the buses themselves but after a while soldiers forced those who did not want to leave onto the buses. Some soldiers, as well as one member of the Jahorina Detachment of the Special Police Brigade, hit and abused the Bosnian Muslims as they boarded the buses and called them names. The Bosnian Muslims were restless, partly due to the separation of the mothers from their children. Many people became ill and the babies of ill mothers were abandoned. UNPROFOR soldiers assisted in loading women and children into the vehicles. Members of the Bratunac Brigade Military Police coordinated the boarding of the buses by the Bosnian Muslims. Members of the Bosnian-Serb MUP Special Police Brigade, including members of the Jahorina Detachment, assisted the boarding process pursuant to Borovčanin's order. On 12 July 1995, a bus driver from a private company was asked by his supervisor to transport Bosnian Muslims out of Potočari. DK Command officers and units were present in Potočari. They monitored the transportation of the Bosnian Muslims out of the area on 12 and 13 July 1995. They secured the road along which the buses would travel to Kladanj and supervised the transportation operation. DutchBat



soldiers attempted to escort the buses. They succeeded in accompanying the first convoys on 12 July 1995, but thereafter they were stopped by the VRS who stole 16 to 18 DutchBat jeeps, as well as around 100 small arms and equipment, which rendered further DutchBat escorts impossible.

2558. Most of the women, children, and elderly bussed out of Potočari arrived at Tišća. After disembarking, they were forced to continue on foot for several kilometres through 'no-man's land' between the Bosnian-Serb and Bosnian-Muslim lines to Kladanj. Around 14 July 1995, no males over the age of 12 with the exception of a few over 60, were observed in Kladanj.

2559. The removal of the Bosnian-Muslim civilian population from Potočari was completed on the evening of 13 July 1995. Towards the end of the day, Colonel Janković ordered a member of the Military Police Platoon of the Bratunac Brigade to drive towards Srebrenica Town and inform the Bosnian Muslims they might encounter *en route* that they should go to Potočari and wait there until they would be driven away on the next day. As of the morning of 14 July 1995, 15,000 people had arrived in Tuzla and 3,000 were still on their way on VRS buses. On 17 July 1995, Janković asked Mandžić and Franken to sign a declaration stating that the transportation of the Bosnian Muslims out of Potočari had been performed in a proper and humanitarian way in accordance with international law. Franken added a clause stating that the transportation was carried out in accordance with the law only 'as far as convoys actually escorted by UN forces [were] concerned' because DutchBat was not able to confirm that this was the case for any of the other convoys. The wounded remaining at the UNPROFOR compound were handed over to the ICRC on 17 July 1995, in agreement with Janković, and evacuated towards Bratunac Hospital. Some of the wounded later disappeared from the hospital.

*Organisation of the transportation of Bosnian Muslims out of the enclave*

2560. The DK procured buses and other vehicles that were then used to transport Bosnian-Muslim women, children and elderly out of the Potočari DutchBat compound on 12 and 13 July 1995, as well as the fuel needed to accomplish this task. On 12 July 1995, in response to a request from the DK, the Bosnian-Serb MoD sent three orders to its local secretariats directing them to procure buses and to send them to Bratunac. On

the same day, dozens of buses and trucks arrived in Potočari. The Bratunac Brigade monitored fuel allocation to buses and trucks on 12 and 13 July. It also provided two buses and fuel, and regulated traffic as the buses passed through Bratunac on their way to Konjević Polje.

2561. On 12 July 1995, members of the Bratunac Brigade military police, the 2nd Infantry Battalion, the military police of the 65th Motorised Protection Regiment from Nova Kasaba, a unit which carried out an attack from the area of Pribičevac, the Drina Wolves from the Zvornik Brigade, the 10th Sabotage Detachment as well as police units, including members of the Bratunac SJB, the 1st Company of the Special Police Brigade, and a company of the PJP were present in Potočari and assisted with the evacuation of Bosnian Muslims. On 12 and 13 July 1995, the 1st Company of the Special Police Brigade was tasked to secure a road close to the UN compound and ensure the safe transportation of civilians. Traffic police and the military police of the 65th Motorised Protection Regiment were tasked with monitoring the movement of the buses from the DK area to the SRK area.

*Separation of Bosnian-Muslim men from the rest of the population in Potočari*

2562. In the afternoon of 12 July 1995, the first convoy, which included men, left Potočari. The convoy was filmed and the footage was later broadcast by a press service of the DK Command. The men on the first convoy were separated at checkpoints, including the Tišća checkpoint, before reaching Kladanj and taken away by VRS soldiers in execution of Major Sarkić's, the Chief of Staff of the Milići Brigade, order. Sarkić and his troops were present at the Tišća checkpoint on that day pursuant to orders from the DK Command. General Krstić, in particular, had issued orders to DK units to secure a stretch of the road from Vlasenica up to Tišća where the civilians disembarked.

2563. As the Bosnian Muslims later began boarding the buses in Potočari, Bosnian-Serb soldiers systematically separated out men of military age who were trying to get onboard. Some of the separated males were as young as 12 years old and others were older and over 60 years old. Some of the males were unarmed and some were wearing military clothing. The separations were frequently aggressive. Some of the males were beaten, stoned, insulted, spat on, and sometimes stabbed. DutchBat members protested, especially when the men were too young or too old to reasonably be screened for war

criminals or to be considered members of the military, and when the soldiers were being violent. The separations caused fear among the families. When a Bosnian-Muslim woman asked a soldier to stay with her husband as he was being separated from her on 13 July 1995, the soldier replied: 'You can stay, but you'll meet the same fate as he!'. The woman subsequently fainted and was taken onboard a truck by relatives.

2564. The Assistant Commander for Security and Intelligence, Momir Nikolić, and elements of the Bratunac Brigade, including members of the brigade's military police, participated in the separation of Bosnian-Muslim males. Members of the Bratunac Brigade Military Police also provided security for the other units engaged in the separation.

2565. The separated males were taken to a building in Potočari referred to as the White House. Members of the MUP Special Police units brought the males towards the White House. DK officers were seen in the vicinity of the White House during the time the separated males were detained there and a member of the civilian police was seen counting the buses. When the yard of the White House was full of people unrest started and Colonel Janković told the Bosnian-Muslim males that there was no need for concern and that they would join their families later. DutchBat patrols attempted to monitor the situation but the VRS did not allow them to enter the building. One Dutch officer was removed from the premises at gunpoint.

2566. Beginning on the afternoon of 12 July and continuing throughout 13 July 1995, males detained in the White House, numbering approximately 1,000, were placed on separate buses from the women and the majority of children and elderly and were taken out of the Potočari DutchBat compound to detention sites in Bratunac in execution of VRS orders. Military policemen from the Bratunac Brigade escorted the buses. Soldiers kicked and hit the males with rifle butts while loading them onto the buses and ordered them to keep their heads down. DutchBat ordered one of the jeeps to escort the buses but the VRS stopped the escort. The buses came back soon after empty. The males were subsequently joined by Bosnian-Muslim men captured from the column. No discernible effort was made to keep the detainees from Potočari and the men captured from the column separate. Ultimately, they were all taken to the Zvornik Brigade area of responsibility. These men were held in various locations, such as an abandoned warehouse, an old school, and even in the buses and trucks that had brought them there. The Bosnian-Muslim men from Potočari as well as from Sandići and Nova Kasaba who

had spent the night on 13 July in Bratunac Town went in a long column of buses the following day to various temporary detention facilities and execution sites in Bratunac and Zvornik Municipalities. Identification papers and personal belongings, including money, were taken away from Bosnian-Muslim males, before entering the White House in Potočari, as well as from the men captured from the column; their papers and belongings were piled up and eventually burnt by the VRS. The Trial Chamber received evidence from Miladin Mladenović that he did not see any personal items or luggage on the grounds of the White House on 13 July 1995. As this may reflect the observations of this witness at the time he was present in Potočari, the Trial Chamber finds that this evidence does not contradict Adjudicated Facts numbers 1489 and 1499 on the appropriation and destruction of belongings of Bosnian Muslims. On 12 July 1995 in Potočari, a soldier told a Bosnian-Muslim woman, who had been separated from her brother, that she did not need to bring her brother's bag to him as he would not need it anymore. When she tried to follow her brother, a soldier pulled her hair, pushed her to the ground and kicked her with his army boots. In the evening of 12 July 1995, one of the Bosnian-Muslim 'representatives' asked Franken for the transportation to be stopped because he feared for the fate of Bosnian-Muslim males. On 13 July 1995, the Bosnian-Muslim 'representatives' in Potočari stopped the process of registration of Bosnian-Muslim men for the UN because they were intimidated by the Serb forces to the extent that a female in the group had a nervous breakdown and had to be taken to the hospital.

2567. Bosnian-Muslim men were transported to detention and execution sites in buses procured by the DK. Buses from private companies drove Bosnian Muslims to Bratunac and other locations. From 13 July 1995, the Zvornik Brigade began identifying detention sites for the Bosnian-Muslim men.

2568. As early as 14 July 1995, reports of missing Bosnian-Muslim men from Srebrenica began to surface in the international media. On that day, the UNSC expressed concern about the forced relocation of civilians from the Srebrenica 'safe area' by the Bosnian Serbs, asserting it was a clear violation of their human rights.

2569. The evidence on the fate of the separated Bosnian-Muslim men will be reviewed, along with additional evidence, in chapters 7.2-7.14.

2570. The Trial Chamber will address the evidence and make findings on the alleged incidents of killings, ill-treatment, and forcible transfer and deportation in chapters 7.2-7.17.

2571. The Trial Chamber will address the evidence and make findings related to the alleged Srebrenica JCE and, in particular, the Accused's alleged responsibility (some of which has been reviewed above in this chapter) in chapter 9.

#### 7.1.6 *The column*

2572. In this chapter, the Trial Chamber will review the evidence and make findings concerning the column of people attempting to leave Srebrenica Town and the Srebrenica enclave in the aftermath of the VRS attack and takeover of the enclave between 6 and 12 July 1995 (discussed in chapter 7.1.3). The Defence submitted that the civilian status of the victims has not been established and that any deaths were the result of combat, minefields, suicides, or in-fighting amongst those in the column.<sup>10987</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts relating to these events. It further received evidence from **Witness RM-336**, a Serb policeman from the Ugljevik SJB in Bijeljina Municipality;<sup>10988</sup> **Witness RM-253**, **Witness RM-256**, **Witness RM-346**, and **Reif Mehmedović**, all Bosnian-Muslim ABiH soldiers from Srebrenica Municipality;<sup>10989</sup> **Witness RM-301**, a Bosnian-Muslim soldier from Srebrenica Municipality;<sup>10990</sup> **Witness RM-257**, **Witness RM-204**, **Mevludin Orić**, **Salih Mehmedović**, and **Sulejman Buljubašić**, all Bosnian Muslims from Srebrenica Municipality;<sup>10991</sup> **Ramiz Husić**, a Bosnian Muslim from Brezovica who moved to Srebrenica in 1993 and who was 18 years old in July 1995;<sup>10992</sup> **Mujo Subašić**, a Bosnian Muslim from Podžeplje, Han Pijesak Municipality, who worked as a nurse in the Srebrenica hospital from April 1993 until 11 July 1995;<sup>10993</sup> **Witness RM-314**, a

<sup>10987</sup> Defence Final Brief, paras 2689-2693, 2706-2716 and 2738-2751.

<sup>10988</sup> P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4076-4079; P3458 (Statement of Witness RM-336 before the Bijeljina SJB, 23 September 2004), p. 3.

<sup>10989</sup> **Witness RM-253**: P1547 (Witness RM-253, witness statement, 16 August 1995), p. 1, para. 1; Witness RM-253, T. 12485; P1546 (Witness RM-253, pseudonym sheet). **Witness RM-256**: P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2; Witness RM-256, T. 13187. **Witness RM-346**: P1118 (Witness RM-346, prior testimony), p. 3016; P1117 (Witness RM-346, pseudonym sheet); Witness RM-346, T. 9576. **Reif Mehmedović**: P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2.

<sup>10990</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), pp. 1-2.

<sup>10991</sup> **Witness RM-257**: P3370 (Witness RM-257, witness statement, 8 March 1999), p. 1. **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 1. **Mevludin Orić**: P1757 (Mevludin Orić, *Popović et al.* transcript, 28 -29 August 2006), pp. 861, 869. **Salih Mehmedović**: P1034 (Salih Mehmedović, witness statement, 15 June 2000), p. 1; P1035 (Salih Mehmedović, record of witness interview, 15 June 2000), p. 1. **Sulejman Buljubašić**: P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 1.

<sup>10992</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 1-2.

<sup>10993</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), p. 1, paras 3, 10-11, 29, 31.

Bosnian-Muslim TO member who worked in Srebrenica during the war;<sup>10994</sup> **Witness RM-358**, a Bosnian Muslim from Srebrenica Municipality, who joined the TO in April 1992;<sup>10995</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>10996</sup> **Milos Mitrović**, a member of the Transport and Fortification Platoon of the Engineering Company of the Zvornik Brigade since December 1992;<sup>10997</sup> **Milenko Pepić**, a Serb member of the Second 'Šekovići' Platoon of the Second Šekovići Special Police Detachment (part of a Special Police Brigade of the VRS);<sup>10998</sup> **Neđo Jovičić** a member of the Special Police Brigade and driver for the Deputy Commander of the Special Police Brigade Ljubomir Borovčanin during 1995;<sup>10999</sup> **Dušan Mičić**, commander of the 3rd Platoon of the 1st Company of the PJM;<sup>11000</sup> **Witness RM-268**, a member of the Bosnian-Serb MUP Special Police Brigade in 1995;<sup>11001</sup> **Bojan Subotić**, commander of a military police platoon in the military police battalion of the 65th Motorised Protection Regiment and commander for the security of the battalion command in July 1995;<sup>11002</sup> **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and the Bosnian-Serb Republic in 1995;<sup>11003</sup> **Mičo Gavrić**, Chief of artillery in the Bratunac Brigade;<sup>11004</sup> as well as documentary evidence and finds that this evidence is consistent with the Adjudicated Facts.<sup>11005</sup> The Trial Chamber also received evidence from **Richard**

<sup>10994</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 1-2; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 1; P1437 (Witness statement, 14 June 1999), p. 1; Witness RM-314, T. 10849-10850, 10869-10872, 10896, 10912; P1434 (Pseudonym sheet of Witness RM-314). Relevant evidence from Witness RM-314 is also reviewed in chapter 7.2 *Schedule E.1.1*.

<sup>10995</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, p. 1, para. 1, witness statement of 2 October 2013, p. 1, para. 1.

<sup>10996</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297).

<sup>10997</sup> P3645 (Milos Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5589, 5590, 5594.

<sup>10998</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 2, 5; Milenko Pepić, T. 12406-12407, 12433.

<sup>10999</sup> D976 (Neđo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>11000</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758.

<sup>11001</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567.

<sup>11002</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 2, 4.

<sup>11003</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1.

<sup>11004</sup> Mičo Gavrić, T. 13899.

<sup>11005</sup> **Witness RM-336**: P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4093, 4099-4101. **Witness RM-253**: P1547 (Witness RM-253, witness statement, 16 August 1995), paras. 2-6, 10-11, 16, 18; Witness RM-253, T. 12516-12520, 12522-12523, 12526; P1548 (Witness RM-253, clarifications to witness statement). **Witness RM-256**: P1592 (Witness RM-256, witness statement, 16 January 1996), paras 3-7, 9; Witness RM-256, T. 13188-13191. **Witness RM-301**: P3377 (Witness RM-301, witness statement, 26 August 1995), pp. 2-3. **Witness RM-257**: P3370 (Witness RM-257, witness statement, 8 March 1999), pp. 2-3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3507-3510, 3512. **Witness RM-346**: P1118 (Witness RM-346, prior testimony), pp. 3016-3021; Witness RM-346, T. 9560-9561, 9578-9581. **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 2, 4-5. **Mevludin Orić**: P1757 (Mevludin Orić, *Popović et al.* transcript,

**Butler**, an intelligence research specialist;<sup>11006</sup> **Mendeljev Đurić**, a.k.a. Mane, the Bosnian-Serb Commander of the 1st Company of the Special Police Brigade at the Jahorina training centre in July 1995;<sup>11007</sup> **Nebojša Jeremić**, member of the military police in the Zvornik Brigade from April 1993 until the end of July 1995;<sup>11008</sup> **Mirko Perić**, a reserve policeman mobilised into the Bratunac police between 1992 and 1995;<sup>11009</sup> **Zoran Malinić**, Commander of the Military Police Battalion of the 65th Motorized Protection Regiment;<sup>11010</sup> **Mile Petrović**, **Pero Andrić**, and **Mladen Blagojević**, all members of the Bratunac Brigade military police platoon in July 1995;<sup>11011</sup> **Dragomir Keserović**, a VRS member between 17 June 1992 and 2004 who served from February 1995 as desk officer for the military police in the security administration of the VRS Main Staff;<sup>11012</sup> **Momir Nikolić**, the Assistant Commander

28-29 August 2006), pp. 871, 872-873, 875-877, 880-881, 883-889, 902. **Ramiz Husić**: P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 2-3. **Mujo Subašić**: P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 33-35, 37-38, 42, 44-45, 54. **Witness RM-358**: P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, paras 3, 5-6, 7. **Witness RM-297**: P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; Witness RM-297, T. 10971-10972. **Salih Mehmedović**: P1035 (Salih Mehmedović, record of witness interview, 15 June 2000), p. 2. **Reif Mehmedović**: P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2. **Witness RM-314**: Witness RM-314, T. 10911. **Milos Mitrović**: P3645 (Milos Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), p. 5598. **Milenko Pepić**: P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 10; Milenko Pepić, T. 12457, 12459, 12462, 12465. **Nedo Jovičić**: D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 38; Nedo Jovičić, T. 33700-33701. **Sulejman Buljubašić**: P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), pp. 1-2. **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), p. 3. **Witness RM-268**: P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8634. **Witness RM-333**: P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14822, 14836, 14882-14883, 14899; Witness RM-333, T. 6757-6758, 6760, 6771, 6773, 6790, 6799; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) pp. 2, 4; D129 (MUP order signed by Tomislav Kovač, 10 July 1995). **Dušan Mičić**: D977 (Dušan Mičić, witness statement, 24 March 2013), paras 32-33, 37; Dušan Mičić, T. 33756-33757. **Bojan Subotić**: D926 (Bojan Subotić, witness statement, 15 June 2014), para. 24. **Mičo Gavrić**: Mičo Gavrić, T. 13952-13953. **Documentary evidence**: P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 3. P3572 (Zvornik Brigade Daily Combat Report, 14 July 1995), paras 1-2. P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) pp. 3-4, 6. P2117 (Special Police Brigade document to Pale Police Staff Janja, 13 July 1995), p. 2. P7304 (Statement of Emin Mustafić, taken by the Zvornik Military Police, 23 July 1995), p. 1. P7305 (Statement of Almir Halilović, taken by the Zvornik Military Police, 23 July 1995), p. 1. P7306 (Statement of Sakib Kivirić, taken by the Zvornik Military Police, 23 July 1995), p. 1. P7307 (Statement of Fuad Dozić, taken by the Zvornik Military Police, 26 July 1995), p. 1.

<sup>11006</sup> Richard Butler, T. 16108; P2094 (Richard Butler, *curriculum vitae*, 10 June 2011).

<sup>11007</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10790, 10793, 10796-10797.

<sup>11008</sup> Nebojša Jeremić, T. 34273, 34299.

<sup>11009</sup> Mirko Perić, T. 34228-34229, 34233.

<sup>11010</sup> P1574 (Zoran Malinić, Witness statement, 14 December 2005), p. 41.

<sup>11011</sup> **Mile Petrović**: D894 (Mile Petrović, witness statement, 6 June 2014), para. 1. **Pero Andrić**: Pero Andrić, T. 34096-34097, 34130-34131; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2.

**Mladen Blagojević**: D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4.

<sup>11012</sup> Dragomir Keserović, T. 12802, 12805-12807.

for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>11013</sup> **Bruce Bursik**, an investigator with the Prosecution as of 1 September 1999;<sup>11014</sup> **Zoran Durmić**, a member of the Vlasenica SJB reserve as of 22 September 1991;<sup>11015</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>11016</sup> **Milenko Todorović**, Assistant Commander of the Intelligence and Security Organ of the IBK as of 16 November 1993;<sup>11017</sup> **Tomislav Savkić**, the former Commander of the 1st Infantry Battalion in Milići and from 1 November 1993 President of the Milići Municipal Assembly;<sup>11018</sup> **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>11019</sup> and **Vincentius Egbers**, a DutchBat member.<sup>11020</sup>

*The formation of the column*

2573. The Trial Chamber recalls its findings on the fall of Srebrenica in chapter 7.1.3. **Witness RM-297** testified that Mladić called “‘Srebrenica Srpska”, Serbian Srebrenica, and he promised to take revenge on the Turks and the janissaries’.<sup>11021</sup> At around 10 p.m. on 11 July 1995, the ‘division command’, together with the Bosnian-Muslim municipal authorities of Srebrenica, made the decision to form the column.<sup>11022</sup> The young men were afraid they would be killed if they fell into Bosnian-Serb hands in Potočari and believed that they stood a better chance of surviving by trying to escape through the woods to Tuzla.<sup>11023</sup> **Witness RM-253** testified that all ‘military-aged men and any other men who could walk’ were ordered to go to Šušnjari and all women and children were to go to the UNPROFOR base in Potočari.<sup>11024</sup> **Witness RM-256** testified

<sup>11013</sup> Momir Nikolić, T. 11768-11771, 11776-11777, 11981-11983; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>11014</sup> Bruce Bursik, T. 38860.

<sup>11015</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), paras 1-3, 5-6, 13, 18, 29; Zoran Durmić, T. 26314; D663 (Bosnia-Herzegovina MUP Certificate re: Zoran Durmić’s reserve police force membership), pp. 1-2.

<sup>11016</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

<sup>11017</sup> Milenko Todorović, T. 19835, 19837.

<sup>11018</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 2.

<sup>11019</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676.

<sup>11020</sup> P1629 (Vincentius Egbers, *Krstić* transcript, 5-6 April 2000), pp. 2201-2203; D307 (Undated UN Peacekeeper interview questionnaire), p. 1.

<sup>11021</sup> Witness RM-297, T. 10943.

<sup>11022</sup> Adjudicated Facts II, no. 1440. The Trial Chamber understands this reference to the ‘division command’ to refer to the Command of the 28th Division of the ABiH.

<sup>11023</sup> Adjudicated Facts II, no. 1441.

<sup>11024</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 2; Witness RM-253, T. 12516-12517; P1548 (Witness RM-253, clarifications to witness statement).



that the order was communicated by ABiH Commander Zulfo Tursunović's courier and that, in addition to the women and children, elderly and injured people were ordered to go to Potočari.<sup>11025</sup> **Witness RM-253** testified that the men, including himself, formed a column because they suspected the forests were mined, and continued to Šušnjari.<sup>11026</sup> **Witness RM-297** testified that the 'evacuation' of the able-bodied men out of Srebrenica was not organized by anyone.<sup>11027</sup> **Witness RM-314** testified that the column was divided into smaller groups, without much organisation and with no one leading or being responsible for it.<sup>11028</sup> The column gathered near the villages of Jagličići and Šušnjari and began to trek north.<sup>11029</sup> At around midnight on 11 July, the column started moving along the axis between Konjević Polje and Bratunac.<sup>11030</sup> On 12 July 1995, the MUP received information that all able-bodied Muslims from Srebrenica had 'set out on a breakthrough' towards Konjević Polje and, further on, towards Tuzla.<sup>11031</sup>

#### *Composition of the column*

2574. The Trial Chamber received evidence from a number of witnesses regarding the estimated number of people in the column, as well as about the composition of the column. These estimates ranged from 10,000 to 15,000 people.<sup>11032</sup> **Witness RM-358** provided a slightly higher estimate, stating that on 11 July 1995 he and his unit joined between 17,000 and 18,000 people in the column.<sup>11033</sup>

<sup>11025</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 3; Witness RM-256, T. 13188. See also P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3507-3510; P3377 (Witness RM-301, witness statement, 26 August 1995), p. 2; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, paras 2-3.

<sup>11026</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 3; Witness RM-253, T. 12518.

<sup>11027</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2.

<sup>11028</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 2; Witness RM-314, T. 10872.

<sup>11029</sup> Adjudicated Facts II, no. 1443.

<sup>11030</sup> Adjudicated Facts II, no. 1451.

<sup>11031</sup> P2117 (Special Police Brigade document to Pale Police Staff Janja, 13 July 1995), pp. 1-2.

<sup>11032</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 3; Witness RM-253, T. 12518-12519; P3377 (Witness RM-301, witness statement, 26 August 1995), p. 2 and P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2. See also P1118 (Witness RM-346, prior testimony), p. 3017; Witness RM-346, T. 9579; P1035 (Salih Mehmedović, record of witness interview, 15 June 2000), p. 2; P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 872-873; P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 33; P1435 (Witness RM-314, witness statement, 16 August 1995), p. 2; Witness RM-314, T. 10910; P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2; Nebojša Jeremić, T. 34279-34280, 34298; P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2.

<sup>11033</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, paras 2-3.

2575. The group consisted predominately of boys and men who were between the ages of 16 and 65.<sup>11034</sup> **Mevludin Orić** stated that the people ranged in age from 14 to 70.<sup>11035</sup> **Witness RM-253** testified that of the 15,000 people, 13,000 were military-aged men, 2,000 were elderly men and boys, and there was a small number of young women.<sup>11036</sup> A small number of women, children, and elderly travelled with the column in the woods.<sup>11037</sup> **Witness RM-297** stated that some of the men in the column were wounded.<sup>11038</sup>

2576. Around one third of the men in the column were Bosnian-Muslim soldiers from the 28th Division, although not all of the soldiers were armed.<sup>11039</sup> The head of the column was comprised of units of the 28th Division, then came civilians mixed with soldiers, and the last section of the column was the Independent Battalion of the 28th Division.<sup>11040</sup> The Trial Chamber received evidence from a number of witnesses about the types of arms carried by some of the people in the column which included hunting weapons owned from before the war, hand grenades, and pistols.<sup>11041</sup> **Witness RM-257** stated that when he left, he did not see anyone carrying weapons.<sup>11042</sup> **Witness RM-314** testified that he was wearing civilian clothes, and many of those in the column who carried arms were wearing civilian clothing.<sup>11043</sup>

2577. **Mujo Subašić** stated that the column was 10-kilometers long and departed on 12 July 1995 at 2 a.m. while the rear started moving at 7 a.m.<sup>11044</sup> **Witness RM-358** stated that the column began moving around midnight on 11 July 1995, while the rear section did not begin to move until around 2 a.m. on 12 July 1995.<sup>11045</sup>

<sup>11034</sup> Adjudicated Facts II, no. 1444.

<sup>11035</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 871, 872-873, 875-876.

<sup>11036</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 3; Witness RM-253, T. 12518-12519.

<sup>11037</sup> Adjudicated Facts II, no. 1445.

<sup>11038</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; Witness RM-297, T. 10971-10972.

<sup>11039</sup> Adjudicated Facts II, no. 1450.

<sup>11040</sup> Adjudicated Facts II, no. 1450.

<sup>11041</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 874, 888; P3377 (Witness RM-301, witness statement, 26 August 1995), p. 2; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 3; Witness RM-314, T. 10908.

<sup>11042</sup> P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), p. 3510.

<sup>11043</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 2; Witness RM-314, T. 10908.

<sup>11044</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 34-35. *See also* P1547 (Witness RM-253, witness statement, 16 August 1995), paras 3-4; Witness RM-253, T. 12518-12520.

<sup>11045</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 4.

*Military action in relation to the column*

2578. In the afternoon of 12 July 1995, Ljubiša Borovčanin received information from state security employees that approximately 12,000 to 15,000 able-bodied, mostly armed Bosnian Muslims were moving from Srebrenica towards Konjević Polje, Cerska, and Tuzla.<sup>11046</sup> On the same day, Borovčanin received an order from Mladić to send half of his men and available technical equipment to the Konjevic Polje-Cerska axis to block the area and fight the formation.<sup>11047</sup> The 2nd Special Police Detachment and the 1st Company of the Zvornik PJP deployed along the Kravica-Sandići-Pervani-Hričići road, with a launcher for Malyutka missiles, a *praga* self-propelled anti-aircraft gun, and a mortar platoon.<sup>11048</sup> Simultaneously, the 2nd Company of the Zvornik PJP was sent to Srebrenica to form an SJB and set up checkpoints in order to secure the town.<sup>11049</sup> **Richard Butler** testified that on or around 12 July 1995, the Zvornik and Birač Infantry Brigades and the 2nd Romanija Motorised Brigade engaged in sweeping the terrain west of Srebrenica.<sup>11050</sup>

2579. As the Bosnian-Muslim column attempted to break out of the enclave, it first moved through the area of responsibility of the Bratunac Brigade.<sup>11051</sup> Leaving the area of the Bratunac Brigade, the column moved up towards the Zvornik Brigade's zone of responsibility.<sup>11052</sup> The DK's subordinate Brigades, particularly the Bratunac and Zvornik Brigades, engaged in combat with the column as it attempted to break through to Bosnian Muslim-held territory.<sup>11053</sup> In the days following the 11 and 12 July meetings at the Hotel Fontana, VRS units, including units of the DK that were not engaged in the Žepa campaign, were assigned to block the column.<sup>11054</sup> In addition to these DK units, non-DK units, including the MUP Special Police Brigade, elements of the Military

<sup>11046</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 3; D129 (MUP order signed by Tomislav Kovač, 10 July 1995).

<sup>11047</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 3.

<sup>11048</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 3.

<sup>11049</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) pp. 3-4.

<sup>11050</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), paras 4.4-4.5.

<sup>11051</sup> Adjudicated Facts II, no. 1447.

<sup>11052</sup> Adjudicated Facts II, no. 1448.

<sup>11053</sup> Adjudicated Facts II, no. 1449.

<sup>11054</sup> Adjudicated Facts II, no. 1452.

Police Battalion of the 65th Protection Regiment, and subsequently elements of the municipal police, also took action to block the column.<sup>11055</sup>

2580. **Mirko Perić** testified that sometime between 10 and 13 July 1995 a group of Bosnian-Serb soldiers arrived at a Bosnian-Serb police checkpoint in Konjević Polje leading between four and seven men including Resid Sinanović, a Muslim and former Chief of the Bratunac police station, who was holding a stick with a white T-shirt.<sup>11056</sup>

The witness had been told to contact the police station if somebody they knew came to surrender.<sup>11057</sup> **Milos Mitrović** testified that on 13 July 1995 at around 10 or 11 a.m., Dragan Jevtić (introduced in chapter 3.1.2) ordered him to go to the Standard military barracks to join the Logistics Unit and, then, to go to Snagovo.<sup>11058</sup>

2581. **Milenko Pepić** testified that on 14 July 1995, he was sent by his commander Rade Čturić, a.k.a. Oficir, of the 2nd Šekovići Detachment of the Special Police Brigade, (introduced in chapter 3.4) from Konjević Polje to Zvornik and then to the Baljkovica sector.<sup>11059</sup> The witness's group, comprising himself from the 2nd 'Šekovići' Platoon of the 2nd Šekovići Special Police Detachment which was subordinated to a VRS Special Police Brigade, and members of the 1st and 2nd Police Detachments, reached Baljkovica on 15 July 1995.<sup>11060</sup> At this position, they received an order to abort all combat activities and withdraw in order to create a passage for the Muslim civilians and soldiers to pass through.<sup>11061</sup>

2582. **Nedo Jovičić** testified that on 15 July 1995, following a meeting between 'Chief Vasić' and Borovčanin (introduced in chapter 3.4) in Zvornik, a large part of the police force was sent to Baljkovica to block the area and protect Zvornik from an attack by the 28th ABiH Division, which was breaking through towards Tuzla from the direction of Srebrenica.<sup>11062</sup> On that day, an offensive MUP combat group composed of the 2nd and 4th Special Police Units, the latter being led by Miodrag Vikić, equipped with a tank and one praga, a mortar platoon and the 1st Company of the Zvornik PJP was sent in the

<sup>11055</sup> Adjudicated Facts II, no. 1453.

<sup>11056</sup> Mirko Perić, T. 34233-34236.

<sup>11057</sup> Mirko Perić, T. 34236.

<sup>11058</sup> P3645 (Milos Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5595, 5597-5598.

<sup>11059</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 6, 10; Milenko Pepić, T. 12457, 12459, 12465.

<sup>11060</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 2, 5, 10; Milenko Pepić, T. 12406-12407, 12433, 12457, 12459, 12465-12466.

<sup>11061</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 10; Milenko Pepić, T. 12467.

<sup>11062</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 38; Nedo Jovičić, T. 33700-33701.

direction of Donja Baljkovica and Crni Vrh to prevent a breakthrough towards Zvornik of a strong enemy column coming from Cerska and composed of about 3,500 to 4,000 men.<sup>11063</sup>

*Attacks on the column on 12-13 July 1995*

2583. The Trial Chamber took judicial notice of Adjudicated Facts and received evidence in relation to various ambushes on the column on 12 and 13 July 1995. On 12 July 1995, Bosnian-Serb forces launched an artillery attack against the column which was crossing an asphalt road between the area of Konjević Polje and Nova Kasaba en route to Tuzla.<sup>11064</sup> Only about one third of the men successfully made it across the asphalt road and the column was split in two parts.<sup>11065</sup> Heavy shooting and shelling continued against the remainder of the column throughout the day and during the night.<sup>11066</sup> **Witness RM-257, Sulejman Buljubašić, Witness RM-301, and Witness RM-358** stated that the column was fired at by Pragas, tanks, mortars, shells, fired from hand-held rocket launchers, machine-guns, anti-aircraft machine-guns, and M-53 firearms.<sup>11067</sup> **Witness RM-253** testified that the shelling would take place for 15 minutes, pause briefly and then start again.<sup>11068</sup>

2584. **Witness RM-358** stated that after an attack on the column the smoke generated by the explosion was very thick and the witness was afraid it may have contained some kind of poison.<sup>11069</sup> **Witness RM-253** testified that his group, with wounded at the front, came under sporadic shooting and people's eyes started to burn, which the witness believed was result of tear or some other chemical gas.<sup>11070</sup> Another witness, **Witness RM-254**, testified that during the night of 13 July 1995, he saw a helicopter dropping an 'agent' of blue powder on the part of the column he was in on several occasions in different areas of the column.<sup>11071</sup> The men who were affected choked as they fell whilst

<sup>11063</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) pp. 3-4, 6.

<sup>11064</sup> Adjudicated Facts II, no. 1456.

<sup>11065</sup> Adjudicated Facts II, no. 1457.

<sup>11066</sup> Adjudicated Facts II, no. 1458.

<sup>11067</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 2; P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 2; P3377 (Witness RM-301, witness statement, 26 August 1995), pp. 2-3; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 5.

<sup>11068</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 5.

<sup>11069</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 6.

<sup>11070</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 7.

<sup>11071</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 3.

their eyes turned red, their faces turned blue, and their legs jerked.<sup>11072</sup> **Witness RM-253** testified that heavy shelling followed immediately, and the witness heard a loud explosion and the sounds of anti-aircraft fire and Howitzers.<sup>11073</sup> **Witness RM-314, Witness RM-257, Ramiz Husić, Witness RM-204, Subašić, Witness RM-358, Orić, Witness RM-256, Witness RM-253, Witness RM-297, Witness RM-301, Buljubašić,** and **Witness RM-346** described ambushes and firing on the column and that they saw many dead and wounded people resulting from the attacks on the column on 12-13 July 1995.<sup>11074</sup> **Buljubašić** stated that shortly after the ambush in Pobučka Kamenica, the column was surrounded by ‘Chetniks’ dressed in plain clothes who said that the group from the column should line up by brigade and bring their wounded in the direction of the asphalt. As a result, five or six groups with wounded people moved towards the asphalt and the witness saw these groups being fired upon as they reached the edge of the woods, not far from where he was. One of the ‘Chetniks’ referred to himself as the ‘Chetnik Duke from Mostar’.<sup>11075</sup> At around 4 a.m., the witness and some others escaped from the clearing where the ‘Chetniks’ had surrounded them, and he climbed up a tree and hid.<sup>11076</sup> From a distance of around 50 metres, he saw the ‘Chetniks’ ordering Sabo Alić to come down from another tree in which he was hiding, and when Alić refused, the witness heard the sound of a single shot.<sup>11077</sup>

2585. **Witness RM-253** testified that during an ambush some people were yelling at the ‘Chetniks’ to stop shooting and negotiate with them and that during the stretch from Jagličići to Kamenica hill, he did not hear anyone from the column return fire.<sup>11078</sup> **Subašić** stated that near the Nova Kasaba-Konjević Polje asphalt road he heard strong

<sup>11072</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 3.

<sup>11073</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 7.

<sup>11074</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 2; P3370 (Witness RM-257, witness statement, 8 March 1999), pp. 1-3; P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 2; P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 2-4; P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 35; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 5; P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 35; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, paras. 5-8; P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 876; P1592 (Witness RM-256, witness statement, 16 January 1996), para. 7; P1547 (Witness RM-253, witness statement, 16 August 1995), paras 6-8, 10, 12-13; Witness RM-253, T. 12521-12524; P1548 (Witness RM-253, clarifications to witness statement); P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; Witness RM-297, T. 10965-10970; P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 876-877, 879-880; P3377 (Witness RM-301, witness statement, 26 August 1995), pp. 2-4; P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 1; P1118 (Witness RM-346, prior testimony), p. 3017; Witness RM-346, T. 9579-9580.

<sup>11075</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 2.

<sup>11076</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), pp. 2-3.

<sup>11077</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 3.

fire from different kinds of weapons and artillery and people screaming and saying ‘don’t shoot, we surrender’.<sup>11079</sup> **Witness RM-257** stated that during the time he was in the woods, he did not see any ABiH soldiers returning fire at the Serbs.<sup>11080</sup> **Witness RM-301** testified that in the aftermath of an ambush he heard cries for help and moaning for about 15 minutes before members of the column began shooting back.<sup>11081</sup> Along the way, the witness saw men panicking and shooting at their own group while shouting nonsense.<sup>11082</sup> The witness saw people who were unable to walk committing suicide using hand grenades or guns.<sup>11083</sup> **Bojan Subotić** testified that some of the men who surrendered to him said that the Muslims hiding in the woods were arguing and killing one another because some were in favour of surrendering while others were not.<sup>11084</sup> Upon request of some Muslim soldiers who had surrendered, the witness entered the woods where the Muslims were, and saw 500 dead people, including people who had been hanged, wounded by hand grenades or shells, or bombs allegedly thrown at those who tried to surrender by those who objected.<sup>11085</sup> The witness was bandaging five or six survivors, when he heard via radio that a group of 200 Muslim soldiers had surrendered to two of the witness’s soldiers.<sup>11086</sup> The witness was confronted by another group of 200 Muslim soldiers who surrendered and followed the witness to the Nova Kasaba football stadium.<sup>11087</sup> The seriously injured Muslims were taken to Milići Hospital, under the authority of the civilian police.<sup>11088</sup> **Witnesses RM-358, Subašić, Witness RM-297, and Witness RM-253** also provided evidence that people from the column were committing suicide and killing one another.<sup>11089</sup> **Husić** stated that three unidentified men, two of whom wore new camouflage uniforms and one of whom wore civilian clothing, told him and approximately 50 other individuals to surrender to the

<sup>11078</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 8; Witness RM-253, T. 12520.

<sup>11079</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 40-42.

<sup>11080</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3.

<sup>11081</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), p. 3.

<sup>11082</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), p. 3.

<sup>11083</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), p. 4.

<sup>11084</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 13; Bojan Subotić, T. 32902.

<sup>11085</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 16, 18-19; Bojan Subotić, T. 32822-32824.

<sup>11086</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 20; Bojan Subotić, T. 32824, 32976-32977.

<sup>11087</sup> Bojan Subotić, T. 32824-32825, 32828.

<sup>11088</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 21, 32; Bojan Subotić, T. 32976-32978.

<sup>11089</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 6; P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 43; P1547 (Witness RM-253, witness statement, 16 August 1995), para. 12; Witness RM-253, T. 12521-12522, 12525; P1548 (Witness RM-253, clarifications to witness statement); Witness RM-297, T. 10975.

Serbs.<sup>11090</sup> An unidentified young man in the group said that the three men were ‘Chetniks’ and opened fire killing the two men in uniform and wounding the man in civilian clothing. The witness, armed with a rifle given to him by the young man who had opened fire on the three unidentified individuals, left the group and went to check if there were Serbs in the vicinity. He met a group of men who advised him that the three men that had been shot at were members of the ABiH Mountain Battalion.<sup>11091</sup>

2586. **Orić** stated that ‘Chetniks’, following negotiations with members of the column, agreed to allow the column to proceed, and that the wounded should go first.<sup>11092</sup> Having collected the wounded and set off across a meadow, the column was subsequently fired upon from all sides, which led to many casualties and the wounded being abandoned.<sup>11093</sup> On another occasion, upon being told to surrender and not to run away, the witness’s group was fired upon by the ‘Chetniks’ using artillery weapons and anti-aircraft guns.<sup>11094</sup>

*The capture of Bosnian Muslims from the column*

2587. **Mendeljev Đurić** stated that on 12 July 1995, Duško Jević ordered him to re-deploy his company, the 1st Company of the Special Police Brigade of the Jahorina Training Centre, along the Konjević Polje-Bratunac road to prevent incursions from Bosnian-Muslim men from Srebrenica, who were not in Potočari, into Srebrenica town.<sup>11095</sup> The witness confirmed deployment of his company up to Glogova on the Konjević Polje-Bratunac road during the night of 12 July 1995.<sup>11096</sup> According to a MUP Special Police Brigade dispatch, during combat in the direction of Konjević Polje on the night of 12 July 1995, 200 Muslim soldiers were killed and 1,500 Muslim soldiers were captured or had surrendered with that number increasing by the hour.<sup>11097</sup>

**Witness RM-268** testified that he heard that during the night of 12 July 1995, a number of armed Muslims were captured in the vicinity of the Bratunac-Konjević Polje

<sup>11090</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 2.

<sup>11091</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 3.

<sup>11092</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 880.

<sup>11093</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 880-881.

<sup>11094</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 882.

<sup>11095</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10793, 10796-10797, 10812-10813.

<sup>11096</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), p. 10813.

<sup>11097</sup> P2117 (Special Police Brigade document to Pale Police Staff Janja, 13 July 1995).



road.<sup>11098</sup> **Durić** stated that he was ordered by Duško Jević to re-deploy his company along the Konjević Polje-Bratunac road for a second night together with the 2nd Company of the Special Police Brigade, commanded by Neđo Ikonić.<sup>11099</sup> The witness neither saw nor received any information of Bosnian Muslims surrendering or being captured along the Konjević Polje-Bratunac road, which his company had been securing during the nights of 12 and 13 July 1995.<sup>11100</sup> The witness's company was not deployed on the Konjević Polje-Bratunac road during the day on 12 and 13 July 1995 and the witness did not receive any information about Bosnian Muslims being captured or surrendering during those days.<sup>11101</sup> According to **Witness RM-268**, on 13 July 1995, 'one unit or detachment of the deserters from Jahorina' guarded the road around Bratunac.<sup>11102</sup>

2588. By the morning of 13 July, a group of approximately 2,000 to 3,000 people from the column had reached an area between Konjević Polje and Nova Kasaba.<sup>11103</sup> On 13 July 1995, MUP forces were deployed along the stretch of road between Konjević Polje and Bratunac where the bulk of the Bosnian-Muslim prisoners were captured from the column.<sup>11104</sup> **Butler** testified that on 13 July 1995, about 1,000 Bosnian Muslims were captured along the Nova Kasaba-Sandići arc and placed under the control of the Military Police Battalion of the 65th Motorised Protection Regiment at Kasaba.<sup>11105</sup> **Subotić** testified that on 13 July 1995, during a patrol near the Zeleni Jadar River with other privates from the Military Police Battalion Command, he saw approximately 1,000 Muslim soldiers, equipped with machine guns, infantry weapons, and a 60-millimetre mortar, firing at him and his men while the Muslim soldiers were withdrawing towards the woods.<sup>11106</sup> The witness's men returned fire.<sup>11107</sup> During the exchange of fire, a number of Muslim soldiers surrendered and a further group of 10 to 15 surrendered after the witness fired six tear gas canisters into the woods.<sup>11108</sup> The

<sup>11098</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8620.

<sup>11099</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10796, 10812-10814.

<sup>11100</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), p. 10826.

<sup>11101</sup> P2174 (Mendeljev Đurić, *Popović et al.* transcript, 1-3 May 2007), pp. 10826, 10828.

<sup>11102</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8627-8628.

<sup>11103</sup> Adjudicated Facts II, no. 1461.

<sup>11104</sup> Adjudicated Facts II, no. 1462.

<sup>11105</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.8.

<sup>11106</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 6-8, 12; Bojan Subotić, T. 32808-32809, 32988.

<sup>11107</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 7, 12; Bojan Subotić, T. 32808.

<sup>11108</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 12; Bojan Subotić, T. 32803, 32811-32813.

second group was disarmed and brought to the battalion Command.<sup>11109</sup> Some of the Muslims identified their commander as Tursunović.<sup>11110</sup>

2589. The DK was well aware of the presence of MUP units within its zone of responsibility, as well as the action being taken by MUP units to block and capture Bosnian-Muslim men in the column.<sup>11111</sup> The DK Command knew that thousands of Bosnian-Muslim prisoners had been captured along the Bratunac-Konjević Polje Road on 13 July 1995.<sup>11112</sup>

2590. In some places, Bosnian-Serb forces fired into the woods with anti-aircraft guns and other weapons, or used stolen UN equipment to deceive the Bosnian-Muslim men into believing that the UN or the Red Cross were present to monitor the treatment accorded to them upon capture.<sup>11113</sup>

2591. **Mile Petrović** testified that sometime after 12 or 1 p.m. on 13 July 1995, Momir Nikolić ordered Mirko Janković to drive a stolen UN APC from Bratunac to Konjević Polje with Nikolić, Janković, and the witness on board.<sup>11114</sup> On the way, the witness saw between 50 and 100 Muslim men who had surrendered on both sides of the road going from Bratunac to Konjević Polje as well as civilian policemen talking into a megaphone.<sup>11115</sup> In Konjević Polje, Nikolić instructed the witness to give a lift to two UN soldiers, who were present there, to a destination of their choice.<sup>11116</sup> After a few kilometres and at the request of the soldiers, the witness drove them back to Konjević Polje.<sup>11117</sup> **Husić** stated that at approximately 10 a.m. on 13 July 1995, Serbs called upon the group he was with to surrender and advised that UNPROFOR was waiting to take them to Tuzla to exchange them for Serb soldiers.<sup>11118</sup> He later realized that UNPROFOR was not there but instead Serb soldiers wearing UN helmets, which he concluded must have been a ploy to get Muslims to surrender.<sup>11119</sup>

<sup>11109</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 12.

<sup>11110</sup> Bojan Subotić, T. 32814-32815, 32818.

<sup>11111</sup> Adjudicated Facts II, no. 1463.

<sup>11112</sup> Adjudicated Facts II, no. 1469.

<sup>11113</sup> Adjudicated Facts II, no. 1460.

<sup>11114</sup> D894 (Mile Petrović, witness statement, 6 June 2014), paras 4-5; Mile Petrović, T. 31314-31315, 31324-31325.

<sup>11115</sup> Mile Petrović, T. 31325-31326, 31343.

<sup>11116</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 8; Mile Petrović, T. 31325-31326, 31328-31329, 31343, 31348, 31354-31355, 31361-31363.

<sup>11117</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 9; Mile Petrović, T. 31328-31329, 31344-31345, 31361-31362.

<sup>11118</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 3.

<sup>11119</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 5.

2592. The Trial Chamber received evidence from a number of witnesses about messages conveyed to the Bosnian Muslims from the column who were hiding in the woods between 12 and 15 July 1995, and what was said to them to encourage their surrender. The people using the megaphones who were often located on the asphalt road were described as Serbs, Bosnian-Serbs, Serbian soldiers, ‘Chetniks’, ‘the aggressors’, Members of the Special Police Forces, and a man nicknamed ‘Zijo’.<sup>11120</sup> The messages conveyed included to surrender or else shelling and shooting would commence; that if they surrendered they would not be harmed and would be taken by bus to Tuzla, but that if they did not surrender, the women and children in Potočari would be harmed; informing them that they would be exchanged; that many of their group had been killed during the night; that no one would be harmed and that they would be treated according to the ‘Geneva Convention’; that they should surrender because ‘tomorrow would be too late’; that if they did not surrender they would open fire and release poison; that they would be kept alive; to ‘come down Turks and surrender’ and that those that surrendered would be safe; telling them to surrender or they would start shooting at them; and that the ICRC were there to help them.<sup>11121</sup> Some witnesses provided evidence that during this time there was sporadic shooting.<sup>11122</sup> Witnesses provided evidence that hundreds of Bosnian-Muslim soldiers and civilians from the column surrendered.<sup>11123</sup>

<sup>11120</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 3; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 7; P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14823, 14827; Witness RM-333, T. 6758; P3377 (Witness RM-301, witness statement, 26 August 1995), p. 3; P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; P1592 (Witness RM-256, witness statement, 16 January 1996), para. 8; P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3357 (Witness RM-204, witness statement, 13 August 1995), p. 3; P3452 (Reif Mehmedović, witness statement, 16 August 1996), pp. 2-3; P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4093-4097, 4106-4110.

<sup>11121</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 3; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 7; P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14823, 14827; Witness RM-333, T. 6758; P1547 (Witness RM-253, witness statement, 16 August 1995), paras 9-11; Witness RM-253, T. 12526; P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; P1592 (Witness RM-256, witness statement, 16 January 1996), para. 8; P3377 (Witness RM-301, witness statement, 26 August 1995), p. 3; P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3357 (Witness RM-204, witness statement, 13 August 1995), p. 3; P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2.

<sup>11122</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P1547 (Witness RM-253, witness statement, 16 August 1995), para. 11;

<sup>11123</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 13; Bojan Subotić, T. 32814; P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 7; P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14825-14826, 14840; P1547 (Witness RM-253, witness statement, 16 August 1995), para. 14; Witness RM-253, T. 12527-12528; P1548 (Witness RM-253, clarifications to witness statement); P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2.

2593. With regard to the circumstances after their surrender, **Witness RM-358** stated that one group that surrendered were ordered to take off their shirts, pile them, and line up in rows. The ‘Chetniks’ then opened fire on them from the military vehicles with automatic firearms including anti-aircraft machineguns. During the night the witness’s group came across the asphalt road where there were about 35 corpses, which appeared to have been driven over.<sup>11124</sup> **Witness RM-253** testified that small groups of armed soldiers wearing light green camouflage uniforms were waiting for those who had surrendered as a result of the ultimatums.<sup>11125</sup> The soldiers started beating the witness’s group as soon as they surrendered.<sup>11126</sup> Some of the soldiers said they were civilian police and searched the captives, ordered them to hand over their money, jewellery and weapons, and beat up several people.<sup>11127</sup> Everyone in the group was in civilian clothing and most of them were unarmed.<sup>11128</sup> The civilian police ordered the captives to walk with their hands above their heads towards Konjević Polje. After about a kilometre they were taken over by another group of soldiers in dark green camouflage uniforms, who, according to the civilian police, were military police. The military police cursed, insulted and threatened the detainees, and told them to carry their wounded.<sup>11129</sup> **Witness RM-297** stated that his group decided to surrender and went down to the Bosnian-Serb positions and saw VRS soldiers in camouflage uniforms, tanks, armoured transports, and howitzers parked in a group.<sup>11130</sup> One VRS soldier was wearing a ‘Sajkaca’ cap with a ‘kokarda’ on it, and later the unit guarding them was replaced by a new unit that the guards said was comprised of Arkan’s troops who wore new camouflage uniforms and carried the same kind of equipment as the VRS soldiers.<sup>11131</sup> The soldiers asked the men to give them money and threatened to kill any of them if they were later found to have money on them.<sup>11132</sup> **Witness RM-256** testified that on 13 July 1995 after being called upon to surrender he and others were shot at and they dispersed and ran towards a meadow.<sup>11133</sup> The witness observed two men being

<sup>11124</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 7.

<sup>11125</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 14.

<sup>11126</sup> Witness RM-253, T. 12528.

<sup>11127</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 14; Witness RM-253, T. 12528-12529.

<sup>11128</sup> Witness RM-253, T. 12526, 12528-12529.

<sup>11129</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 15.

<sup>11130</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2.

<sup>11131</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2; Witness RM-297, T. 10972.

<sup>11132</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3; Witness RM-297, T. 10972.

<sup>11133</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 8-9.

shot.<sup>11134</sup> As the ‘Chetniks’ came closer, some men took off their white T-shirts, placed them on sticks, and shouted that they wanted to surrender.<sup>11135</sup> **Witness RM-253** testified that the group he was with was instructed to form a column, gather their wounded – who would allegedly be treated – and make their way to the road.<sup>11136</sup> The ‘aggressors’ then fired at them.<sup>11137</sup>

2594. **Witness RM-204** stated that in the morning of 13 July 1995 he recognised the village of Kamenica and saw one tank and other vehicles with weapons ‘mounted on it [*sic*]’ near the road behind the bridge.<sup>11138</sup> The witness thought that the tank was painted in olive green colours and the other vehicles in camouflage.<sup>11139</sup> There were five or six ‘Chetniks’ on the bridge and one by the tank, armed with automatic rifles, similar to those the witness saw the ABiH carrying. The ‘Chetniks’ told them to leave any weapons and money, or they would be killed. Those who had surrendered were lined up in rows and soldiers who arrived in a police vehicle and a civilian vehicle, and some of whom wore blue camouflaged patterned uniforms pointed their weapons at those who were lined up on the road. Some of the soldiers said ‘Balijs’ put your arms up higher, now we are going to show you’. The witness saw *Kraljica Smrt* (Queen of Death) written on the tank. The soldiers ordered them to put their hands in the air and run side-by-side along the road with three fingers raised. They continued running for about one kilometre towards Kravica and passed a column of ‘Chetniks’ who fired a few rounds into the air.<sup>11140</sup>

2595. **Witness RM-333** testified that around 13 July 1995 in late afternoon, a company from the Jahorina Training Centre received an order from an unidentified MUP officer to relieve police forces deployed on a stretch of the road between Konjevic Polje and Kravica, a couple of kilometres away from Kravica.<sup>11141</sup> A tank and an anti-aircraft vehicle were stationed there.<sup>11142</sup> The new company was deployed along a stretch of the road, a couple of hundred metres away from the meadow and tasked with collecting

<sup>11134</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 9.

<sup>11135</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 9.

<sup>11136</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 13.

<sup>11137</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 13; Witness RM-253, T. 12500.

<sup>11138</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 3.

<sup>11139</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 3.

<sup>11140</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 4.

<sup>11141</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14821-14822; Witness RM-333, T. 6757-6758.

<sup>11142</sup> Witness RM-333, T. 6760; P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14821-14822.

armed ABiH members who surrendered and passing them to the platoon leader.<sup>11143</sup> One Muslim threw a grenade at a member of the company as he was surrendering.<sup>11144</sup> He was shot in self-defence.<sup>11145</sup> According to the witness, the detainees who were unarmed, were transported to Tuzla to be exchanged.<sup>11146</sup> The company was deployed there for three to five days.<sup>11147</sup>

2596. **Dušan Mičić** testified that around 13 July 1995, his PJM unit was sent to Baljkovica located approximately 20 kilometres from Zvornik in the direction of Tuzla in order to support an army unit that was surrounded by Muslims from the column.<sup>11148</sup>

2597. **Reif Mehmedović** stated that on 15 July 1995 in the afternoon he saw a group from the column coming under fire as they tried to cross the road, after he had heard some 'Serbian soldiers' with a Motorola radio saying 'they are trying to cross the road'. The group the witness was with, also tried to cross the road and came under fire. The Serb soldiers searched the terrain and the witness saw that one of them placed an anti-personnel mine into the ground at the riverbank. When the witness's group reached Pobude village he was informed that the 'Serbian soldiers' had blocked the asphalt road from Nova Kasaba to Kuslat. The witness could see soldiers dispersed along the road about a kilometre away and a helicopter patrolling three times a day. The witness also saw a Praga firing rounds generally into the hills.<sup>11149</sup>

2598. **Husić** stated that during his journey towards Kravica, he saw both wounded and dead individuals.<sup>11150</sup> He also observed several individuals in the column committing suicide and one individual killing four others with a grenade.<sup>11151</sup>

2599. **Witness RM-336** stated that when he was deployed to Snagovo around mid-June to mop-up the area he calling Bosnian Muslims to surrender with loud speakers as well

<sup>11143</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14824-14825; Witness RM-333, T. 6755, 6771-6772.

<sup>11144</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14839, 14887-14888; P725 (Excerpt of Bratunac Health Centre patient log, undated).

<sup>11145</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14839, 14887-14888.

<sup>11146</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14825-14826; Witness RM-333, T. 6763.

<sup>11147</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14836, 14882; Witness RM-333, T. 6773, 6799.

<sup>11148</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 32-33, 37; Dušan Mičić, T. 33756-33757.

<sup>11149</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 3.

<sup>11150</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 4.

<sup>11151</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 4.

as gunshots in the distance.<sup>11152</sup> During his deployment, the witness saw the bodies of men and children, and traces of blood on clothes.<sup>11153</sup>

2600. **Nebojša Jeremić** testified that he learned from military policemen, who were on the ground in July 1995, that some Bosnian-Muslim men from the column had been captured and were being detained in the Zvornik Brigade barracks; the witness estimated the numbers to have been between 80 to 100 men.<sup>11154</sup> The detainees were later put onto trucks and driven away from the barracks; it was rumoured that they were being driven to Batković to be exchanged.<sup>11155</sup> The witness further testified that a few days after the fall of Srebrenica, the chief of security of the Zvornik Brigade, Drago Nikolić, came to his office in the Standard Barracks and informed him that two Serbs and four Bosnian-Muslims would be brought in.<sup>11156</sup> The Serbs were suspected of having assisted Muslim soldiers to cross the front line.<sup>11157</sup> The witness and his colleagues were instructed to interrogate all six individuals.<sup>11158</sup> According to statements made to the Zvornik Military Police in July 1995 concerning the surrender and capture of six individuals the captives were in a column of civilians and soldiers when fighting with the VRS broke out.<sup>11159</sup> The column scattered into many groups, after which they got lost and surrendered in a Serb village and were then brought to the Zvornik Brigade Command.<sup>11160</sup>

<sup>11152</sup> P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4093-4097, 4106-4110.

<sup>11153</sup> P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4110-4111; P3458 (Statement of Witness RM-336 before the Bijeljina SJB, 23 September 2004), p. 7.

<sup>11154</sup> Nebojša Jeremić, T. 34298, 34300.

<sup>11155</sup> Nebojša Jeremić, T. 34298-34299.

<sup>11156</sup> Nebojša Jeremić, T. 34274, 34289.

<sup>11157</sup> Nebojša Jeremić, T. 34289; P7308 (Record of the Zvornik Military Police, 25 July 1995), p. 1.

<sup>11158</sup> Nebojša Jeremić, T. 34289.

<sup>11159</sup> P7304 (Statement of Emin Mustafić, taken by the Zvornik Military Police, 23 July 1995), p. 1; P7305 (Statement of Almir Halilović, taken by the Zvornik Military Police, 23 July 1995), pp. 1-2; P7306 (Statement of Sakib Kivirić, taken by the Zvornik Military Police, 23 July 1995), p. 1; P7307 (Statement of Fuad Dozić, taken by the Zvornik Military Police, 26 July 1995), pp. 1-2; P7302 (Statement of Neško Docić, taken by the Zvornik Military Police, 25 July 1995), p. 1; P7303 (Statement of Slobodan Docić, taken by the Zvornik Military Police, 26 July 1995), p. 1.

<sup>11160</sup> P7304 (Statement of Emin Mustafić, taken by the Zvornik Military Police, 23 July 1995), p. 1; P7305 (Statement of Almir Halilović, taken by the Zvornik Military Police, 23 July 1995), pp. 1-2; P7306 (Statement of Sakib Kivirić, taken by the Zvornik Military Police, 23 July 1995), p. 1; P7307 (Statement of Fuad Dozić, taken by the Zvornik Military Police, 26 July 1995), pp. 1-2; P7302 (Statement of Neško Docić, taken by the Zvornik Military Police, 25 July 1995), p. 1; P7303 (Statement of Slobodan Docić, taken by the Zvornik Military Police, 26 July 1995), p. 1.

*The gathering of Bosnian Muslims at the Nova Kasaba football field*

2601. Several thousand Bosnian-Muslim men from the column who were captured on 13 July 1995 were collected in or near the Sandići meadow and on the Nova Kasaba football field (*see* chapter 7.5 *Schedule E.4.1*).<sup>11161</sup> The soldiers guarding the men at these locations forced them to turn over their valuables and abandon their belongings.<sup>11162</sup> The Trial Chamber has reviewed further evidence related to captured men at Sandići Meadow in chapter 7.5 *Schedule E.4.1*. In this section the Trial Chamber will focus only on the gathering of Bosnian Muslims at the Nova Kasaba football field.

2602. The Trial Chamber received evidence from several witnesses present at the Nova Kasaba football field on 13 July 1995 about the arrival of Bosnian Muslims, their numbers, and the units present. **Witness RM-346** testified that he was captured on the morning of 13 July 1995,<sup>11163</sup> ordered to walk together with other detainees towards a football pitch located right outside of Nova Kasaba.<sup>11164</sup> **Dragomir Keserović** testified that on 12 or 13 July 1995, Colonel Malinić told him that there were approximately 2,500 disarmed and captured Muslims, fighters and ‘civilians’ from Srebrenica, who came along the road between Kasaba and Konjević Polje.<sup>11165</sup> In execution of Colonel Beara’s order, Malinić gathered them on the football pitch.<sup>11166</sup>

2603. Regarding the number of detainees at Nova Kasaba, the Trial Chamber received evidence from **Witness RM-253** who estimated that 1,500 to 2,000 men, many from Srebrenica, were gathered at the stadium at that point, some of whom were already there when the witness arrived.<sup>11167</sup> Armed Serb soldiers had secured the stadium, ten of whom were at the gates.<sup>11168</sup> **Witness RM-346** testified that about 1,500 to 2,000 Bosnian-Muslim men were already sitting on the football pitch, surrounded by armed Serb soldiers.<sup>11169</sup> He also saw one UN vehicle.<sup>11170</sup> More Bosnian-Muslim men were

<sup>11161</sup> Adjudicated Facts II, no. 1464.

<sup>11162</sup> Adjudicated Facts II, no. 1465.

<sup>11163</sup> P1118 (Witness RM-346, prior testimony), pp. 3017-3018; Witness RM-346, T. 9559, 9581.

<sup>11164</sup> P1118 (Witness RM-346, prior testimony), pp. 3020-3021; Witness RM-346, T. 9560-9561.

<sup>11165</sup> Dragomir Keserović, T. 12863-12865, 12867, 12887-12889, 12938-12940.

<sup>11166</sup> Dragomir Keserović, T. 12867-12868.

<sup>11167</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 18; Witness RM-253, T. 12485-12486, 12530; P1549 (Marked picture of Nova Kasaba football stadium).

<sup>11168</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 18; Witness RM-253, T. 12485-12486; P1549 (Marked picture of Nova Kasaba football stadium).

<sup>11169</sup> P1118 (Witness RM-346, prior testimony), pp. 3022-3023; Witness RM-346, T. 9561, 9581; D269 (Photograph, ‘People at Football Field, Nova Kasaba Bosnia and Herzegovina’, 13 July 1995, marked by Witness RM-346).

<sup>11170</sup> P1118 (Witness RM-346, prior testimony), p. 3023; Witness RM-346, T. 9589.



arriving by foot from Konjević Polje and some were brought from the woods.<sup>11171</sup> The number of people grew to approximately 2,000 to 4,000.<sup>11172</sup> **Mladen Blagojević** testified that on 13 July 1995, there were about 1,000 Muslims from the column at the Nova Kasaba football stadium and were guarded by the VRS and the civilian police.<sup>11173</sup> **Pero Andrić** testified that at the time Mladić addressed the men, they were between 300 and 500 and were guarded by men in camouflage uniforms.<sup>11174</sup> **Subotić** testified that on 13 July 1995 the number of Muslims present in the stadium did not exceed 1,200.<sup>11175</sup> According to a transcript of an intercepted conversation on a telephone line to an extension matching that of the commander of the 65th Motorised Protection Regiment and dated 13 July 1995, 1,500 men were confirmed to be present at the stadium in the presence of Malinić's unit.<sup>11176</sup> In addition, a military police platoon, four military police companies, including an anti-terrorist company and a company of armoured vehicles, also of the military police of the 65th Protection Regiment, were present at the football field.<sup>11177</sup> During the day, several press teams and film crews, including from the Bosnian-Serb Republic news agency and from the VRS press centre, took footage of the Muslims gathered at the football field and also interviewed the witness.<sup>11178</sup> Malinić ordered Subotić not to interfere with their work.<sup>11179</sup>

2604. Regarding the conditions in Nova Kasaba during that day, **Witness RM-346, Subotić**, and **Zoran Durmić** testified that Serb soldiers provided first aid to wounded Bosnian Muslims.<sup>11180</sup> **Subotić** gave water to two soldiers and invited the others to fetch some water from the stream near the stadium.<sup>11181</sup> As ordered by Milomir Savčić, Commander of the 65th Motorised Protection Regiment he brought 100 to 150 loaves of

<sup>11171</sup> P1118 (Witness RM-346, prior testimony), pp. 3023-3024.

<sup>11172</sup> Witness RM-346, T. 9582-9584.

<sup>11173</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 5, 12; Mladen Blagojević, T. 32616-32622, 32624; P7186 (Mladen Blagojević, US Department of Homeland Security, report of investigation), p. 19; P7187 (Video of US Department of Homeland Security interview of Mladen Blagojević, 15 October 2004), pp. 63-65.

<sup>11174</sup> Pero Andrić, T. 34109; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 10.

<sup>11175</sup> Bojan Subotić, T. 32904-32905, 32911.

<sup>11176</sup> P1280 (Intercept at 4:02 p.m. between unidentified conversants X and Y, 13 July 1995); P7201 (Excerpt from the telephone book of the VRS Main Staff, August 1995).

<sup>11177</sup> Bojan Subotić, T. 32914, 32916-32917.

<sup>11178</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 28; Bojan Subotić, T. 32917. The footage has never been found and therefore has not been viewed by the Prosecution or by the witness, Bojan Subotić, T. 32917-32918.

<sup>11179</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 28.

<sup>11180</sup> Witness RM-346, T. 9592; D926 (Bojan Subotić, witness statement, 15 June 2014), para. 15; D659 (Zoran Durmić, witness statement, 12 February 2013), paras 37-39; Zoran Durmić, T. 26304-26312.

<sup>11181</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 17, 23; Bojan Subotić, T. 32828.

bread to the Muslims gathered on the football field along with his regiment's daily rations.<sup>11182</sup> Serb civilians arrived at the field, cursed, and threw bricks and stones at the Muslims.<sup>11183</sup> **Durmić** testified that he overheard a Muslim man say that Zulfo Tursunović and his unit had wounded him and killed many others who wanted to surrender.<sup>11184</sup> The Muslim man indicated that masses of dead people killed by Zulfo Tursunović could be found in Bokčin stream.<sup>11185</sup> The witness testified that Zulfo Tursunović was one of the Muslim commanders in Srebrenica.<sup>11186</sup>

2605. **Andrić, Blagojević, Witness RM-253, and Subotić**, provided evidence that in the afternoon on 13 July 1995, Mladić arrived at Nova Kasaba.<sup>11187</sup> **Witness RM-253** testified that Mladić introduced himself and told the detainees that they had no state 'here' and had to look for their state.<sup>11188</sup> Mladić further accused the detainees of killing Serb soldiers and asserted that they would not be able to leave the enclave because the Serb soldiers, armed with dogs, had knitted a close net around them.<sup>11189</sup> Mladić told the detainees that they would be transported to either Bratunac or Kravica, where they would spend the night and be given food, and that they would be exchanged and could then join their families in Tuzla.<sup>11190</sup> Several witnesses confirmed that Mladić told the detainees that they would be taken to Bratunac.<sup>11191</sup> **Andrić** testified that Mladić told the detainees that their government and commander Naser Orić had betrayed them and that he would provide buses to take them wherever they wanted.<sup>11192</sup> He told them not to be

<sup>11182</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 3, 4, 22-23; Bojan Subotić, T. 32819-32820.

<sup>11183</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 23; Bojan Subotić, T. 32820-32821.

<sup>11184</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), paras 37-39; Zoran Durmić, T. 26304-26312.

<sup>11185</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 39; Zoran Durmić, T. 26306-26308.

<sup>11186</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 39.

<sup>11187</sup> Pero Andrić, T. 34101, 34103-34105, 34107-34110; D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 5, 12; Mladen Blagojević, T. 32616-32622, 32624; P7186 (Mladen Blagojević, US Department of Homeland Security, report of investigation), p. 19; P7187 (Video of US Department of Homeland Security interview of Mladen Blagojević, 15 October 2004), pp. 63-65; P1547 (Witness RM-253, witness statement, 16 August 1995), para. 19; Witness RM-253, T. 12531-12532; D926 (Bojan Subotić, witness statement, 15 June 2014), paras 5, 11, 29; Bojan Subotić, T. 32825-32826, 32976.

<sup>11188</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 20; Witness RM-253, T. 12486-12487, 12531-12533, 12543-12544; P1549 (Marked picture of Nova Kasaba football stadium).

<sup>11189</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 20; Witness RM-253, T. 12532-12534, 12536.

<sup>11190</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 20; Witness RM-253, T. 12487, 12532-12533, 12543-12544.

<sup>11191</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 29-30; Bojan Subotić, T. 32826; P1118 (Witness RM-346, prior testimony), p. 3024; Witness RM-346, T. 9590.

<sup>11192</sup> Pero Andrić, T. 34109-34110; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 11.

afraid as they would be exchanged for the imprisoned Serbs.<sup>11193</sup> **Subotić** testified that the Muslim soldiers applauded Mladić and some spoke with him individually.<sup>11194</sup> **Witness RM-346** testified that Mladić gave a speech while a camera was filming him and the detainees.<sup>11195</sup> Mladić said that he would organise groups to collect the wounded in the woods and to bury the dead, and he ordered the soldiers to make a list of all the captured people.<sup>11196</sup> **Witness RM-253** testified that while Mladić was speaking he saw a number of buses with women and children driving past the stadium towards Kladanj, which Mladić confirmed were transporting women and children.<sup>11197</sup>

2606. The Trial Chamber received evidence from a number of witnesses about the events surrounding Mladić's presence at Nova Kasaba. **Witness RM-346** testified that one of the detainees got up and the Serb soldiers beat him with their rifle butts, following which one soldier shot him dead with his pistol, while Mladić was present.<sup>11198</sup> The soldiers told the detainees that if anyone else behaved like this, they would be killed.<sup>11199</sup> Mladić did not respond in any way.<sup>11200</sup> **Zoran Malinić** testified that he had heard that a killing took place at the stadium: a member of the Military Police Battalion was attacked by a detainee and killed him in self defence.<sup>11201</sup> The witness further testified that as far he knew 'there was no [*sic*] a single killing in Nova Kasaba', 'any shooting or killing of prisoners, no'.<sup>11202</sup> **Andrić, Witness RM-253, and Blagojević** testified that they did not see any mistreatment or killings in Nova Kasaba, including during Mladić's speech.<sup>11203</sup>

<sup>11193</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 5, 8-9, 12; Mladen Blagojević, T. 32616-32622, 32624, 32629-32634; P7186 (Mladen Blagojević, US Department of Homeland Security, report of investigation), p. 19; P7187 (Video of US Department of Homeland Security interview of Mladen Blagojević, 15 October 2004), pp. 63-65.

<sup>11194</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 29-30; Bojan Subotić, T. 32826.

<sup>11195</sup> P1118 (Witness RM-346, prior testimony), pp. 3024-3025; Witness RM-346, T. 9561, 9587; D269 (Photograph, 'People at Football Field, Nova Kasaba Bosnia and Herzegovina', 13 July 1995, marked by Witness RM-346).

<sup>11196</sup> P1118 (Witness RM-346, prior testimony), p. 3024; Witness RM-346, T. 9569, 9591-9593.

<sup>11197</sup> Witness RM-253, T. 12487.

<sup>11198</sup> P1118 (Witness RM-346, prior testimony), p. 3024; Witness RM-346, T. 9562, 9567, 9596, 9601; D269 (Photograph, 'People at Football Field, Nova Kasaba Bosnia and Herzegovina', 13 July 1995, marked by Witness RM-346).

<sup>11199</sup> Witness RM-346, T. 9567, 9597.

<sup>11200</sup> P1118 (Witness RM-346, prior testimony), pp. 3024-3025; Witness RM-346, T. 9603.

<sup>11201</sup> P1555 (Zoran Malinić, *Tolimir* transcript, 8-9 June 2011), pp. 15382-15383.

<sup>11202</sup> P1574 (Zoran Malinić, Witness statement, 14 December 2005), p. 31.

<sup>11203</sup> Pero Andrić, T. 34110; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 10; Witness RM-253, T. 12487, 12543; Mladen Blagojević, T. 32620-32622, 32624-32625; P7186 (Mladen Blagojević, US Department of Homeland Security, report of investigation), p. 19.

2607. Regarding the registration of the detainees at Nova Kasaba, **Keserović** testified that he started the registration process when the detainees were gathered on the football pitch.<sup>11204</sup> Upon his arrival at the football pitch, Mladić instructed Malinić to stop with the registration and told the detainees that they would be transferred to Tuzla.<sup>11205</sup> The detainees were put on buses and taken to Bratunac under a military police escort.<sup>11206</sup> **Witness RM-346** testified that when the list of captured people was finished, Mladić left towards Konjević Polje.<sup>11207</sup> **Subotić** testified that a member of the platoon took down the details of the Muslims.<sup>11208</sup> At around 10 or 11 a.m., buses with civilian registration plates full of women, children, and the elderly from Srebrenica passed by the football field and stopped.<sup>11209</sup> Some men gathered on the football field recognised relatives on the buses and managed to get on board.<sup>11210</sup>

2608. The Bosnian-Muslim men who had surrendered or had been captured were also detained in buses and trucks.<sup>11211</sup> As **Witness RM-253** and other detainees were leaving the stadium to be put onto trucks, he heard a Serb soldier tell a detainee that he would not get his bag back because he would not need it anymore.<sup>11212</sup> From this, the witness concluded that the detainees would be executed.<sup>11213</sup> In Kravica, some trucks stopped by a supermarket on 13 July.<sup>11214</sup> Around 119 men were detained in one truck.<sup>11215</sup> **Witness RM-253** testified that the Serb soldiers loaded the detainees onto five or six military trucks, the witness's truck holding about 100 men, and they headed towards Kravica, where they arrived at around 5 p.m. that day.<sup>11216</sup> The men were detained in the trucks overnight outside the Kravica supermarket, with neither food nor water – some started fainting and others screamed out for water.<sup>11217</sup> During the night of 13 July, and the morning of 14 July 1995, armed soldiers in camouflage uniforms came to ask whether

<sup>11204</sup> Dragomir Keserović, T. 12863-12864.

<sup>11205</sup> Dragomir Keserović, T. 12864-12865, 12942-12943.

<sup>11206</sup> Dragomir Keserović, T. 12865-12866.

<sup>11207</sup> P1118 (Witness RM-346, prior testimony), pp. 3024-3025; Witness RM-346, T. 9603.

<sup>11208</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 25.

<sup>11209</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 32; Bojan Subotić, T. 32978.

<sup>11210</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 32; Bojan Subotić, T. 32978-32979.

<sup>11211</sup> Adjudicated Facts II, no. 1466.

<sup>11212</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 21; Witness RM-253, T. 12487, 12543.

<sup>11213</sup> Witness RM-253, T. 12487-12488, 12543-12544.

<sup>11214</sup> Adjudicated Facts II, no. 1466.

<sup>11215</sup> Adjudicated Facts II, no. 1466.

<sup>11216</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 22; Witness RM-253, T. 12490, 12544; P1548 (Witness RM-253, clarifications to witness statement).

<sup>11217</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 22-23; Witness RM-253, T. 12489-12490.

men on the trucks were from certain villages, including Glogova, Osmaće, Kamenica, and Zedensko and took those who responded off the truck, which was followed by immediate bursts of gunfire and screaming.<sup>11218</sup> The soldiers assaulted the detainees and threatened to shoot them if they made any noise.<sup>11219</sup> The witness saw about ten soldiers, near the back of his truck, and saw the soldiers take at least 15 men out of the other trucks and threaten, beat and shoot them.<sup>11220</sup>

2609. **Durmić** testified that he returned to the football field later that day, 13 July 1995, at approximately 8:30 or 9 p.m.<sup>11221</sup> There, his colleagues told him that buses had carried the Muslim captives to Bratunac or Zvornik.<sup>11222</sup>

*Mladić's alleged encounter with Momir Nikolić after visiting the Nova Kasaba football field*

2610. The Trial Chamber received evidence from Momir Nikolić and Bruce Bursik about an encounter of Nikolić with Mladić. **Nikolić** testified that in the afternoon of 13 July 1995, he met Mladić at the crossroads in Konjević Polje.<sup>11223</sup> Nikolić reported to Mladić that the road was secure.<sup>11224</sup> There were prisoners visibly present at Konjević Polje that afternoon, at the time when Mladić was present.<sup>11225</sup> Mladić exited his vehicle, approached a group of detainees and addressed them, stating that everything would be all right, that they should not worry and would soon be taken wherever they pleased.<sup>11226</sup> Returning to the vehicle, the witness asked Mladić what would really happen to the detainees.<sup>11227</sup> Mladić responded by smiling and making a sweeping

<sup>11218</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 23; Witness RM-253, T. 12545-12549.

<sup>11219</sup> Witness RM-253, T. 12489.

<sup>11220</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 24; Witness RM-253, T. 12488-12490, 12545-12549.

<sup>11221</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), paras 38-40; Zoran Durmić, T.26300, 26308-26309.

<sup>11222</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 40; Zoran Durmić, T. 26300.

<sup>11223</sup> Momir Nikolić, T. 11937, 12119-12120; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11224</sup> Momir Nikolić, T. 11937-11938, 12123-12124, 12153, 12155-12156; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11225</sup> Momir Nikolić, T. 11937-11938, 12155; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11226</sup> Momir Nikolić, T. 11938, 12153; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11227</sup> Momir Nikolić, T. 11939-11940.

gesture with his right hand from left to right approximately at the middle of his body.<sup>11228</sup> Mladić then laughed and entered the vehicle, which left for Vlasenica.<sup>11229</sup>

2611. In 2003, Nikolić described to **Bruce Bursik**, an investigator for the Prosecution, his encounter with Mladić in Konjević Polje on 13 July 1995, during which Mladić turned and gestured with his hand with a flat wave which was understood by Nikolić to mean that the detainees were to be killed.<sup>11230</sup> Nikolić was in Konjević Polje as he had the duty of checking if the road Mladić was to pass through was operative, passable and secure.<sup>11231</sup> **Bursik** testified that with regard to the killings on 12 and 13 July 1995, Nikolić stated that he never gave the orders for the killings, but knew that soldiers were carrying out ‘unauthorised killings’ of men.<sup>11232</sup>

2612. In the supplementary statement of 16 April 2009, Nikolić corrected 12 out of 15 paragraphs from his original statement of facts and acceptance of responsibility.<sup>11233</sup> On 28 and 29 April and 1 May 2003, Bursik conducted interviews with Nikolić, after having agreed with a counsel from the Prosecution not to record the conversations.<sup>11234</sup>

2613. **Blagojević** testified that he did not see Momir Nikolić in Konjević Polje on 13 July 1995.<sup>11235</sup> He testified that Nikolić fabricated the story that he had met Mladić at the intersection in Konjević Polje on that day, and that Mladić had indicated to him with ‘a motion of the arm’ that the Muslims would be liquidated.<sup>11236</sup>

2614. **Petrović** testified that that he did not meet Mladić at the checkpoint in Konjević Polje or on the road between Bratunac and Konjević Polje on 13 July 1995.<sup>11237</sup>

<sup>11228</sup> Momir Nikolić, T. 11939-11940, 12148-12149, 12156, 12160.

<sup>11229</sup> Momir Nikolić, T. 11940.

<sup>11230</sup> Bruce Bursik, T. 38884, 38900-38901; D1323 (Transcript from Bosnia-Herzegovina State Court trial, 6 February 2008) p. 2.

<sup>11231</sup> Bruce Bursik, T. 38859; D1323 (Transcript from Bosnia-Herzegovina State Court trial, 6 February 2008) p. 2.

<sup>11232</sup> D1228 (Information Report, 23 June 2003), p. 10.

<sup>11233</sup> Bruce Bursik, T. 38866.

<sup>11234</sup> Bruce Bursik, T. 38874-38875.

<sup>11235</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 5, 11-12; Mladen Blagojević, T. 32615.

<sup>11236</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 11-12.

<sup>11237</sup> D894 (Mile Petrović, witness statement, 6 June 2014), paras 10-11; Mile Petrović, T. 31364.

*Military action taken to capture those who had become separated from the column*

2615. Between 12 and 17 July 1995, the DK carried out searches of the area with the purpose of capturing the men from the column.<sup>11238</sup> **Witness RM-336** stated that he was deployed to the area of Snagovo to mop up the area in mid-July 1995, in execution of Commander Kulić's order and that another police unit from the Ugljevik SJB was on assignment in Konjević Polje between 13 and 21 July 1995.<sup>11239</sup>

2616. On 13 July 1995, Milan Gvero issued a series of orders to engage all available men fit for military service in their respective areas of responsibility to detect, block and capture Bosnian-Muslim groups and prevent them from crossing over to the Bosnian-Muslim territory towards Tuzla and Kladanj. Gvero indicated that the orders were issued to protect the Serbian population from the Bosnian-Muslim groups from the Srebrenica enclave, which included 'inveterate criminals and villains who will stop at nothing just to avoid being captured and reach[ing] Muslim controlled territory'. He ordered the Corps and Brigade Commands to detain the captured and disarmed Bosnian Muslims in facilities that could be secured by fewer troops. He also ordered the MUP to engage in the coordination of these tasks and that manpower be made available by the Commands of the DK, Zvornik Infantry Brigade, Birač Infantry Brigade, and Vlasenica Light Infantry Brigade and the other competent authorities.<sup>11240</sup> That same day, Zdravko Tolimir advised Gvero that space had been arranged for 800 'POWs' in the 1st Podrinje Light Infantry Brigade premises in Sjemeč. Tolimir stated that the 'POWs' accommodated in Sjemeč would be used for agricultural work, namely maintaining the horse, pig, and sheep farm. He specified that the transport of these 'POWs' must be done at night using the 1st Podrinje Light Infantry Brigade.<sup>11241</sup> Further, he preferred that this new group of 'POWs' had no contact with other 'POWs'.<sup>11242</sup> According to a VRS Main Staff order dated 13 July 1995, sent to the DK, the 65th Motorised Protection Regiment, and other units, Mladić ordered a ban on the giving of information to the media on the course, situation and results of combat operations and overall activities in this area particularly on 'POWs', evacuated civilians and escapees.<sup>11243</sup> In

<sup>11238</sup> Adjudicated Facts II, no. 1454.

<sup>11239</sup> P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4093-4097, 4104-4110; P3456 (List of policemen on assignment in the Zvornik CSB mid-July 1995, issued by the Bijeljina CSB).

<sup>11240</sup> P2119 (VRS Main Staff Order to the Commands of the DK, 13 July 1995), pp. 1-2.

<sup>11241</sup> P2121 (1st Podrinje Light Infantry Brigade report to the Main Staff VRS, 13 July 1995), p. 1.

<sup>11242</sup> P2121 (1st Podrinje Light Infantry Brigade report to the Main Staff VRS, 13 July 1995), pp. 1-2.

<sup>11243</sup> P2120 (VRS Main Staff order, 13 July 1995), pp. 1-2.

particular, Mladić ordered that entry of all uninvited individuals into the combat operations zone in the general sector of Srebrenica and Žepa be prevented, especially entry by local and foreign journalists who were not VRS Main Staff Press Centre journalists.<sup>11244</sup>

2617. Pursuant to a 14 July 1995 order by Vidoje Blagojević (introduced in chapter 3.1.2 as Commander of the 1st Bratunac Light Infantry Brigade), based on an order from the DK Command dated 13 July 1995, between 14 and 16 July 1995 the four infantry battalions of the Bratunac Brigade were tasked to search the terrain of the Srebrenica enclave, including Sandići, the Bratunac-Konjević Polje-Kasaba axis, and the right bank of the Zeleni Jadar river.<sup>11245</sup> **Mičo Gavrić** testified that during the night of the 14 to 15 July 1995, Blagojević, pursuant to an order from the superior command, ordered a mixed artillery unit from the Bratunac Brigade, to assist the Zvornik Brigade against a large concentration of Muslim forces in the area.<sup>11246</sup> The unit went to the Zvornik Brigade Command where it remained until the following day when it was relieved by Major Eškić and Zoran Kovačević, Commander of the 1st Company of the 2nd Battalion, as well as approximately 80 soldiers from the Bratunac Brigade.<sup>11247</sup> Sometime before noon, the witness saw policemen and members of the Bratunac Brigade guarding the Konjević Polje-Bratunac road at Sandići hill.<sup>11248</sup> **Witness RM-268** testified that on 15 July 1995, Borovčanin ordered the MUP Special Police Brigade to continue securing the Bratunac-Konjević Polje road.<sup>11249</sup>

2618. **Ljubodrag Gajić** testified that his unit, the MUP 1st Company of the Jahorina Training Centre swept the terrain between Kravica and Konjević Polje with the Bratunac Brigade on 15 July 1995.<sup>11250</sup> It came across the bodies of ABiH members,

<sup>11244</sup> P2120 (VRS Main Staff order, 13 July 1995), pp. 1-2.

<sup>11245</sup> P1693 (Ground search order from the 1st Bratunac Light Infantry Brigade Command to its Infantry Battalions, 14 July 1995); P1694 (Proposal from Colonel Ignjat Milanović to *inter alia* the DK Command, 15 July 1995); P1695 (Daily combat report from the 1st Bratunac Light Infantry Brigade to the DK Command, 15 July 1995); P1696 (Daily combat report from the 1st Bratunac Light Infantry Brigade to the DK Command, 16 July 1995).

<sup>11246</sup> Mičo Gavrić, T. 13899, 13922-13924.

<sup>11247</sup> Mičo Gavrić, T. 13924-13928; P1695 (Daily combat report from the 1st Bratunac Light Infantry Brigade to the DK Command, 15 July 1995).

<sup>11248</sup> Mičo Gavrić, T. 13928.

<sup>11249</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567, 8629-8631.

<sup>11250</sup> Ljubodrag Gajić, T. 40268-40269, 40311, 40328, 40332.



and some weapons and equipment, such as hand-held rocket launchers, automatic rifles, pistols, as well as hanging bodies.<sup>11251</sup>

2619. At a meeting held at the Bratunac Brigade Headquarters on 16 July, part of the MUP force was deployed to search the terrain between Srebrenica and Konjević Polje.<sup>11252</sup> On that day, Colonel Blagojević reported that he had visited all units involved in blocking the enemy, including the MUP, and that he had ‘defined their tasks, and organised their joint actions and communications.’<sup>11253</sup>

2620. In the evening of 16 July 1995, Borovčanin, Deputy Commander of the Special Police Brigade, (introduced in chapter 3.4) or Sarić, Special Police Brigade Commander, (introduced in chapter 3.4) ordered the Assistant Commander for operations and training to report to Momir Nikolić at the Bratunac Brigade Headquarters.<sup>11254</sup> In the morning of 17 July 1995, a briefing was held at the Bratunac Brigade Headquarters which was attended by, *inter alios*, Nikolić.<sup>11255</sup> During the briefing, military and police units, including the Milići Brigade, and the MUP Special Police Forces were assigned the task of searching for Bosnian-Muslim forces in the area and de-mining the territory.<sup>11256</sup> The search operation was commanded by a person with the last name Gavrić from the Bratunac Brigade through whom all the reports to the Bratunac Brigade Headquarters were sent.<sup>11257</sup> **Gavrić** testified that Blagojević commanded and organised the cooperation of the units deployed east of the Kasaba-Drnjača road by 16 July 1995, in conformity with Colonel Ignjat Milanović’s proposal to the DK Command.<sup>11258</sup> According to daily combat reports from the Bratunac Brigade and a report by Colonel Ignjat Malanović, on 15 and 16 July 1995, large groups of ‘enemy soldiers’ were present east of the Milići-Konjević Polje-Bratunac road, and in particular about 2,000 in the Pobude area.<sup>11259</sup>

<sup>11251</sup> Ljubodrag Gajić, T. 40333.

<sup>11252</sup> Adjudicated Facts II, no. 1470.

<sup>11253</sup> Adjudicated Facts II, no. 1471.

<sup>11254</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8631-8632.

<sup>11255</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8567, 8631-8635.

<sup>11256</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8631, 8633-8634, 8703.

<sup>11257</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8631, 8699, 8705.

<sup>11258</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26520-26522; Mićo Gavrić, T. 13931; P1694 (Proposal from Colonel Ignjat Milanović to *inter alia* the DK Command, 15 July 1995); P1696 (Daily combat report from the Bratunac Brigade to DK, 16 July 1995).

<sup>11259</sup> P1694 (Proposal from Colonel Ignjat Milanović to *inter alia* the DK Command, 15 July 1995); P1695 (Daily combat report from the 1st Bratunac Light Infantry Brigade to the DK Command, 15 July 1995); P1696 (Daily combat report from the 1st Bratunac Light Infantry Brigade to the DK Command, 16 July 1995).

2621. In the morning of 17 July the search commenced in Kravica, moving in the direction of Konjević Polje.<sup>11260</sup> By the evening, about 200 Bosnian Muslims had surrendered, including four children.<sup>11261</sup> The 5th Special Police Detachment, led by Stjepan Pepić, in coordination with the intervention units of the Zvornik Brigade, combed the area towards Crni Vrh.<sup>11262</sup> **Gavrić** testified that pursuant to an order from Blagojević dated 17 July 1995, he was tasked to assist the Bratunac Brigade's 3rd Infantry Battalion, commanded by Dragan Zekić, and the Special Police Detachment, commanded by Dusko Jević, in searching the terrain for enemy soldiers to the left of the Sandići-Kamenica-Gornji Bratunac-Konjević Polje road and act as a coordinator between the units.<sup>11263</sup> There was an organised system of communication between the commanders.<sup>11264</sup> Units from the Milići Brigade, commanded by Nastić, were deployed on their left flank.<sup>11265</sup> In Kamenica, the witness saw several hundred corpses along the road, a large number of them were dressed in military uniforms while others wore civilian clothing.<sup>11266</sup> According to the witness, many of them killed themselves by activating hand grenades, with their weapons, or by hanging themselves.<sup>11267</sup> At around 5 p.m., Zekić told the witness that he received information *via* radio that resistance had been met.<sup>11268</sup> At the suggestion of the witness, Zekić conveyed to his subordinates that instead of rushing they should go slowly and call people to surrender.<sup>11269</sup> The shooting stopped and a child holding up a white t-shirt walked towards them.<sup>11270</sup> Soldiers from the 3rd Infantry Battalion captured Bosnian-Muslim men, who surrendered in the Burnice village area.<sup>11271</sup> The witness counted the people and ordered that their hands be

<sup>11260</sup> Adjudicated Facts II, no. 1472.

<sup>11261</sup> Adjudicated Facts II, no. 1473.

<sup>11262</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) pp. 5-6.

<sup>11263</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26488-26490, 26512-26515, 26596; Mićo Gavrić, T. 13894-13895, 13899-13900, 13929, 13937-13938, 13941.

<sup>11264</sup> Mićo Gavrić, T. 13942.

<sup>11265</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26513-26515, 26520; Mićo Gavrić, T. 13895-13896, 13933-13934.

<sup>11266</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26490-26491; Mićo Gavrić, T. 13942.

<sup>11267</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26491-26492; Mićo Gavrić, T. 13942-13944.

<sup>11268</sup> Mićo Gavrić, T. 13947.

<sup>11269</sup> Mićo Gavrić, T. 13947.

<sup>11270</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), p. 26626; Mićo Gavrić, T. 13947.

<sup>11271</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26493, 26595-26598, 26626; Mićo Gavrić, T. 13894, 13901-13903, 13910, 13948-13952, 13956-13957; P1698 (Report from the 1st Bratunac Light Infantry Brigade to the DK Command, 17 July 1995).

tied with pieces of string.<sup>11272</sup> The witness brought the children to the Bratunac Brigade military police premises and ordered that they be given food and proper treatment.<sup>11273</sup> The children told the witness about people in the column committing suicide and killing one another, as well as stepping on landmines, and being fired at by artillery.<sup>11274</sup> Between 6 and 7 p.m., Momir Nikolić ordered the witness to hand over those captured to Jević, a.k.a. Stalin, so that he could take them to Konjević Polje.<sup>11275</sup> They were brought to the road near the intersection in Konjević Polje where Jević handed them over to three senior officers of his unit.<sup>11276</sup> The witness later received information that they were taken to Batković camp, to be exchanged for Serbs from Tuzla and Sarajevo.<sup>11277</sup> On the same day that those captured were taken to the intersection in Konjević-Polje, Ljubisa Borovčanin asked the witness to arrange the exchange of the children.<sup>11278</sup> The witness handed the children over to a man sent by Borovčanin and they were exchanged for nine policemen captured near Zvornik.<sup>11279</sup> In 2001 or 2002, the witness met with some of the children in Tuzla, a meeting that was made possible by Naser Orić.<sup>11280</sup>

2622. **Ljubomir Bojanović**, a member of the Zvornik Brigade, stated that between 17 and 19 July 1995 he and Major Dragutinović led a unit from Banja Luka which searched the terrain and they did not encounter any ‘enemy’ troops.<sup>11281</sup>

2623. On 18 July 1995, the Zvornik Public Security Centre reported to the MUP by way of dispatch that units of the Special Police Detachment and PJP of the MUP of the Bosnian-Serb Republic ‘very successfully’ searched the terrain to the right of the Milići-Drinjača road, including in Cerska and Udrič territories, in order to liquidate the remains of infiltrated groups from Srebrenica.<sup>11282</sup>

<sup>11272</sup> P1691 (Mico Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26594, 26599, 26611-26612; Mićo Gavrić, T. 13948.

<sup>11273</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26493, 26594, 26599, 26610-26611; Mićo Gavrić, T. 13903, 13905, 13954.

<sup>11274</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26494-26495; Mićo Gavrić, T. 13960; P1698 (Report from the 1st Bratunac Light Infantry Brigade to the DK Command, 17 July 1995).

<sup>11275</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26516, 26593-26594; Mićo Gavrić, T. 13950, 13953-13954.

<sup>11276</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 26493, 26516, 26594-26595; Mićo Gavrić, T. 13901, 13948-13949.

<sup>11277</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 29596-26597; Mićo Gavrić, T. 13910, 13918.

<sup>11278</sup> Mićo Gavrić, T. 13911.

<sup>11279</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), p. 26494; Mićo Gavrić, T. 13911.

<sup>11280</sup> P1691 (Mićo Gavrić, *Popović et al.* transcript, 1-2 October 2008), pp. 24694, 26596, 26618.

<sup>11281</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11734-11735.

<sup>11282</sup> P1699 (Zvornik Public Security Centre dispatch on activities of MUP forces, 18 July 1995).

2624. The Zvornik and Bratunac Brigades were continuously reporting to the DK Command about matters relating to the column between 12 and 18 July.<sup>11283</sup>

*Ambushes on the remaining column and the column reaching Bosnian-Muslim held territory*

2625. On 13 July, the head of the column continued its journey up along the Kalesija-Zvornik road, where they too were caught in ambushes and suffered further casualties.<sup>11284</sup> The Trial Chamber took judicial notice of Adjudicated Facts and received evidence from several witnesses concerning additional ambushes on the column between 14 and 17 July 1995. **Subašić** stated that the column was ambushed twice on 14 July 1995, the first time with heavy fire.<sup>11285</sup> Following this ambush, the witness saw a man activate a hand grenade thereby killing himself and wounding others.<sup>11286</sup> The second ambush resulted in Serb soldiers being taken prisoner by the men in the column.<sup>11287</sup> The column established radio contact with the Serbs in the evening requesting to pass through to free territory and announcing, in the alternative, their intent to break through the Serb lines.<sup>11288</sup> The group continued to Baljkovica where it met about 1,000 people from the column, the majority of whom turned back towards Žepa, saying it was impossible to go further.<sup>11289</sup>

2626. Various VRS and MUP units were present in the Zvornik area on 15 and 16 July 1995. **Milenko Todorović** testified that on 15 July 1995, according to the IBK command Duty Operations Book, the VRS Main Staff ordered the IBK to ‘round up the men and send them to Pandurević in the DK pursuant to an order from General Miletić.<sup>11290</sup> General Simić sent a message back to Miletić saying that he could not do this, but later on the same day, General Gavrić, the Deputy Commander and the Chief of Staff of the IBK, ordered Captain Dragisa Vulin, the unit commander, to prepare 50

<sup>11283</sup> Adjudicated Facts II, no. 1455.

<sup>11284</sup> Adjudicated Facts II, no. 1467.

<sup>11285</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 50-51.

<sup>11286</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 50.

<sup>11287</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 51.

<sup>11288</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 52.

<sup>11289</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 9; P3379 (Witness RM-358, *Popović et al.* transcript, 6-7 November 2006), p. 3674.

<sup>11290</sup> P2915 (Milenko Todorović, *Tolimir* testimony, 18-20 April 2011), p. 13169; P2921 (IBK Command operations logbook, 5 March 1995-12 June 1996), p. 2.

military policemen to go to Zvornik on 16 July 1995.<sup>11291</sup> These men were to report to the commander of the Zvornik Brigade and would act as a regular combat unit, carrying out operations for the Brigade.<sup>11292</sup> According to the Zvornik Brigade's Duty Officer Notebook, on 16 July 1995, 35 military policemen from the IBK arrived in Zvornik.<sup>11293</sup> According to a report by Radislav Krstić dated 18 July 1995 and a command readiness report from November 1995, these men took part in active combat with the 1st Zvornik Infantry Brigade, a company from the 16th Krajina Brigade, and a platoon from the 1st Vlasenica Light Infantry Brigade on 16 July 1995 in the areas of Planinci, Crni Vrh, Kamenica, and Križevići and helped secure Tuzla road in Zvornik, although the witness denied knowledge of this and attributed the reports to errors by drafting personnel of lower-rank.<sup>11294</sup> According to a report on the combat engagement of police forces, on 16 July 1995, there was fierce fighting with Muslim forces in the areas of Križevići, Tisova Kosa, and Baljkovica during which intervention units of the DK, such as the Drina wolves and members of the military police, fought alongside MUP forces against the Muslim forces.<sup>11295</sup>

2627. After one unsuccessful attempt to move forward to the Bosnian-Muslim front lines on 15 July 1995, the head of the column finally managed to break through to Bosnian Muslim-held territory on 16 July 1995.<sup>11296</sup> ABiH forces attacking from the direction of Tuzla assisted by piercing a line of about one-and-a-half kilometres for the emerging column.<sup>11297</sup> **Subašić** stated that on that day the Serbs attacked the column in the area of Baljkovica, using heavy mortar shelling.<sup>11298</sup> Thirty men were killed, including one of the ABiH commanders, and many were wounded as a result of this attack.<sup>11299</sup>

<sup>11291</sup> P2915 (Milenko Todorović, *Tolimir* testimony, 18-20 April 2011), pp. 12929-12930, 13170-13172, 13180-13181; P2921 (IBK Command operations logbook, 5 March 1995-12 June 1996), p. 3.

<sup>11292</sup> P2915 (Milenko Todorović, *Tolimir* testimony, 18-20 April 2011), pp. 13172-13173, 13175, 13185.

<sup>11293</sup> P2915 (Milenko Todorović, *Tolimir* testimony, 18-20 April 2011), pp. 13182-13183.

<sup>11294</sup> P2914 (Milenko Todorović, Interview, 2 February 2010), pp. 16-17; P2915 (Milenko Todorović, *Tolimir* testimony, 18-20 April 2011), pp. 13025-13026, 13162-13164, 13173-13177, 13207-13209; Milenko Todorović, T. 19847-19849; P2916 (1st Zvornik Infantry Brigade Combat Report, 18 July 1995), pp. 1-2; P2920 (Command Readiness Report of the 3rd Military Police Battalion, 29 November 1995), pp. 1, 3.

<sup>11295</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 4.

<sup>11296</sup> Adjudicated Facts II, no. 1467.

<sup>11297</sup> Adjudicated Facts II, no. 1468.

<sup>11298</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 53.

<sup>11299</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 53.

2628. At 1 p.m. on 16 July 1995, an agreement was reached between Pandurević and Šemso Muminović, Commander of the Muslim forces, that a one-kilometre wide corridor would be opened for 48 hours in the area of Parlog and Baljkovica to allow Muslim soldiers to get out.<sup>11300</sup> After this members of the VRS would again take up their positions.<sup>11301</sup>

2629. Survivors from the column were filmed upon their arrival in Nezuk on 16 July 1995.<sup>11302</sup> One of the survivors said that it was a very difficult journey; they had not eaten bread in six days.<sup>11303</sup> Members of the Brdksi Battalion, the headquarters support Brigade, and the ABiH 284th Brigade were towards, or at, the head of the column.<sup>11304</sup> Other members of the column, such as **Salih Mehmedović**, arrived in Bosnian-Muslim held territory on 19 July 1995.<sup>11305</sup>

2630. **Reif Mehmedović** stated that on 15 July 1995 in the afternoon he saw a group from the column coming under fire as they tried to cross the road, after he had heard some ‘Serbian soldiers’ with a Motorola radio saying ‘they are trying to cross the road’. The group the witness was with, also tried to cross the road and came under fire. The Serb soldiers searched the terrain and the witness saw that one of them placed an anti-personnel mine into the ground at the riverbank. When the witness’s group reached Pobuđe village he was informed that the ‘Serbian soldiers’ had blocked the asphalt road from Nova Kasaba to Kuslat. The witness could see soldiers dispersed along the road about a kilometre away and a helicopter patrolling three times a day. The witness also saw a Praga firing rounds generally into the hills.<sup>11306</sup>

2631. On 17 July 1995 near Baljkovica, **Witness RM-301** the group from the column that the witness was with captured by ‘Serbs’ dressed in camouflage.<sup>11307</sup> The ‘Serbs’ beat the men while taking them to another location. The witness stated that he was beaten more than others because he was wearing a green shirt. While beating him the ‘Serbs’ shouted that he was a real ‘Alinovac’, a member of Alija’s army. A man the ‘Serbs’ called ‘Stari’ was called from another location by Motorola and appeared to be

<sup>11300</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 5.

<sup>11301</sup> P724 (Report on the combat engagement of police forces in *Srebrenica 95* signed by Ljubiša Borovčanin, 5 September 1995) p. 5.

<sup>11302</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 89.

<sup>11303</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 90.

<sup>11304</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 91.

<sup>11305</sup> P1034 (Salih Mehmedović, witness statement, 15 June 2000), p. 2.

<sup>11306</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 3.

the commander of the group. The witness stated that ‘Stari’ wore camouflage with a yellow insignia reading ‘KRAJISNICI’ on his left sleeve. Velaga and Faro Zukić, who had been at the front of the small group when it came under fire, were not present. The ‘Serbs’ told ‘Stari’ that the two men had committed suicide to avoid being arrested.<sup>11308</sup> The witness later made his way to free territory arriving on 20 July 1995.<sup>11309</sup> The Trial Chamber also considered additional evidence of Witness RM-301, which has been placed in the confidential annex in Appendix D.

2632. **Witness RM-358** stated that his part of the column came under fire when attempting to cross the reserve line in the afternoon of 17 July 1995, though no one was killed.<sup>11310</sup> The next day, ‘Chetniks’ asked them to surrender and opened fire repeatedly from 20 metres away.<sup>11311</sup> The witness heard the soldiers refer to this location on the radio as Tisova Kosa.<sup>11312</sup> The witness and five others surrendered, while those who remained in the grass were fired upon.<sup>11313</sup> The witness was searched and beaten, and when the commander asked him if he was a soldier he replied that he was.<sup>11314</sup> While the commander interrogated the witness, one of the soldiers came to him and asked the commander if he could use his bayonet to kill one of the captives. The commander said that he could choose anyone. The soldier then chose the witness.<sup>11315</sup> These soldiers wore camouflage uniforms bearing insignia with the Serbian flag and a spread eagle, four Cyrillic Ss, and the name of the VRS.<sup>11316</sup> They were armed with M-84 machine guns, automatic rifles, and sniper rifles.<sup>11317</sup> One of them told the witness that they were ‘*Krajišnici*’.<sup>11318</sup> The captives were forced to lie down and the commander ordered the soldiers to shoot them in the back one at a time.<sup>11319</sup> The five others who had surrendered were shot one at a time, however before it was the witness’s turn to be executed the commander spoke on his radio to another commander and ordered the

<sup>11307</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), pp. 2, 4.

<sup>11308</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), p. 4.

<sup>11309</sup> P3377 (Witness RM-301, witness statement, 26 August 1995), p. 6.

<sup>11310</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 10.

<sup>11311</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 10.

<sup>11312</sup> P3379 (Witness RM-358, *Popović* transcript, 6-7 November 2006), pp. 3673-3674.

<sup>11313</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 10.

<sup>11314</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, paras 10-11.

<sup>11315</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

<sup>11316</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11; P3379 (Witness RM-358, *Popović* transcript, 6-7 November 2006), p. 3719.

<sup>11317</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

<sup>11318</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

<sup>11319</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

witness to be taken to Zvornik to be exchanged for captured Serb soldiers.<sup>11320</sup> The soldier who had wanted to kill the witness was not pleased but the commander explained that as the witness was a soldier he could be used for exchange purposes.<sup>11321</sup> The witness heard on the radio the other commander being referred to as 'Vukašinovic'.<sup>11322</sup>

2633. On 18 July 1995, two MUP companies from Jahorina combed the area along the Pobuđe-Nova Kasaba axis while a MUP combat group, comprised of the 2nd, 4th, and 5th Special Police Detachments combed the areas of Cerska and Udrč.<sup>11323</sup> Around that date, a MUP company from the Jahorina Training Centre was ordered to sweep the mountain area from Kravica towards Konjević Polje with regular VRS units for any survivors.<sup>11324</sup> The company did not have any armed encounters with ABiH forces during the sweep nor did they capture anybody.<sup>11325</sup> However, it encountered a few dead bodies higher up in the mountains and, after having come down from the mountain, a member of the company saw people wearing uniforms coming downhill with between 100 and 150 captured Bosnian-Muslims.<sup>11326</sup> The company stayed at the location for one day and then returned to Jahorina.<sup>11327</sup> Neither the recruits nor regular members of the Special Police Brigade were asked to report on their activities in Potočari or on the Kravica-Konjević Polje road in July 1995 by officers of the Jahorina Training Centre.<sup>11328</sup> Duško Jević warned the members of the company that if they talked about the events in these locations, they may be prosecuted for war crimes in The Hague.<sup>11329</sup> On 19 July 1995, all available MUP forces combed the areas of Kamenica, Jošanica, Liplje, Đafin Kamen, Crni Vrh, and Snagovo.<sup>11330</sup> On 20 July 1995, the 2nd, 4th, and

<sup>11320</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

<sup>11321</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11.

<sup>11322</sup> P3378 (Witness RM-358, witness statements), witness statement of 28 May 2000, para. 11, witness statement of 2 October 2013, para. 3.

<sup>11323</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 5.

<sup>11324</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14836-14837, 14904; Witness RM-333, T. 6771-6772, 6797-6799.

<sup>11325</sup> Witness RM-333, T. 6772.

<sup>11326</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14837-14838; Witness RM-333, T. 6772, 6800, 6805.

<sup>11327</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14840.

<sup>11328</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14844-14845.

<sup>11329</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14845.

<sup>11330</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 5.



5th Special Police Units of the Zvornik and Bijeljina centres took over the combing of Crni Vrh and Snagovo.<sup>11331</sup>

2634. A member of the VRS, **Tomislav Savkić**, testified that several days after 13 July 1995, while moving along the route of the column of the Muslim soldiers from the graveyard in Gornji Mratinjci, he saw ‘hundreds’ of Muslim bodies in the Bokićin Potok area.<sup>11332</sup> While moving through Gornji Mratinjci, Bokićin Potok, towards Pervani and Sandići, he saw more than 2,000 Muslim bodies along the road, some of which had been blown up by hand grenades.<sup>11333</sup> Most of the bodies were dressed in military uniforms, some wore blue Civilian Protection uniforms, and some were dressed in civilian clothes.<sup>11334</sup>

2635. The Trial Chamber recalls its review of Nikolić’s evidence on the reporting of military operations in the Srebrenica enclave to the MUP on 12 July 1995 in chapter 7.1.5. The Trial Chamber further recalls its review of Franken’s evidence on the capture of ‘POWs’ by the VRS around 13 July 1995 in chapter 7.1.5. The Trial Chamber also recalls its review of Egbers’s evidence on VRS attacks on the woods facing the enclave on 12 July 1995 in chapter 7.1.5. The Trial Chamber also recalls its review of exhibit P3518 in chapter 7.4 *Schedule E.3.1*.

2636. The Trial Chamber received evidence from Mendeljev Đurić which appeared to contrast with Adjudicated Fact 1462. Adjudicated Fact 1462 provides that on 13 July 1995 MUP forces were deployed along the stretch of road between Konjević Polje and Bratunac, where the bulk of Bosnian-Muslim detainees were captured from the column. Đurić stated that while his company, the 1st Company of the Special Police Brigade at the Jahorina Training Centre, was deployed along the Konjević Polje-Bratunac road during the nights of 12 and 13 July 1995 he did not see and could not recall having received any information of Bosnian Muslims surrendering or being captured along the road during the days or nights of 12 and 13 July 1995. The Trial Chamber notes that the witness’s evidence pertains only to what he observed on the stretch of the road to which he was deployed during the nights of 12 and 13 July. That he testified that he did not recall receiving any information about the surrender of Bosnian Muslims along the road

<sup>11331</sup> P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin, 5 September 1995) p. 5.

<sup>11332</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 78; Tomislav Savkić, T. 27165.

<sup>11333</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 79.

<sup>11334</sup> D699 (Tomislav Savkić, witness statement, 11 August 2014), para. 79.

during the days of 12 and 13 July 1995 does not mean that Bosnian Muslims were not captured nor surrendered there. The Trial Chamber therefore finds that this evidence does not contradict Adjudicated Facts 1462.

### ***The Trial Chamber's findings***

#### *The formation and composition of the column*

2637. Based on the foregoing, the Trial Chamber finds that with regard to the formation of the column, on 11 July 1995, after Srebrenica town fell to the VRS, the Command of the 28th Division of the ABiH and the Bosnian-Muslim municipal authorities decided to form a column.<sup>11335</sup> Military-aged men and men able to walk were ordered to go to Šušnjari. The Bosnian-Muslim men of the enclave feared that they would be killed by Bosnian Serbs if they went to the UNPROFOR base in Potočari, and thought that they had a better chance of survival by trying to escape through the woods towards Tuzla. The column gathered near the villages of Jagličići and Šušnjari and started moving north, along the axis between Konjević Polje and Bratunac, around midnight on 11 July 1995.

2638. With regard to the composition of the column the Trial Chamber finds that it comprised approximately 15,000 people, the majority of whom were Bosnian-Muslim boys and men between the ages of 16 and 65.<sup>11336</sup> A small number of women, children, and elderly also joined the column. When it set out, the column was approximately ten kilometres in length.

<sup>11335</sup> Witness RM-297 testified that the movement of the column out of Srebrenica was not organised by anyone. While the Trial Chamber notes that this appears to contrast with Adjudicated Fact 1440 which provides that a decision was taken to form the column, the Trial Chamber finds that the decision to form a column does not necessarily mean that the movement of the column was organised. Further, given the size of the column, the witness provided an account of his personal experience within a part of the column. Therefore the Trial Chamber is satisfied that Witness' RM-297's evidence does not contrast with Adjudicated Fact 1440.

<sup>11336</sup> The Trial Chamber notes that while it received estimated figures that put the number of people at the slightly lower figure of 10,000-12,000, and one slightly higher estimate of 17,000-18,000 people, it received overwhelming evidence placing the estimated number of people in the column at 15,000 and has therefore relied on these estimates to establish the number of people in the column. Further, the Trial Chamber notes that Mevudin Orić testified that some people in the column were as young as 14 and as old as 70, which appears to contrast with Adjudicated Fact 1444. However, given that the Adjudicated Fact refers to boys and men in addition to an age range of between 16 and 65, it finds that it does not exclude the possibility that males younger than 16 and older than 65 were also in the column and that there is no contradiction with Adjudicated Fact 1444.

2639. Around one third of the men in the column were Bosnian-Muslim soldiers from the ABiH 28th Division, although not all of the soldiers were armed. The head of the column was comprised of units of the 28th Division, then civilians mixed with soldiers, and the rear of the column comprised members of the Independent Battalion of the 28th Division. Some of the men carried their own hunting rifles while others had hand grenades. Some men carried pistols. Many of the armed men were wearing civilian clothes.

2640. The Defence submits in its Final Brief that Witness RM-314's evidence is not credible for a variety of reasons.<sup>11337</sup> In this regard the Trial Chamber recalls its assessment of the reliability and credibility of some portions of the witness's evidence in chapter 7.2 *Schedule E.1.1*. The Trial Chamber will now address the Defence's arguments relevant to this chapter. With respect to the Defence submission that the witness made inconsistent statements in relation to whether or not Osman Suljić, a man who led parts of the column, was wearing a uniform and was armed, the Trial Chamber notes that it did not consider the evidence of Witness RM-314 in this regard and that the Trial Chamber's assessment as to the affiliation of men leading the column and the composition of the column rests on evidence from other witnesses and Adjudicated Facts.<sup>11338</sup> The Defence further submits that Witness RM-314 repeatedly denied his status as a combatant and 'avoided providing truthful testimony' on the nature of the column.<sup>11339</sup> The Trial Chamber does not consider Witness RM-314's testimony to be ambiguous in relation to his status in the TO. Moreover, the presence of some armed ABiH personnel in the column is uncontested and judicially noticed as Adjudicated Fact 1450. Therefore the Trial Chamber rejects the Defence's arguments in this regard.

*Military action in relation to the column*

2641. In relation to the deployment of VRS forces along the path of the column between 12 and 19 July 1995, the Trial Chamber finds that as the column attempted to break out of the enclave, it moved first through the Bratunac Brigade's area of responsibility, then up towards the Zvornik Brigade's zone of responsibility. In the days following the 11 and 12 July meetings at the Hotel Fontana, VRS units, including DK

<sup>11337</sup> Defence Final Brief, paras 2979-3002.

<sup>11338</sup> Defence Final Brief, para. 2980.

<sup>11339</sup> Defence Final Brief, paras 2987, 2989-2990.

units, were assigned to block the column. Milan Gvero, Vidoje Blagojević, Commander of the 1st Bratunac Light Infantry Brigade (introduced in chapter 3.1.2), Rade Čturić, a.k.a. Oficir, Commander of the 2nd Šekovići Detachment of the Special Police Brigade (introduced in chapter 3.4), and Dragan Jevtić, Commander of the Zvornik Brigade Engineering Unit (introduced in chapter 3.1.2), issued deployment orders. On 13 July 1995, Gvero issued orders aimed at preventing Bosnian Muslims from crossing over into the Bosnian-Muslim territory towards Tuzla and Kladanj in order to protect the Serbian population from Bosnian-Muslims, who included ‘inveterate criminals and villains’. His orders further directed the detention of the captured and disarmed Bosnian-Muslims in facilities that could be secured by fewer troops. Further, he ordered the MUP to engage in the coordination of these tasks, and that the manpower be made available by the Commands of the DK and other VRS units. Blagojević commanded and organised the cooperation of the units deployed east of the Kasaba-Drnjača road by 16 July 1995. Four infantry battalions of the Bratunac Brigade were tasked to search the Sandići area, Bratunac-Konjević Polje-Kasaba axis, and the right bank of the Zeleni Jadar River between 14 and 17 July 1995. On 17 July 1995, Momir Nikolić, together with a member of the MUP Special Police Brigade, attended a briefing at the Bratunac Brigade headquarters, during which military and police units, including the Milići Brigade and the MUP Special Police Forces were assigned the task of searching for Bosnian-Muslim forces in the area and de-mining the territory. Between 12 and 17 July 1995, the DK and units from the Milići Brigade commanded by Nastić carried out searches of the area with the purpose of capturing the men from the column. The Bratunac and Zvornik brigades engaged in combat with the column as it attempted to break through to Bosnian-Muslim territory between 10 and 15 July 1995. Members of the Zvornik Brigade swept the terrain on 18 and 19 July 1995.

2642. In addition to these DK units, the Trial Chamber finds that between 12 and 17 July 1995, other units, including the MUP Special Police Brigade, elements of the Military Police Battalion of the 65th Protection Regiment, and subsequently elements of the municipal police, also took action to block the column. On 12 July 1995, Borovčanin (introduced in chapter 3.4) received an order from Mladić to send half of his men and available technical equipment to the Konjevic Polje-Cerska axis to block the area and fight the column. The 2nd Special Police Detachment and the 1st Company of the Zvornik PJP, deployed along the Kravica-Sandići-Pervani-Hričići road, were

equipped with a launcher for Malyutka missiles, a *praga* self-propelled anti-aircraft gun, and a mortar platoon. On 15 July 1995, Borovčanin ordered the MUP Special Police Brigade to continue securing the Bratunac-Konjević Polje road. On that day, the MUP 1st Company of the Jahorina Training Centre swept the terrain between Kravica and Konjević Polje with the Bratunac Brigade.

2643. On 15 July 1995, following a meeting between Chief Vasić and Borovčanin, a large part of the police force was sent to Baljkovica near Zvornik to block the column. Around 15 or 17 July 1995, a PJP unit was also sent to Baljkovica to support an army unit which was surrounded by Bosnian Muslims from the column. On 16 July 1995, 35 military policemen from the IBK were deployed to Zvornik and participated in active combat with the 1st Zvornik Infantry Brigade, a company from the 16th Krajina Brigade, and a platoon from the 1st Vlasenica Light Infantry Brigade in the areas of Planici, Crni Vrh, Kamenica, and Križevici, and helped secure the Tuzla Road in Zvornik. During an attack on the column in the area of Baljkovica on 15 July, Serbs used heavy mortar shelling.

2644. At a meeting held at the Bratunac Brigade Headquarters on 16 July, part of the MUP force was deployed to search the terrain between Srebrenica and Konjević Polje. On the same day, Borovčanin ordered the MUP Special Police Brigade to report to Momir Nikolić at the Bratunac Brigade Headquarters where the brigade, along with the Milići Brigade, was assigned to search the area for Bosnian-Muslims. The operation was commanded by Gavrić from the Bratunac Brigade. Around 16 July, policemen and members of the Bratunac Brigade guarded the Konjević Polje-Bratunac road at Sandići Hill. On 17 July 1995, the 5th Special Police Detachment led by Stjepan Pepić, in coordination with the intervention units of the Zvornik Brigade, combed the area towards Crni Vrh. On 17 July 1995 pursuant to an order from Blagojević, the chief of artillery of the Bratunac Brigade was tasked to assist the Bratunac Brigade's 3rd Infantry Battalion, commanded by Dragan Zekić, and the Special Police Detachment, commanded by Dusko Jević, in searching the terrain for enemy soldiers to the left of the Sandići-Kamenica-Gornji Bratunac-Konjević Polje road and act as a coordinator between the units. Police units from Ugljevik SJB were also deployed in mid-July 1995 to Snagovo to mop-up the area in execution of Commander Kulić's order, and were on assignment in Konjević Polje between 13 and 21 July 1995.

2645. With regard to reporting, the Trial Chamber finds that between 12 and 18 July 1995, the Zvornik and Bratunac Brigades continuously reported to the DK Command on column-related matters. On 12 and 18 July 1995, Vasić, chief of the Zvornik Public Security Centre, reported to the MUP that military operations were proceeding to plan: the ‘Turks’ were fleeing towards Sućeska and units of the Special Police Detachment and of the PJP had successfully searched the terrain. Further, on 16 July 1995, Colonel Blagojević reported that he had visited all units involved in blocking the enemy, including the MUP, and that he had ‘defined their tasks, and organised their joint actions and communications’.

*The circumstances of the surrender and capture of Bosnian Muslims from the column between 12 and 17 July 1995*

2646. The Trial Chamber finds that between 12 and 15 July 1995, tanks, lorries, an UNPROFOR carrier, Pragas, APCs resembling those used by the former JNA, an anti-aircraft tank, armoured transports, and howitzers were placed along the road between Konjević Polje and Bratunac.

2647. By the morning of 13 July, a group of approximately 2,000 to 3,000 Bosnian-Muslims from the column, some of whom were members of the ABiH, had reached an area between Konjević Polje and Nova Kasaba. On that day, MUP forces, including a company from the Jahorina Training Centre, were deployed along the stretch of road between Konjević Polje and Bratunac where the bulk of the Bosnian-Muslim detainees were captured from the column. Malinić, Commander of the Military Police Battalion of the 65th Motorized Protection Regiment, ordered members of a platoon of the military police battalion of the 65th Motorised Protection Regiment to patrol an area of the road, and they engaged in an exchange of fire with about 1,000 Bosnian Muslims from the 28th Division and fired gas canisters into the woods.

2648. Between 12 and 15 July 1995, VRS soldiers and members of the military police of the 65th Motorised Protection Regiment, and members of the civilian police used loudspeakers or megaphones to call on the Bosnian-Muslims hidden in the woods to surrender. Those using the loudspeakers or megaphones threatened that if they did not surrender, the women and children at Potočari would be harmed. Some announcements were made that the ICRC were there to help them and promises were made that no one

would be harmed; that they would all stay alive; that they would be safe; and that they would be exchanged as prisoners and treated according to the Geneva Conventions. Serb soldiers offered some of the Bosnian Muslims transportation by bus to Tuzla in exchange for their surrender, and on another occasion they said that UNPROFOR would take them to Tuzla to be exchanged for Serb soldiers. They were given warnings and ultimatums, and there was sporadic shooting.

2649. Further attacks by Serb forces took place on 14 and 15 July 1995, resulting in human losses. In some places, Bosnian-Serb forces fired into the woods with anti-aircraft guns and other weapons, or used stolen UN equipment to deceive the Bosnian-Muslim men into believing that the UN or the Red Cross were present. Some of the Bosnian Muslims who surrendered had abandoned their weapons while others were still armed. Others surrendered after being called to surrender over a loudspeaker while others surrendered when they encountered the military police after entering the woods. On 13 July 1995, Momir Nikolić, Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995 (introduced in chapter 3.1.2), ordered Mirko Janković, Commander of the Bratunac Brigade military police platoon from April 1995 (introduced in chapter 3.1.2), to drive a stolen UN APC from Bratunac to Konjević Polje with Nikolić, Janković, and Mile Petrović, Deputy Commander of the Bratunac Brigade military police platoon (introduced in chapter 3.1.2), on board. On the same day, a group of 200 people surrendered, and after having been ordered to take off their shirts and line up in rows, were fired upon by automatic firearms including anti-aircraft machineguns. Some of those who surrendered placed their white T-shirts on sticks, and shouted that they wanted to surrender. Serbs described as 'chetniks' told a group from the column that they should leave any weapons or money or they would be killed, and told them to line up on the asphalt road in five rows of approximately 100 meters, with wounded people lying on the road between those standing. Some of the soldiers pointed their weapons at them and said 'Balija's put your arms up higher, now we are going to show you'. They were made to run along the road with their hands in the air and with three fingers raised. The head of the column continued its journey up along the Kalesija-Zvornik road, where they too were caught in ambushes and suffered further casualties. Some detainees were transported to Tuzla to be exchanged. Members of the civilian police searched some of

the captives, ordered them to hand over their money, jewellery, and weapons, and beat up several people.

2650. In the context of the circumstances surrounding surrender described above, between 13 and 17 July 1995, a number of Bosnian Muslims from the column committed suicide. The civilian police, military police and VRS soldiers guarded some of those that surrendered. On 12 July 1995, VRS soldiers demanded money from some Bosnian Muslims who had surrendered, and threatened to kill them if they later found money on them. On 13 July 1995, the military police cursed, insulted, and threatened some of those who had surrendered and told the captives to carry their wounded. On that same day approximately 1000 of the detainees were placed under the control of the Military Police Battalion of the 65th Motorised Protection Regiment at Nova Kasaba.

*Attacks on the column on 12-13 July 1995*

2651. In relation to attacks on the column, the Trial Chamber finds that on 12 July 1995, MUP Special Police Brigade units launched an artillery attack against the column that was crossing an asphalt road between the area of Konjević Polje and Nova Kasaba. Only about one third of the men successfully made it across the asphalt road and the column was split in two parts. Heavy shooting and shelling continued against the remainder of the column throughout the day and during the night. The shelling would take place for 15 minutes, pause briefly, and then start again. Different parts of the column were ambushed and attacked with artillery, including anti-aircraft guns. At one point a group experienced what they thought was some kind of tear gas. Another group experienced very thick smoke caused by an explosion, which they thought may have contained some kind of poison. On another occasion a helicopter was seen dropping blue powder on part of the column which affected the men who experienced choking with their eyes turning red, their faces turning blue, and their legs jerked.

2652. During an attack near the Nova Kasaba-Konjević-Polje asphalt road people were heard screaming and saying 'don't shoot, we surrender'. During another attack on the stretch between Jagličići to Kamenica Hill, no one was heard returning fire from the column. In the context of the attacks some members of the column were seen committing suicide by using guns, detonating hand grenades, or hanging themselves, and they were also seen shooting one another.



*The gathering of Bosnian Muslims at the Nova Kasaba football field*

2653. Several thousand Bosnian-Muslim men from the column who were captured on 13 July 1995 were collected in or near Sandići Meadow and on the Nova Kasaba football field. VRS soldiers or members of the civilian police guarding the men at Nova Kasaba football field forced them to turn over their valuables and abandon their belongings. The Trial Chamber received evidence from various witnesses on various ranges concerning the number of Bosnian Muslims at the football field in Nova Kasaba: these numbers ranged from 300 to 4,000. The Trial Chamber notes that the number of Bosnian Muslims may have fluctuated throughout the day, and given the circumstances it may have been difficult to estimate their exact number. The Trial Chamber further notes that several witnesses testified that about 1,500 Bosnian Muslims were detained at the stadium. The Trial Chamber is satisfied that at least at one point on 13 July 1995, 1,500 Bosnian-Muslim men were kept at the Nova Kasaba football field. VRS soldiers, including members of the battalion of the military police of the 65th Motorised Protection Regiment commanded by Malinić, four military police companies including an anti-terrorist company and a company of armoured vehicles, and civilian police were present at the football field. Before entering the field, some Bosnian Muslims were ordered to throw their weapons to the side of the road and they complied. Serb soldiers provided first aid to wounded Bosnian Muslims. During the day, several press teams and film crews, including from the Bosnian-Serb Republic news agency and from the VRS press centre, filmed the Bosnian Muslims gathered at the field. Still on the same day, Malinić ordered the commander of a military police platoon in the military police battalion of the 65th Motorised Protection Regiment not to interfere with the work of the press teams and films crews, including those from the Bosnian-Serb Republic news agency and from the VRS press centre. Serb civilians arrived at the field and cursed and threw bricks and stones at the Bosnian-Muslims.

2654. The Trial Chamber notes that it received evidence from a number of witnesses with regard to the alleged killing of a detainee at the Nova Kasaba football field on 13 July 1995. Pero Andrić and Mladen Blagojević, both members of the Bratunac Brigade Military Police Platoon which was escorting Mladić that day, provided evidence that there was no mistreatment of detainees, and no one was killed. Zoran Malinić provided hearsay evidence about the killing. Further, there were two witnesses, Witness RM-346

and Witness RM-253, who were present at the field, in close proximity to Mladić. Witness RM-346 provided evidence that VRS soldiers or members of the civilian police present at Nova Kasaba football field beat up one Bosnian-Muslim male detainee with their rifle butts and then shot him with a pistol in Mladić's presence because he had stood up. Witness RM-253 testified that he did not observe anyone being harmed or killed at the location. Both witnesses were in close enough proximity to Mladić to hear his speech to the detainees. The Trial Chamber has considered the Defence's argument that Witness RM-346's evidence is unreliable due to, *inter alia*, inconsistencies between the testimony and a prior statement given to the Bosnian authorities.<sup>11340</sup> The Trial Chamber notes that the witness's evidence on this event bore some minor inconsistencies, for instance, whether the detainee was shot with a pistol or a rifle.<sup>11341</sup> The Trial Chamber found no internal inconsistencies in Witness RM-253's evidence in relation to this incident. The Trial Chamber has taken into consideration the Prosecution's argument that Zoran Malinić's evidence corroborates Witness RM-346's evidence.<sup>11342</sup> However, the Trial Chamber notes the internal inconsistencies in Malinić's evidence that during his testimony in the *Tolimir* case in 2011 he said that he had heard of the killing, whereas in his 2005 statement to the Prosecution he said that no one was killed at the Nova Kasaba football field. The Trial Chamber finds that these internal inconsistencies combined with the hearsay nature of Malinić's evidence render his evidence unreliable in this regard, and therefore will not rely on his evidence with regard to this alleged incident. Based on all of this, the Trial Chamber finds that it has not been demonstrated beyond a reasonable doubt that the alleged incident took place and will therefore not consider this incident further.

*The transportation of Bosnian Muslims to various locations from the Nova Kasaba football field, including Kravica*

2655. With regard to the transportation of Bosnian Muslims to various locations, the Trial Chamber finds that the Bosnian-Muslim men who had surrendered or had been captured were also detained in buses and trucks. Buses carrying Bosnian-Muslim

<sup>11340</sup> Defence Final Brief, para. 3183.

<sup>11341</sup> The Trial Chamber notes that Witness RM-346 referred to the detainee being shot with a pistol in his prior testimony, P1118 (Witness RM-346, prior testimony), p. 3024. During his testimony before this Trial Chamber the witness referred to a pistol at T. 9596 and T. 9622, and to the shot being fired from a rifle at T. 9567.

detainees left the football field and headed towards Bratunac or Zvornik. In Kravica, some trucks stopped by a supermarket on 13 July at around 5 p.m. and the men were kept in the trucks overnight, without food or water. Around 119 men were detained in one truck. During the night of 13 July 1995 and the morning of 14 July 1995, VRS soldiers, among them a man called Radovan Grujčić from Orahovica in Srebrenica Municipality, shot and killed at least 15 Bosnian-Muslim detainees who were being held in trucks escorted by the Military Police Battalion of the 65th Motorized Protection Regiment outside of the supermarket at Kravica. The soldiers selected some men from among the detainees after asking whether they were from certain villages and threatened, beat, and shot them dead. Before Witness RM-253 boarded the trucks he had heard a Serb soldier tell another detainee that he would not get his bag back because he would not need it anymore.

2656. The evidence on the whereabouts of some of the men transported towards Bratunac and Zvornik, and, for some, to alleged execution sites will be reviewed, along with additional evidence, in chapters 7.2 to 7.15.

*The safe passage agreement and the arrival of the column in Bosnian Muslim-held territory*

2657. With regard to the safe passage agreement and the arrival of the column in Bosnian Muslim-held territory, the Trial Chamber finds that after one unsuccessful attempt to move forward to the Bosnian-Muslim front lines on 15 July 1995, the head of the column finally managed to break through to Bosnian Muslim-held territory on 16 July 1995. Survivors from the column said that it had been a very difficult journey and that they had not eaten bread for six days. ABiH forces attacking from the direction of Tuzla assisted by piercing a line of about one-and-a-half kilometres for the emerging column and members of the ABiH 284th Brigade, the Brdksi Battalion, and the headquarters support Brigade were towards, or at, the head of the column. Pursuant to an agreement between Vinko Pandurević, Commander of the Zvornik Brigade, and Šemso Muminović, Commander of the Muslim forces, a one-kilometre wide corridor was opened for 48 hours in the area of Parlog and Baljkovica to allow the Bosnian Muslims to get out. On that same day, some police detachments positioned at

<sup>11342</sup> Prosecution Final Brief, para. 1260.

Baljkovica received orders to abort all combat activities and withdraw to the nearby hills in order to create a passage for the Muslim civilians and soldiers to pass through.

*Searches of the terrain and capture of Bosnian Muslims from the column on 17-20 July 1995*

2658. With regard to searches of the terrain and the resulting capture of the Bosnian Muslims, the Trial Chamber finds that on 17 July 1995, a search operation commanded by Mićo Gavrić from the Bratunac Brigade, commenced in Kravica, moving in the direction of Konjević Polje. All the reports to the Bratunac Brigade headquarters were sent through Gavrić. By the evening, about 200 Bosnian Muslims had surrendered, including four children. Before being capture, one of the children had walked towards Zekić and Gavrić with a white T-shirt in his hands. Gavrić ordered that the hands of the captured be tied with pieces of string. The children were put into Gavrić's care and brought to the Bratunac Brigade Headquarters, where he ordered that they be fed and well treated. On 18 July 1995, Ljubisa Borovčanin asked Gavrić to arrange the exchange of the children, who were then handed over to a man sent by Borovčanin and were exchanged for nine policemen captured near Zvornik. On 17 July 1995, Momir Nikolić, chief of Security at the Bratunac Brigade Command ordered Gavrić to hand the rest of those captured over to Jević, a.k.a. Stalin, so that he could take them to Konjević Polje.

*The killing of persons captured from the column around 18 July 1995*

2659. With regard to the killing of people who were captured from the column around 18 July 1995, the Trial Chamber finds that on or about 18 July 1995, VRS soldiers shot and killed four Bosnian Muslims, including a 15-year-old boy, whom they had captured at Tisova Kosa. They beat the Bosnian Muslims and referred to one as 'Alinovac' (member of Alija's army) and 'Balija'. They forced the Bosnian Muslims to lie down, and 'Stari', the commander of the group, ordered his soldiers to shoot them in the back one at a time. While the commander was interrogating Witness RM-358, one of the soldiers came to him and asked the commander if he could use his bayonet to kill one of the captives. The commander answered that he could choose anyone after which the soldier chose the witness. The soldier who had wanted to use the bayonet was not

pleased when the commander ordered his men not to kill the witness because as a soldier he could be used for exchange purposes.

2660. The Trial Chamber received evidence from a number of witnesses pertaining to dead bodies seen along the path the column took. The Trial Chamber also received evidence from a number of witnesses that people in the column were committing suicide and killing one another. Due to a lack of specificity with regard to the status of the victims and the manner in which these people died, the Trial Chamber has not considered these incidents in the context of killings as charged in the Indictment.

2661. The Trial Chamber will address the above-mentioned findings and the evidence related to the alleged Srebrenica JCE and, in particular, the Accused's alleged responsibility (some of which has been reviewed above in this chapter) in chapters 7.15, 7.16, 7.17, 9.3.4, and 9.7.

7.2 Jadar River (Schedule E.1.1)

2662. According to the Indictment, the Accused is responsible for the killing of approximately 15 Bosnian-Muslim men in an isolated area on the bank of the Jadar River on 13 July 1995, at 11 a.m.<sup>11343</sup> The Defence submitted that Witness RM-314's evidence is not credible, that medical records demonstrate his wound was caused by shrapnel rather than a bullet, and that there is insufficient evidence to conclude that the perpetrators of this alleged incident were members of the VRS.<sup>11344</sup> The Trial Chamber took judicial notice of Adjudicated Fact 1357 with regard to this incident. Further, it received evidence from **Witness RM-314**, a Bosnian-Muslim TO member who worked in Srebrenica during the war;<sup>11345</sup> **Mujo Subašić**, a Bosnian Muslim from Podžeplje, Han Pijesak Municipality, who worked as a nurse in the Srebrenica hospital from April 1993 until 11 July 1995;<sup>11346</sup> **Mirko Perić**, a reserve policeman mobilized into the Bratunac police between 1992 and 1995;<sup>11347</sup> **Momir Nikolić** the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>11348</sup> **Nenad Deronjić**, a Serb policeman in Bratunac and Srebrenica from 1991 until 1996;<sup>11349</sup> **Slavoljub Mladenović**, a Serb and the Commander of the 2nd Company of the Zvornik CSB from mid-1994;<sup>11350</sup> **Mile Petrović**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>11351</sup> **Zoran Stanković**, a specialist in forensic medicine;<sup>11352</sup> and **Milan Pejić**, Director of Blažuj Military Hospital from approximately 8 May 1992 until at least 14 October 1993,<sup>11353</sup> as well as documentary evidence.

2663. **Witness RM-314** testified that at around 5 a.m. on 13 July 1995, he was discovered by five or six men in blue Bosnian-Serb police uniforms at the intersection

<sup>11343</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.1.1.

<sup>11344</sup> Defence Final Brief, paras 2978-3002.

<sup>11345</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 1-2; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 1; P1437 (Witness statement, 14 June 1999), p. 1; Witness RM-314, T. 10849-10850, 10869-10872, 10896, 10912; P1434 (Pseudonym sheet of Witness RM-314).

<sup>11346</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), p. 1, paras 3, 10-11, 29, 31.

<sup>11347</sup> Mirko Perić, T. 34228-34229, 34233.

<sup>11348</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>11349</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 1-4; Nenad Deronjić, T. 24428.

<sup>11350</sup> Slavoljub Mladenović, T. 34154-34155, 34161-34162.

<sup>11351</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 1. Petrović's evidence is reviewed in chapter 7.1.6.

<sup>11352</sup> Zoran Stanković, T. 43246.

<sup>11353</sup> D589 (Milan Pejić, witness statement, 29 May 2014), p. 1, paras 1, 3; Milan Pejić, T. 24547, 24564.

called Konjević Polje.<sup>11354</sup> The witness was handed over to a former police inspector in Srebrenica whom the witness knew from before the war.<sup>11355</sup> The former police inspector brought the witness to a guard house next to a school and told the soldiers there not to mistreat him.<sup>11356</sup> Inside the house there were two other detainees: Hamed Omerović from Glogova in Bratunac Municipality, who was dressed in civilian clothes, and Azem Mujić from Rijeke in Han Pijesak Municipality, who was wearing one piece of military clothing.<sup>11357</sup> After about 20 minutes, the former police inspector took the three detainees to a nearby house for interrogation.<sup>11358</sup>

2664. Later, the former police inspector took the detainees to another house, where they were joined by four other detainees: a young boy about 14 years old from Sućeska; Hasan Salihović from Potočari, who used to be a policeman and knew the former police inspector well; Rešid Sinanović, former Chief of the SUP in Bratunac who left Srebrenica in the same group as the witness; and a man named Hamdija from Konjević Polje who knew one of the policemen and was taken away shortly after he was brought in.<sup>11359</sup>

2665. A Serb man in civilian clothes named Mirko, who before the war had worked for the police but had been fired, ordered Salihović and Sinanović to stay at the house and took the witness, Omerović, Mujić, and the 14-year-old boy to a building near the Konjević Polje intersection.<sup>11360</sup> When the detainees arrived at the building, a young police officer informed an individual, later identified by the witness as Nenad Deronjić, that one of his colleagues was upstairs. The witness was not certain that the individual in question was Deronjić until October 1995, when Salihović's mother visited him and described Deronjić. Salihović's mother knew what Deronjić, her son's colleague, looked like because he had visited her home.<sup>11361</sup> The witness identified Deronjić in his

<sup>11354</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 2-3; Witness RM-314, T. 10857-10858; P1438 (Photograph of Konjević Polje intersection and warehouse).

<sup>11355</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 3.

<sup>11356</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 3; Witness RM-314, T.10855-10856.

<sup>11357</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 3.

<sup>11358</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 3; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2.

<sup>11359</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 4-5; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2; P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2; Witness RM-314, T. 10920.

<sup>11360</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2; Witness RM-314, T. 10856-10857; P1438 (Photograph of Konjević Polje intersection and warehouse).

<sup>11361</sup> Witness RM-314, T. 10919.

14 June 1999 statement as being 170 to 180 centimetres tall with curly hair, and subsequently testified that Deronjić is 185 centimetres tall with straight hair.<sup>11362</sup> Deronjić is not mentioned in the witness's 16 August 1995 or 8 June 1999 statements, although the witness testified that he mentioned Deronjić in the 1995 statement.<sup>11363</sup>

2666. Inside the building, the detainees were taken to a room where there were twelve Bosnian-Muslim men who were naked except for their underwear.<sup>11364</sup> They were guarded by four soldiers, including the man later identified by the witness as Deronjić, all of whom wore green camouflage uniforms without insignia and carried automatic rifles.<sup>11365</sup> The soldiers ordered the four arriving detainees to take off their clothes and stand in line with the twelve other detainees. The soldiers then threw the detainees on the floor and beat them up with their fists and kicked them in the head with their boots.<sup>11366</sup> The witness was beaten by all four soldiers.<sup>11367</sup> After some time, a young man in a blue uniform with a beret cap came in and asked why the detainees' clothes had been taken off. He told the detainees that they were supposed to be exchanged together with others and that earlier a large group of approximately 1,000 people had surrendered. One of the uniformed men told the young man in a blue uniform that there would be no exchange for the detainees and that the young man knew very well whom he had buried 45 days earlier. He added something that the witness understood to mean that he wanted to kill the detainees.<sup>11368</sup> The young man answered that if there was somebody there who should kill the detainees, it was him because of the person he himself had to bury.<sup>11369</sup> The two of them went out and, shortly afterwards, another uniformed man came in and ordered the detainees to put their clothes back on. They were brought into a larger room where the four soldiers hit them again; the witness was hit in the back of his head with a rifle butt.<sup>11370</sup>

<sup>11362</sup> P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2); Witness RM-314, T. 10915-10916.

<sup>11363</sup> P1435 (Witness RM-314, witness statement, 16 August 1995); P1436 (Witness RM-314, witness statement, 8 June 1999); Witness RM-314, T. 10912, 10914-10915.

<sup>11364</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5.

<sup>11365</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5; P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2; Witness RM-314, T.10889, 10912-10916, 10918-10920.

<sup>11366</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5.

<sup>11367</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5; P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2.

<sup>11368</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 5.

<sup>11369</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 5-6.

<sup>11370</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6.



2667. Witness RM-314 and 15 other Muslims detained at the building near the Konjević Polje intersection were ordered to board a bus driven by a blond woman in civilian clothes.<sup>11371</sup> Four soldiers who were with the detainees in the building, including the man later identified by the witness as Nenad Deronjić, also boarded the bus.<sup>11372</sup> After a short drive of about three kilometres, the bus stopped at a small parking lot in Podkuslat, a canyon between Konjević Polje and Drinjača.<sup>11373</sup> The soldiers ordered the detainees to get off the bus, walk towards the bank of the Jadar River, and line up, which they did.<sup>11374</sup> The witness was third in the row.<sup>11375</sup> Two of the soldiers stood about three and a half metres away from each end of the row and the other two, including the man later identified by the witness as Deronjić, stood behind them.<sup>11376</sup> At approximately 10 or 11 a.m., the four soldiers opened fire with their infantry rifles on the detainees.<sup>11377</sup> The person next to the witness fell in front of the witness, and the witness was shot in the hip and fell into the water.<sup>11378</sup> He could hear bullets hitting the water around him but managed to drag himself towards the river's current. He was carried about 10 to 15 metres downstream and turned onto his back when the soldiers started shooting again. After some time, he saw the soldiers walking back towards the bus.<sup>11379</sup> He passed a bend in the river, got out of the water, and waited for other survivors, but none came.<sup>11380</sup> He walked through abandoned Muslim villages, and the following day he came across other Muslims from Srebrenica, including Mujo Subašić, with whom he walked for three days until they reached Nežuk in Bosnian-Muslim controlled territory.<sup>11381</sup> **Subašić** stated that at around noon on 14 July 1995, he provided medical care to a wounded man who joined the column in the area between

<sup>11371</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 2-6; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2; Witness RM-314, T. 10856-10859, 10888; P1438 (Photograph of Konjević Polje intersection and warehouse).

<sup>11372</sup> P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2; Witness RM-314, T. 10858.

<sup>11373</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 6-7; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2; Witness RM-314, T. 10860; P1439 (Map showing the execution site).

<sup>11374</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 2; Witness RM-314, T. 10858-10859, 10888.

<sup>11375</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6.

<sup>11376</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6; P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2.

<sup>11377</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6; P1437 (Witness RM-314, witness statement, 14 June 1999), p. 2; Witness RM-314, T. 10859, 10889, 10928.

<sup>11378</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6; Witness RM-314, T. 10860-10862, 10928; P1440 (Photograph of entry and exit wound of Witness RM-314).

<sup>11379</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 6.

<sup>11380</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 6-7.

<sup>11381</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), p. 7; Witness RM-314, T. 10863.

Liplje and Kamenica.<sup>11382</sup> The man told him that he had survived an execution which took place on 13 July 1995 along the bank of the river near Kušlat.<sup>11383</sup> **Witness RM-314** was admitted to an ABiH clinic on 16 July 1995, and his discharge report states that he was treated for an explosive injury in the area of his hip, pelvis, and buttock.<sup>11384</sup> **Zoran Stanković** testified that explosive injuries could not be caused by firearms but acknowledged that the doctor who treated Witness RM-314 later explained that the term ‘explosive’ was a ‘common term used during the war-time period for the wartime injuries’ and that he used this term ‘mechanically’.<sup>11385</sup> **Milan Pejić** testified that explosive wounds may be caused by shrapnel or by bullets.<sup>11386</sup>

2668. With regard to the units present at and in the vicinity of the Konjević Polje checkpoint, the Trial Chamber notes that MUP units were placed along the Bratunac-Konjević Polje road, where they engaged in blocking and capturing large numbers of men from the Bosnian-Muslim column on 13 July 1995.<sup>11387</sup> **Mirko Perić** testified that he manned the only checkpoint in Konjević Polje for three or four days around 10 to 13 July 1995 along with other Bratunac police officers dressed in camouflage police uniforms with full equipment, including belts, handcuffs, truncheons, and weapons, as well as members of the military police.<sup>11388</sup> The witness recalled seeing Momir Nikolić at the checkpoint on two occasions, and he testified that he never saw Nenad Deronjić, one of his colleagues, at Konjević Polje.<sup>11389</sup> Throughout the time that the witness was responsible for manning the checkpoint, he left Konjević Polje only once and was away for five or six hours to attend a funeral.<sup>11390</sup> **Momir Nikolić** testified that he arrived in Konjević Polje on 13 July 1995 at approximately 12:30 p.m. and that there was a civilian police checkpoint at the intersection in Konjević Polje manned by members of the Bratunac SJB. The witness saw both Nenad Deronjić and Mirko Perić, both members of the Bratunac SJB, engaged at the checkpoint that day.<sup>11391</sup>

<sup>11382</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 46.

<sup>11383</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), paras 46-47.

<sup>11384</sup> Zoran Stanković, T. 43295; D283 (ABiH 2nd Corps Independent Medial Battalion Out-patients Clinic – Tuzla Garrison Discharge List, 11 August 1995).

<sup>11385</sup> Zoran Stanković, T. 43489-43500.

<sup>11386</sup> Milan Pejić, T. 24560.

<sup>11387</sup> Adjudicated Facts II, no. 1357.

<sup>11388</sup> Mirko Perić, T. 34233-34234, 34241-34242, 34265.

<sup>11389</sup> Mirko Perić, T. 34239-34241, 34263-34265, 34267-34268.

<sup>11390</sup> Mirko Perić, T. 34234-34235.

<sup>11391</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9; Momir Nikolić, T. 11946-11947.

2669. **Mile Petrović** testified that on the way to Konjević Polje on 13 July 1995, he saw two Muslim men dressed in civilian clothes waving at the APC and requesting it to stop.<sup>11392</sup> Nikolić, also onboard the vehicle, tasked Petrović to bring them into the APC. Upon their entering the vehicle, Nikolić hit one of the two men on the head with a rifle butt.<sup>11393</sup> In Konjević Polje, Nikolić interrogated the two men in an unfinished house.<sup>11394</sup> After the interrogation, Nikolić ordered the witness to take the two men to a building across the road where other prisoners were held. However, before the witness was able to do so he was approached by a soldier who told him that there was no need for him to bring them in and that he would take the two men to another house, together with some other men.<sup>11395</sup>

2670. **Nenad Deronjić** testified that he belonged to the 2nd Company from Bratunac, which was part of the special police unit of the Zvornik CSB, as of 12 July 1995.<sup>11396</sup> From early July 1995 up to and including 12 July 1995 at 8 a.m., he worked at the Konjević Polje checkpoint, which was manned by Bratunac police officers.<sup>11397</sup> He and other members of the 2nd Company, including the commander Slavoljub Mladenović, went to Srebrenica in the afternoon of 12 July 1995.<sup>11398</sup> The witness was assigned to discharge military duties there and stayed at the Srebrenica police station for the next seven or eight days.<sup>11399</sup> They patrolled the town and tried to protect property from individuals who came to loot.<sup>11400</sup> The witness denied that he had been present at the checkpoint in Konjević Polje on 13 July 1995 and that he had participated in killings on the bank of the Jadar River on that day.<sup>11401</sup> According to a bulletin of the Zvornik CSB, dated 14 July 1995, on 13 and 14 July 1995, the 1st, 2nd, 5th, and 6th companies of the Zvornik CSB had been engaged in the areas of Konjević Polje, Cerska, Han Pogled,

<sup>11392</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 6; Mile Petrović, T. 31324.

<sup>11393</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 7.

<sup>11394</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 8; Mile Petrović, T. 31311.

<sup>11395</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 8.

<sup>11396</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 5-6; Nenad Deronjić, T. 24440.

<sup>11397</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 5-6, 12; Nenad Deronjić, T. 24429, 24440.

<sup>11398</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 15, 20; Nenad Deronjić, T. 24480, 24487; D585 (Bratunac SJB Duty Roster), p. 2; D586 (Decision on appointment of Nenad Deronjić to the Srebrenica police station, 18 June 1996); D587 (Order assigning Nenad Deronjić and others to the Srebrenica police stations, 18 July 1995).

<sup>11399</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 17, 20; Nenad Deronjić, T. 24428, 24430, 24440-24441, 24453-24454, 24456-24459, 24470-24471, 24496; D585 (Bratunac SJB Duty Roster), p. 2; D586 (Decision on appointment of Nenad Deronjić to the Srebrenica police station, 18 June 1996); D587 (Order assigning Nenad Deronjić and others to the Srebrenica police stations, 18 July 1995).

<sup>11400</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), para. 17; Nenad Deronjić, T. 24441-24445.

Džafin, Kamen, Snagovo, and Maričići in the previous 24 hours due to ‘infiltration of enemy military formations from Srebrenica’.<sup>11402</sup>

2671. **Slavoljub Mladenović** testified that he and other members of the 2nd and 3rd Companies of the Zvornik PJP, including Nenad Deronjić, complied with an order to report to Srebrenica to provide security on 12 July 1995.<sup>11403</sup> The witness was on duty from 7 a.m. on 13 July to 7 a.m. on 14 July 1995 but travelled to Bratunac Municipality on 13 July to console the family of a policeman who had been killed.<sup>11404</sup> The witness was physically present at the Srebrenica police station ‘as necessary to be briefed’ throughout his shift and was never away from the police station for more than five hours at a time.<sup>11405</sup> Every time he was at the Srebrenica police station that day, the witness observed Deronjić.<sup>11406</sup> The witness testified that Ravni Buljim is located between Jaglici and Konjević Polje and that ‘there’s no chance that anyone of my platoons was in that area’ around 12 July 1995.<sup>11407</sup> According to the witness, on 13 July 1995, the 2nd Company was in Srebrenica.<sup>11408</sup>

2672. According to a report of the Zvornik CSB to the Headquarters of the MUP in Bijeljina on 12 July 1995, the 2nd company of the Zvornik PJP (60 men) was dispatched to Srebrenica with the task of securing all facilities of vital importance in the town and protect them from being looted, pursuant to Karadžić’s order.<sup>11409</sup> A platoon of this company was ordered to lie in ambush at Ravni Buljim, where Muslim groups had been spotted fleeing.<sup>11410</sup> It would carry out its task without the cooperation with the military police.<sup>11411</sup>

2673. With regard to Witness RM-314’s evidence on the presence of Deronjić at the scene of the killings on 13 July 1995, the Trial Chamber notes that although the witness named Deronjić as one of the perpetrators in his testimony before the Trial Chamber, he specified that he was unable to identify him at the time of the killings. The witness’s

<sup>11401</sup> D584 (Nenad Deronjić, witness statement, 6 June 2014), paras 5, 21-23; Nenad Deronjić, T. 24441, 24461.

<sup>11402</sup> P6687 (CSB Zvornik Bulletin No. 195/95, 14 July 1995), p. 2.

<sup>11403</sup> Slavoljub Mladenović, T. 34163-34166, 34178, 34202.

<sup>11404</sup> Slavoljub Mladenović, T. 34204, 34209-34210

<sup>11405</sup> Slavoljub Mladenović, T. 34204-34205.

<sup>11406</sup> Slavoljub Mladenović, T. 34203, 34205-34206, 34208.

<sup>11407</sup> Slavoljub Mladenović, T. 34210-34211.

<sup>11408</sup> Slavoljub Mladenović, T. 34211-34212.

<sup>11409</sup> P2111 (Zvornik CSB dispatch to the police headquarters in Bijeljina, 12 July 1995), pp. 1-2.

<sup>11410</sup> P2111 (Zvornik CJB dispatch to the police headquarters in Bijeljina, 12 July 1995), p. 2.

<sup>11411</sup> P2111 (Zvornik CJB dispatch to the police headquarters in Bijeljina, 12 July 1995), p. 2.

first two statements, given on 16 August 1995 and 8 June 1999, do not name Deronjić as one of the perpetrators. Deronjić is first identified as a perpetrator in the witness's 14 June 1999 statement, although the witness testified that he mentioned Deronjić when he gave his first statement in 1995. Finally, the witness's identification of Deronjić is based on an oral description of Deronjić that he heard approximately three months after the incident. This description was provided by Salihović's mother, who knew Deronjić, but there is no evidence as to what her description entailed or how detailed it was. In light of these concerns, the Trial Chamber will not rely on the witness's evidence on this issue.

2674. With respect to the Defence submission that Witness RM-314 was not credible, the Defence more specifically submits that the witness has 'disavowed/recanted' portions of his witness statements and 'corrected/changed' portions of his testimony in prior proceedings before the Tribunal.<sup>11412</sup> The Trial Chamber notes that the witness's medical record corroborates his testimony that he was injured. The Trial Chamber further notes that none of the instances flagged by the Defence pertain to the witness's testimony regarding the alleged killing incident at the Jadar River on 13 July 1995, and that Witness RM-314's account of this incident is internally consistent and consistent with the account provided by Subašić. With respect to the Defence submission that Witness RM-314's injury was the result of shrapnel rather than gunfire, the Trial Chamber is satisfied that the use of the term 'explosive' in the witness's medical record is not inconsistent with him having suffered a gunshot wound. The Trial Chamber thus finds the evidence of Witness RM-314 reliable.

2675. The Trial Chamber notes the Defence submission that Witness RM-314 has given contradictory evidence regarding the content of a statement he made to an individual wearing ABiH insignia on 27 July 1995.<sup>11413</sup> The witness testified that this individual visited him while he was 'in a psychological condition' in hospital, pressured him to falsely state that he had been injured in Karakaj, and forced him to give a statement under duress.<sup>11414</sup> The Defence submits that the witness has given evidence both that he did and that he did not accede to this individual's pressure to state that he had been injured in Karakaj.<sup>11415</sup> As the witness has reliably testified that this statement

<sup>11412</sup> Defence Final Brief, paras 2979-2983.

<sup>11413</sup> Defence Final Brief, paras 2991-2992.

<sup>11414</sup> Witness RM-314, T. 10879-10882, 10923-10925.

<sup>11415</sup> Defence Final Brief, paras 2991-2992.

was taken under duress, and as the witness has consistently given evidence that he was injured at the Jadar River, the Trial Chamber does not consider this matter to affect the credibility of the witness.

2676. Based on the foregoing, the Trial Chamber finds that, on the morning of 13 July 1995, four individuals in green camouflage uniforms shot and killed 15 Bosnian-Muslim male detainees, including a 14-year-old boy, one man wearing civilian clothing, and one man wearing a piece of military clothing, after lining them up on the bank of the Jadar River. The men had been detained at a building near the Konjević Polje intersection before being killed. With regard to the perpetrators, the Trial Chamber took judicial notice of Adjudicated Fact 1357 and received evidence on the units present at the relevant time at and around the Konjević Polje checkpoint, located in the immediate vicinity of the building from which the perpetrators and the victims departed prior to the killing. Based on this, the Trial Chamber finds that the perpetrators were members of the police or the VRS military police.<sup>11416</sup> The Trial Chamber will further consider this incident in relation to Counts 2 to 6 of the Indictment in chapter 8, below.

<sup>11416</sup> With respect to the Defence submission that Witness RM-314's identification of the perpetrators wearing camouflage uniforms without insignia is insufficient to determine their affiliation (Defence Final Brief, para. 2997), the Trial Chamber notes that its finding as to the affiliation of the perpetrators rests on Adjudicated Fact 1357 and the reliable evidence of Witness RM-314, Perić, Nikolić, and Deronjić, and therefore rejects the Defence submission.

### 7.3 Cerska Valley (Schedule E.2.1)

2677. According to the Indictment, the Accused is responsible for the killing and subsequent burial of approximately 150 Bosnian-Muslim men in an area along a dirt road in the Cerska valley about three kilometres from Konjević Polje, between 13 and 17 July 1995.<sup>11417</sup> The Defence submitted that the VRS conducted legitimate military operations in the Cerska valley area, including the collecting of information on remaining ABiH combatants in the area on 17 July 1995.<sup>11418</sup> The Defence also submitted that the victims of this alleged incident may have died during combat, internal ABiH clashes, or committed suicide.<sup>11419</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts related to this incident. It also received evidence from **William Haglund**, a forensic anthropologist;<sup>11420</sup> and **Dušan Janc**, an investigator,<sup>11421</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>11422</sup> The Trial Chamber further received evidence from **Reif Mehmedović**, a Bosnian-Muslim soldier in the ABiH 284th Brigade in July 1995;<sup>11423</sup> **Sulejman Buljubašić**, a Bosnian from Ljeskovik in Srebrenica Municipality;<sup>11424</sup> **Mičo Gavrić**, Chief of Artillery in the Bratunac Brigade from 14 November 1992 until the end of the war;<sup>11425</sup> **Witness RM-336**, a Serb policeman from the Ugljevik SJB;<sup>11426</sup> and **Dragomir Keserović**, a desk officer for the military police in the security administration of the Main Staff of the VRS from 1995 and commander of an armoured brigade in the 1KK;<sup>11427</sup> as well as documentary evidence.

2678. **Reif Mehmedović** stated that on 16 July 1995 around 4 p.m., he was hiding with Abdulah Mehmedović, nicknamed Cipi, near Pobuđe, when he saw some vehicles on

<sup>11417</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.2.1.

<sup>11418</sup> Defence Final Brief, paras 3008-3023.

<sup>11419</sup> Defence Final Brief, para. 3037.

<sup>11420</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3724; William Haglund, T. 14974.

<sup>11421</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

<sup>11422</sup> **William Haglund**: P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3733-3734, 3737, 3745; P1831 (William Haglund, Cerska Valley report, 15 June 1998), pp. 8-10, 12, 15, 21, 38, 53, 60-61; William Haglund, T. 14911, 14933. **Dušan Janc**: P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 3, Annex A, p. 2.

<sup>11423</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 2.

<sup>11424</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 1.

<sup>11425</sup> Mičo Gavrić, T. 13899. Mičo Gavrić's evidence is also reviewed in chapter 7.1.6.

<sup>11426</sup> P3455 (Witness RM-336, *Popović et al.* transcript, 16 November 2006), pp. 4076-4079; P3458 (Statement of Witness RM-336 before the Bijeljina SJB, 23 September 2004), p. 3. Witness RM-336's evidence is reviewed in chapter 7.1.6.

the asphalt road about one and a half kilometres away.<sup>11428</sup> The vehicles were coming from the direction of Konjević Polje and turned right onto the macadam road heading towards Cerska.<sup>11429</sup> There were eight vehicles in total: first an olive-green APC, then three trucks covered with tarpaulin, followed by three buses of which the third looked overloaded as it was closer to the ground and going slower than the others, and finally a yellow excavator.<sup>11430</sup> Later, the witness heard a detonation coming from the area the convoy had headed towards, followed by small arms fire for three to four minutes. At around 7 p.m., the witness saw the excavator and a bus turning from the macadam road onto the asphalt road towards Konjević Polje.<sup>11431</sup> **Sulejman Buljubašić** was also present in the area at the time. He stated that on 17 or 18 July 1995, on his way to Cerska, he stopped in Kaldrmice. There, around 9:30 a.m., he saw 'Chetniks' arriving from the direction of Nova Kasaba in a convoy of three buses with detainees, two trucks, one passenger car, and two transporters, all heading in the direction of Cerska.<sup>11432</sup> He saw the 'Chetniks' exit one of the trucks and deploy in a sweep-and-clear formation, moving in the direction of Cerska. He later heard the sound of shooting coming from the direction the convoy had gone to. Some time later, he saw the vehicles from the convoy return, and an excavator, a Lada Niva, and another passenger vehicle drive in the direction of Cerska. The excavator and the passenger vehicle stayed there for approximately one hour. Around 3:30 p.m., the witness left towards Kamenica.<sup>11433</sup>

2679. **Mehmedović** stated that on the morning of 17 July 1995, the day after he had seen the vehicles going towards Cerska, he and two other men went closer to the road.<sup>11434</sup> At around 8 p.m., the witness and the other two crossed the road running from Nova Kasaba to Konjević Polje and crossed the bridge over the Jadar River near to the mill where the convoy had driven to. They went up the track towards Cerska for about three kilometres and came upon some disturbed earth less than a metre from the left side

<sup>11427</sup> Dragomir Keserović, T. 12802, 12805-12807. Dragomir Keserović's evidence is also reviewed in chapter 9.7.2.

<sup>11428</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 3.

<sup>11429</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 3; P3453 (Sketch drawn by Reif Mehmedović showing the location and the direction the vehicles moved in).

<sup>11430</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), pp. 3-4.

<sup>11431</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 4.

<sup>11432</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), pp. 3-4.

<sup>11433</sup> P3450 (Sulejman Buljubašić, witness statement, 13 July 1999), p. 4.

<sup>11434</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), pp. 2, 4.



of the track.<sup>11435</sup> The area was about 15 metres long along the road and approximately ten metres wide.<sup>11436</sup> The witness smelled a stench.<sup>11437</sup>

2680. **Keserović** testified that the next morning, on his way to Bratunac, he saw Major Malinić along the road in Nova Kasaba.<sup>11438</sup> Malinić told him that most of the military police battalion of the protection regiment was deployed on the front lines around Sarajevo and that the company undergoing training in Nova Kasaba was deployed along the road in the area of a blockade from Kasaba to Konjević Polje.<sup>11439</sup> The witness met with Colonel Blagojević at his command post around 11 a.m.<sup>11440</sup> Blagojević informed him that the implementation of the sweeping task continued and that MUP units from Bratunac and Srebrenica were on their way to join the operation.<sup>11441</sup> According to the witness, the intercept of a communication dated 17 July 1995 between Mičić and Badem, code name for the command of the Bratunac brigade, mentioning the departure of 400 in seven buses at 11:30 a.m., headed by Blagojević, referred to a unit of the Bratunac brigade which set off in the direction of Žepa.<sup>11442</sup>

2681. On the same day, the witness saw Ljubiša Borovčanin, Chief of Staff and Deputy Commander of the Special Brigade of the Bosnian-Serb MUP, headed by Goran Šarić, at the Bratunac SJB.<sup>11443</sup> The witness learned that units of the MUP, including members of this brigade, were tasked to search the terrain on the right hand side of the road to Milići.<sup>11444</sup> Per order dated 17 July 1995, Goran Šarić tasked Borovčanin with the command and control of two combat groups, including the one in charge of the mop up operation in the Milići-Drinjača road area.<sup>11445</sup> Duško Jevrić was appointed commander of the 2nd combat group, composed of the Dobož Special Police Detachment, two

<sup>11435</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 4.

<sup>11436</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 4; P3454 (Sketch drawn by Reif Mehmedović showing the location of the shooting).

<sup>11437</sup> P3452 (Reif Mehmedović, witness statement, 16 August 1996), p. 4.

<sup>11438</sup> Dragomir Keserović, T. 12863, 12940; P1580 (ICRC Communication to the press on the evacuation of wounded persons from Bratunac and Potočari, 18 July 1995).

<sup>11439</sup> Dragomir Keserović, T. 12863.

<sup>11440</sup> Dragomir Keserović, T. 12870-12871, 12973-12974.

<sup>11441</sup> Dragomir Keserović, T. 12862, 12933.

<sup>11442</sup> Dragomir Keserović, T. 12975-12978; P1581 (Intercept from 2nd Corps Command of a communication between Badem addressed to Mičić, dated 17 July 1995) pp. 1-2.

<sup>11443</sup> Dragomir Keserović, T. 12873, 12958.

<sup>11444</sup> Dragomir Keserović, T. 12873, 12982; P1582 (Order by the commander of the special police brigade addressed, inter alia, to L. Borovčanin concerning the formation of a battalion tasked to engage in mop up operations, 17 July 1995), paras 1, 3.

<sup>11445</sup> Dragomir Keserović, T.12981-12982; P1582 (Order by the commander of the special police brigade addressed, inter alia, to L. Borovčanin concerning the formation of a battalion tasked to engage in mop up operations, 17 July 1995), paras 4, 7.

special police units and two other companies, and was tasked to regroup with the first combat group for the search of Cerska.<sup>11446</sup>

2682. Between 7 and 18 July 1996, investigators from the Prosecution, in conjunction with a team from Physicians for Human Rights, exhumed a mass grave to the southwest of the road through the Cerska valley from the main road from Konjević Polje to Nova Kasaba.<sup>11447</sup> One hundred and fifty bodies were recovered from a mass grave near Cerska, and the cause of death for 149 was determined to be gunshot wounds.<sup>11448</sup> All of the bodies exhumed were male, with a mean age from 14 to 50.<sup>11449</sup> Of the bodies exhumed, 147 were wearing civilian clothes.<sup>11450</sup> Forty-eight wire ligatures were recovered from the grave, about half of which were still in place binding the victims' hands behind their backs.<sup>11451</sup> Investigation into the cartridges discovered at the grave site revealed that the cartridges found in the grave itself matched with those found along the road at the gravesite, indicating that the victims in the grave were shot at the gravesite.<sup>11452</sup> **Haglund** testified that cartridges were moved to the grave, together with the soil, when it was removed from the side of the road where the killing took place.<sup>11453</sup> The bodies of the victims had been covered by transferring earth moved from the roadside opposite to the burial site, using earthmoving equipment.<sup>11454</sup> **Haglund** testified that Muslim paraphernalia, including official papers of the Islamic Community of Sarajevo and prayer beads, were found on nine corpses.<sup>11455</sup> Identifying information for some victims was recovered. According to the ICRC, some of these persons were last seen alive in July 1995.<sup>11456</sup>

2683. With regard to the Defence submission that the VRS conducted legitimate military operations in Cerska Valley, the Trial Chamber notes that the underlying evidence referred to by the Defence mainly concerns 1992 and 1993 and is therefore

<sup>11446</sup> Dragomir Keserović, T. 12921-12923; P1582 (Order by the commander of the special police brigade addressed, inter alia, to L. Borovčanin concerning the formation of a battalion tasked to engage in mop up operations, 17 July 1995), paras 1-2.

<sup>11447</sup> Adjudicated Facts II, no. 1522.

<sup>11448</sup> Adjudicated Facts II, no. 1524.

<sup>11449</sup> Adjudicated Facts II, no. 1525. The Trial Chamber understands this Adjudicated Fact to refer to the age range of the victims.

<sup>11450</sup> Adjudicated Facts II, no. 1526.

<sup>11451</sup> Adjudicated Facts II, no. 1527.

<sup>11452</sup> Adjudicated Facts II, no. 1528.

<sup>11453</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3733-3734, 3736-3737; P1831 (William Haglund, Cerska Valley report, 15 June 1998), pp. 8-9, 12, 15, 21, 38, 53; William Haglund, T. 14933.

<sup>11454</sup> Adjudicated Facts II, no. 1529.

<sup>11455</sup> P1831 (William Haglund, Cerska Valley report, 15 June 1998), pp. 9, 63.

irrelevant for this incident. With regard to the Defence's argument concerning VRS operations in the area on 17 July 1995, the Trial Chamber notes that the VRS activities, mentioned in Gavrić's evidence, went beyond the mere collection of information on the presence of remaining ABiH members in the Cerska area and involved the capture of Bosnian Muslims. However, the Trial Chamber notes that the legitimacy of the operation in which this capture took place is not relevant to the analysis of this alleged incident.

2684. Based on the foregoing, the Trial Chamber finds that on or around 17 July 1995, 'Chetniks' killed 150 non-Serb males, of whom at least 149 were shot, including minors, some as young as 14 years old, in an area along the road from Nova Kasaba to Konjević Polje, near Cerska.<sup>11457</sup> Considering Keserović's evidence reviewed above as well as the evidence reviewed in chapters 7.1.6 and 9.7 the Trial Chamber finds that these perpetrators included members of the Special Police Detachment and Special Police Unit of the MUP. The perpetrators subsequently buried them in a mass grave to the southwest of the road. Civilian clothes were found on all but three of the victims and some of them were found with their hands tied behind their backs.<sup>11458</sup> The Trial Chamber will further consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

<sup>11456</sup> P1831 (William Haglund, Cerska Valley report, 15 June 1998), pp. 66-67.

<sup>11457</sup> The Trial Chamber noticed slight differences in the account of the incident in the evidence of Reif Mehmedović and Sulejman Buljubašić. In particular, it noted differences concerning the exact date of the incident and the composition of the convoy and its route. However, the Trial Chamber does not find these differences to be so considerable as to affect the outcome of its finding.

<sup>11458</sup> In this regard, the Trial Chamber is satisfied that Adjudicated Fact 1527, and in particular the reference to the ligatures found on the victims' hands, establishes that the 150 Bosnian-Muslim men were executed and rejects the Defence's argument that the victims may have died in combat or committed suicide. With regard to the other cause of death proposed by the Defence, namely internal ABiH clashes, the Trial Chamber has received no evidence in this regard and is satisfied on the basis of the evidence reviewed, including Buljubašić's evidence, that 'Chetniks' killed the 150 Bosnian-Muslim men.

7.4 Kravica Warehouse (Schedule E.3.1)

2685. According to the Indictment, the Accused is responsible for the killing of over 1,000 Bosnian-Muslim men in a large warehouse in the village of Kravica on 13 July 1995.<sup>11459</sup> The bodies of the victims were transported to two large mass graves located in the nearby villages of Glogova and Ravnice on 14 July 1995.<sup>11460</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to this incident. It also received evidence from **Witness RM-274**, a member of the ABiH in July 1995;<sup>11461</sup> **Witness RM-254**, a Bosnian Muslim from Srebrenica Municipality;<sup>11462</sup> **Witness RM-256** and **Witness RM-346**, Bosnian Muslims from Srebrenica and members of the ABiH;<sup>11463</sup> **Zoran Petrović**, a journalist from Belgrade who travelled the area around Bratunac with Ljubiša Borovčanin from 13 to 15 July 1995;<sup>11464</sup> **Milenko Pepić** and **Predrag Čelić**, Bosnian-Serb members of the 2nd Šekovići Special Police Brigade;<sup>11465</sup> **Bojan Subotić**, commander of a platoon in the military police battalion of the 65th Motorised Protection Regiment in July 1995;<sup>11466</sup> **Witness RM-268**, a member of the Special Police Brigade in 1995;<sup>11467</sup> **Witness RM-306**, a Serb from Bratunac;<sup>11468</sup> **Nedo Jovičić**, a member of the Special Police Brigade as the driver to the brigade's Deputy Commander, Ljubomir Borovčanin, during 1995;<sup>11469</sup> **Witness RM-260**, a member of the Civilian Protection Staff in Bratunac Municipality in July 1995;<sup>11470</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade

<sup>11459</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.3.

<sup>11460</sup> Indictment, Schedule E.3.

<sup>11461</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6972.

<sup>11462</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), p. 1, para. 1. The evidence of Witness RM-254 is also reviewed in chapter 7.14.1.

<sup>11463</sup> **Witness RM-256**: P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2;

Witness RM-256, T. 13187. **Witness RM-346**: P1118 (Witness RM-346, prior testimony), p. 3016;

P1117 (Witness RM-346, pseudonym sheet); Witness RM-346, T. 9576.

<sup>11464</sup> P3347 (Zoran Petrović, *Popović et al.* transcript 4 December 2007), pp. 18738, 18741, 18764-18765, 18830.

<sup>11465</sup> **Milenko Pepić**: P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 2, 5; Milenko Pepić, T. 12406-12407, 12433. **Predrag Čelić**: P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13456-13458, 13462. The Trial Chamber understands the two spellings of Šekovići and Šehovići to refer to the same place and will use them interchangeably throughout the Judgment.

<sup>11466</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 2, 4.

<sup>11467</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567.

<sup>11468</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9357-9358; Witness RM-306, T. 11446; D293 (Witness RM-306, statement to the Bosnian-Serb MUP, 26 December 2005), pp. 1-2.

<sup>11469</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>11470</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7861-7862.

from November 1992 to at least October 1995;<sup>11471</sup> **David Harland**, an UNPROFOR civil affairs officer assigned to Sarajevo as of May 1993;<sup>11472</sup> **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and the Bosnian-Serb Republic in 1995;<sup>11473</sup> **Rahima Malkić**, a Bosnian Muslim from Srebrenica Municipality;<sup>11474</sup> **John Clark**, a forensic pathologist;<sup>11475</sup> and **Dušan Janc**, an investigator;<sup>11476</sup> as well as documentary evidence and finds that this evidence is consistent with the Adjudicated Facts.<sup>11477</sup> The Trial Chamber also received evidence from **Ljubodrag Gajić**, a member

<sup>11471</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>11472</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>11473</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1.

<sup>11474</sup> P1005 (Rahima Malkić, witness statement, 17 June 2000), pp. 1-2; P1006 (Rahima Malkić, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2.

<sup>11475</sup> John Clark, T. 17185; P2236 (*Curriculum vitae* of John Clark); P2257 (John Clark, *Krstić* transcript, 30-31 May 2000), pp. 3897-3899; P2258 (John Clark, *Karadžić* transcript, 10 January 2012), pp. 22692-22693. John Clark's evidence is also reviewed in chapters 7.3 and 7.7.

<sup>11476</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

<sup>11477</sup> **Witness RM-274**: P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6989-6990, 6999-7000. **Witness RM-256**: P1592 (Witness RM-256, witness statement, 16 January 1996), paras 8, 18; 20-23, P1593 (Witness RM-256, witness statement, 21 September 1995), p. 4; Witness RM-256, T. 13181-13182, 13195-13197. **Witness RM-254**: P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; Witness RM-254, T. 13837-13838; D321 (Statement by Witness RM-254, 5 June 1997), pp. 1-2; D322 (Record of witness interview, 16 April 2009), p. 5; D323 (Internal Memorandum, Interview with Witness RM-254, 13 November 2003), p. 1; D324 (Court documents), pp. 12-13, 35 57; D325 (Court documents), pp. 6-7, 27-28, 37. **Witness RM-346**: P1118 (Witness RM-346, prior testimony), pp. 3025-3027; P1119 (Witness RM-346, *Karadžić* transcript, 2 February 2012), p. 24123; Witness RM-346, T. 9568; P1120 (Panoramic photograph of Kravica Warehouse); P1124 (Annotated photo of Kravica Warehouse, marked by Witness RM-346 in *Karadžić*, 2 February 2012). **Zoran Petrović**: P3347 (Zoran Petrović, *Popović et al.* transcript 4 December 2007), pp. 18802, 18807-18808; P3350 (Video still panorama montage of the Kravica Warehouse, taken from the Srebrenica Trial Video at 02:56:16). **Milenko Pepić**: P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 9; Milenko Pepić, T. 12418-12419, 12447, 13477; P1545 (Still taken from aerial film of Kravica Warehouse, marked by Milenko Pepić). **Bojan Subotić**: D926 (Bojan Subotić, witness statement, 15 June 2014), paras 6, 29, 31, 34-35; Bojan Subotić, T. 32971-32974, 32988. **Witness RM-268**: P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8621-8624. **Witness RM-306**: P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9362-9363, 9365-9370, 9372, 9392; Witness RM-306, T. 11428-11429, 11431, 11443, 11465-11466, 11473, 11475, 11495, 11511. **Witness RM-260**: P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), p. 7879-7880, 7882; P3622 (Witness RM-260, *Popović et al.* transcript, 19 November 2007), p. 17851; P3623 (Witness RM-260, *Karadžić* transcript, 7 February 2012), p. 24221. **Nedo Jovičić**: D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 30-33; Nedo Jovičić, T. 33724-33727, 33729-33733, 33735-33738. **Momir Nikolić**: D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9; Momir Nikolić, T. 12098. The Trial Chamber notes that the witness refers to the Kravica farm cooperative throughout his testimony and understands this to be the Kravica Warehouse. **David Harland**: David Harland, T. 904; **Witness RM-333**: P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14835, 14888; **John Clark**: P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 1, 6-8, 10-11, 14, 16, 25-27; P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001), pp. 6-7, 9-11. **Dušan Janc**: P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), Annex A, pp. 5-8. **Predrag Čelić**: P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June

of the MUP 1st Company of the Jahorina Training Centre;<sup>11478</sup> **Mevludin Orić**, a Bosnian Muslim from Lehovići in Srebrenica Municipality;<sup>11479</sup> **Mile Simanić**, a member of the Vlasenica TO and Deputy Commander of the 5th Engineering Battalion of the DK in 1995;<sup>11480</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992 and member of the SDS main board as of the summer of 1993;<sup>11481</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon with the Bratunac Light Infantry Brigade in July 1995;<sup>11482</sup> **Jose Baraybar**, a forensic anthropologist;<sup>11483</sup> **Vesna Ivanović**, a medical doctor working at the Health Centre in Bratunac since 1986;<sup>11484</sup> and **Christopher Lawrence**, a forensic pathologist.<sup>11485</sup>

*Detention and killing of Bosnian Muslims at Kravica Warehouse*

2686. **Predrag Čelić** stated that on 12 July 1995, the 2nd Šekovici Detachment of the Special Police Brigade was ordered to deploy along the road from Sandići towards Kravica, and was assigned to secure the Bratunac-Konjević Polje road and to protect the surrounding villages from the people who had left Srebrenica.<sup>11486</sup> At that time, the detachment was commanded by Rade Čturić who was present with the unit in the field on 12 and 13 July 1995.<sup>11487</sup> The Commander and Deputy Commander of the Special Police Brigade were Goran Sarić and Ljubiša Borovčanin, respectively.<sup>11488</sup> The witness's unit wore camouflage uniforms, with a patch on the left shoulder featuring the words 'Special Brigade' and 'the police', as well as a number and a flag with the coat of

2007), pp. 13477, 13479-13480. **Rahima Malkić**: P1005 (Rahima Malkić, witness statement, 17 June 2000), p. 2; P1006 (Rahima Malkić, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2.

**Documentary evidence**: P2795 (ICMP Srebrenica Update Expert Report, 21 July 2013); P5588 (ICMP Notice of DNA Reports, December 2007. Mevludin Orić's evidence is reviewed in chapter 7.14.1.

<sup>11478</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

<sup>11479</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869.

<sup>11480</sup> P3517 (Mile Simanić, *Popović et al.* transcript, 3 September 2007), pp. 14619, 14621-14622.

<sup>11481</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>11482</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p. 1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4.

<sup>11483</sup> Jose Baraybar, T. 16002; P2071 (*Curriculum vitae* of Jose Baraybar, undated), p. 1. Jose Baraybar's evidence is also reviewed in chapter 7.10.

<sup>11484</sup> P3154 (Vesna Ivanović, witness statement, 26 August 2013), pp. 1, 5, para. 1.

<sup>11485</sup> Christopher Lawrence, T. 14695; P1803 (*Curriculum vitae* of Christopher Lawrence, undated), pp. 1-2.

<sup>11486</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13465-13469. *See also* P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 7; Milenko Pepić, T. 12408, 12411, 12434-12435; D305 (Colour photograph, marked by Milenko Pepić).

<sup>11487</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13458, 13461, 13473.

<sup>11488</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), p. 13459.

arms, a two-headed eagle.<sup>11489</sup> The witness's detachment, the 2nd Šekovici Detachment, was deployed along the road, in groups of two or three.<sup>11490</sup> The witness stood at a house with Brano Džinić, Zoran Tomić, and Slobodan Stjepanović, around 600 metres from Kravica Warehouse.<sup>11491</sup> The 1st Company of the Zvornik SJB, was also stationed in the area between Sandići and Konjević Polje.<sup>11492</sup> **Milenko Pepić**, another member of the 2nd Šekovici Detachment, testified that he and others were deployed to the left side of the road, when viewed from Konjević Polje towards Kravica, and that he arrived at this position in the afternoon of 13 July 1995.<sup>11493</sup> Rade Čturić came on that day and told him that a large group of Muslims located in Sandići was about to surrender, and they needed to be escorted to Kravica Warehouse.<sup>11494</sup> The witness drove with Čturić to a bridge near Kravica centre.<sup>11495</sup> Čturić handed the witness a Motorola headset and instructed him to halt the vehicles coming from Srebrenica containing women and children once Čturić would call him. This was necessary to enable the escort of the detainees to Kravica Warehouse without causing a traffic jam.<sup>11496</sup> The witness received Čturić's call about an hour later, and he stopped a column of buses carrying women and children from Srebrenica, stopping the traffic for about an hour.<sup>11497</sup> The witness saw buses carrying refugees along the road from Sandići towards Kravica, but did not see any military vehicles or soldiers.<sup>11498</sup> **Predrag Čelić** stated that in the afternoon of 12 July and on 13 July 1995, he saw buses and trucks with civilians passing along the road, coming from the area of Srebrenica and Potočari.<sup>11499</sup>

2687. Between 1,000 and 1,500 Bosnian-Muslim men from the column (*see* chapter 7.1.6) fleeing through the woods, who had been captured and detained in Sandići Meadow (*see* chapter 7.5), were bussed or marched to Kravica Warehouse at Glogova

<sup>11489</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), p. 13462.

<sup>11490</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13459-13450, 13470.

<sup>11491</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13470-13471.

<sup>11492</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13470-13472.

<sup>11493</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 7; Milenko Pepić, T. 12429.

<sup>11494</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 8.

<sup>11495</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 8; Milenko Pepić, T. 12415-12417, 12436; P1544 (Map of eastern Bosnia from Zelani Jadar to Konjević Polje, marked by Milenko Pepić); D305 (Colour photograph, marked by Milenko Pepić).

<sup>11496</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 8; Milenko Pepić, T. 12437-12438.

<sup>11497</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 8; Milenko Pepić, T. 12438.

<sup>11498</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 8.

<sup>11499</sup> P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), p. 13474.

on the afternoon of 13 July 1995.<sup>11500</sup> **Witness RM-274** estimated that on the same day and within two hours of his arrival at the warehouse around 2,500 to 3,000 other men arrived at the warehouse and were ordered to sit in the same section of the building as he was sitting. They were so tightly packed that they were almost suffocating.<sup>11501</sup> A number of guards would occasionally go in and out of the warehouse, and the Serb soldiers there wore new, multi-coloured and green camouflage uniforms.<sup>11502</sup> One of the soldiers also wore a blue UN helmet.<sup>11503</sup> The guards ordered the men to surrender any money, jewellery, or other valuables and told the men that the items would eventually be returned.<sup>11504</sup> When the guards brought in a bucket of water, a fight to get it almost broke out among the exhausted men.<sup>11505</sup> At one point, a frightened man ran outside and the guards killed him in front of the entrance. They told the men that if anyone else tried to escape, he would be shot just like this man.<sup>11506</sup> Shortly thereafter, the Serb soldiers became agitated and angry, and the witness heard shooting outside from tanks, automatic rifles, and other weapons, as well as hand grenade detonations.<sup>11507</sup>

2688. **Witness RM-306** testified that on 13 July 1995 in the afternoon, on his way from Bratunac to Konjević Polje he saw a man in a green camouflage uniform ordering five men to lie on their stomachs and then shooting them in the back near Kravica Warehouse.<sup>11508</sup> In front of the warehouse were about 10 to 20 other people in camouflage uniforms as well as a pile of 40 to 50 bodies.<sup>11509</sup>

2689. **Witness RM-254** testified that he was brought to the warehouse by five or six Serb soldiers with automatic rifles, wearing olive-drab uniforms and red arm bands with the word 'Yugoslavia' on them.<sup>11510</sup> They cursed the witness's 'balija mother', and asked where Naser Orić was now to defend them. As the warehouse was already full,

<sup>11500</sup> Adjudicated Facts II, no. 1530.

<sup>11501</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6990.

<sup>11502</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6990-6992.

<sup>11503</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6992.

<sup>11504</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6990-6991.

<sup>11505</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6992.

<sup>11506</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7001.

<sup>11507</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6992-6993, 6996.

<sup>11508</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9360-9361, 9365; Witness RM-306, T. 11438-11439, 11470-11471; P1480 (Photo marked by Witness RM-306).

<sup>11509</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9360-9361, 9365; Witness RM-306, T. 11438-11439; P1480 (Photo marked by Witness RM-306).

<sup>11510</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; Witness RM-254, T. 13837-13838; D321 (Statement by Witness RM-254, 5 June 1997), pp. 1-2; D322 (Record of witness interview, 16 April 2009), p. 5; D323 (Internal Memorandum, Interview with Witness RM-254, 13 November 2003), p. 1; D324 (Court documents), pp. 12-13, 35 57; D325 (Court documents), pp. 6-7, 27-28, 37.



the witness was ordered to stay outside.<sup>11511</sup> Ten detainees were already in front of the warehouse and the ‘Chetniks’ kept bringing new groups of captured men.<sup>11512</sup> Serb soldiers in dark green camouflage and black uniforms lined up a group of seven to ten men in plain clothes and executed them with automatic rifles.<sup>11513</sup> A 15 or 16-year-old boy called Nermin Nukić was shot in the legs by a Serb soldier wearing a black uniform.<sup>11514</sup> One of the soldiers said that Nukić required help and first aid, and he was carried behind the warehouse by two soldiers. The witness did not know whether Nukić survived but his mother inquired about the whereabouts of her son later on.<sup>11515</sup> The Serb soldiers said to the witness’s group that this would happen to them if they tried to escape and that ‘you’ll get the same as soon as it’s your turn, because we still have a full warehouse to kill’.<sup>11516</sup> After the first group was executed, more people were brought out of the hangar, in groups of approximately ten, and they were lined up against the wall and shot at.<sup>11517</sup> The witness could not recall how many groups of people were brought out of the hangar.<sup>11518</sup>

2690. At around 6 p.m., when the warehouse was full, the soldiers started throwing grenades and shooting directly into the midst of the men packed inside.<sup>11519</sup> **Witness RM-256** testified that the guards fired anti-tank rockets at the detainees.<sup>11520</sup> **Witness RM-274** described how a soldier with black glasses, a flak jacket, and long shoulder-length curly black hair was the first to open fire, followed by the soldier wearing the blue UN helmet.<sup>11521</sup> Guards surrounding the building killed prisoners who tried to

<sup>11511</sup> D321 (Statement by Witness RM-254, 5 June 1997), p. 2.

<sup>11512</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; D321 (Statement by Witness RM-254, 5 June 1997), p. 2.

<sup>11513</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; Witness RM-254, T. 13866-13867; D321 (Statement by Witness RM-254, 5 June 1997), p. 2; D324 (Court documents), pp. 12, 15-16; D325 (Court documents), pp. 8, 19.

<sup>11514</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; Witness RM-254, T. 13810-13812, 13838-13839, 13841; D321 (Statement by Witness RM-254, 5 June 1997), p. 2; D322 (Record of witness interview, 16 April 2009), p. 5; D324 (Court documents), pp.14-15, 36-37, 40-41, 52-53, 57-58; D325 (Court documents), pp. 4, 9, 18, 34-35.

<sup>11515</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; Witness RM-254, T. 13810-13812, 13839-13840; D321 (Statement by Witness RM-254, 5 June 1997), p. 2; D324 (Court documents), pp. 14, 18; D325 (Court documents), pp. 9-10.

<sup>11516</sup> P1690 (Witness RM-254, witness statement, 18 August 1996), para. 5; D324 (Court documents), p. 16; D325 (Court documents), p. 9.

<sup>11517</sup> Witness RM-254, T. 13867; D322 (Record of witness interview, 16 April 2009), p. 5; D324 (Court documents), p. 14; D325 (Court documents), pp. 10, 36-37.

<sup>11518</sup> Witness RM-254, T. 13867-13868; D324 (Court documents), p. 47; D325 (Court documents), p. 10.

<sup>11519</sup> Adjudicated Facts II, no. 1531.

<sup>11520</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 20-21; Witness RM-256, T. 13181-13182, 13196-13197.

<sup>11521</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6999.

escape through the windows.<sup>11522</sup> The soldiers continued to fire at the men throughout the night, stopping only for short breaks.<sup>11523</sup> The witness stayed on his stomach through the night, and was shot in his right leg and injured by a piece of shrapnel in his back.<sup>11524</sup> Through the night, he could hear the moans and shouts of people calling out names of loved ones.<sup>11525</sup> During the lulls in shooting, he attempted to reach a container he had seen near a window by crawling over dead bodies.<sup>11526</sup> After several attempts, and completely soaked in hot blood, he made it to the container and jumped out the very narrow window.<sup>11527</sup> As he hit the ground he heard a voice say, '[t]here is another one jumping out', so he stayed on the ground waiting for someone to kill him.<sup>11528</sup> A soldier came through the cornfield, pointed a torch light at him, and then fired a bullet from a few metres away, hitting him in the right shoulder and asked, '[d]o you want another one?'. The witness kept quiet pretending to be dead, and the soldier left.<sup>11529</sup>

2691. The witness remained still and in the morning another soldier came by him in the field. He was covered in blood and flies and slowed down his breathing so the soldier would think he was dead. After a minute, the soldier went back into the cornfield.<sup>11530</sup> While lying under the window he heard more men being shot and soldiers saying of the wounded, 'This one seems to be still alive. He needs to be shot', and of the bodies that needed to be collected, 'No, let's leave those alone for the time being and focus on those inside'.<sup>11531</sup> The witness crawled through the cornfield and saw two dead men whom he thought had also tried to escape before him.<sup>11532</sup> He crossed a river and made it to the other side of the river bank. He then fled into the forest, eventually deciding to make his way to Žepa with a group of about a dozen people he had met in the forest.<sup>11533</sup>

2692. **Witness RM-256** described how he ran to the guardhouse when the shooting started, which was full of other detainees, and then the shooting concentrated there. The witness was soaked with blood from the other detainees and he grabbed a dead body to

<sup>11522</sup> Adjudicated Facts II, no. 1532.

<sup>11523</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6999-7000.

<sup>11524</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 7000, 7006-7007.

<sup>11525</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7000.

<sup>11526</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7001.

<sup>11527</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7001; P4208 (Photograph of warehouse windows, marked by Witness RM-274); P4209 (Still from aerial film of Kravica Warehouse, marked by Witness RM-274).

<sup>11528</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7003.

<sup>11529</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7005.

<sup>11530</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7005.

<sup>11531</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7006.

<sup>11532</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 7007.

put on top of himself.<sup>11534</sup> By the time the shooting stopped, the warehouse was filled with corpses.<sup>11535</sup> On that evening, approximately 1,000 Bosnian-Muslim men were executed in the warehouse.<sup>11536</sup>

2693. In the evening of 13 July 1995, while passing by Kravica Warehouse, **Milenko Pepić** observed hay scattered in front of the entrance to the warehouse.<sup>11537</sup> He assumed that the hay was used to cover the bodies of the Muslims killed, so that the women and children passing along that road in coaches would not see them.<sup>11538</sup> The witness and others spent the night in abandoned houses located between Konjević Polje and Zvornik.<sup>11539</sup>

2694. **Mladen Blagojević** testified that he heard that Ilija Nikolić, a member of the Bratunac Brigade, was involved in the executions at the Kravica Warehouse.<sup>11540</sup> **Ljubodrag Gajić** testified that on 14 July 1995 around 1 to 2 a.m., he and his unit, the MUP 1st Company of the Jahorina training centre, went to a location near Kravica Warehouse.<sup>11541</sup> People were brought to the warehouse by two types of trucks: the '110' truck could hold six or seven people and the '150' truck could hold 25 or 30 people.<sup>11542</sup> The trucks made around eight to ten rounds but were not always fully loaded.<sup>11543</sup> The witness saw people in the warehouse being shot by two policemen from the Šekovići Special Police Detachment.<sup>11544</sup> **Momir Nikolić** testified that the DK command ordered him to investigate the perpetrators of killings at Kravica Warehouse and determine whether VRS members had participated.<sup>11545</sup> The witness went into the field and 'established' that members of the police forces had committed the killings. According to Nikolić, Milovan Matić and Ilija Nikolić, members of the 1st Infantry Battalion of the Bratunac Brigade, and Nikola Popović, a member of the Bratunac Brigade Military

<sup>11533</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 7007, 7011.

<sup>11534</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 21.

<sup>11535</sup> Adjudicated Facts II, no. 1533.

<sup>11536</sup> Adjudicated Facts II, no. 1534.

<sup>11537</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 9; Milenko Pepić, T. 12418-12419, 12447; P1545 (Still taken from aerial film of Kravica Warehouse, marked by Milenko Pepić).

<sup>11538</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 9.

<sup>11539</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 9-10.

<sup>11540</sup> P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 9.

<sup>11541</sup> Ljubodrag Gajić, T. 40311, 40314-40315.

<sup>11542</sup> Ljubodrag Gajić, T. 40321-40322.

<sup>11543</sup> Ljubodrag Gajić, T. 40322.

<sup>11544</sup> Ljubodrag Gajić, T. 40317-40318, 40336.

<sup>11545</sup> Momir Nikolić, T. 12098.

Police, participated in the execution, but had not been sent there under VRS orders.<sup>11546</sup> These Bratunac Brigade members were former residents of Kravica who were seeking revenge.<sup>11547</sup> After the war, members of the police units informed the witness that prior to the Kravica killings, there had been an incident during which one policeman was killed and one was wounded, in response to which the perpetrators had killed everybody they found at the location.<sup>11548</sup> The witness learned that on 13 July 1995, machines were brought from Zvornik and Bratunac to bury the bodies.<sup>11549</sup> One or two days after the events, he reported his findings to Colonel Blagojević.<sup>11550</sup>

2695. The next morning, the soldiers called out to see if any of the wounded men were still alive.<sup>11551</sup> **Witness RM-256** testified that he heard one soldier promise that a car would take those who answered to the hospital.<sup>11552</sup> Upon identifying some wounded prisoners, the guards made some of them sing Serb songs and then they killed them.<sup>11553</sup> **Witness RM-256** heard the ‘Chetniks’ curse at one man ‘Fuck you, you Turk’.<sup>11554</sup> Later, he heard them cursing another man’s ‘Islamic tribe’.<sup>11555</sup> After the last one had been killed, an excavator began taking the bodies out of the warehouse.<sup>11556</sup> A water tank was used to wash the blood off the asphalt.<sup>11557</sup> **Witness RM-256** heard a voice ordering someone to cover the bodies with hay and this order was carried out.<sup>11558</sup> The next evening, on 14 July 1995, the witness found two other survivors and together with one of them, he managed to escape and hide in a cornfield and forest nearby for five days.<sup>11559</sup> The witness eventually made it to Kladanj on 17 September 1995.<sup>11560</sup>

<sup>11546</sup> Momir Nikolić, T. 12098; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11547</sup> Momir Nikolić, T. 12098.

<sup>11548</sup> Momir Nikolić, T. 12106; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11549</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11550</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11551</sup> Adjudicated Facts II, no. 1535.

<sup>11552</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 22.

<sup>11553</sup> Adjudicated Facts II, no. 1535.

<sup>11554</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 22.

<sup>11555</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 22.

<sup>11556</sup> Adjudicated Facts II, no. 1536.

<sup>11557</sup> Adjudicated Facts II, no. 1536.

<sup>11558</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 23.

<sup>11559</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 24-26; Witness RM-256, T. 13198-13200.

<sup>11560</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 27-32; Witness RM-256, T. 13200.

*Burnt-hands incident*

2696. **Milenko Pepić** testified that after he received the order to stop the traffic, he heard gunfire and bomb detonations coming from the direction of Kravica Warehouse lasting around an hour, with the gunfire having been louder, stronger, and more frequent than the shooting he heard from the woods earlier that day.<sup>11561</sup> The witness added that the sound of gunfire appeared to be one-sided, without any return fire.<sup>11562</sup> The witness later heard Čturić say, over the communications system, possibly to Borovčanin, that a member of the 3rd Skelani Platoon with the first name Krsto, a.k.a. Krle, had been killed.<sup>11563</sup> Ten minutes later, Čturić drove to the bridge and told the witness that the Muslims had snatched Krle's rifle from him and killed him with it, and that at that moment, the Muslims were being fired at.<sup>11564</sup> Čturić, who had grabbed the gun by the barrel, had his burnt hands in bandages and was on his way to the infirmary.<sup>11565</sup> **Nedo Jovičić** testified that on 13 July 1995, on his way from Sandići to Konjević Polje with Ljubiša Borovčanin, the latter received a call from Mišo Stupar requesting that they come immediately to Kravica Warehouse as one of their members had been killed and another one was wounded.<sup>11566</sup> During a radio exchange on 13 July 1995 at 4:48 p.m., between, *inter alios*, Ljubiša Borovčanin and an unidentified male referred to as 'Officer', Borovčanin ordered the officer to stop the traffic behind him.<sup>11567</sup> The officer replied that a man named Kovač said he would do it.<sup>11568</sup> At the warehouse, they found the wounded man, called 'Officir', put him in a car and drove him to the Bratunac

<sup>11561</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 8-9; Milenko Pepić, T. 12412-12414, 12438.

<sup>11562</sup> Milenko Pepić, T. 12413-12414.

<sup>11563</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), pp. 8-9; Milenko Pepić, T. 12419-12420, 12438-12440, 12451.

<sup>11564</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 9; Milenko Pepić, T. 12396-12398, 12457. *See also* P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 10; Milenko Pepić, T. 12451-12452; P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), pp. 13460, 13480-13482. Momir Nikolić, T. 12106; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11565</sup> P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 9; Milenko Pepić, T. 12445-12446, 12454. *See also* P1543 (Milenko Pepić, Bosnia-Herzegovina statement, 26 October 2005), p. 10; Milenko Pepić, T. 12452, 12459; P2173 (Predrag Čelić, *Popović et al.* transcript, 28 June 2007), p. 13482; P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8622, 8624-8626.

<sup>11566</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 25, 30-31. The Trial Chamber notes that the witness refers to the 'Kravica agricultural cooperative' throughout his testimony and understands this to refer to the Kravica Warehouse.

<sup>11567</sup> P1541 (Video footage of 13-14 July 1995), pp. 10-11. The voice of Ljubiša Borovčanin during this radio conversation was identified by his driver Nedo Jovičić, *see* T. 33711-33712.

<sup>11568</sup> P1541 (Video footage of 13-14 July 1995), p. 11.

Health Centre.<sup>11569</sup> When he was back in Bratunac, Borovčanin ordered the witness to return to the warehouse to see what had happened.<sup>11570</sup> At the warehouse, the witness saw two men running out of the enclosed part of the building, where the shooting was taking place. One of the armed men firing through the door of the warehouse shot at them. The witness dropped down to avoid being shot at but saw that the two men who were running out of the warehouse were eventually hit by bullets and fell to the ground.<sup>11571</sup> Right after, he drove back to Bratunac and reported the incident to Borovčanin.<sup>11572</sup> Together they then went to the SDS premises and reported the incident to Deronjić asking him to take action.<sup>11573</sup> The following day, on 14 July 1995, the witness accompanied Deronjić to a meeting with Karadžić in Pale.<sup>11574</sup>

2697. **Pepić** testified that after one hour, Čturić returned from the infirmary with his arm still in bandages and drove straight towards Kravica Warehouse.<sup>11575</sup> An excerpt of a patient logbook for the Health Centre lists Rade Čturić as having been admitted to the centre on 13 July 1995 at 5:40 p.m.<sup>11576</sup> The firing from the direction of the warehouse stopped a short while later, just before nightfall, and Čturić ordered the witness to let traffic through.<sup>11577</sup> **Witness RM-260** stated that on 13 July 1995, he learned about the rifle incident at Kravica Warehouse, which resulted in chaos and the death of many 'POWs'.<sup>11578</sup>

#### *Burial and reburial operations*

2698. On the evening of 13 July, Colonel Beara, together with Miroslav Deronjić and others, began organizing the burials of the Bosnian-Muslim men killed at Kravica

<sup>11569</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 30-31.

<sup>11570</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 31, 33; Nedo Jovičić, T. 33733.

<sup>11571</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 33.

<sup>11572</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 33-34.

<sup>11573</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 34.

<sup>11574</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 36-37.

<sup>11575</sup> P1543 (Milenko Pečić, Bosnia-Herzegovina statement, 26 October 2005), p. 9.

<sup>11576</sup> P1477 (Excerpt of patient log from Bratunac Health Centre, 13-15 July 1995), p. 2. *See also* P3154 (Vesna Ivanović, witness statement, 26 August 2013), paras 2-3.

<sup>11577</sup> P1543 (Milenko Pečić, Bosnia-Herzegovina statement, 26 October 2005), p. 9; Milenko Pečić, T. 12447.

<sup>11578</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), p. 7873. The Trial Chamber notes that the witness refers to the 'cooperative building in Kravica' and understands this to refer to the Kravica Warehouse.

Warehouse.<sup>11579</sup> **Miroslav Deronjić** stated that Ljubiša Borovčanin told him on 16 July 1995 about the Kravica massacre and what had caused it.<sup>11580</sup>

2699. **Mile Simanić** stated that around 11 to 13 July 1995, during the leave of the Commander of his unit, the 5th Engineering Battalion of the DK, he spent most of his time at construction sites around Konjević Polje and Vlasenica to make sure that works followed the schedule required from their superiors.<sup>11581</sup> After the fall of Srebrenica, the witness heard from soldiers returning from leave about the movement of Muslim soldiers in the Konjević Polje area.<sup>11582</sup> According to a combat report from the 5th Engineering Battalion dated 14 July 1995, a large 'enemy' group from the direction of Srebrenica was infiltrating the Pobuđe-Konjević Polje area.<sup>11583</sup> The report further refers to the organization of ambushes to fight and 'destroy the enemy' in Pobuđe Hill.<sup>11584</sup> The report points out the involvement of the 1st Pioneers Company, the Road and Bridge Company, the Logistics Platoon, and a MUP Police Company in the organization and participation in combat activities against the 'enemy'.<sup>11585</sup> According to this report, 1,000 to 1,500 'enemy civilians and soldiers' had been arrested and killed.<sup>11586</sup> Furthermore, the report mentions that preparatory activities needed to be carried out for the loading machine engaged to bury the killed enemy soldiers and assigned 50 litres of oil for that task.<sup>11587</sup> According to the witness, the 5th Engineering Battalion never arrested anybody and was only involved in defensive activities in the area of the barracks.<sup>11588</sup> The logistics platoon did not have any organizational function and could only implement tasks.<sup>11589</sup> The equipment required to carry out preparatory

<sup>11579</sup> Adjudicated Facts II, no. 1537.

<sup>11580</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6226-6228.

<sup>11581</sup> P3517 (Mile Simanić, *Popović* transcript, 3 September 2007), pp. 14622, 14631-14632, 14634, 14638-14639.

<sup>11582</sup> P3517 (Mile Simanić, *Popović* transcript, 3 September 2007), p. 14633.

<sup>11583</sup> P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), pp. 1-3.

<sup>11584</sup> P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), pp. 3-4.

<sup>11585</sup> P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), pp. 1-2.

<sup>11586</sup> P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), p. 1.

<sup>11587</sup> P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), pp. 3-4.

<sup>11588</sup> P3517 (Mile Simanić, *Popović et al.* transcript, 3 September 2007), pp. 14643, 14649; P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić, 14 July 1995), p. 3.

<sup>11589</sup> P3517 (Mile Simanić, *Popović et al.* transcript, 3 September 2007), p. 14645; P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić and dated 14 July 1995), p. 2.

activities to bury killed 'enemy' soldiers most likely referred to the small tractor with a loading bucket at the back and front which had been returned to the battalion.<sup>11590</sup>

2700. Between 14 and 16 July, the bodies of the Bosnian-Muslim men were taken in trucks from the warehouse to be buried at grave sites in Glogova and Ravnice.<sup>11591</sup>

**Witness RM-306** testified that on 14 July 1995, workers from the utility company dug out a grave in Glogova with a loader excavator from the Brickworks Bratunac Company.<sup>11592</sup> Later that day, a backhoe excavator arrived and during the following days three more pits were dug out and in total between 400 and 500 bodies, all Muslims, were buried in the graves in Glogova.<sup>11593</sup> On 14 July 1995, members of the Bratunac Brigade participated in the burial of the victims.<sup>11594</sup> A loader of the *Rad* Utilities Company was used to load the bodies onto the trucks. It was operated by two members of the Bratunac Brigade.<sup>11595</sup> **Witness RM-260** stated that the eyes of the workers were bloody and they seemed to be very tired.<sup>11596</sup> The witness recognized the drivers Radomir Djurković and a man named Simić.<sup>11597</sup> He further recognized Dragan Mirković and Momir Nikolić, and he saw 20 to 30 soldiers with automatic rifles.<sup>11598</sup> On 15 July 1995, members of the Engineering Company of the Zvornik Brigade participated in the burial operation at Glogova following the mass executions.<sup>11599</sup>

2701. The Trial Chamber also considered additional evidence of Witness RM-260 on the burial and reburial operations, which has been placed in the confidential annex in Appendix D.

2702. The Prosecution sent a team of experts to examine Kravica Warehouse on 30 September 1996. Experts determined the presence of bullet strikes, explosives residue, bullets, and shell cases, as well as human blood, bones, and tissue adhering to the walls

<sup>11590</sup> P3517 (Mile Simanić, *Popović et al.* transcript, 3 September 2007), p. 14648; P3518 (Regular Combat Report from the 5th engineering battalion signed by Mile Simanić and dated 14 July 1995), p. 1.

<sup>11591</sup> Adjudicated Facts II, no. 1538.

<sup>11592</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9371-9372, 9387-9388; Witness RM-306, T. 11464-11465.

<sup>11593</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9371-9372, 9387-9389, 9392; Witness RM-306, T. 11434, 11440, 11442, 11475 11512-11513, 11517; P1478 (Aerial Photography of mass grave Glogova marked by Witness RM-306); P1481 (Srebrenica mass graves, Primary and secondary mass grave aerial imagery), pp. 10-15.

<sup>11594</sup> Adjudicated Facts II, no. 1539.

<sup>11595</sup> Adjudicated Facts II, no. 1540.

<sup>11596</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), p. 7880.

<sup>11597</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7881-7882, 7909.

<sup>11598</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7881-7882.

<sup>11599</sup> Adjudicated Facts II, no. 1541.



and floors of the building.<sup>11600</sup> **Dušan Janc** testified that, based on DNA analysis, the victims of this scheduled incident were buried in the primary mass graves of Glogova 1 and 2 and Ravnice 1 and 2.<sup>11601</sup> Bodies from the Glogova 1 and 2 primary mass graves were subsequently reburied in the secondary mass graves of Zeleni Jadar 1A, 1B, 2, 3, 4, 5, and 6; Blječeva 1, 2, and 3; Zalazje 1 and 2; and Budak 1 and 2.<sup>11602</sup>

2703. The Glogova 2 gravesite was exhumed by the Prosecution between 11 September and 22 October 1999.<sup>11603</sup> The victims predominantly died of gunshot wounds and in 22 cases there was evidence of charring to the bodies. No ligatures or blindfolds were uncovered.<sup>11604</sup> Exhumations were conducted at Glogova 1 between 7 August and 20 October 2000.<sup>11605</sup> The primary gravesite at Glogova 1 is less than 400 metres from the command post of the 1st Infantry Battalion of the Bratunac Brigade.<sup>11606</sup> Broken masonry, door frames, and other artefacts found at the primary gravesite of Glogova 1 revealed matches with the Kravica Warehouse execution site.<sup>11607</sup> The primary graves in Glogova contained the bodies of victims who had been injured as a result of an explosive blast in the form of grenades and shrapnel.<sup>11608</sup> During the reburial operation, which lasted a couple of nights, the members of the Civilian Protection unit used at least one loader and an excavator for the exhumations at the Glogova grave site.<sup>11609</sup> According to a report authored by **John Clark**, many shell cases as well as three very small samples of human remains were recovered from Kravica Warehouse during the Glogova grave sites exhumations but the examination of these samples was inconclusive.<sup>11610</sup>

2704. According to a report authored by forensic pathologist John Clark, 478 bodies or body parts were exhumed from three primary mass graves in 2000, namely Glogova 1,

<sup>11600</sup> Adjudicated Facts II, no. 1542.

<sup>11601</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), Annex A, pp. 5-8.

<sup>11602</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), Annex A, pp. 19-26, Annex C.

<sup>11603</sup> Adjudicated Facts II, no. 1544.

<sup>11604</sup> Adjudicated Facts II, no. 1546.

<sup>11605</sup> Adjudicated Facts II, no. 1549.

<sup>11606</sup> Adjudicated Facts II, no. 1550.

<sup>11607</sup> Adjudicated Facts II, no. 1547.

<sup>11608</sup> Adjudicated Facts II, no. 1548.

<sup>11609</sup> Adjudicated Facts II, no. 1551.

<sup>11610</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 24.

Ravnice, as well as two pieces of human remains from Kravica Warehouse.<sup>11611</sup> The total amount of bodies does not necessarily equate to the number of individuals represented as some body parts may have been from additional people.<sup>11612</sup> The report provides the causes of death for each body and each body part.<sup>11613</sup> Due to the advanced level of decomposition of the bodies and possibly having occurred after death, the report highlights some limitations of the autopsies such as the difficulty to recognize injuries having occurred in life as opposed to after death.<sup>11614</sup> However, the report is compiled on the assumption that the vast majority of injuries found occurred in life and were or contributed to the cause of death.<sup>11615</sup>

2705. According to Clark, 1757 bodies or body parts were exhumed from two primary graves, Glogova and Ravnice, and one secondary grave, Zeleni Jadar, between 1999 and 2001.<sup>11616</sup> The individuals found in Ravnice, where sex could be determined, were male and, at the time of their deaths, were between the ages of eight and 90.<sup>11617</sup> Concerning the 148 body parts found in Ravnice, most of them were from adults and some from people less than 17 years of age.<sup>11618</sup> At the time of their deaths, the bodies were aged between eight and 90, with at least 36 bodies aged 25 or younger and 14 bodies aged 17 or younger.<sup>11619</sup> While items of clothing were present on most bodies, none of them were wearing military uniforms. None of the bodies were found with weapons in their possession.<sup>11620</sup> Concerning the 324 body parts, it was determined that 124 were from males and two possibly from females. For the remainder of the body parts, sex could not

<sup>11611</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 1, 7, 14.

<sup>11612</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 1.

<sup>11613</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 1, 3.

<sup>11614</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 3-4.

<sup>11615</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 3-5.

<sup>11616</sup> P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001), pp. 1, 6, 11, 13, 19, 22-23, 27.

<sup>11617</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 25-26.

<sup>11618</sup> P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 26.

<sup>11619</sup> P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001), pp. 6, 11.

<sup>11620</sup> P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001), pp. 6, 28.

be determined. Most of the body parts were from adults but 59 body parts were assessed as aged 17 or younger, including one aged between seven and 12.<sup>11621</sup>

*The Trial Chamber's findings*

2706. The Trial Chamber notes that Janc found that one of the secondary mass graves connected to this scheduled incident, Blječeva 1, also contained remains of bodies unconnected with the fall of Srebrenica.<sup>11622</sup> In addition, Janc found that one of the primary mass graves, Glogova 1, also contained the remains of victims unconnected with the fall of Srebrenica as well as from victims related to other alleged killing incidents.<sup>11623</sup> Janc further testified that although most of the 1,385 individuals identified in the primary and secondary mass graves connected to Kravica Warehouse must be directly connected to this scheduled incident, it is impossible to provide the exact number of victims.<sup>11624</sup> In addition, the Trial Chamber received forensic evidence from Clark, Baraybar, Lawrence, as well as documentary evidence concerning bodies exhumed from some of the primary and secondary mass graves related to the killings at Kravica Warehouse. The evidence received relates to the following mass graves: Glogova 2-9, Blječeva 1, as well as Zeleni Jadar 5 and 6.<sup>11625</sup> The Trial Chamber however considers that none of the aforementioned forensic evidence provides further specificity to the number of victims as found in Adjudicated Fact 1534 and will therefore not consider this evidence further.

2707. Based on the foregoing, the Trial Chamber finds that from 13 to 14 July 1995, members of the 2nd Šehovići Detachment of the Special Police Brigade, killed approximately 1,000 Bosnian-Muslim males, including minors and elderly, who were detained in Kravica Warehouse. Based on the evidence received by Momir Nikolić and

<sup>11621</sup> P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001), p. 10.

<sup>11622</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), Annex A, pp. 23-25, 33.

<sup>11623</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), Annex A, pp. 33-34; D342 (Corrigendum to Dušan Janc's, Srebrenica Investigation Report, 9 April 2009).

<sup>11624</sup> D342 (Corrigendum to Dušan Janc's, Srebrenica Investigation Report, 9 April 2009).

<sup>11625</sup> P1983 (ICMP, Summary Report on Blječeva 1, Bosnia-Herzegovina, 25 March 2008), paras 3-5, 7-8, 34-37, 39-49, 54; P2089 (Jose Baraybar, Report on excavations at Glogova 2, Bosnia-Herzegovina 1999-2001); P2090 (Jose Baraybar, Report on excavations at the site of Zelani Jadar 6, Bosnia-Herzegovina 2001); P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999); P2260 (John Clark, Report on autopsies of human remains from Lazete 1-2,

Blagojević, as well as Adjudicated Fact 1539 which specifies that members of the Bratunac Brigade participated in the burial operation (*see* chapter 7.18), the Trial Chamber finds that at least three members of the Bratunac Brigade were involved in the killings at the warehouse. Some of the detainees wore civilian clothing, while others were members of the ABiH; all were unarmed. Before the beginning of the killings inside the warehouse, members of the 2nd Šehovići Detachment of the Special Police Brigade executed some detainees in front of the warehouse and told the others ‘you’ll get the same as soon as it’s your turn, because we still have a full warehouse to kill’. Once the warehouse was full, hand grenades and anti-tank rockets were fired into the warehouse and shots were fired into the crowd of detainees. Krsto Dragičević, a member of the 3rd Skelani Platoon, was killed in the warehouse with his own rifle after some Muslim detainees had snatched his rifle from him. Rade Čuturić, Commander of the 2nd Šehovići Detachment of the Special Police Brigade, who had grabbed the rifle by the barrel, burned his hands during this incident. Members of the 2nd Šehovići Detachment of the Special Police Brigade killed detainees who survived the shootings, including those who tried to escape from the warehouse. After shooting a detainee who tried to escape, members of the 2nd Šehovići Detachment of the Special Police Brigade warned the other detainees that if they tried to escape they would also be shot. One member of the 2nd Šehovići Detachment of the Special Police Brigade fired at a wounded detainee, asking, ‘[d]o you want another one?’ and another member of the detachment who was examining other wounded men said, ‘[t]his one seems to be still alive. He needs to be shot.’, whereupon another member of the detachment responded, ‘[n]o, let’s leave those alone for the time being and focus on those inside’. Members of the 2nd Šehovići Detachment of the Special Police Brigade also insulted and cursed the detainees prior to and after the killings and referred to them as ‘*balijs*’, ‘Islamic tribe’ and ‘Turks’. The detainees were forced to sing Serb songs and asked where Naser Orić was to defend them.

2708. The Trial Chamber will further consider this incident in relation to Counts 2 to 6 of the Indictment in chapter 8 below.

Glogova 1, Kravica, and Ravnice, 2000); P2261 (John Clark, Report on autopsies of human remains from Ravnice, Glogova, Zeleni Jadar, 2001).

### 7.5 Sandići Meadow (Schedule E.4.1)

2709. According to the Indictment, the Accused is responsible for the summary execution of approximately 15 Bosnian Muslims detained at Sandići Meadow on 13 July 1995, after sunset.<sup>11626</sup> In relation to the evidence on the exhumation of bodies from a grave near Sandići Meadow, the Defence argued that no reliable evidence links these bodies to this incident nor establishes the cause or manner of death.<sup>11627</sup> The Defence further argued that MUP personnel were the only units present around Sandići Meadow at the time and that the Jahorina Units were not deployed in combat activities at the time of the alleged killings; MUP tasks were from the MUP structure, thus ‘without VRS contact’.<sup>11628</sup> With regard to the Defence’s argument that Witnesses RM-333 and RM-358 gave irreconcilable versions of the events in Sandići which undermine each other, the Trial Chamber recalls its 18 July 2013 decision in which it determined, *inter alia*, that Witness RM-358 is a survivor of an unscheduled killing incident in Nezuk in July of 1995.<sup>11629</sup> Therefore, since Witness RM-358’s evidence relates to another incident, the Trial Chamber considers that his evidence does not undermine Witness RM-333’s evidence on the Sandići Meadow events. The Trial Chamber took judicial notice of a number of Adjudicated Facts related to this charge.<sup>11630</sup> It also received evidence from **Ramiz Husić**, a Muslim from Brezovica who moved to Srebrenica in 1993 and who was 18 years old in July 1995;<sup>11631</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>11632</sup> **Witness RM-306**, a Serb from Bratunac;<sup>11633</sup> **Witness RM-260**, a member of the Civilian Protection staff in Bratunac Municipality in July 1995;<sup>11634</sup> **Zoran Petrović**, a journalist from Belgrade who travelled the area around Bratunac with Borovčanin from 13 to 15 July 1995;<sup>11635</sup> **Witness RM-274**, a member of the ABiH in July 1995;<sup>11636</sup> **Witness RM-256**, a Bosnian Muslim from Srebrenica and member of

<sup>11626</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.4.

<sup>11627</sup> Defence Final Brief, para. 3071.

<sup>11628</sup> Defence Final Brief, paras 3066, 3068.

<sup>11629</sup> Defence Final Brief, paras 3061-3065; Decision on Prosecution Eighth Motion to Admit Evidence Pursuant to Rule 92 *bis*: Srebrenica Survivors, 18 July 2013, para. 26.

<sup>11630</sup> Adjudicated Facts II, nos 1465, 1554-1557.

<sup>11631</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 1-2.

<sup>11632</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297).

<sup>11633</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9357-9358; Witness RM-306, T. 11446; D293 (Witness RM-306, statement to the Bosnian-Serb MUP, 26 December 2005), pp. 1-2.

<sup>11634</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7861-7862.

<sup>11635</sup> P3347 (Zoran Petrović, *Popović et al.* transcript 4 December 2007), pp. 18738, 18764-18765, 18830.

<sup>11636</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6972.

the ABiH in 1995;<sup>11637</sup> and **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995,<sup>11638</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>11639</sup> The Trial Chamber also received evidence from **Witness RM-257**, a Bosnian Muslim who was a minor in July 1995;<sup>11640</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>11641</sup> **Pero Andrić**, a Serb member of the Military Police Platoon of the Bratunac Brigade from 1994 until July 1995;<sup>11642</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon with the Bratunac Light Infantry Brigade in July 1995;<sup>11643</sup> **Nedo Jovičić**, a member of the Special Police Brigade and driver to Deputy Commander of the brigade Ljubomir Borovčanin during 1995;<sup>11644</sup> **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and the Bosnian-Serb Republic in 1995;<sup>11645</sup> and **Dušan Janc**, an investigator.

2710. Several thousand Bosnian-Muslim men from the column (*see* chapter 7.1.6) who were captured on 13 July 1995 were collected in or near Sandići Meadow and on the Nova Kasaba football field.<sup>11646</sup> A number of witnesses who surrendered at the meadow on that day gave evidence before the Trial Chamber. **Robert Franken** testified that sometime between that evening and the early morning of 14 July, the DutchBat personnel from OP Alpha were brought back to the enclave, on the route from Milići to Bratunac, and they reported to Franken that they had seen a large group of men on the

<sup>11637</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2; Witness RM-256, T. 13187.

<sup>11638</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>11639</sup> **Ramiz Husić**: P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 3-5, 9. **Witness RM-297**: Witness RM-297, T. 10973-10974. **Witness RM-306**: T. 11454-11459. **Witness RM-260**: P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), p. 7871; P3622 (Witness RM-260, *Popović et al.* transcript, 19 November 2007), pp. 17889-17890; P3630 (Aerial photograph of Sandići marked by witness RM-260 II). **Witness RM-274**: P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6972-6976, 6980. **Zoran Petrović**: P3348 (Zoran Petrović, *Tolimir* transcript 24 May 2011), pp. 14568, 14577. **Witness RM-256**: P1592 (Witness RM-256, witness statement, 16 January 1996), para. 14. **Robert Franken**: P1417 (Robert Franken, witness statement, 15 January 2012), para. 99; Robert Franken, T. 10739-10741, 10837.

<sup>11640</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 1.

<sup>11641</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>11642</sup> Pero Andrić, T. 34096-34097, 34130-34131; P7297 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2. The evidence of Pero Andrić is also reviewed in chapter 7.1.3.

<sup>11643</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4.

<sup>11644</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>11645</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1. The evidence of Witness RM-033 is also reviewed in chapter 7.1.6.

way, kneeling in a football pitch along the side of the road in rows with their hands on their necks.<sup>11647</sup> **Witness RM-297** testified that the group of Bosnian Muslims from the column that he had surrendered with was composed of about 1,000 men, mostly civilians and a few soldiers.<sup>11648</sup> The group included some wounded.<sup>11649</sup> **Witness RM-274** stated that there were 1,500 to 2,000 men at the meadow.<sup>11650</sup> **Witness RM-256** stated that all detainees in the meadow were wearing civilian clothes and he overheard from a conversation that there were about 2,000 of them.<sup>11651</sup> **Witness RM-257** stated that a cameraman filmed the members of the column as they emerged from the woods.<sup>11652</sup> **Witness RM-274** stated that journalists briefly came and took pictures and recorded the people in the meadow.<sup>11653</sup>

2711. The witnesses described the soldiers and armed forces present at the meadow. **Witness RM-256** testified that there was an APC and two tanks and that the soldiers guarding them were young and did not have any patches on their camouflage uniforms.<sup>11654</sup> **Witness RM-257** stated that he surrendered to Serb soldiers and that a black Serb tank was parked on the left side of the meadow as well as a white UNPROFOR APC and soldiers in full UNPROFOR uniforms were present.<sup>11655</sup> The Serb soldiers wore camouflage uniforms with red patches with four S's and some wore red bandanas.<sup>11656</sup> **Witness RM-274** stated that the guards in the meadow wore camouflage, multi-coloured uniforms, and one man he believed to be an officer wore a white T-shirt. The officer held a knife and occasionally fired his semi-automatic rifle into the air to quieten the crowd.<sup>11657</sup> **Pero Andrić** testified that the soldiers had camouflage uniforms of a kind worn by the *Panteri* and some Zvornik Brigade

<sup>11646</sup> Adjudicated Facts II, no. 1464.

<sup>11647</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 99; Robert Franken, T. 10739-10741, 10837.

<sup>11648</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 2-3; Witness RM-297, T. 10973.

*See also* P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 2, 4, 7, 9, 16; P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3.

<sup>11649</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 2.

<sup>11650</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6972-6973, 6975.

<sup>11651</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 11.

<sup>11652</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3520-3521, 3527; P3372 (Still from aerial video of Sandići meadow); P3374 (Excerpt from video compilation of Srebrenica 1995).

<sup>11653</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6978.

<sup>11654</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 12-13.

<sup>11655</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3527, 3533, 3539-3540, 3542-3543; P3372 (Still from aerial video of Sandići meadow); P3374 (Excerpt from video compilation of Srebrenica 1995); P3375 (Sketch of the Sandići Meadow).

<sup>11656</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3.

units.<sup>11658</sup> **Ramiz Husić** stated that there were two Serb women wearing uniforms and armed with Skorpion pistols.<sup>11659</sup> **Mladen Blagojević** testified that VRS soldiers as well as, what he believed to be, special police units guarded the Muslim detainees. He stated that their commander was 'Ljubisa Boroc'.<sup>11660</sup>

2712. The soldiers guarding the men forced them to turn over their valuables and abandon their belongings.<sup>11661</sup> **Witness RM-257** stated that Serb soldiers searched the men, asked them for money, and asked about the positions and weapons in possession of the ABiH.<sup>11662</sup> The men were forced to lie on their stomachs for long periods of time, to make the Serb salute, and to sing Serbian songs, such as 'Long live the king, long live Serbia'.<sup>11663</sup> One man was made to call out to the Bosnian-Muslim men in the column that it was 'safe to come to the Serbs'.<sup>11664</sup>

2713. While the detainees were in the meadow they were given very little food and some water.<sup>11665</sup> **Witness RM-274** described how people kept fainting from the heat and the guards sent people to get water to cool them down.<sup>11666</sup> He stated that he was next to a tank. The driver of the tank kept going in and out of it and other soldiers were sitting on and around the tank.<sup>11667</sup> **Witness RM-257** stated that a Serb soldier sitting on the tank said: 'Fuck your balija mother. Get up and come here'.<sup>11668</sup> **Witness RM-274** stated that one of the men who had escorted the wounded to a nearby house was brought back to the meadow by a Serb soldier who said the man had attempted to flee. A soldier

<sup>11657</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6974.

<sup>11658</sup> Pero Andrić, T. 34119-34120; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 3; P7296 (Photo of Borovčanin and two other persons in camouflage uniforms, undated).

<sup>11659</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 2, 4, 7, 9, 16. *See also* P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3529-3530, 3541; P3372 (Still from aerial video of Sandići meadow); P3373 (Photograph of a burned house); P3374 (Excerpt from video compilation of Srebrenica 1995); P3375 (Sketch of the Sandići Meadow).

<sup>11660</sup> P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 19. The Trial Chamber notes that the name 'Ljubisa Boroc' as written in the original version (English) of exhibit P7186, p. 19 is translated as 'Ljubiša Boroč' in the BCS translation of exhibit P7186, p. 19 and thus understands that this could refer to Ljubiša Borovčanin.

<sup>11661</sup> Adjudicated Facts II, no. 1465.

<sup>11662</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3545-3546; P3374 (Excerpt from video compilation of Srebrenica 1995).

<sup>11663</sup> Adjudicated Facts II, no. 1554.

<sup>11664</sup> Adjudicated Facts II, no. 1555.

<sup>11665</sup> Adjudicated Facts II, no. 1554.

<sup>11666</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6974.

<sup>11667</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6975-6976.

<sup>11668</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), p. 3533.



on the tank hit the man in his face and the man fell down on his back about ten metres from the witness. Another group of soldiers arrived, wearing black uniforms with pants and T-shirts, and boots. One of those soldiers took an automatic rifle, stood over the man on the ground, and fired into his chest. He then ordered Muslims to carry that man about 20 to 30 metres away and drop his body there, which they did.<sup>11669</sup> **Witness RM-256** testified that one detainee complained that he did not get any water while others had the opportunity to drink twice. One soldier kicked him in the face on one side and another one gave him a kick in the face from the other side. The man started to bleed from the mouth. The soldiers grabbed him, threw him a few metres away, and shot him in front of all of the detainees. The corpse was left there right at the spot where he was killed.<sup>11670</sup>

2714. **Witness RM-257** described how he managed to escape from the meadow. A soldier gave him two jerrycans and asked him, while cursing and threatening him with his weapon, to fetch water for the detainees.<sup>11671</sup> Soldiers were standing around a house and he heard cries and the sound of blows coming from the house.<sup>11672</sup> Around 5 p.m., two black cars carrying officers came from the direction of the water fountain towards the house and the meadow.<sup>11673</sup> Shortly after, a bus full of women arrived from the same direction and stopped next to the water fountain to collect water. The witness snuck onto the bus, hid between seats, and put bags on top of himself. The bus left the meadow and stopped near Kladanj and its passengers walked to the free territory without interference from the Serb soldiers present there.<sup>11674</sup> The witness did not know what happened to the men in the meadow and never heard of them again, including his father, the Tabaković brothers, Ramo Kabilović, Almir from Pustumlići, Mehmedalija Husić, Mehmed Husić, and Sead Krdžić.<sup>11675</sup> His brother, also present in the meadow,

<sup>11669</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6976.

<sup>11670</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 14.

<sup>11671</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 3; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), p. 3533.

<sup>11672</sup> P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), p. 3534.

<sup>11673</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 4; P3375 (Sketch of the Sandići Meadow).

<sup>11674</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 4.

<sup>11675</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), pp. 3-4; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), pp. 3540, 3542, 3544, 3546-3547; P3374 (Excerpt from video compilation of Srebrenica 1995).

was put on a bus by Serb soldiers, after he identified himself as one of ‘the young ones’, and transported to Kladanj.<sup>11676</sup>

2715. The Bosnian-Serb forces on the scene began shepherding the men out of the meadow. Some were put on buses or marched towards the nearby Kravica Warehouse. Others were loaded on buses and trucks and taken to Bratunac and other nearby locations.<sup>11677</sup> **Witness RM-297** testified that the commander of the unit guarding the men who had surrendered wore a black scarf on his head and informed them that Mladić had said that the Bosnian and Bosnian-Serb governments were discussing an exchange of all detainees. The soldiers told the group that they were in Serb country and that no one could fight the Serb soldiers.<sup>11678</sup> **Witness RM-274** also stated that the only people allowed to leave the meadow were children younger than 18 years old and women.<sup>11679</sup> **Husić** stated that at the meadow, he heard a Serb soldier who said that he was from Tuzla and dressed in camouflage with a red bandana around his head, call out for detainees born in 1979 and 1980.<sup>11680</sup> Husić stood up despite being older and was allowed, along with approximately ten other individuals, to board a civilian blue truck which already contained approximately 20 women from Potočari.<sup>11681</sup> After disembarking the truck in Tišča, Husić was instructed to walk towards Kladanj, whereupon he reached the last checkpoint.<sup>11682</sup> At the checkpoint, a man who introduced himself as Željko Živkić, and who the witness described as the commander, allowed Husić to go to Muslim-controlled territory.<sup>11683</sup> **Witness RM-274** stated that the women and children were taken to Tuzla by a convoy of buses and trucks which had also evacuated civilians from Potočari.<sup>11684</sup> In addition to the earlier convoy, UN APCs escorted women and children from Potočari on buses and trucks towards Tuzla.<sup>11685</sup>

2716. Those remaining in the meadow were then told they would be taken to Tuzla and exchanged for Serbs.<sup>11686</sup> **Husić** stated that before he left the meadow, a Serb soldier

<sup>11676</sup> P3370 (Witness RM-257, witness statement, 8 March 1999), p. 4; P3371 (Witness RM-257, *Popović et al.* transcript, 2 November 2006), p. 3547.

<sup>11677</sup> Adjudicated Facts II, no. 1557.

<sup>11678</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3.

<sup>11679</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6976-6977. *See also* Witness RM-297, T. 10973-10974.

<sup>11680</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 2, 4-5.

<sup>11681</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 5.

<sup>11682</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 5.

<sup>11683</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 6.

<sup>11684</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), pp. 6976-6977.

<sup>11685</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6978.

<sup>11686</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 6979.

told the group that they were going to be detained in an agricultural warehouse in Kravica and then exchanged. The Serb soldier mentioned that Mladić and the DK Commander would arrive at 8 p.m. to inform the group about what would happen to them. There were approximately 15 to 20 armed Serb soldiers in the area.<sup>11687</sup> Husić observed a soldier called Krle wearing a camouflage T-shirt grab and take Dulan Tabaković, who had a head injury, to a cornfield.<sup>11688</sup> After approximately 20 minutes, Krle returned without Dulan.<sup>11689</sup> During the course of the day those who were wounded or injured were sent to a house close to the meadow and were later executed.<sup>11690</sup>

2717. **Witness RM-297** stated that at approximately 7 p.m. on 13 July 1995, the detainees were allowed to sit up just before a man, whom other detainees referred to as and the witness later recognized to be Mladić, arrived on foot.<sup>11691</sup> **Witness RM-256** testified that Mladić appeared at the meadow together with four or five soldiers and introduced himself.<sup>11692</sup> **Pero Andrić** testified that these soldiers were military policemen and that Mladić stopped at the meadow for approximately 20 minutes.<sup>11693</sup> **Witness RM-256** testified that he heard Mladić, who was standing 15 metres from the body of a detainee who had been killed, say the following:<sup>11694</sup>

Isn't it better like this, you could have been killed in the forest. Naser left you and he escaped. Sheep can't escape from the stable unless somebody opens the door. It is not easy to fight with the Serbs. We almost finished the evacuation of your families. They are mostly sent towards Zivinice and Tuzla. Probably within a day or two all of you will be exchanged and you will join your families. Nobody will beat you nor mistreat you nor provoke you. We will give you food and find a cooler place for you because it is very hot here in the field.<sup>11695</sup>

<sup>11687</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 4.

<sup>11688</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 5-6, 14.

<sup>11689</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), p. 5.

<sup>11690</sup> Adjudicated Facts II, no. 1556.

<sup>11691</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3; Witness RM-297, T. 10974-10975.

<sup>11692</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), paras 16-17; Witness RM-256, T. 13193-13194. *See also* D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 29.

<sup>11693</sup> Pero Andrić, T. 34101, 34103-34105, 34107-34108, 34148; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 2. *See also* D922 (Mladen Blagojević, witness statement, 6 June 2014), para. 8; Mladen Blagojević, T. 32621; D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 29.

<sup>11694</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 17.

<sup>11695</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), para. 16; Witness RM-256, T. 13194-13195. *See also* Pero Andrić, T. 34108-34109; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), para. 2.

2718. According to **Witness RM-297**, Mladić told the detainees that the governments were negotiating; they would be exchanged the following day; and they would not be given anything to eat that evening, but would be provided with water, which they were.<sup>11696</sup> **Blagojević** testified that Mladić told them not to be afraid, as they would be exchanged for imprisoned Serbs, and he asked them if they needed to see a doctor.<sup>11697</sup> **Witness RM-297** testified that after Mladić left, trucks and buses arrived and the detainees were ordered to board these vehicles.<sup>11698</sup> While being loaded onto the trucks, the witness and his brother were separated and the witness later learned that some of his brother's remains had since been identified.<sup>11699</sup> The trucks took the detainees to Bratunac.<sup>11700</sup>

2719. **Momir Nikolić** testified that on 13 July 1995, around noon, at Sandići, he saw officers of the Special MUP Brigade, including deputy commander Ljubiša Borovčanin.<sup>11701</sup> At the time, there were 80 to 100 surrendered or captured Muslim men at this location.<sup>11702</sup> The witness recognized members of the special brigade and of the Jahorina units, who were engaged between Sandići and Konjević Polje, by their heavy weaponry and APCs and by the presence of Borovčanin.<sup>11703</sup> Later that day, on the ride back to Bratunac, at Sandići Nikolić saw about 10 to 15 corpses and a large mass of detainees in a meadow.<sup>11704</sup>

2720. **Witness RM-333** testified that around 13 July 1995, around late afternoon or early evening, a member of the 1st company of the Jahorina police training centre told him that 10 to 15 detainees were awaiting transport in a meadow by the road between Konjević Polje and Kravica, a couple of kilometres away from Kravica, where the company had been deployed in the late afternoon on the same day.<sup>11705</sup> A man called

<sup>11696</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3; Witness RM-297, T. 10947-10948, 10974-10975.

<sup>11697</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 8-9; Mladen Blagojević, T 32629-32634; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 19.

<sup>11698</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3; Witness RM-297, T. 10975.

<sup>11699</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3; Witness RM-297, T. 10937-10938.

<sup>11700</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 3.

<sup>11701</sup> Momir Nikolić, T. 11936-11937; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11702</sup> Momir Nikolić, T. 11936; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11703</sup> Momir Nikolić, T. 11936-11937.

<sup>11704</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 9.

<sup>11705</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14822, 14824, 14830; Witness RM-333, T. 6758, 6764-6765, 6775-6777. The Trial Chamber is satisfied that the meadow referred to by Witness RM-333 is Sandići Meadow.

Aleksa told four or five members of the company that no more buses were coming to pick up the detainees and ordered them to shoot the remaining detainees.<sup>11706</sup> Aleksa was the deputy of Goran, one of four platoon commanders from the Jahorina training centre.<sup>11707</sup> Three members of the company refused to obey the order and were punished with deprivation of food and contact with other members for one day.<sup>11708</sup> Two members of the company, one named Crnogorac, obeyed the order and went up the road in the direction of the detainees, with three or four men who volunteered for the task.<sup>11709</sup> One member of the company who had refused to comply with the order heard bursts of gunshots and then saw the volunteers return with Aleksa.<sup>11710</sup> When that member asked Crnogorac how he could have shot detainees, he replied that it was revenge for his family having 'been wiped out'.<sup>11711</sup> Crnogorac also informed him that some of the detainees had been shot in the head while others had been executed with a burst of fire.<sup>11712</sup> According to the witness, somebody higher-ranked must have ordered the shooting because Aleksa was a low-level member of the company who would not risk carrying out an execution without authorisation.<sup>11713</sup> Aleksa, like other members of the company in charge of small units, had a two-way radio.<sup>11714</sup>

2721. **Dušan Janc** testified that bodies were exhumed from a primary mass grave in the Sandići Meadow area between 14 and 21 June 2004 and DNA examinations identified 17 individuals.<sup>11715</sup>

2722. With regard to the forensic evidence, and in particular the reports authored by Janc, in evidence as exhibits P1982 and P1987, the Trial Chamber notes that these exhibits refer to the discovery of a mass grave located in the Sandići Meadow area and

<sup>11706</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14830-14832, 14883-14884; Witness RM-333, T. 6764-6766.

<sup>11707</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14831; Witness RM-333, T. 6769-6770.

<sup>11708</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14833-14834; Witness RM-333, T. 6765-6766.

<sup>11709</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14832-14833, 14884-14885, 14904-14905; Witness RM-333, T. 6765, 6784.

<sup>11710</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14832, 14885-14886; Witness RM-333, T. 6742-6743.

<sup>11711</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14833.

<sup>11712</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), p. 14834.

<sup>11713</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14833, 14884, 14907; Witness RM-333, T. 6740-6742.

<sup>11714</sup> P722 (Witness RM-333, *Popović et al.* transcript, 5 September 2007), pp. 14826, 14831; Witness RM-333, T. 6769.

<sup>11715</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 33. See also P1982 (List of Names of Victims, Annex D), pp. 307-308.

containing 17 bodies. It further notes that the number of bodies exhumed from this mass grave is close to the number of bodies Witness RM-333 and Momir Nikolić testified having seen in the Sandići Meadow on 13 July 1995. In light of the above, the Trial Chamber considers it very likely that this forensic evidence relates to Scheduled Incident E.4.1. However, in the absence of specific evidence to establish that the bodies heard about and seen by Witness RM-333 and Momir Nikolić were the ones exhumed from the mass grave located in the Sandići Meadow area, and considering the number of killing incidents that occurred in this area around that time, the Trial Chamber is not satisfied beyond reasonable doubt that the remains identified in the mass grave are those of the bodies mentioned by Witness RM-333 and Nikolić. The Trial Chamber will therefore not rely on the above-mentioned forensic evidence to make its finding on the number of victims of this scheduled incident.

2723. Based on the foregoing, the Trial Chamber finds that on 13 July 1995,<sup>11716</sup> members of the 1st company of the Jahorina police training centre shot and killed 10-15 unarmed Bosnian-Muslim men<sup>11717</sup> who had surrendered from the column near Sandići Meadow. They were killed pursuant to the order of a man called Aleksa. The Trial Chamber further finds that a Serb soldier, wearing a black uniform, shot and killed one wounded Bosnian-Muslim man on the same day after he had allegedly attempted to escape. While the men were in the meadow after having surrendered, guarded by VRS soldiers, they were forced to lie on their stomachs, make the Serb salute, and sing Serbian songs. Further, the soldiers guarding them forced them to give up their valuables and abandon their belongings. One of the soldiers present at the meadow also insulted the men, using derogatory terms: ‘Fuck your balija mother. Get up and come here’. The Trial Chamber will further consider this incident in relation to Counts 2 to 6 of the Indictment in chapter 8 below.

<sup>11716</sup> The Trial Chamber notes that the account of the events given by Witness RM-333 and Momir Nikolić are slightly different. Witness RM-333 testified that 10 to 15 detainees were killed in the late afternoon or early evening of 13 July 1995 after the departure of the other detainees. Nikolić testified that he saw 10 to 15 bodies in the meadow in the afternoon and a large number of detainees. However, the Trial Chamber notes that both witnesses testified about killings which occurred on the same date and which resulted in the same range of victims. The Trial Chamber further notes that Witness RM-333 was not an eye witness to the killings and that his evidence does not provide a clear and unambiguous timeframe. However, the Trial Chamber finds that the differences in their respective accounts of the events are minimal and immaterial.

7.6 Luke School near Tišća (Schedule E.5.1)

2724. According to the Indictment, the Accused is responsible for the detention of 25 Bosnian-Muslim men at Luke School and the summary execution of them in an isolated nearby pasture on or about 13 or 14 July 1995.<sup>11718</sup> The Defence submitted that Witness RM-249's evidence is unreliable and uncorroborated and that there is insufficient evidence to conclude that the perpetrators of this alleged incident were members of the VRS, but rather were individuals acting without authority and as revenge against Muslims for acts committed against Serbs.<sup>11719</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts related to this incident. It also received evidence from **Witness RM-249**, a Bosnian-Muslim from Srebrenica,<sup>11720</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>11721</sup> It also received evidence from **Dušan Janc**, an investigator.<sup>11722</sup>

2725. On 13 and 14 July 1995, as buses crowded with Bosnian-Muslim women, children, and elderly made their way from Potočari to Kladanj, they were stopped at Tišća, searched, and the Bosnian-Muslim men found on board were removed from the bus.<sup>11723</sup> Bosnian-Serb forces systematically stopped the buses transporting the women, children, and elderly at Tišća and checked that no men were hiding on board.<sup>11724</sup> The Bosnian-Muslim men who managed to get to Luke by bus were separated by VRS soldiers and detained in the nearby elementary school.<sup>11725</sup> DK personnel were present in Tišća on 12 July 1995. A DutchBat officer escorting one of the first convoys of buses and trucks came across Major Sarkić, the Chief of Staff of the Milići Brigade, at the Tišća checkpoint.<sup>11726</sup> The Chief of Staff of the Milići Brigade and troops from his unit were present at the Tišća screening site upon orders from the DK Command.<sup>11727</sup> General Krstić had been involved in issuing orders to DK units about securing the

<sup>11717</sup> Regarding the detainees identified by Witness RM-257 as being present in the meadow and never seen or heard of again since, in the absence of further information about their whereabouts, the Trial Chamber finds that it cannot consider that they were killed in the meadow.

<sup>11718</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.5.1.

<sup>11719</sup> Defence Final Brief, paras 2588-2596.

<sup>11720</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 1-2; Witness RM-249, T. 15410-15411.

<sup>11721</sup> Witness RM-249: P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 1-4; Witness RM-249, T. 15410-15411, 15415.

<sup>11722</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 1.

<sup>11723</sup> Adjudicated Facts II, no. 1558.

<sup>11724</sup> Adjudicated Facts II, no. 1559.

<sup>11725</sup> Adjudicated Facts II, no. 1562.

<sup>11726</sup> Adjudicated Facts II, no. 1561.

<sup>11727</sup> Adjudicated Facts II, no. 1560.

stretch of the road from Vlasenica up toward Tišća, where the civilians were disembarking.<sup>11728</sup>

2726. **Witness RM-249** testified that on 13 July 1995 after disembarking the bus in Luke he was instructed by a ‘Chetnik’ soldier to hand his daughter to his wife; the same soldier then proceeded to escort the witness to a school that was approximately 250 metres away from the bus.<sup>11729</sup> His hands were tied and he had to sit in a meadow in front of the school where he could see additional buses and trucks arriving to drop off detainees throughout the day.<sup>11730</sup> By dusk, 22 men, dressed in civilian clothing, were separated from their families and brought to the school.<sup>11731</sup> The witness recalled a ‘Chetnik’ soldier nicknamed ‘Zeljko’ receiving calls at the telephone on the school steps.<sup>11732</sup> The soldiers carried automatic weapons and wore three different types of uniforms: a camouflage uniform, another uniform of a higher quality, and a third uniform of poor quality.<sup>11733</sup> He was further able to identify some of the Serb soldiers present: Savo Ristanović, a.k.a. Žučo;<sup>11734</sup> and a soldier named ‘Stanimir’ from Vlasenica.<sup>11735</sup> The witness recalled the names of several of his fellow detainees: ‘Abdul Kadir’, a medical technician from the war hospital;<sup>11736</sup> ‘Hasan’, a medical technician from Đogazi who had worked in a lab in Srebrenica;<sup>11737</sup> ‘Zajko’ from Jagonija; brothers ‘Fuad’ and ‘Alija’ who were wounded;<sup>11738</sup> Rizo Mustafić, an electrician who worked for DutchBat in Potočari; Azem Bečić, who had been wounded in a forest near Srebrenica;<sup>11739</sup> and ‘Hamed’ from Višegrad.<sup>11740</sup>

2727. All of the men were then individually taken inside the school where they were searched, their valuables, including money, were confiscated, and their lives were

<sup>11728</sup> Adjudicated Facts II, no. 1564.

<sup>11729</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 3-4; Witness RM-249, T. 15415-15416.

<sup>11730</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; P1991 (Witness RM-249, prior testimony, 18 March 2010), p. 674; P1994 (Photograph of meadow in front of Luke School).

<sup>11731</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; P1991 (Witness RM-249, prior testimony, 18 March 2010), p. 674; P1992 (Photograph Luke School).

<sup>11732</sup> P1991 (Witness RM-249, prior testimony, 18 March 2010), p. 675; P1994 (Photograph of meadow in front of Luke School).

<sup>11733</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4.

<sup>11734</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; Witness RM-249, T. 15465.

<sup>11735</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 5.

<sup>11736</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; Witness RM-249, T. 15480.

<sup>11737</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; Witness RM-249, T. 15478-15479.

<sup>11738</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; Witness RM-249, T. 15413.

<sup>11739</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 4; Witness RM-249, T. 15414.

<sup>11740</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 6; Witness RM-249, T. 15478.



threatened.<sup>11741</sup> The detainees were put into an empty classroom and ordered to all sit in one corner.<sup>11742</sup> The witness saw an UNPROFOR jeep arrive but instead of UNPROFOR personnel driving the vehicle, a ‘Chetnik’ soldier got out of the vehicle.<sup>11743</sup> A Serb soldier called Stanimir told the witness that Spomenko Garić, who was the commander of a special intervention platoon and whom the witness knew to be a member of the reserve forces prior to the war, was in Kravica that day and was expected to arrive at the Luke School.<sup>11744</sup> About 30 minutes later, Garić arrived with his men. Ten to fifteen of Garić’s men entered the classroom. The men wore bandannas on their heads, carried grenades on their belts, and their clothes smelled like blood. These men were asked by a ‘Chetnik’ soldier who guarded the door to the classroom what had happened in Kravica that day. They answered that the ‘balijas’ had been defeated. One of the soldiers mentioned that he had cut off the head of one ‘balija’ and that this man remained alive without a head for an unspecified period of time. Then ‘Garić’s men’ started harassing and beating the detainees, including the witness until he lost consciousness. After the beatings, another soldier who guarded the school during the day entered the room and said that ‘it was time’, following which Garić’s men left.<sup>11745</sup>

2728. At approximately 00:30 on 14 July 1995, the witness and 21 other detainees from the school, dressed in civilian clothes, were loaded onto a truck.<sup>11746</sup> Those who were unable to board the truck because of injuries sustained as a result of the severe beatings that had taken place at the school were thrown on board by the ‘Chetnik’ soldiers. A driver and five armed soldiers, one of whom was an albino, were also on the truck, as well as a man identified as a ‘commander’ who said that it was time for him to ‘make up’ for what had happened to him while detained by the ABiH.<sup>11747</sup>

2729. The truck departed and drove for approximately 40 minutes in the direction of Vlasenica, and eventually stopped about 100 metres off the road in an area with a pasture.<sup>11748</sup> The ‘Chetnik’ soldiers got off the truck, pulled out the men who were lying

<sup>11741</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 5.

<sup>11742</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 6; P1991 (Witness RM-249, prior testimony, 18 March 2010), p. 676; P1995 (Photograph of classroom in Luke School).

<sup>11743</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 6.

<sup>11744</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 6; Witness RM-249, T. 15467-15468.

<sup>11745</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 6.

<sup>11746</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 4, 6-7, 16.

<sup>11747</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 7.

<sup>11748</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 7, 15, 17.

on the floor of the truck, and shot them while they were on the ground. Two detainees with their hands tied behind their backs attempted to escape and were killed immediately. The witness managed to sever the material binding his hands, which he believed to have been telephone cables, jumped off the truck, and ran away from the soldiers while under constant fire. Exhausted from running, he hid behind a rock and remained there until dawn. After taking refuge behind the rock, he heard shooting from the pasture for approximately ten minutes and concluded that the ‘Chetniks’ must have killed the other men who had been on the truck with him.<sup>11749</sup> On 27 July 1995, the witness was taken by the ICRC to Kladanj.<sup>11750</sup>

2730. According to a report authored by Janc, the remains of 16 bodies, including Azem Bečić, Rizo Mustafić, Abdulkadir Kadić, Hasan Smajić, Fuad Mustafić, and Alija Mustafić, identified by Witness RM-249 as fellow detainees at Luke School,<sup>11751</sup> and nine ligatures, were found in a mass grave in Mršići near Vlasenica between 25 and 29 May 2009.<sup>11752</sup>

2731. With respect to the Defence submission on the reliability of Witness RM-249’s evidence, the Trial Chamber considered that he provided a detailed account of this killing incident and that his evidence is internally consistent and is corroborated by Janc’s report on this incident. The Trial Chamber thus finds that Witness RM-249’s evidence is reliable.

2732. Based on the foregoing, the Trial Chamber finds that on 14 July 1995, approximately 21 Bosnian-Muslim men dressed in civilian clothes, whose hands had been tied, were shot and killed in an isolated pasture near Luke School. After one of the soldiers who was guarding the detainees at the school before the killing stated that ‘it was time’, the detainees were loaded onto a truck and driven to a pasture. In the truck, a man identified as a ‘commander’ stated that it was time to ‘make up’ for what happened to him while he was detained by the ABiH. With regard to the perpetrators, the Trial Chamber took judicial notice of Adjudicated Facts 1560-1562 and 1564 on the units present in the Tišća area and at Luke School during the days immediately leading up to this incident. Based on this, the Trial Chamber finds that the perpetrators of this incident

<sup>11749</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 7.

<sup>11750</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), p. 8.

<sup>11751</sup> P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 4, 6; Witness RM-249, T. 15413-15414, 15478-15480.

were members of the VRS. The Trial Chamber will further consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

<sup>11752</sup> P1982 (List of Names of Victims, Annex D), pp. 311-312; P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 34.

7.7 School in Orahovac and nearby field (Schedule E.6.1 and E.6.2)

2733. According to the Indictment, the Accused is responsible for the killing of two Bosnian-Muslim prisoners who were detained at the school in Orahovac on or about 14 July 1995.<sup>11753</sup> The two prisoners were removed from the school and summarily executed by rifle fire.<sup>11754</sup> The Accused is also responsible for the killing of approximately 1,000 Bosnian-Muslim detainees which began in the afternoon of 14 July 1995.<sup>11755</sup> The men were blindfolded, transported to a nearby field by truck, and summarily executed on that field. The bodies of the victims were buried in mass graves at the execution site on 14 and 15 July 1995.<sup>11756</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts related to these incidents. It also received evidence from **Mevludin Orić**, a Bosnian Muslim from Lehovići in Srebrenica Municipality;<sup>11757</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>11758</sup> **Witness RM-362**, a resident of Srebrenica Municipality until 11 July 1995;<sup>11759</sup> **Damjan Lazarević**, a Serb member of the Engineering Unit of the Zvornik Brigade in July 1995;<sup>11760</sup> **Cvijetin Ristanović**, a Serb member of the Engineering Unit of the Zvornik Brigade from July 1992 until March 1996;<sup>11761</sup> **Milorad Birčaković**, a member of the VRS Zvornik Brigade Military Police in 1995;<sup>11762</sup> **Nebojša Jeremić**, member of the Zvornik Brigade Military Police from April 1993 until the end of July 1995;<sup>11763</sup> **Milos Mitrović**, a member of the Transport Platoon and Fortification Platoon within the Engineering Company of the Zvornik Brigade since December 1992;<sup>11764</sup> **Richard Butler**, an intelligence research specialist;<sup>11765</sup> **Dragoje Ivanović** and **Stanoje Birčaković**, both Bosnian-Serb military police officers in the Zvornik Brigade from 1993 until the end of the war;<sup>11766</sup> **Witness RM-269**, a member of the Drina Wolves from 1993 and a Military Police Officer in the

<sup>11753</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.6.1.

<sup>11754</sup> Indictment, Schedule E.6.1.

<sup>11755</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.6.2.

<sup>11756</sup> Indictment, Schedule E.6.2.

<sup>11757</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869.

<sup>11758</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297).

<sup>11759</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302.

<sup>11760</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14431-14432.

<sup>11761</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5359-5360.

<sup>11762</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11010-11011.

<sup>11763</sup> Nebojša Jeremić, T. 34273, 34299.

<sup>11764</sup> P3645 (Milos Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5589, 5590, 5594.

<sup>11765</sup> Richard Butler, T. 16108.

<sup>11766</sup> **Dragoje Ivanović**: P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14537-14538. **Stanoje Birčaković**: P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10740-10741.

Zvornik Brigade in June and July 1995;<sup>11767</sup> and **Lazar Ristić**, the Acting Commander of the 4th Infantry Battalion of the Zvornik Brigade between 1 July and 18 July 1995,<sup>11768</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>11769</sup> The Trial Chamber also received evidence from **Witness RM-265**, a member of the Bratunac Brigade,<sup>11770</sup> **William Haglund**, a forensic anthropologist,<sup>11771</sup> **Dean Manning**, an investigator;<sup>11772</sup> **Dušan Janc**, an investigator; **Christopher Lawrence**, a forensic pathologist.<sup>11773</sup> **Jose Baraybar**, a forensic anthropologist,<sup>11774</sup> **Richard Wright**, who worked as a forensic archaeologist for the Prosecution from June 1997 to 2001;<sup>11775</sup> **John Clark**, a forensic pathologist;<sup>11776</sup> and **Fredy Peccerelli**, a forensic anthropologist.<sup>11777</sup>

<sup>11767</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6437-6438.

<sup>11768</sup> P3510 (Lazar Ristić, *Popović et al.* transcript, 16 and 18 April 2007), pp. 10035, 10037.

<sup>11769</sup> **Mevludin Orić**: P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 937-939, 944, 947, 950-951. **Witness RM-297**: P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 5-8. **Damjan Lazarević**: P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14439-14444, 14445-14451, 14453, 14469-14471, 14476-14477; P3638 (Photograph of an 'ULT-220'); P3639 (Aerial image of a meadow in Orahovac, marked by Damjan Lazarević); P3642 (Zvornik brigade vehicle log for Rovakopac Torpedo, July 1995), p. 3; P3643 (Engineering unit daily orders log), p. 15. **Cvijetin Ristanović**: P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5361-5362, 5365, 5367-5370, 5375-5388, 5406-5407; P3646 (Diagram depicting excavators), p. 2; P3648 (Zvornik Brigade Engineering Company attendance roster for the month of July 1995); P3649 (Brochure for a 'BGH-600'); P3650 (Sketch), p. 2. **Milorad Birčaković**: P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11041. **Nebojša Jeremić**: Nebojša Jeremić, T. 34342-34345. **Milos Mitrović**: P3645 (Milos Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5599, 5600-5602. **Richard Butler**: P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.6, 7.10-7.11, 7.13-7.14, 7.18, 7.20, 7.22-7.23, 7.25-7.26. **Dragoje Ivanović**: P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14538, 14541-14545, 14550-14551, 14572. **Stanoje Birčaković**: P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10741-10744, 10754-10759, 10747. **Witness RM-362**: P3381 (Witness RM-362, *Tolimir* transcript, 22 March 2010), pp. 743-745, 749; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17328-17329, 17330-17332, 17334-17336; P3382 (Photograph of the gym); P3383 (Photograph of the gym); P3384 (Photograph of the gym). **Witness RM-269**: P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6441, 6443-6446, 6449, 6466; Witness RM-269, T. 12711-12712, 12731-12732; P1562 (Photograph of a school). **Lazar Ristić**: P3511 (Lazar Ristić, *Tolimir* transcript, 1 February 2011), pp. 9250-9254; P3512 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić); P3513 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić); P3514 (Interior photograph of the Orahovac school gym, marked by Lazar Ristić)

<sup>11770</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800; P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282.

<sup>11771</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3724; William Haglund, T. 14974.

<sup>11772</sup> P1730 (Dean Manning, *Karadžić* transcript, 6 March 2012), p. 25801.

<sup>11773</sup> Christopher Lawrence, T. 14695; P1803 (*Curriculum vitae* of Christopher Lawrence, undated), pp. 1-2.

<sup>11774</sup> Jose Baraybar, T. 16002; P2071 (*Curriculum vitae* of Jose Baraybar, undated), p. 1. Jose Baraybar's evidence is also reviewed in chapter 7.10.

<sup>11775</sup> Richard Wright, T. 14413; P1760 (*Curriculum Vitae* of Richard Wright, 11 November 2011), pp. 1-3.

<sup>11776</sup> John Clark, T. 17185; P2236 (*Curriculum vitae* of John Clark); P2257 (John Clark, *Krstić* transcript, 30-31 May 2000), pp. 3897-3899; P2258 (John Clark, *Karadžić* transcript, 10 January 2012), pp. 22692-22693.

<sup>11777</sup> P2548 (*Curriculum vitae* of Fredy Peccerelli), pp. 1-2

2734. Members of the Zvornik Brigade participated in the detention, execution, and burial of Bosnian-Muslim men at Grbavci School and nearby field in Orahovac.<sup>11778</sup> Personnel from the 4th Battalion of the brigade were present at Orahovac during the executions, assisting in their commission.<sup>11779</sup> Members of the Military Police Company of the brigade were present immediately prior to the executions, presumably for such purposes as guarding the prisoners and then facilitating their transportation to the execution fields.<sup>11780</sup> Soldiers from the Zvornik Brigade Command and the 4th Battalion of the brigade assisted in guarding the prisoners at Grbavci School in Orahovac.<sup>11781</sup> Members of the Zvornik Brigade Military Police assisted in the detention of prisoners, with the approval of Dragan Obrenović, the Deputy Commander of the Zvornik Brigade, who knew of the murder operation at the time when he allowed the Military Police members to assist Drago Nikolić, the Chief of Security of the Zvornik Brigade, who was in charge of the detention of the Bosnian-Muslim men in Orahovac.<sup>11782</sup>

*Transport to and detention at Grbavci School in Orahovac*

2735. **Witness RM-265** stated that in the morning of 13 or 14 July 1995, Colonel Popović ordered Mirko Janković, a member of the VRS Bratunac Brigade, to take an APC to an intersection near the bus station in Zvornik.<sup>11783</sup> Mile Petrović and Nikola Popović, who was a military police officer, were also in the APC.<sup>11784</sup> Later, Janković drove the APC to a turning point in front of the headquarters of the Bratunac Brigade, following which a column of trucks and buses started forming behind the APC.<sup>11785</sup> One VRS soldier was onboard each bus. The trucks and buses were boarded by able-bodied Muslim men from the surrounding school buildings.<sup>11786</sup> Colonel Popović then appeared in a civilian car and led the column to Grbavci School in Orahovac, where the Muslim men disembarked and moved to the school gym.<sup>11787</sup> **Milorad Birčaković** stated that in

<sup>11778</sup> Adjudicated Facts II, no. 1571.

<sup>11779</sup> Adjudicated Facts II, no. 1572.

<sup>11780</sup> Adjudicated Facts II, no. 1577.

<sup>11781</sup> Adjudicated Facts II, no. 1569.

<sup>11782</sup> Adjudicated Facts II, no. 1570.

<sup>11783</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800, 3837-3839, 3841-3842, 3858-3859; P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282.

<sup>11784</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3839, 3841-3842.

<sup>11785</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3839-3842, 3851.

<sup>11786</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3842.

<sup>11787</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3838, 3840, 3843-3844, 3849, 3851; P2542 (Photograph of the Grbavci School in Orahovac).

the morning of 14 July 1995, on orders from Milorad Trbić, he drove Drago Nikolić from Jerkici to Karakaj for a meeting with Ljubisa Beara, who was the Chief of Security of the VRS Main Staff, and Vijudin Popović, who was the Chief of Security of the DK.<sup>11788</sup> He then drove Nikolić to the Vidikovac hotel, where the witness saw approximately five to ten buses arriving between 8:30 and 9 a.m.<sup>11789</sup> According to the witness, the buses carried security guards and Muslim male detainees.<sup>11790</sup> The witness entered the first bus and Nikolić took the car.<sup>11791</sup> The buses went to the primary school in Orahovac where approximately 200 detainees were moved into the school gym.<sup>11792</sup> At approximately 11 a.m., Nikolić arrived at the school.<sup>11793</sup> Trbić was also present.<sup>11794</sup> **Lazar Ristić** stated that he saw Commander Jasikovac near the Orahovac school gym.<sup>11795</sup> He also saw Trbić, Čedo Jović, and Goran Bogdanović approximately 50 metres from the school.<sup>11796</sup> **Witness RM-269** testified that he saw approximately a dozen civilian buses arriving at the school, escorted by civilian police in blue uniforms, and between 700 and 800 detainees exiting the buses and entering the school gym.<sup>11797</sup> The witness's duties at the time were to secure the facility and to ensure that the crowd could not get to the detainees.<sup>11798</sup> Approximately 100 locals who had gathered near the school were aggressive towards the detainees, and one of these locals told the witness that all of the detainees should be killed.<sup>11799</sup> **Stanoje Birčaković** stated that detainees were transported to the Orahovac school in a convoy of around 15 to 20 buses led by a

<sup>11788</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11011, 11012-11014.

<sup>11789</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11017-11018.

<sup>11790</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11019.

<sup>11791</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11018-11019.

<sup>11792</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11019-11020, 11022.

<sup>11793</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11022. *See also* P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6451-6452, 6484; P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10748-10750; P2167 (Photograph of the Grbavci school, marked by Stanoje Birčaković); P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14538, 14544-15545, 14551.

<sup>11794</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11027.

<sup>11795</sup> P3511 (Lazar Ristić, *Tolimir* transcript, 1 February 2011), pp. 9250-9251; P3512 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić); P3513 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić). *See also* P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6451; P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10748-10750; P2167 (Photograph of the Grbavci school, marked by Stanoje Birčaković); P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14538, 14544-15545.

<sup>11795</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11027.

<sup>11796</sup> P3511 (Lazar Ristić, *Tolimir* transcript, 1 February 2011), pp. 9251, 9254; P3515 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić).

<sup>11797</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6446, 6450, 6449, 6478-6479; Witness RM-269, T. 12721-12722, 12725.

<sup>11798</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6451; Witness RM-269, T. 12734.

<sup>11799</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6448, 6450-6451, 6461; Witness RM-269, T. 12722-12723.

UN APC.<sup>11800</sup> There were no UN soldiers in the APC.<sup>11801</sup> The detainees were men between the ages of 20 and 60, many wearing civilian clothing and some wearing military uniforms.<sup>11802</sup> **Dragoje Ivanović** stated that approximately 350 civilians arrived at Orahovac school in buses escorted by several UN vehicles and one or two military jeeps. The civilians were accompanied by VRS soldiers and were brought into the school gym.<sup>11803</sup>

2736. **Mevludin Orić** stated that on 14 July 1995, he and other detainees were transported by bus from Vuk Karadžić School in Bratunac to a school in a hamlet in the direction of Karakaj-Kalesija.<sup>11804</sup> Upon arrival, the people on the bus were ordered to run across a concrete football pitch towards the school, while soldiers lined either side of the pitch.<sup>11805</sup> **Witness RM-297** testified that he and other detainees were transported on trucks from Sandići Meadow to the gym of Grbavci School in Orahovac, which was a five-to-ten-minute drive from Karakaj.<sup>11806</sup> The detainees were ordered to disembark and place their clothes, other than the shirts and trousers they were wearing, on a large pile just before entering the gym.<sup>11807</sup>

2737. By the time **Witness RM-297** entered the gym, which was approximately 15 metres long by 12 metres wide, it was more than half full with detainees who were ordered to sit in long rows.<sup>11808</sup> He estimated that approximately 1,000 detainees were placed in the gym.<sup>11809</sup> Four boys, who the witness estimated were between 10 and 14 years old, were sitting in a separate group. The witness later learned that these boys were released and were still alive.<sup>11810</sup> **Witness RM-362** stated that people continued to arrive in trucks and buses, the last ones around 10 a.m., until the gym was full.<sup>11811</sup> He

<sup>11800</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10745-10746.

<sup>11801</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), p. 10745.

<sup>11802</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10745-10746.

<sup>11803</sup> P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14541-14543, 14572.

<sup>11804</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 889-892, 908, 933-937, 944.

<sup>11805</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 937-938. *See also* P3381 (Witness-362, *Tolimir* transcript, 22 March 2010), p. 749; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17325, 17327-17328.

<sup>11806</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 2-4; Witness RM-297, T. 10949-10950, 10977; P1132 (Photographs, maps, and aerials, compiled by Jean-René Ruez), pp. 129-133.

<sup>11807</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 4; Witness RM-297, T. 10949-10950; P1132 (Photographs, maps, and aerials, compiled by Jean-René Ruez), p. 131. *See also* P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 938-939.

<sup>11808</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 4-5; Witness RM-297, T. 10949-10950, 10978; P1132 (Photographs, maps, and aerials, compiled by Jean-René Ruez), p. 133.

<sup>11809</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 5.

<sup>11810</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 5; Witness RM-279, T. 10978.

<sup>11811</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17332-17333.



estimated that there were about 2,500 people in the gym.<sup>11812</sup> They were not given any water or food.<sup>11813</sup> **Orić** estimated that there were around 2,000 people, including at least four boys, crammed into the gym, with many suffering from heat exhaustion and thirst. Many, especially the elderly, fainted and were left without medical attention or food. The detainees were forced to sit with their knees touching their chins, which made it difficult to breathe. The four boys were allowed to carry buckets of water to the people in the gym, but there was not enough water for everyone.<sup>11814</sup> **Ristić** stated that he saw Military Police Officer Nada Stojanović carrying water to the detainees.<sup>11815</sup>

#### *Schedule E.6.1*

2738. Three witnesses provided accounts of the alleged killings at the school. **Witness RM-297** testified that at one point during his detention at the school that day, there was some commotion among the detainees because it was very hot and there was not enough air, and the guards fired warning shots from the door of the gym over the heads of the detainees.<sup>11816</sup> One of the detainees said to the guards that ‘[t]hese people must not be killed’, and a guard responded, ‘Now we will see whether these people can or cannot be killed’. Shortly thereafter, this detainee was taken out; the witness heard gunshots and the detainee screaming, then more gunshots, and the detainee never returned.<sup>11817</sup> **Orić** also stated that a man from the crowd of people stood up and shouted, ‘Don’t be afraid people. There is enough of us’.<sup>11818</sup> In response, a man, whom the witness believed to be the commander on the basis that he saw him giving orders and instructions, asked the crowd to push the man who had shouted towards the exit, threatening that everyone would be shot if they refused.<sup>11819</sup> When the man was pushed out by the crowd, the guards shot and killed him at the exit of the gym.<sup>11820</sup> Finally, **Witness RM-362** also described how one man stood up and complained about the conditions in the school,

<sup>11812</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17337-17338.

<sup>11813</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17333.

<sup>11814</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 944-945.

<sup>11815</sup> P3511 (Lazar Ristić, *Tolimir* transcript, 1 February 2011), pp. 9252-9254; P3512 (Exterior photograph of Orahovac school gym, marked by Lazar Ristić); P3514 (Interior photograph of the Orahovac school gym, marked by Lazar Ristić).

<sup>11816</sup> Witness RM-297, T. 10950; P1132 (Photographs, maps, and aerials, compiled by Jean-René Ruez), pp. 131-134.

<sup>11817</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 5.

<sup>11818</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 945-946.

<sup>11819</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 946-947, 950-951.

<sup>11820</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 946-947, 951.

saying that he was suffocating and did not want to stay there any longer, and asking why the soldiers were ‘torturing’ him. The soldiers told him to come out and ‘cool off a bit’.<sup>11821</sup> After the man went through the entrance of the gym, the witness heard a burst of gunfire, and the man never returned.<sup>11822</sup> **Witness RM-362** stated that no other detainees left the gym.<sup>11823</sup> According to **Witness RM-297**, after the killing of the first detainee, the guards took another detainee out for reasons unknown to the witness, and the witness again heard gunshots and then silence. The detainee did not return.<sup>11824</sup>

### *Schedule E.6.2*

2739. With respect to the alleged further killings of detainees from Grbavci School in nearby fields, **Orić** stated that while he was detained at the school, a man whom the witness identified as the commander informed the detainees that they would be transferred to Batković camp.<sup>11825</sup> The commander directed them into a locker room.<sup>11826</sup> A man the witness identified as Mezir Gusić, whom the witness knew as a native from Križevci in Srebrenica Municipality, was crying as he blindfolded the people in the locker room area.<sup>11827</sup> The witness asked Gusić where they would be taken, to which Gusić replied that he did not know.<sup>11828</sup> While the detainees were blindfolded, they spoke among themselves, wondering whether they would indeed be exchanged, or killed.<sup>11829</sup> The witness’s blindfold was loosely fitted and he could see below it. He could also hear what was happening in the vicinity.<sup>11830</sup> From the locker room which had an exit leading outside, 12 or 13 people at a time were placed onto trucks that had arrived at the school.<sup>11831</sup> The witness listed the following people,

<sup>11821</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17333.

<sup>11822</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17733-17334.

<sup>11823</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17334.

<sup>11824</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 5.

<sup>11825</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 933, 937, 947. *See also* P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17334-17335. The Trial Chamber understands Orić’s evidence to refer to Grbavci School in Orahovac.

<sup>11826</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 947, 950, 951.

<sup>11827</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 951-953, 954. *See also* P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.11; P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 5-6.

<sup>11828</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 953.

<sup>11829</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 952-953.

<sup>11830</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 953.

<sup>11831</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 947, 952-953, 954. *See also* P3381 (Witness-362, *Tolimir* transcript, 22 March 2010), pp. 746-747; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17332, 17334-17335; P3382 (Photograph of the gym); P3383 (Photograph of the gym); P3384 (Photograph of the gym).

including his relatives and neighbours, as being close to him in the truck he was placed in: Nurif Hodžić, Ehrem Hasanović, Haris Hasanović, Hakija Malić, and Eso or Esad Malić.<sup>11832</sup> **Witness RM-297** testified that some of the detainees asked where they were being taken to which guards responded that they were being taken to a camp in Bijeljina. One of the soldiers wore a red beret with a badge on the front with four S's.<sup>11833</sup> Once on the trucks, the detainees could remove their blindfolds.<sup>11834</sup>

2740. **Witness RM-269** testified that a truck arrived and military policemen and soldiers loaded the detainees, who had their hands tied, on the truck.<sup>11835</sup> The truck then drove in the direction of Tuzla. It returned empty shortly afterwards and once again detainees were loaded onto the truck and driven away; this went on until the school gym was emptied. The witness could hear bursts of fire from the direction where the detainees were taken.<sup>11836</sup> There were a couple of soldiers in uniform and one or two military police officers from the Zvornik Brigade accompanying the truck. They recharged ammunition when returning to the school and the witness heard some of them saying that the detainees had been killed.<sup>11837</sup> **Stanoje Birčaković** stated that, from the yards of the surrounding houses approximately 100 metres away from the school, he saw how the detainees were loaded onto trucks and driven away, and this continued throughout the day.<sup>11838</sup> Apart from the normal firing going on around them, he heard a particular pattern of shooting throughout the day in intervals of 15 to 20 minutes which continued until dusk, leaving him to think that the detainees might not have been exchanged but executed.<sup>11839</sup> On the following day, he learned that the detainees had probably been killed.<sup>11840</sup> **Milorad Birčaković** stated that he saw the detainees, whose hands were tied, being loaded into 'TAM' trucks.<sup>11841</sup> Later, they were blindfolded.<sup>11842</sup> He then saw two 'TAM' trucks each taking approximately 20 to 30 detainees towards

<sup>11832</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 947, 952-953, 954.

<sup>11833</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 5.

<sup>11834</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6.

<sup>11835</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6454, 6458; Witness RM-269, T. 12718; P1566 (Photograph marked by Witness RM-269).

<sup>11836</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6455.

<sup>11837</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6455-6456; Witness RM-269, T. 12739-12741.

<sup>11838</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10748, 10753-10754.

<sup>11839</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10754-10758.

<sup>11840</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), p. 10759.

<sup>11841</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11025-11026.

<sup>11842</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11026.

Križevići along a dirt road.<sup>11843</sup> The witness recognised one of the drivers as a member of the 4th Battalion of the Zvornik Brigade.<sup>11844</sup> The trucks passed a water point and then made a left turn towards the railway tracks.<sup>11845</sup> The total number of trips made by the trucks was between six and nine. The witness partially escorted four to six such trips on the order of Miodir Jasikovac.<sup>11846</sup> **Ivanović** also saw that around five military trucks repeatedly took up civilians from the school building and drove them towards the separation line.<sup>11847</sup> After returning to their military barracks, Jasikovac told Ivanović and the other soldiers that some of the civilians had been exchanged while others had been liquidated.<sup>11848</sup>

2741. **Orić** stated that at one point while he was on the truck he lifted his blindfold to take a cigarette offered by one of his relatives and could see a red car following the truck he was in; a Serb soldier, who was looking through the window of the car and holding a rifle, told him to put his blindfold back on.<sup>11849</sup> The truck arrived at its destination within five minutes, which led the witness to believe that they were not being taken to Bijeljina since that would have taken longer.<sup>11850</sup> The Serb soldiers ordered the witness and the other people on the truck to jump out onto a meadow and line up, and then summarily shot them.<sup>11851</sup> All of the people in the witness's group were killed but the witness threw himself to the ground after one of his relatives was shot; he pretended to be dead and his relative died on top of him.<sup>11852</sup> The witness heard trucks arriving every five minutes and he believed they were loaded with people on the basis that he could hear people being lined up or pleading not to be killed as they were

<sup>11843</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11025-11027, 11038, 11041; P2163 (Photograph marked by Milorad Birčaković); P2164 (Photograph marked by Milorad Birčaković).

<sup>11844</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11038.

<sup>11845</sup> P2162 (Milorad Birčaković, *Tolimir* transcript, 1 February 2011), p. 9190; P2163 (Photograph marked by Milorad Birčaković).

<sup>11846</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11026-11027, 11037.

<sup>11847</sup> P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14545-15546, 14549, 14552.

<sup>11848</sup> P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14550-14551.

<sup>11849</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 954-955. *See also* P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17335-17336.

<sup>11850</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 953, 955. *See also* P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6; Witness RM-297, T. 10950.

<sup>11851</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 955-956. *See also* P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17336; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.12.

<sup>11852</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 956.

taken off the trucks, and were killed in the same manner.<sup>11853</sup> The soldiers were killing those who were only wounded by the initial shots, sometimes saying ‘suffer some more, you *Ustaša*’ or, ‘you Muslim’.<sup>11854</sup> Throughout the killings, the soldiers were referring to the men as ‘Turks’ and said ‘fuck [their] Turk mothers’ and that they ‘were best off dead’.<sup>11855</sup> The witness clarified that he heard killings lasting at least one hour until he fainted in the afternoon.<sup>11856</sup> During the killings, the witness heard what he thought were big machines working nearby.<sup>11857</sup> When the witness regained consciousness it had gone dark and the killings were still occurring for a further hour until someone said that they had finished and that the next day the bodies would be thrown into the grave. The big machines turned their engines off as the soldiers left.<sup>11858</sup> Following the executions, the soldiers referred to the dead using derogatory terms and said, ‘[f]uck them. They’re all dead. There’s no need for us to stay’.<sup>11859</sup>

2742. **Witness RM-297**, who also survived the shooting, stated that, following the shooting of the detainees in his group, he fell to the ground and was covered by the bodies of others. After everyone had fallen, they were shot at again, but the witness sustained only a minor injury. One of the men was begging the soldiers to kill him and a soldier answered ‘slowly, slowly’.<sup>11860</sup> About ten minutes later, another truck arrived and the process was repeated until sometime in the evening when the witness concluded that the site of the executions had been changed because he could no longer hear trucks arriving, but continued to hear gunshots from approximately 300 metres away from an area the witness later discovered was on the other side of the railroad tracks.<sup>11861</sup> The witness eventually managed to take off his blindfold and saw a yellow backhoe and a group of seven to eight soldiers in camouflage uniforms who the witness concluded had done the shooting.<sup>11862</sup> Among these soldiers the witness recognized Gojko Simić who was from the village of Orahovac in the area where the shootings happened.<sup>11863</sup> The

<sup>11853</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 956, 959, 961-962.

<sup>11854</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 957.

<sup>11855</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 961.

<sup>11856</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 958.

<sup>11857</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 957, 960.

<sup>11858</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 959-960.

<sup>11859</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 957, 961.

<sup>11860</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6.

<sup>11861</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 6-7.

<sup>11862</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6.

<sup>11863</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 6; Witness RM-297, T. 10951-10952; P1444 (Zvornik Brigade Death Certificate of Gojko Simić), p. 1. *See also* P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.13.

witness overheard the soldiers talking about changing the location of the executions to a mowed meadow. Simić ordered three of the soldiers to stay with the backhoe and the others to take ammunition to the meadow.<sup>11864</sup> **Richard Butler** testified that an eyewitness recalled hearing some of the soldiers refer to each other as Risto and Vojo.<sup>11865</sup>

2743. **Witness RM-362**, a third survivor, stated that, following the shooting, a man standing behind him fell on him, causing him to fall on his stomach. The witness lay still for fear of being discovered alive. When another truck of people approached, the witness turned his head a little and saw the people lining up in four rows.<sup>11866</sup> As soon as the truck left, ‘they’ started shooting at the group that had just arrived.<sup>11867</sup> Two TAM trucks would bring people to the field in turns, escorted by a red car carrying an armed soldier who would stay at the execution site until all people were shot.<sup>11868</sup> **Witness RM-297** stated that one of the detainees who had also survived the shooting ran to some nearby woods and the soldiers started to shoot in his direction.<sup>11869</sup> A yellow front end loader pointed its lights towards the woods and its driver saw the witness moving and called out to the soldiers that another one was running away.<sup>11870</sup> The soldiers opened fire on the witness who was able to escape by running through a corn field.<sup>11871</sup> For some time the witness continued to hear gunfire coming from the meadow in which he later saw corpses and heard the moaning of a person in agony.<sup>11872</sup> The witness escaped from the area, eventually making his way to Bosnian-Muslim-controlled territory.<sup>11873</sup> **Witness RM-362** stated that while the killings went on, a yellow excavator behind him was digging a grave. According to the witness, the killings continued until night time.<sup>11874</sup> At some point after it got dark, the witness climbed up from underneath the bodies and crawled for about ten metres up to the bushes and shrubbery behind which

<sup>11864</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 7.

<sup>11865</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.13.

<sup>11866</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17336.

<sup>11867</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17336-17337.

<sup>11868</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17337.

<sup>11869</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 7.

<sup>11870</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 6-7. *See also* P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17337.

<sup>11871</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), p. 7.

<sup>11872</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 7-8.

<sup>11873</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 8-9.

<sup>11874</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17337.

he hid, watching the soldiers at the site.<sup>11875</sup> The witness arrived in the ‘free territory’ on 19 July 1995.<sup>11876</sup>

2744. **Orić** testified that sometime long after midnight, once he had made sure that the killing had stopped and the soldiers had left, he managed to escape from the meadow to a forest uninjured, walking over the heap of bodies together with another person who survived the shooting.<sup>11877</sup> Before he left the meadow, he saw that it was covered with dead bodies and an excavator had dug out a pit measuring five metres in depth and ten metres in length.<sup>11878</sup> The two men discovered two additional Bosnian-Muslim men who had survived the shooting but whom they could not help; they did not see other survivors of the shooting in the vicinity.<sup>11879</sup> As they made their way through the forest, the two men hid in the bushes near to a torched house and fell asleep until the sun came up the following day.<sup>11880</sup> They encountered another man who had survived another shooting in the area and they all arrived in Nezuk, in free territory, on 21 July 1995.<sup>11881</sup>

2745. Members of the Zvornik Brigade Engineering Company participated in the burials from the night of 14 July 1995 through the morning of 15 July 1995, using the equipment belonging to the company.<sup>11882</sup> The machinery and equipment belonging to the company was engaged in tasks relating to the burial of the victims from Orahovac between 14 and 16 July 1995.<sup>11883</sup> Records of the Zvornik Brigade’s Engineer Company reflect the presence of a number of vehicles in Orahovac on 14 July: a ‘TAM 75’ (small size transportation vehicle), which made two round-trips between the base and Orahovac; a Mercedes 2626 which towed an excavator to the village of Križeviči, located one kilometre from Orahovac; one excavator, which went from the base to Orahovac, spent six hours digging, and then returned to base; and an excavator-loader that went from the base to Orahovac and spent five hours working.<sup>11884</sup> The Engineer Company Daily Orders Journal lists the following items on both 15 and 16 July: work with ‘BGH-700’ (excavator) in Orahovac; work with ‘ULT 220’ (loader) in

<sup>11875</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17338.

<sup>11876</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17341.

<sup>11877</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 963-964.

<sup>11878</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 964, 967.

<sup>11879</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 963, 968.

<sup>11880</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 969.

<sup>11881</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp 969-970.

<sup>11882</sup> Adjudicated Facts II, no. 1578.

<sup>11883</sup> Adjudicated Facts II, no. 1573.

<sup>11884</sup> Adjudicated Facts II, no. 1574.

Orahovac.<sup>11885</sup> Zvornik Brigade vehicle utilisation records also show that, on 15 and 16 July, one ‘ULT 220’ (loader) was operating for five hours at Orahovac and a ‘TAM 75’ truck made three or four trips between the base and Orahovac. Also on 15 July, 40 litres of diesel fuel were disbursed to the Rear Services Battalion, operating out of Orahovac and, on 16 July, a Mercedes truck towed an excavator with a trailer between the base and Orahovac, and a ‘TAM 75’ truck made two trips to Kozluk.<sup>11886</sup> **Cvijetin Ristanović** specified that sometime before noon on 14 July 1995, the chief of engineers, Major Dragan Jokić ordered him to take an excavator and go to a location near the school in Orahovac.<sup>11887</sup> The witness went to the school and continued from there for approximately another kilometre and reached a water point on the road between Orahovac and Križevići, where he stopped.<sup>11888</sup> Slavko Bogičević, a member of the command staff of the Engineering Unit, then asked him to drive the excavator through the nearby underpass beneath the Živinice-Zvornik railroad.<sup>11889</sup> The witness complied with this instruction. Having reached the other side of the underpass, the witness encountered a meadow with a forest behind it. On the meadow, he saw a number of civilians and soldiers.<sup>11890</sup> Bogičević then instructed the witness to dig approximately one and a half to two metres deep in an area that had been marked with four wooden stakes and that measured approximately two to three metres wide and approximately 15 metres long.<sup>11891</sup> The witness followed this instruction.<sup>11892</sup> After the witness had been digging for a while, he was asked by an unknown person to stop, go back towards the underpass at the railroad, and wait there with his back towards the excavation site.<sup>11893</sup> The witness walked accordingly to the rail tracks. When standing near the railroad, he heard a truck approaching.<sup>11894</sup> After a short while, he heard shouts of ‘[g]et out!’ followed by bursts of gunfire.<sup>11895</sup> After this incident, an unknown individual approached the witness and told him to go back and continue with his work. The

<sup>11885</sup> Adjudicated Facts II, no. 1575.

<sup>11886</sup> Adjudicated Facts II, no. 1576.

<sup>11887</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5363-5364, 5406.

<sup>11888</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5365-5369.

<sup>11889</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5365, 5370-5371, 5407.

<sup>11890</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), p. 5371.

<sup>11891</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5371-5372, 5378-5379; P3650 (Sketch), p. 2.

<sup>11892</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5371-5372.

<sup>11893</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5372-5373.

<sup>11894</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), p. 5373.

<sup>11895</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5373-5374.



witness complied and when he approached the excavation site he came across a number of dead bodies.<sup>11896</sup> According to the witness, the victims had been blindfolded with white fabric and had civilian clothing.<sup>11897</sup> The witness resumed his work but after a short period, the same sequence of events repeated itself.<sup>11898</sup>

2746. In the morning of 15 July 1995, the witness returned to the water point and across the underpass, he saw more dead bodies, four to six individuals in civilian overalls or working clothes, as well as a number of soldiers.<sup>11899</sup> He drove through the underpass towards the meadow and saw that a second area had been marked with stakes.<sup>11900</sup> The witness started digging there but was forced to stop when he inadvertently caused an underground water pipe to rupture and fill the unfinished pit with water.<sup>11901</sup> After this incident, the witness continued to dig in another area.<sup>11902</sup>

**Damjan Lazarević** stated that on 15 July 1995, he walked from the school in Orahovac, following the road to Krizevići, to a nearby water point in a meadow.<sup>11903</sup> At the water point he saw between 20 and 30 corpses, some of which were wearing camouflage uniforms and others dressed in civilian clothes.<sup>11904</sup> About 150 to 200 metres from the water point was an overpass with a railroad track leading to Tuzla.<sup>11905</sup> The witness passed this overpass and noticed an even larger group of corpses on his right-hand side about 20 to 30 metres away in the meadow, also dressed in uniforms, as well as civilian clothing.<sup>11906</sup> The witness saw various machines at work on the spot, such as a yellow excavator that had been sent there from his unit the day before.<sup>11907</sup> It was operated by

<sup>11896</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), p. 5374; P3650 (Sketch), p. 2.

<sup>11897</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5374-5375.

<sup>11898</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), p. 5375.

<sup>11899</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5365, 5381-5384; P3650 (Sketch), p. 2.

<sup>11900</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5384-5385; P3650 (Sketch), p. 2.

<sup>11901</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), p. 5385.

<sup>11902</sup> P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5385-5386; P3650 (Sketch), p. 2.

<sup>11903</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14439-14442, 14469-14471; P3643 (Engineering unit daily orders log), p. 15.

<sup>11904</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14443-14444, 14453; P3639 (Aerial image of a meadow in Orahovac, marked by Damjan Lazarević).

<sup>11905</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), p. 14444.

<sup>11906</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14444-14445, 14448, 14453; P3639 (Aerial image of a meadow in Orahovac marked by the witness).

<sup>11907</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14445-14447; P3637 (Photograph of a BGH-500 excavator).

Cvijetin Ristanović from the engineering unit.<sup>11908</sup> After having spent between three to four hours at the site and while the machine was still loading the bodies, the witness returned to the school in Orahovac by foot.<sup>11909</sup> He learned the next day that the burial operation continued until 6 or 7 p.m.<sup>11910</sup>

2747. The Trial Chamber received evidence from forensic anthropologist Fredy Peccerelli and forensic pathologist John Clark concerning the bodies exhumed from the Lažete 1 mass grave. According to a report authored by forensic anthropologist **Fredy Peccerelli**, Lažete 1 was located along the paved road between Lažete and Krizevići and consisted of a field immediately east of Lažete 2.<sup>11911</sup> The south-eastern quarter of the field contained the grave area in which a total of 129 bodies were found; 127 in a grave and two in a ditch.<sup>11912</sup> A report authored by forensic pathologist **John Clark** confirmed that 129 bodies and a number of body parts were exhumed from Lažete 1.<sup>11913</sup> Autopsies were performed on the 129 bodies and the report indicates the following with respect to the cause of death, relying on the most fatal injury found on the bodies: 54 had gunshot injuries to the trunk; 37 had multiple gunshot injuries; 32 had gunshot injuries to the head; two had gunshot injuries to the legs; and four had an undetermined cause of death.<sup>11914</sup> In total, 549 gunshots had been fired at the 129 individuals, with an average of four gunshots per person.<sup>11915</sup> At the time of their deaths, the individuals found in Lažete 1 were male between the age of 15 and 85 years, with the majority being between the age of 30 and 60 years.<sup>11916</sup> While some items of clothing were found on nearly all of the bodies in Lažete 1, none of the individuals examined appeared to have been wearing military clothing and no weapons or ammunitions were found.<sup>11917</sup>

<sup>11908</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14451, 14473-14475; P3642 (Zvornik Brigade vehicle log for Rovakopac Torpedo, July 1995), pp. 1, 3.

<sup>11909</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), p. 14452.

<sup>11910</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), p. 14452.

<sup>11911</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), p. 4. The Trial Chamber notes that Peccerelli's report also refers to the Lažete 1 mass grave as 'LZ01'.

<sup>11912</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2-4, 17, 21.

<sup>11913</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 1, 7.

<sup>11914</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 13.

<sup>11915</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 9, 16.

<sup>11916</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 7, 16.

<sup>11917</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 8, 27.

Personal possessions such as identification documents, jewellery, and a Koran were found on the bodies.<sup>11918</sup> In Lažete 1, 89 definite and five probable blindfolds, made of a variety of material and for most of them out of a pink cloth, were recovered at the site, usually over the eyes of the individuals but also pulled upwards or downwards.<sup>11919</sup> Clear bullet holes were present in several of the blindfolds.<sup>11920</sup> A small number of individuals had their hands tied together behind their backs with ligatures, made of electrical wire and thick wire, tied around their wrists and another individual had connecting loop of cloths around his legs.<sup>11921</sup> Concerning the body parts found in Lažete 1, all were from adults whose sex could not be determined.<sup>11922</sup> Blindfolds were present around parts of two skulls. Gunshot injuries were present in five cases, including two to the head, representing the potential cause of death.<sup>11923</sup>

2748. According to **Peccerelli**, there was no evidence of funeral artefacts or observation of religious or cultural funerary practices in relation to any of the bodies found in Lažete 1.<sup>11924</sup> Seventy of the 129 bodies had fractures, 36 of which were to the head.<sup>11925</sup> The 127 bodies in the grave were disorganised, dug into undisturbed brown yellow clay, and covered by disturbed soil.<sup>11926</sup> This indicated that machinery had scraped the ground while pushing the bodies, along with the excavated soil, into the grave.<sup>11927</sup> The disorganisation of the bodies in the ditch indicated that they had been displaced from the primary grave during a robbing.<sup>11928</sup> The ditch fill over the two

<sup>11918</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 8.

<sup>11919</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 8-9, 27. *See also* P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 3, 22.

<sup>11920</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 8, 11, 16.

<sup>11921</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 9, 16. *See also* P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 3, 23.

<sup>11922</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 13, 16.

<sup>11923</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 13.

<sup>11924</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2, 13, 17.

<sup>11925</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), p. 21.

<sup>11926</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2, 13.

<sup>11927</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2-3, 13, 21.

<sup>11928</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2-3, 15, 17.

bodies was a mixture; probably the fill of the mass grave and soil removed from the grave area during the robbing.<sup>11929</sup> Eight truncated bodies were recovered in the primary grave and they had probably been truncated during the robbing.<sup>11930</sup> The soil filling the robbed areas was different in texture, consistency, and colour from the remainder of the grave, indicating that it was material introduced to the Lažete 1 site.<sup>11931</sup> No complete bodies were recovered from the robbing areas but only nine body parts.<sup>11932</sup>

2749. The Trial Chamber received evidence from Fredy Peccerelli, William Haglund and John Clark concerning the bodies exhumed from the Lažete 2 A, B, and C mass graves. According to a report authored by **Peccerelli**, Lažete 2 was located along the paved road between Lažete and Krizevići and consisted of a field immediately west of Lažete 1.<sup>11933</sup> According to a report authored by **Clark**, 17 bodies and 25 body parts were exhumed from the Lažete 2 primary mass grave, while according to **Peccerelli**, a total of 16 bodies, 26 body parts and a pre-existing trench containing a water pipe were found in the mass grave.<sup>11934</sup> According to **Clark**, autopsies were performed on the 17 bodies and the report indicates the following with respect to the cause of death, relying on the most fatal injury found on the bodies: ten had gunshot injuries to the head; three had gunshot injuries to the trunk; two had multiple gunshot injuries; and two had an undetermined cause of death.<sup>11935</sup> Sixty-eight shots were identified in the bodies, with an average of four gunshots per person and a range of one to nine.<sup>11936</sup> The bullets and fragments recovered from the bodies indicated the use of high velocity rifles.<sup>11937</sup> At the

<sup>11929</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), p. 17.

<sup>11930</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 2-3, 16-17, 21.

<sup>11931</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), p. 15.

<sup>11932</sup> P2552 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 1, Bosnia-Herzegovina, 2000), pp. 3, 16.

<sup>11933</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), p. 4. The Trial Chamber notes that Peccerelli's report also refer to the Lažete 2 mass grave as 'LZ02'.

<sup>11934</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 1, 14; P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 2-3, 13, 17-19, 22. The Trial Chamber notes that the mass grave referred to by John Clark has been designated 'LZ02C'. The Trial Chamber therefore understands the evidence of Clark and Peccerelli with respect to the Lažete 2 mass grave to refer to the same mass grave, namely Lažete 2 C.

<sup>11935</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 15-16.

<sup>11936</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 14, 16.

<sup>11937</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 14.

time of their deaths, the individuals found in Lažete 2 were male potentially between the age of 17 and 85 years.<sup>11938</sup> While some items of clothing were found on all but one body in Lažete 2, none of the individuals examined appeared to have been wearing military clothing and no weapons or ammunitions were found.<sup>11939</sup> Personal possessions such as a watch and prayer beads were found on the bodies.<sup>11940</sup> Blindfolds, from the same variety of material as those found in Lažete 1, were recovered on eight out of the 17 bodies.<sup>11941</sup> Concerning the 25 body parts found in Lažete 2, all were from adults, apart from one from someone under the age of 17.<sup>11942</sup> Gunshot injuries were identified in two cases, one to a skull and one to a part of a pelvis and were found to be the potential cause of death.<sup>11943</sup>

2750. According to **Peccerelli**, there was no evidence of funeral artefacts or observation of religious or cultural funerary practices in relation to any of the bodies found in Lažete 2. The bodies were disorganised, dug into undisturbed yellow clay, and lay on and were covered by disturbed soil containing large pieces of turf, topsoil, and clay.<sup>11944</sup> This indicated that machinery had scraped the ground as it pushed the bodies, along with excavated soil, into the grave.<sup>11945</sup> A robbing event affected two separate sectors of the grave.<sup>11946</sup> From these areas an undetermined number of bodies had been removed.<sup>11947</sup> From the edges of the robbing areas but within the primary grave, six truncated bodies were recovered, indicating that they were truncated during the robbing.<sup>11948</sup> The body parts were recovered from the robbed areas; there were no

<sup>11938</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 14, 16, 27. *See* entry on John Clark's evidence in Appendix B.

<sup>11939</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 14, 27.

<sup>11940</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 14.

<sup>11941</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 14, 16. *See also* P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 3, 22-25.

<sup>11942</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), pp. 15-16.

<sup>11943</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 15.

<sup>11944</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 2, 13.

<sup>11945</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 2-3, 13, 22.

<sup>11946</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 2-3, 16-17.

<sup>11947</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 3, 17.

<sup>11948</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 2-3, 13, 17-19, 22.

complete bodies found.<sup>11949</sup> The soil filling the robbed areas was different in texture, consistency, and colour from the remainder of the grave, indicating that the material was introduced to the Lažete 2 site.<sup>11950</sup> A total of 671 shell cases, 20 live rounds, and 46 bullets were recovered.<sup>11951</sup>

2751. **William Haglund** testified that at the Lažete 2A primary mass grave, 112 male bodies were exhumed.<sup>11952</sup> Lažete 2B was also a primary mass grave but showed certain ‘disturbances’, meaning that bodies had been removed.<sup>11953</sup> Lažete 2B contained the remains of at least 52 male persons.<sup>11954</sup> The majority of the bodies’ ages in the Lažete 2A and 2B mass graves ranged from 16 to 45.<sup>11955</sup> One hundred and four cloth blindfolds were recovered during the exhumation.<sup>11956</sup> In relation to cause of death, 158 of the 165 died of gunshot wounds.<sup>11957</sup> All individuals were dressed in civilian clothing.<sup>11958</sup> Muslim paraphernalia were found on 12 individuals.<sup>11959</sup> According to the ICRC, some of these people were last seen alive between 11 and 13 July 1995.<sup>11960</sup>

2752. The Trial Chamber received evidence connecting the Lažete 1 and 2 primary mass graves with the secondary mass graves at Hodžići Road. **Dean Manning** testified that Lažete 1 is located in a grass covered and generally water logged field adjacent to the roadway leading from Grbavci School and alongside a dirt track leading to railroad tracks and the Lažete 2 mass grave.<sup>11961</sup> Aerial images show that the soil was disturbed in the area where the Lažete 1 and 2 mass graves are located sometime between 5 and

<sup>11949</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 3, 17, 19.

<sup>11950</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), p. 17.

<sup>11951</sup> P2553 (Fredy Peccerelli, Report on excavation and exhumation, Lažete 2, Bosnia-Herzegovina, 2000), pp. 3, 10.

<sup>11952</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3746-3747, 3750; P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 10-11.

<sup>11953</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3747-3748; P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 10, 19, 65, 76.

<sup>11954</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3750; P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 10-11.

<sup>11955</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3750; P1832 (William Haglund, Lažete 2 report, 15 June 1998), p. 54.

<sup>11956</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3750; P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 11, 61.

<sup>11957</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3750-3751; P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 10-11, 62.

<sup>11958</sup> P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 11, 54.

<sup>11959</sup> P1832 (William Haglund, Lažete 2 report, 15 June 1998), pp. 11, 77.

<sup>11960</sup> P1832 (William Haglund, Lažete 2 report, 15 June 1998), p. 11.

<sup>11961</sup> P1735 (Dean Manning, Summary of forensic evidence mass graves exhumed in 2000, February 2001), p. 4.

27 July 1995.<sup>11962</sup> Furthermore, aerial images taken on 7 September 1995 show that by that date, the Lažete 1 and 2 mass graves had been overgrown and had not been disturbed since 27 July 1995, while images taken on 27 September 1995 show significant disturbance of the two sites which had occurred by that point.<sup>11963</sup> Further aerial images show that on 7 September 1995, no disturbance could be seen in the area where the Hodžići Road mass graves are located while by 2 October 1995 it could be seen that the Hodžići Road 4 and 5 mass graves had been created.<sup>11964</sup> The witness further testified that soil and pollen samples, as well as matched shell cases, indicate that the source of the Hodžići Road 3, 4, and 5 secondary mass graves were the Lažete 1 and 2 primary mass graves.<sup>11965</sup> Matches were also found between the blindfolds recovered from Grbavci School in Orahovac and the Hodžići Road 4 secondary mass grave, as well as between blindfolds recovered from the Lažete 2 mass grave and the Hodžići Road 3, 4, and 5 mass graves.<sup>11966</sup> Connections were also found between the blindfolds and ligatures recovered from the Hodžići Road 4 and the Liplje 2 mass graves.<sup>11967</sup> Furthermore, the exhumation of the Lažete 1 mass grave provided reinforcement of the links between the two Lažete primary mass graves and their associated secondary graves of Hodžići Road 3, 4, and 5. Particularly noteworthy was a black plastic water pipe which had originally been laid through the field of Lažete 1, which had been cut through on initial creation of the grave, and an identical length of black plastic pipe was located in the secondary grave of Hodžići Road 5.<sup>11968</sup>

2753. **Richard Wright** testified that the Hodžići site was 13 metres long, 3 metres wide, and 1.5 to 2 metres deep and had been dug by a wheeled front loader with a toothed bucket.<sup>11969</sup> At the Hodžići Road 3, 4, and 5 mass graves, the witness and his

<sup>11962</sup> Dean Manning, pp. 14167-14168; P1481 (Srebrenica mass graves, Primary and secondary mass grave aerial imagery), p. 17.

<sup>11963</sup> Dean Manning, pp. 14168-14169; P1481 (Srebrenica mass graves, Primary and secondary mass grave aerial imagery), pp. 18-19 17.

<sup>11964</sup> Dean Manning, pp. 14169-14170; P1481 (Srebrenica mass graves, Primary and secondary mass grave aerial imagery), pp. 44, 49-50.

<sup>11965</sup> P1736 (Dean Manning Summary of forensic evidence – execution points and mass graves, 16 May 2000), pp. 16, 51, 55, 60, 63.

<sup>11966</sup> P1736 (Dean Manning Summary of forensic evidence – execution points and mass graves, 16 May 2000), pp. 17, 52.

<sup>11967</sup> P1736 (Dean Manning Summary of forensic evidence – execution points and mass graves, 16 May 2000), p. 17.

<sup>11968</sup> P1735 (Dean Manning, Summary of forensic evidence mass graves exhumed in 2000, February 2001), p. 4.

<sup>11969</sup> P1762 (Report on Exhumations in Eastern Bosnia in 1998, Richard Wright, 12 May 1999), pp. 23-24; P1768 (Richard Wright, *Krstić* transcript, 26, 29 May 2000), p. 3660-3661.

team discovered 40, 81, and 57 bodies, respectively.<sup>11970</sup> The witness established that the Hodžići Road 3, 4 and 5 sites were secondary graves.<sup>11971</sup> On the basis of pieces of flaked limestone and glossy black rocks and several pieces of plastic black pipe found at the Hodžići Road sites, the witness and Dr. Brown concluded that the graves near Lažete were the primary graves for the Hodžići Road 3, 4 and 5 sites.<sup>11972</sup>

2754. The Trial Chamber received evidence from Christopher Lawrence concerning the bodies exhumed from the Hodžići Road Site 3, 4, and 5 mass graves. According to a report authored by **Lawrence**, the remains of at least 40 individuals were exhumed from the Hodžići Road Site 3 between 1 and 3 July 1998.<sup>11973</sup> The remains were collected in 83 body bags of which only 47 were the subject of autopsy reports.<sup>11974</sup> Autopsies were performed on the remains of the contents of the 47 body bags and the report indicates that: 32 had gunshot injuries sufficient to cause death; 12 had an undetermined cause of death; and three had gunshot injuries that could possibly cause death.<sup>11975</sup> Of the 25 complete bodies, 20 had gunshot injuries sufficient to cause death; and two had gunshot injuries that could cause death and only three had an undetermined cause of death.<sup>11976</sup> Where sex could be determined, 39 individuals were identified as male. At the time of their deaths, three individuals were between the age of 13 and 18 years; ten individuals were between the ages of 18 and 24 years; and 27 individuals were over the age of 25.<sup>11977</sup> While some items of clothing found on the bodies could have been of military origin, none of the individuals examined appeared to be in military or police uniforms and none appeared to be carrying weapons.<sup>11978</sup> Two of the bodies had healed head

<sup>11970</sup> P1768 (Richard Wright, *Krstić* transcript, 26, 29 May 2000), p. 3661.

<sup>11971</sup> P1762 (Report on Exhumations in Eastern Bosnia in 1998, Richard Wright, 12 May 1999), pp. 23-25.

<sup>11972</sup> Richard Wright, T. 14418-14419; P1762 (Report on Exhumations in Eastern Bosnia in 1998, Richard Wright, 12 May 1999), pp. 22-23, 167, 169-171.

<sup>11973</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2-3.

<sup>11974</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2, 7, 18.

<sup>11975</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2-3.

<sup>11976</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 3, 18.

<sup>11977</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2, 8.

<sup>11978</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2, 18.



injuries and one had a long-term tracheotomy.<sup>11979</sup> Sixteen blindfolds were recovered at the site, including five found around the heads of individuals.<sup>11980</sup>

2755. According to a second report authored by Lawrence, the remains of at least 81 individuals were exhumed from the Hodžići Road Site 4 between 22 and 30 July 1998.<sup>11981</sup> The remains were collected in 138 body bags.<sup>11982</sup> Autopsies were performed on the contents of the 138 body bags and the report indicates that: 72 had an undetermined cause of death; one had a cause of death of homicidal violence including gunshot wound; 54 had gunshot injuries sufficient to cause death; seven had gunshot injuries that probably caused death; and four had gunshot injuries that could cause death.<sup>11983</sup> Of the 49 almost complete bodies, 37 had gunshot injuries sufficient to cause the death of the individual, nine had an undetermined cause of death, two had gunshot injuries that probably caused the death of the individual, and one had a cause of death of homicidal violence including gunshot wound.<sup>11984</sup> Of the nine almost complete bodies with an undetermined cause of death, five had bullets or parts of bullets present, four had extensive skull fractures, and four had apparent gunshot wounds in non-lethal areas.<sup>11985</sup> Where gender could be determined, 66 individuals were identified as male. At the time of their death, one individual was between the age of 8 and 13; three individuals were between the age of 13 and 18; 11 were between the age of 18 and 25; and 66 were over the age of 25.<sup>11986</sup> While some items of clothing found on the bodies could have been of military origin, none of the individuals examined appeared to be in military or police uniforms and none appeared to be carrying weapons.<sup>11987</sup> Forty-one blindfolds were recovered from the site, including 13 which were found around the face

<sup>11979</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2, 19.

<sup>11980</sup> P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, October 1998), pp. 2, 15.

<sup>11981</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2-3, 10, 21.

<sup>11982</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp.2, 6, 10.

<sup>11983</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2-3, 22-29.

<sup>11984</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 3, 10, 23.

<sup>11985</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 3, 23.

<sup>11986</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 10.

<sup>11987</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 23.

of individuals, seven associated with other body parts, and 21 in the grave.<sup>11988</sup> The fabric was similar to the fabric of ligatures found in other Hodžići Road sites and in particular Site 5.<sup>11989</sup> One of the blindfolds came from the same pair of trousers as a blindfold recovered from Hodžići Road Site 5.<sup>11990</sup> One possible ligature, a black shoelace, was found associated with the body of a sub-adult.<sup>11991</sup>

2756. According to a third report authored by Lawrence, the remains of at least 57 individuals were exhumed from the Hodžići Road Site 5 between 12 July and 20 July 1998.<sup>11992</sup> The remains were collected in 93 body bags of which only 69 were the subject of autopsy reports.<sup>11993</sup> Autopsies were performed on the contents of the 69 body bags and the report indicates that: 53 had gunshot injuries sufficient to cause the death; 10 had an undetermined cause of death; three had gunshot injuries that could possibly cause death; two had gunshot injuries that could probably cause death; two had gunshot injuries sufficient to cause death; and one possibly died from suffocation.<sup>11994</sup> Of the 51 complete bodies, 45 had gunshot injuries sufficient to cause death and two had gunshot injuries that could probably cause death while only three had an undetermined cause of death and one possibly died of suffocation.<sup>11995</sup> Where gender could be determined, 54 individuals were identified as male. At the time of their death, at least seven individuals were between the age of 55 and 65 and one was over the age of 65. None of the individuals were under the age of 25.<sup>11996</sup> While some items of clothing found on the bodies could have been of military origin, none of the individuals examined appeared to be in military or police uniforms and none appeared to be carrying weapons.<sup>11997</sup> Thirty-one blindfolds were recovered from the site: 19 around the heads of individuals, four

<sup>11988</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 17-21.

<sup>11989</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 17, 20-21.

<sup>11990</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 17, 20-21.

<sup>11991</sup> P1810 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 4, October 1998), pp. 2, 17.

<sup>11992</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2-3, 7-8, 20-21.

<sup>11993</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2-3, 21.

<sup>11994</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 3, 21, 23-29.

<sup>11995</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 8, 21.

<sup>11996</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 8.

which were associated with other body parts, and two in the grave.<sup>11998</sup> The fabric was similar to the fabric of ligatures found in other Hodžići Road sites, in particular Site 3 and Site 4.<sup>11999</sup> One of the blindfolds came from the same pair of trousers as a blindfold recovered from the Hodžići Road Site 4.<sup>12000</sup> One individual had his hands tied behind his back with a cord ligature.<sup>12001</sup>

2757. According to a report authored by **Dušan Janc**, as of April 2013, the remains of 848 individuals were identified through DNA analysis from various mass graves: 120 individuals from the Lažete 1 mass grave, 188 individuals from the Lažete 2 mass grave, 90 individuals from the Hodžići Road 1 mass grave, 103 individuals from the Hodžići Road 2 mass grave, 40 individuals from the Hodžići Road 3 mass grave, 71 individuals from the Hodžići Road 4 mass grave, 55 individuals from the Hodžići Road 5 mass grave, 70 individuals from the Hodžići Road 6 mass grave, and 111 individuals from the Hodžići Road 7 mass grave.<sup>12002</sup> Janc identified twelve DNA connections between the remains identified in the Lažete 1 primary mass grave and the remains identified in the Hodžići Road 5 secondary mass grave.<sup>12003</sup> Furthermore, ten DNA connections were found between the Lažete 2 and the Hodžići Road 1 primary mass grave, seven between Lažete 2 and Hodžići Road 2, four between Lažete 2 and Hodžići Road 3, two between Lažete 2 and Hodžići Road 4, five between Lažete 2 and Hodžići Road 6, and twenty between Lažete 2 and Hodžići Road 7. Seven DNA connections were also found between the Hodžići Road 1 and the Hodžići Road 2 secondary mass graves, two between Hodžići Road 1 and Hodžići Road 7, eight between Hodžići Road 2 and Hodžići Road 3, three between Hodžići Road 4 and Hodžići Road 6, and two between Hodžići Road 6 and Hodžići Road 7. Janc further identified one DNA connection between the remains identified in the Hodžići Road 5 secondary mass grave

<sup>11997</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 21.

<sup>11998</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 15, 17, 19.

<sup>11999</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 15, 19.

<sup>12000</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 19.

<sup>12001</sup> P1811 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 5, October 1998), pp. 2, 15-16.

<sup>12002</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), pp. 3-4, Annex A, pp. 3-4, 14-17, 34-35; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 18-32, 179-210.

<sup>12003</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), Annex C, pp. 2, 29, 31. For Janc's methodology, *see* Appendix B.

and Liplje 2, a secondary mass graves connected to a primary mass grave distinct from the Lažete 1 and 2 sites.<sup>12004</sup>

2758. According to a report authored by **Jose Baraybar**, bodies recovered from the Hodžići Road secondary grave sites 3, 4, and 5 were originally disposed of in the Lažete primary graves sites.<sup>12005</sup>

*The Trial Chamber's findings concerning Scheduled Incident E.6.1*

2759. With regard to Scheduled Incident E.6.1, and based on the foregoing, the Trial Chamber finds that on 14 July 1995, members of the Zvornik Brigade shot and killed two Bosnian-Muslim men who were detained at Grbavci School in Orahovac after having told the detainees they would be shot if they did not sit still. One of the guards told the detainees 'we will see whether these people can or cannot be killed'. Witness RM-297, Witness RM-362, and Mevludin Orić all provided evidence of a detainee being killed after speaking up. While these witnesses' accounts differ slightly, they are consistent in recounting that a detainee spoke up to the guards at Grbavci School and was subsequently shot. The Trial Chamber is satisfied that these accounts refer to the same incident. The Trial Chamber notes that only Witness RM-297 provided evidence of a second detainee being taken out of the gymnasium and killed, and that Witness RM-362 stated that no detainees left the gymnasium after one detainee was killed. The Trial Chamber finds Witness RM-297's testimony regarding this second killing detailed and convincing. It considers that Witness RM-297 observed an incident that Witness RM-362 did not. Thus, the Trial Chamber finds that their accounts are not inconsistent with one another, as Witness RM-362 would not necessarily have observed the second incident given that the gymnasium was large and crowded – approximately 15 by 20 metres and holding at least 1,000 detainees. Many of the detainees fainted and were left without medical attention or food. While the Trial Chamber received evidence that some of the detainees at Grbavci School were wearing civilian clothing and others were wearing military uniforms, it has not received any evidence that would allow it to determine the type of clothing worn by the particular victims of this incident. The Trial

<sup>12004</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), Annex C, pp. 2, 29, 31.

<sup>12005</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 3, 8.

Chamber will consider this incident in relation to Counts 2 to 6 of the Indictment in chapter 8 below.

*The Trial Chamber's findings concerning Scheduled Incident E.6.2*

2760. With respect to Scheduled Incident E.6.2, the Trial Chamber received evidence from Mevludin Orić, Witness RM-297, and Witness RM-362 on the number of people detained at Grbavci School in Orahovac on 14 July 1995. The numbers provided by these witnesses range from 1,000 to 2,500 detainees.<sup>12006</sup> Further, the Trial Chamber received contradictory evidence from Orić, Witness RM-297, and Milorad Birčaković with respect to the frequency of the transports of detainees between the school and the nearby fields where they were subsequently killed. Under these circumstances, the Trial Chamber will rely primarily on the relevant forensic evidence in order to calculate the number of victims for Scheduled Incident E.6.2.

2761. The Trial Chamber received extensive forensic evidence concerning the bodies exhumed from the Lažete 1 and 2 and the Hodžići Road 1 through 7 mass graves. The Trial Chamber has considered Adjudicated Fact 1571, according to which the Bosnian-Muslim men detained at Grbavci School were executed and buried in a nearby field. It has also considered the evidence of Dean Manning, Fredy Peccerelli, Milorad Birčaković, Cvijetin Ristanović, Damjan Lazarević, Mevludin Orić, and Witness RM-297 pertaining to the location of the Lažete 1 and 2 mass graves; the description of the place where the detainees from Grbavci School in Orahovac were transported to, which matches the description of the location of the Lažete 1 and 2 mass graves; the presence of a yellow excavator at this location which was used to dig out a pit; and the fact that corpses were being buried in graves at this location. The Trial Chamber has also considered the evidence of Dean Manning, Jose Baraybar, and Richard Wright connecting the Lažete 1 and 2 mass graves with the Hodžići Road 1 through 7 mass graves.

<sup>12006</sup> The Trial Chamber notes that while Milorad Birčaković, Witness RM-269, and Dragoje Ivanović provided evidence of the number of detainees they personally observed arriving at Grbavci School in Orahovac, none of these witnesses provided evidence regarding the total number of individuals detained at the school.

2762. The Trial Chamber first refers to its review of Janc's methodology as set out in Appendix B. Second, the Trial Chamber notes that Hodžići Road 5 is solely connected to the Lažete 1 primary mass grave.

2763. All other secondary graves, namely Hodžići Road 1, 2, 3, 4, 6, and 7, were connected with the Lažete 2 primary mass grave and with each other. The Trial Chamber notes that Janc identified one DNA match between Hodžići Road 5 and Liplje 2, a secondary mass grave connected to a primary mass grave related to another Scheduled Incident. In accordance with the above, the Trial Chamber then considered the frequency of DNA connections.

2764. The high number of DNA connections between Hodžići Road 5 and the Lažete 1 primary mass grave, compared to the very low number of 'external' DNA connections with the Liplje 2 mass grave, led the Trial Chamber to find that a majority of the bodies from the Hodžići Road 5 mass grave are to be counted as part of Scheduled Incident E.6.2.

2765. On the basis of this evidence, the Trial Chamber took a conservative approach as explained in Appendix B, and finds that the victims of Scheduled Incident E.6.2 were buried in the Lažete 1 and 2 mass graves and that bodies from the Lažete 1 and 2 primary mass graves were subsequently reburied in the Hodžići Road 1 through 7 secondary mass graves and will therefore rely on the number of DNA profiles identified in the Lažete 1 and 2 and the Hodžići Road 1, 2, 3, 4, 6, and 7 mass graves, as well as the majority of the DNA profiles identified in the Hodžići Road 5 secondary mass grave, to calculate the number of victims of this Scheduled Incident (*i.e.*, 120 individuals from Lažete 1, 188 individuals from Lažete 2, 90 individuals from Hodžići Road 1, 103 individuals from Hodžići Road 2, 40 individuals from Hodžići Road 3, 71 individuals from Hodžići Road 4, the majority of 55 individuals from Hodžići Road 5, 70 individuals from Hodžići Road 6, and 111 individuals from Hodžići Road 7). The Trial Chamber will subtract from this number the two individuals who were killed outside Grbavci School in Orahovac and which pertain to Scheduled Incident E.6.1, as their remains may have also been in the Lažete 1 or 2 or the Hodžići Road 1 through 7 mass graves.

2766. Based on the foregoing, the Trial Chamber finds that on 14 July 1995, members of the Zvornik Brigade, including personnel from the 4th Battalion and the Military Police Company of the Zvornik Brigade, a man named Gojko Simić, and two soldiers

referred to as 'Risto' and 'Vojo', shot and killed at least 819 Bosnian-Muslim men previously detained at Grbavci School in Orahovac on two meadows near Orahovac. Many of the victims were dressed in civilian clothing while some were wearing military uniforms. Some were under the age of 18 and some were over the age of 60. Some of them were blindfolded before being killed and some had their hands or legs tied. During the killings, the soldiers referred to the Bosnian Muslims using phrases such as 'fuck [their] Turk mothers', 'suffer some more, you *Ustaša*', and said that they were 'best off dead'. Dragan Obrenović, the Deputy Commander of the Zvornik Brigade, knew of the killings at the time when he allowed the members of the Zvornik Brigade Military Police Company to assist in the detention of the Bosnian-Muslim men at Grbavci School in Orahovac. The Trial Chamber will consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

## 7.8 Petkovci (Schedule E.7)

### *7.8.1 School in Petkovci (Schedule E.7.1)*

2767. According to the Indictment, the Accused is responsible for the killing of some of the approximately 1,000 Bosnian-Muslim men detained at Petkovci School on or about 14 July 1995.<sup>12007</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts with regard to this incident. It also received evidence from **Witness RM-253**, a Bosnian-Muslim ABiH soldier from Srebrenica Municipality,<sup>12008</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12009</sup> The Trial Chamber further received evidence from **Witness RM-204**, a Bosnian Muslim from Srebrenica;<sup>12010</sup> **Marko Milošević**, Deputy Commander of the 6th Battalion of the Zvornik Brigade from the beginning of April 1995;<sup>12011</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995,<sup>12012</sup> and **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995.<sup>12013</sup>

2768. On 14 July 1995, approximately 1,000 males from detention sites in and around Bratunac were transported to the Petkovci School.<sup>12014</sup> At the school, it was extremely hot and crowded, the men had no food or water, and some prisoners became so thirsty they resorted to drinking their own urine.<sup>12015</sup> Periodically, soldiers came in and beat the prisoners or called them out to be killed.<sup>12016</sup>

2769. Two witnesses provided further details about the alleged killings at the school. **Witness RM-204**, previously held in Sandići Meadow, and **Witness RM-253**, previously detained in Kravica, were transferred with other detainees (for further details

<sup>12007</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.7.1.

<sup>12008</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), p. 1, para. 1; Witness RM-253, T. 12485; P1546 (Witness RM-253, pseudonym sheet).

<sup>12009</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 25-28, 30, 32, 35; Witness RM-253, T. 12490, 12553; P1548 (Witness RM-253, clarifications to witness statement); P1550 (Marked video still of Petkovci school).

<sup>12010</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 1.

<sup>12011</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13299.

<sup>12012</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

<sup>12013</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676. Ljubomir Bojanović's evidence is also reviewed in chapter 9.6.3.

<sup>12014</sup> Adjudicated Facts II, no. 1579.

<sup>12015</sup> Adjudicated Facts II, no. 1580.

<sup>12016</sup> Adjudicated Facts II, no. 1581.



about this, *see* chapter 7.1.6), to Petkovci School on 14 July 1995.<sup>12017</sup> **Witness RM-253** stated that upon arrival, armed Serb soldiers in camouflage uniforms assaulted the detainees and forced them to run towards a school building shouting something along the lines of, '[l]ong live Serbia, Srebrenica is Serbian'.<sup>12018</sup> Inside the school, the detainees were held in several classrooms, filled with people, and had to sit with their legs folded.<sup>12019</sup> **Witness RM-253** stated that the soldiers threatened to kill the detainees if they went near the windows or made noise.<sup>12020</sup> The detainees could not open the windows.<sup>12021</sup> The detainees present in the witness's room heard a shot and screams coming from outside the classroom. A detainee, who had gone to the window to look outside, was shot in the chest by someone from outside.<sup>12022</sup> **Witness RM-204** stated that while the detainees tried to open the windows to get more air in the classroom where he was held, the detainees were fired upon from below and four or five people got injured.<sup>12023</sup>

2770. **Witness RM-253** stated that inside the school, he saw Razim Buhčić and another man lying on the ground with their faces and clothes covered in blood.<sup>12024</sup> The witness also saw Ramo Fejzić, and Fuad Pilav and Pilav's father in classrooms in the school building.<sup>12025</sup> These men's remains were later found in mass graves.<sup>12026</sup>

2771. **Witness RM-204** stated that after nightfall, an armed soldier asked for people from Čerska, Glogova, Sućeska, Osmace, and other villages that the witness could not recall. Two detainees responded and after they were taken out of the room the witness heard screaming and the sounds of beating from the hallway outside the classroom. Those detainees never returned. The witness could hear voices in other rooms saying: '[c]ome on you *Balija's* get out'. They also said: '[t]hree *Balija* lets go out; five *Balijas*; two *Balijas*... get out'. According to the witness, the time it would take for a person to

<sup>12017</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 25, 28; P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 3-5.

<sup>12018</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 25, 27-29; Witness RM-253, T. 12490-12491.

<sup>12019</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 7; P3358 (Witness RM-204, witness statements, 19 August 1996), p. 2. *See also*, P1547 (Witness RM-253, witness statement, 16 August 1995), para. 30; Witness RM-253, T. 12491; P1548 (Witness RM-253, clarifications to witness statement); P1551 (Marked photograph of the interior of Petkovci School).

<sup>12020</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 31.

<sup>12021</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 32.

<sup>12022</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 31.

<sup>12023</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 7.

<sup>12024</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 30; Witness RM-253, T. 12493-12494.

<sup>12025</sup> Witness RM-253, T. 12493-12494.

walk from the classrooms towards outside at the entrance was the time that passed before the witness heard gunfire. It sounded as though the gunfire came from near the entrance of the building. This continued until midnight.<sup>12027</sup>

2772. **Witness RM-253** stated that after nightfall, a soldier came into the classroom where he was held and told the detainees to hand over their money, jewellery, documents, and any other possessions and told them to step out into the corridor in groups of two to four every five to ten minutes.<sup>12028</sup> Soon after, two men whom the witness recognized as detainees came and informed the witness and other detainees that they needed to collect more money from them or they would all be killed.<sup>12029</sup> The witness heard the sound of gunfire and when detainee Salih Mehmedović asked for water, he was taken out of the room, and the witness heard bursts of gunfire and what sounded like beatings. The witness never saw Mehmedović again.<sup>12030</sup> After some time, the witness passed out or fell asleep. When he woke up, there were only between 10 and 15 men left in the room. The witness heard someone order two men to step into the hallway.<sup>12031</sup> When the witness, along with another man, Kadrija Becirović, stepped out, he saw four or five soldiers in the hallway and what appeared to be a lot of blood on the floor outside the classroom.<sup>12032</sup> A soldier ordered the men to take off their shirts and shoes and empty their pockets, after which another soldier tied the witness's hands behind his back with a rope, insulted and assaulted him, and then pushed him into another classroom.<sup>12033</sup> About 20 minutes later, the soldiers called out for groups of five to ten men to run from the classrooms and onto trucks parked near the building's entrance. The soldiers assaulted the detainees while they ran and if they fell while attempting to board the truck.<sup>12034</sup> While running out of the building, the witness saw about 20 bodies, most with their chests covered in blood, and he assumed that they had

<sup>12026</sup> Witness RM-253, T. 12493-12494.

<sup>12027</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 7.

<sup>12028</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 33, 36; Witness RM-253, T. 12492. *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), p. 7.

<sup>12029</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 33.

<sup>12030</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 35.

<sup>12031</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 36. *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), p. 7.

<sup>12032</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 37; Witness RM-153, T. 12492; P1551 (Marked photograph of the interior of Petkovci school).

<sup>12033</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 37; Witness RM-253, T. 12492-12493, 12551-12552; P1551 (Marked photograph of the interior of Petkovci school). *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 7-8.

<sup>12034</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 38-39.

been shot.<sup>12035</sup> **Witness RM-204** stated that while he walked out of the building, he saw many bodies.<sup>12036</sup> **Witness RM-253** testified that the truck in which he was placed was over-crowded. Once the back of the truck was closed, a round of bullets was fired at the detainees' legs, wounding some of the men.<sup>12037</sup>

2773. **Marko Milošević** stated that while he was on duty at the 6th Battalion Command in Petkovci, between 10 a.m. and noon on 14 July 1995, he received a telephone call from the Zvornik Brigade duty operations officer intended for the Battalion Commander, Ostoja Stanišić. As Stanišić was not there, the witness took the call, which came in on a secure, wired military line.<sup>12038</sup> The Zvornik Brigade duty officer told the witness that some imprisoned Muslims would be brought to the Petkovci School accompanied by security in about two hours.<sup>12039</sup> Petkovci School was 700 to 800 metres away from the 6th Battalion Command, which was stationed in the old school of Petkovci.<sup>12040</sup> When Ostoja Stanišić returned to the battalion command two hours after the call, the witness conveyed this information to him.<sup>12041</sup>

2774. At around 4 or 5 p.m. at the Zvornik Brigade's 6th Battalion Command, Stanišić told the witness he had received a message from the Zvornik Brigade Command, and instructed the witness to search for Beara at Petkovci School and tell him that he should report to the Zvornik Brigade Command.<sup>12042</sup> The witness went towards the school.<sup>12043</sup> Approximately 70 to 80 meters from the school, at the crossroads of the main road leading to Petkovci where the road forked off to the school, the witness met Drago Nikolić, whom he knew from having worked with him in 1994 as his assistant.<sup>12044</sup> The witness asked Nikolić if he knew whether a man named Beara was there, and Nikolić pointed him to Beara – whom the witness described as a man of about 60 years old with grey hair.<sup>12045</sup> The witness conveyed the message from Stanišić to Beara.<sup>12046</sup> Four or five military police officers were with Beara and Nikolić at the crossroads; they wore

<sup>12035</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 38.

<sup>12036</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12037</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 40.

<sup>12038</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13300, 13341-13342.

<sup>12039</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13301, 13342.

<sup>12040</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13318.

<sup>12041</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13301.

<sup>12042</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13302-13303.

<sup>12043</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13303.

<sup>12044</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13299-13300, 13303-13304, 13347; P3505 (Aerial photograph of Petkovci, marked by Marko Milošević); P3506 (Aerial photograph of Petkovci, marked by Marko Milošević).

<sup>12045</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13303, 13319.

camouflage uniforms with white belts, which were typical of the military police. As the witness did not recognize any of the military policemen, he believed that they were not from the Zvornik Brigade. The witness also saw troops around the school, some of whom wore camouflage uniforms and some of whom wore olive-drab uniforms.<sup>12047</sup> These troops were too far away for the witness to recognize any of them.<sup>12048</sup> Down the road, the witness observed parked buses and lorries, as well as a blue Golf.<sup>12049</sup> Once the witness had returned to the 6th Battalion Command, he briefed Stanišić that he had accomplished his mission, whereupon Stanišić in turn conveyed this to the Zvornik Brigade Command.<sup>12050</sup> In the late afternoon on the same day, the witness heard isolated shots and bursts of gunfire coming from the direction of the Petkovci School.<sup>12051</sup> The witness distinguished this from the gunfire coming from the lines and from the area of the companies of the 6th Battalion.<sup>12052</sup> On 16 July 1995, the witness was wounded at Parlog and brought to the Zvornik hospital, where he stayed for about 10 days to recover. During his stay in hospital, on or after 20 July 1995, the witness was told that the Muslims who had been brought to Petkovci School on 14 July 1995 had been killed.<sup>12053</sup> Stanišić also visited the witness in hospital and told him that he had sent soldiers from his battalion to clean up the school as the local villagers had allegedly asked for this to be done.<sup>12054</sup>

2775. In relation to this scheduled incident, the Trial Chamber also considered the evidence of Witness RM-322 which has been placed in the confidential annex in Appendix D. **Witness RM-322** further testified that around 7 p.m. on 13 July 1995, 2nd Lieutenant Drago Nikolić, who was then the duty officer at the brigade's forward command post in Kitovnica, called the Zvornik Brigade headquarters located at the Standard shoe factory in the Karakaj neighbourhood a few kilometres from the centre of Zvornik.<sup>12055</sup> Nikolić reported that Popović had called and asked them to prepare for the

<sup>12046</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13303.

<sup>12047</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13304-13305.

<sup>12048</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13304.

<sup>12049</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13305.

<sup>12050</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13303, 13306.

<sup>12051</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13307.

<sup>12052</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13307.

<sup>12053</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13308-13309.

<sup>12054</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), pp. 13333-13334.

<sup>12055</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1; Witness RM-322, T. 11630-11631, 11634-11638, 11726-11727; P1495 (Excerpts of the Kitovnica Forward Command Post logbook, 7 July-10 August 1995), p. 6.

arrival of a large number of Muslim detainees from Bratunac to Zvornik.<sup>12056</sup> On the basis of the intelligence information on the number of Muslims captured in the area of Konjević Polje, the witness expected that thousands of detainees would be brought in.<sup>12057</sup> Nikolić further explained that the detainees could not be sent to the Batković camp, because everyone, including the Red Cross, knew about Batković, and that the orders stated that the detainees were to be brought to Zvornik and executed by firing squad.<sup>12058</sup> Nikolić was told that without informing the Main Staff Command they would not be able to accept this task, but Nikolić said that the order had come from Mladić, that Popović and Beara, the Main Staff Security Chief, would organise the operation, and that everyone, including Vinko Pandurević, was aware of it.<sup>12059</sup> Around 2 p.m. on 14 July 1995, Major Zoran Jovanović arrived in the Snagovo area with reinforcements from Zvornik and informed the VRS Zvornik Brigade that Beara had brought a large number of detainees in buses to the Zvornik area.<sup>12060</sup> Around 11 a.m. on 15 July 1995, the witness learned that there were major problems with the burials of the executed detainees as well as with the guarding of those detainees who were still to be executed and that there was general chaos and that the situation had become critical.<sup>12061</sup> The witness also learned that Beara, Nikolić, and Popović were taking people ‘as they wished’, and that Popović had instructed Dragan Jokić not to make records of the activities involving the killing operation or to speak about it on the radio.<sup>12062</sup>

2776. Based on the foregoing, the Trial Chamber finds that on 14 July 1995, members of the VRS, including members of the military police killed, including by gunfire, about 20 of the approximately 1,000 Bosnian-Muslim men detained at Petkovci School.<sup>12063</sup> Detainees were called out and killed, and at least one detainee was shot in the chest

<sup>12056</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1; Witness RM-322, T. 11631-11632, 11729-11731.

<sup>12057</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1.

<sup>12058</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1; Witness RM-322, T. 11631, 11735; D295 (Transcript of Prosecution’s interviews with Witness RM-322).

<sup>12059</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 1; Witness RM-322, T. 11631, 11730-11732, 11735.

<sup>12060</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 2; Witness RM-322, T. 11639-11640.

<sup>12061</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 3; Witness RM-322, T. 11647-11648, 11877.

<sup>12062</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 3; Witness RM-322, T. 11648.

<sup>12063</sup> While Ljubomir Bojanović testified that a mass execution of detainees in the Zvornik Brigade’s area of responsibility would have been reflected in the daily combat report, he was not involved in the drafting of the report in question, and his comments on it are merely speculative. Therefore, the Trial Chamber has not relied on this aspect of Bojanović’s evidence.

while he was looking outside through the window of one of the classrooms.<sup>12064</sup> The soldiers called the detainees ‘*Balijas*’ while taking them out of the classrooms. The Trial Chamber will further consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

### 7.8.2 Dam near Petkovci (Schedule E.7.2)

2777. According to the Indictment, the Accused is responsible for the killing of the surviving portion<sup>12065</sup> of the approximately 1,000 Bosnian-Muslim men who were detained at Petkovci School on or about 14 July 1995 in the evening until 15 July 1995.<sup>12066</sup> The men were summarily executed in an area below the dam near Petkovci.<sup>12067</sup> While the executions continued on 15 July, excavators and heavy equipment were used to bury the victims.<sup>12068</sup> The Defence argued that the Prosecution’s witnesses failed to identify the perpetrators of these killings.<sup>12069</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to this incident. It further received evidence from **Witness RM-253**, a Bosnian-Muslim ABiH soldier from Srebrenica Municipality;<sup>12070</sup> **Witness RM-204**, a Bosnian Muslim from Srebrenica;<sup>12071</sup> and **Richard Butler**, an intelligence research specialist,<sup>12072</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12073</sup> The Trial Chamber also received evidence from **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>12074</sup> **Dušan Janc**, an investigator;<sup>12075</sup> **Marko Milošević**, Deputy Commander of

<sup>12064</sup> With regard to Salih Mehmedović, *see* chapter 7.8.2.

<sup>12065</sup> *See* chapter 7.8.1.

<sup>12066</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.7.2.

<sup>12067</sup> Indictment, Schedule E.7.2.

<sup>12068</sup> Indictment, Schedule E.7.2.

<sup>12069</sup> Defence Final Brief, paras 3114-3119.

<sup>12070</sup> P1547 (Witness RM-253, witness statement, 16 August 1995); Witness RM-253, T. 12485; P1546 (Witness RM-253, pseudonym sheet). The evidence of Witness RM-253 is also reviewed in chapter 7.8.1.

<sup>12071</sup> P3357 (Witness RM-204, witness statement, 13 August 1995); P3358 (Witness RM-204, witness statement, 19 August 1996). The evidence of Witness RM-204 is also reviewed in chapter 7.8.1.

<sup>12072</sup> Richard Butler, T. 16108

<sup>12073</sup> **Witness RM-253**: P1547 (Witness RM-253, witness statement, 16 August 1995), paras 37, 40-41, 50, 54; T. 12494-12495, 12498-12499; P1552 (Photograph of Petkovci Dam); P1554 (Sketch of Petkovci Dam at daytime). **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 8, 10. **Richard Butler**: P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.28, 7.31-7.35.

<sup>12074</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004).

<sup>12075</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

the 6th Battalion of the Zvornik Brigade from the beginning of April 1995;<sup>12076</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>12077</sup> and **Christopher Lawrence**, a forensic pathologist.<sup>12078</sup>

2778. **Witness RM-253** testified that on 14 July, some time between 11 p.m. and midnight, the truck onto which Serb soldiers had loaded the witness and at least 60 other detainees, all of whom had their hands tied, left the school in Petkovci.<sup>12079</sup> **Witness RM-204** stated that after walking out of the school he had to get into a truck with about 100 to 200 other men.<sup>12080</sup> The witness heard a gunshot and someone at the end of the truck screamed.<sup>12081</sup> **Witness RM-253** described how the truck onto which he had been loaded travelled a short distance over asphalt and about two to three kilometres on a gravel road to a gravel area, which the witness later saw was a plateau beneath a dam.<sup>12082</sup> The drivers and trucks from the 6th Infantry Battalion of the Zvornik Brigade were used to transport the prisoners from the detention site to the execution site at Petkovci Dam on 15 July 1995.<sup>12083</sup> **Butler** testified that the dam was in the zone of responsibility of the Zvornik Brigade, located in the 6th Infantry Battalion's sector less than two kilometres from the 6th Battalion's command post in Baljkovica.<sup>12084</sup>

2779. **Witness RM-204** and **Witness RM-253** described what happened to the detainees when the truck arrived at the dam. After the truck stopped, **Witness RM-204** heard very loud gunfire followed by what sounded like stones falling on the canvas top of the truck. The detainees stayed in the truck for some time and heard bursts of gunfire often. Someone opened the back of the truck and the witness saw two or three soldiers standing outside. He heard someone saying: '[f]ive *Balijas* get out.'<sup>12085</sup> Almost

<sup>12076</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13299. The evidence of Marko Milošević is also reviewed in chapter 7.8.1.

<sup>12077</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322). Witness RM-322's evidence is reviewed in chapter 7.8.1.

<sup>12078</sup> Christopher Lawrence, T. 14695; P1803 (*Curriculum vitae* of Christopher Lawrence, undated), pp. 1-2.

<sup>12079</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 37, 40-41.

<sup>12080</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12081</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12082</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 41; Witness RM-253, T. 12494-12495; P1552 (Photograph of Petkovci Dam). See also P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12083</sup> Adjudicated Facts II, no. 1584. The Trial Chamber understands the 'detention site' mentioned in this Adjudicated Fact to refer to Petkovci School.

<sup>12084</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.28.

<sup>12085</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8. See also P1547 (Witness RM-253, witness statement, 16 August 1995), para. 42; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.31.

immediately after the men got out, the witness heard a burst of gunfire. According to the witness, the men were called out continuously and he could hear gunfire after each group had left the truck.<sup>12086</sup> **Witness RM-253** testified that this happened throughout the night.<sup>12087</sup> **Witness RM-204** got out of the truck with four other detainees and he saw soldiers armed with automatic rifles.<sup>12088</sup> The witness saw rows of dead bodies, approximately 20 metres long, and heard men moaning.<sup>12089</sup> The witness saw two lights shining from the direction of a guard house located on a dam.<sup>12090</sup> A soldier ordered the witness and the four other detainees to lie down, but because their hands were tied, they fell to the ground.<sup>12091</sup> As they fell, someone started to fire.<sup>12092</sup> The witness felt pain in his right arm and side and he smelled something like burning gunpowder.<sup>12093</sup> **Witness RM-253** fell next to a body which was already lying on the ground and managed to survive.<sup>12094</sup> **Witness RM-204** heard someone ordering one of the detainees to say ‘*Allahu Akbar*’, after which there was a burst of gunfire. He also heard someone saying: ‘*Haris Silajdžić will exchange your dead bodies.*’ The witness heard more people brought down behind and more gunfire.<sup>12095</sup> He felt a severe pain in his left foot, more painful than that in his arm and side.<sup>12096</sup> People were screaming and the ‘*Chetniks*’ were laughing. He heard one of them saying: ‘[t]his hunting was good, these rabbits are very good’.<sup>12097</sup> **Witness RM-253** heard the soldiers being ordered to check the rows of

<sup>12086</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12087</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 44-45. *See also* P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.31.

<sup>12088</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 8.

<sup>12089</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9. *See also* P1547 (Witness RM-253, witness statement, 16 August 1995), paras 36, 43; Witness RM-253, T. 12497; P1553 (Sketch of Petkovci Dam at night).

<sup>12090</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9; P3360 (Photograph of guard house at top of dam and over-flow canal from dam); P3363 (Photograph of execution site); P3364 (Photograph of execution site).

<sup>12091</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9. *See also* P1547 (Witness RM-253, witness statement, 16 August 1995), paras 43-44; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.31.

<sup>12092</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9. *See also* P1547 (Witness RM-253, witness statement, 16 August 1995), paras 43-44; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.31.

<sup>12093</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9; P3359 (Witness RM-204, *Blagojević and Jokić* transcript, 21 July 2003), pp. 1424-1425; P3367 (Photograph of injuries on shoulder and chest of Witness RM-204); P3368 (Photograph of chest injuries of Witness RM-204); P3369 (Photograph of sole of foot of Witness RM-204).

<sup>12094</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 43-47.

<sup>12095</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9.

<sup>12096</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9; P3359 (Witness RM-204, *Blagojević and Jokić* transcript, 21 July 2003), pp. 1424-1425; P3367 (Photograph of injuries on shoulder and chest Witness RM-204); P3368 (Photograph of chest injuries of Witness RM-204); P3369 (Photograph of sole of foot of Witness RM-204).

<sup>12097</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9.



bodies for survivors, and shoot anyone who was still alive.<sup>12098</sup> **Witness RM-204** heard someone saying: ‘Jovo let’s go, everyone takes one row and check who is cold. If he is cold, then he is dead, if warm, then they are still alive and it has to be a bullet to the head’. Someone answered: ‘[f]uck their mother, they are dead’. The witness saw one man coming down his row, and he walked over the witness to reach the man on his right, who was still screaming. He heard the man being shot. The witness felt pain all over his right arm and neck and later he saw that he had multiple cuts on his right arm and neck.<sup>12099</sup> There was grit, dust and fragments of bullets in the witness’s wounds, which the witness stated, are still in his body.<sup>12100</sup> When they checked the area for survivors, **Witness RM-253** pretended to be dead and then lost consciousness.<sup>12101</sup> **Witness RM-204** remained quiet and after he heard vehicles leaving the site, he got up and helped another man get up.<sup>12102</sup>

2780. When **Witness RM-253** regained consciousness, the shooting had stopped and there were two or three men lying on top of him.<sup>12103</sup> The witness heard sounds of other men who were alive and managed to untie another survivor, who helped the witness get up, leave the gravel area and hide in a concrete canal nearby, where they stayed until the next morning.<sup>12104</sup> **Butler** testified that the survivors heard shooting and machine noises throughout the night.<sup>12105</sup> He testified that those executed were Muslim men.<sup>12106</sup>

2781. Around 9 to 9:30 a.m. on 15 July 1995, **Witness RM-253** and the other survivor moved towards a burnt-down village on top of a hill to the right side of the execution site.<sup>12107</sup> From there, they could see the execution site and the witness saw soldiers walking between the bodies and shooting at some of them, from which he concluded

<sup>12098</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 45.

<sup>12099</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 9.

<sup>12100</sup> P3359 (Witness RM-204, *Blagojević and Jokić* transcript, 21 July 2003), p. 1425.

<sup>12101</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 45-47.

<sup>12102</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 9-10.

<sup>12103</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 47.

<sup>12104</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 47-49, 51; Witness RM-253, T. 12496-12497; P1553 (Sketch of Petkovci Dam at night); P1554 (Sketch of Petkovci Dam at daytime). *See also* P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.32.

<sup>12105</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.32.

<sup>12106</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.28.

<sup>12107</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 52-53. *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), p. 10; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 2; P3360 (Photograph of guard house at top of dam and over-flow canal from dam); P3361 (Photograph showing over-flow canal); P3362 (Photograph of over-flow canal).

that some were still alive.<sup>12108</sup> They continued walking through the forest for four days and reaching the free territory at Vitinica on 18 July 1995.<sup>12109</sup>

2782. The Zvornik Brigade Engineer Company was assigned to work with earthmoving equipment to assist with the burial of the victims from Petkovci Dam.<sup>12110</sup> The Zvornik Brigade Daily Orders record shows that, on 15 July, the Zvornik Brigade Engineer Company was assigned to work with a ULT and an excavator in Petkovci.<sup>12111</sup> Vehicle records for the 6th Infantry Battalion of the Zvornik Brigade show that two trucks made a total of ten roundtrips between Petkovci and the Dam on 15 July, with two members of the 6th Infantry Battalion assigned as drivers of the vehicles.<sup>12112</sup> **Butler** testified that the Engineer Company's vehicle records do not place any of the unit's earthmoving equipment at the execution site.<sup>12113</sup> **Witness RM-253** testified that the loading of corpses continued until after dark, and based on the witness's calculation of the number of detainees present at the school, the size of the area covered by the bodies, and the number of trips the tractor truck made, he estimated that there were 1,500 to 2,000 bodies on the plateau.<sup>12114</sup> The witness and the other survivor left the hill after nightfall and started walking towards free territory.<sup>12115</sup> They crossed the frontline and reached the Muslim village of Vitinica on 18 July 1995.<sup>12116</sup>

2783. According to a report authored by forensic pathologist **Christopher Lawrence**, the remains of at least 46 individuals were exhumed from the Petkovci Dam site between 15 April 1998 and 13 May 1998.<sup>12117</sup> The remains were placed in 91 body bags.<sup>12118</sup> Autopsies were performed on the contents of the 91 body bags and cause of

<sup>12108</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 54, 56. *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), pp. 9-10; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 2; P3360 (Photograph of guard house at top of dam and over-flow canal from dam); P3363 (Photograph of execution site); P3364 (Photograph of execution site).

<sup>12109</sup> P3357 (Witness RM-204, witness statement, 13 August 1995), p. 11. P1547 (Witness RM-253, witness statement, 16 August 1995), paras 57-59.

<sup>12110</sup> Adjudicated Facts II, no. 1584.

<sup>12111</sup> Adjudicated Facts II, no. 1585.

<sup>12112</sup> Adjudicated Facts II, no. 1583.

<sup>12113</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.33-7.34.

<sup>12114</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), para. 54; Witness RM-253, T. 12499, 12553-12555, 12559-12560.

<sup>12115</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 57-59.

<sup>12116</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), paras 58-59; Witness RM-253, T. 12499. *See also* P3357 (Witness RM-204, witness statement, 13 August 1995), p. 11.

<sup>12117</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2-3, 8.

<sup>12118</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2, 22.

death was examined in relation to the body parts in each body bag rather than each individual.<sup>12119</sup> The report indicates that for 81 body parts, the cause of death was undetermined; four had gunshot injuries sufficient to cause the death; another four had gunshot injuries that were probably sufficient to cause death; two had possible non-lethal gunshot wounds, but no clear cause of death; one had injuries which were consistent with a fatal gunshot wound; and one had head trauma which could not be classified.<sup>12120</sup> None of the cases had an intact skull; there were 464 skull fragments and 211 shell casings recovered at the site which, according to the report, is consistent with a number of individuals being shot in the head.<sup>12121</sup> In all cases where sex could be determined, 15 individuals were identified as male. At the time of their deaths, one individual was between 13 and 18 years of age; three individuals were between 18 and 25 years of age; and 42 individuals were over the age of 25.<sup>12122</sup> A twine ligature and a possible blindfold were found in the Petkovci Dam site.<sup>12123</sup>

2784. According to another report authored by **Lawrence**, the remains of at least 192 individuals were exhumed from Liplje Site 2 between 7 August 1998 and 25 August 1998.<sup>12124</sup> The remains were collected in 807 body bags of which 610 were the subject of autopsy reports.<sup>12125</sup> Autopsies were performed on the contents of the 610 body bags and the report indicates that: 543, mostly small body parts, had an undetermined cause of death; 33 had gunshot injuries sufficient to cause death; 26 had gunshot injuries that could possibly cause death; five had gunshot injuries sufficient to probably cause death; and two had injuries consistent with homicidal violence including gunshot wounds.<sup>12126</sup> The report indicates that tampering and decomposition may have obscured many

<sup>12119</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), p. 2.

<sup>12120</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2, 4, 22.

<sup>12121</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2, 9, 22.

<sup>12122</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2, 8.

<sup>12123</sup> P1806 (Christopher Lawrence, Report on autopsies of human remains from the Dam Site, June 1998), pp. 2, 20.

<sup>12124</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2-3, 8, 21-40.

<sup>12125</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2, 8, 21-40.

<sup>12126</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2-3, 20-40.

gunshot wounds.<sup>12127</sup> Furthermore, examination of the clothing recovered at the site revealed extensive tampering and, in some cases, large numbers of bullet holes, more than apparent when examining the bodies.<sup>12128</sup> The most common areas where gunshot wounds were found, in order of frequency, were: legs, torso, head and neck, and arms.<sup>12129</sup> Of the four relatively intact bodies, two had an undetermined cause of death, one had gunshot injuries sufficient to cause death, and one had possible gunshot injuries sufficient to cause death.<sup>12130</sup> In all 122 cases where sex could be determined, all individuals were identified as male. At the time of their deaths, one individual was between the age of 8 and 13, 14 were between the age of 13 and 18, 22 were between the age of 18 and 25, and 155 were over the age of 25.<sup>12131</sup> There did not appear to be any significant trend in the direction of the bullet tracks.<sup>12132</sup> None of the individuals examined appeared to be in military or police uniforms or carrying weapons; unfired bullets, which were not from contemporary weapons, were found in two jackets.<sup>12133</sup> One of these jackets was described as being of military style but the other two items of clothing on that body did not appear to be of military origin. Two pairs of fatigue-style trousers in khaki and an olive-drab coloured jacket that could have been of military origin were also recovered.<sup>12134</sup> Identification documents were found on one body at the site and three legible identifications were found in the grave.<sup>12135</sup> There were 23 ligatures recovered at the site, 14 of which were associated with parts of hands or forearm.<sup>12136</sup> The white synthetic twine ligatures were also found in Dam Site, Čančari

<sup>12127</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 3, 21.

<sup>12128</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 16, 21.

<sup>12129</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2, 12-13.

<sup>12130</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2, 21.

<sup>12131</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2, 10.

<sup>12132</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), p. 14.

<sup>12133</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2, 14-15, 21.

<sup>12134</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), p. 21.

<sup>12135</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 3, 21-22.

<sup>12136</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998, October 1998), pp. 2, 21-22.

Road site 3 and Čančari Road site 12.<sup>12137</sup> Lawrence identified three other similarities between Liplje Site 2 and Dam site: (1) similar decomposition, weathering and post mortem damage to the remains; (2) angular stones embedded in the bones; and (3) a relatively low number of recognizable gunshot wounds.<sup>12138</sup>

2785. According to a report authored by **Dušan Janc**, the remains of a number of individuals, including 45 minors, were identified through DNA analysis from various mass graves: 19 individuals from the Petkovci Dam mass grave; 159 individuals from Liplje 1; 172 individuals from Liplje 2; 57 individuals from Liplje 3; 292 individuals from Liplje 4, and 116 individuals from Liplje 7.<sup>12139</sup> In particular, the remains of Fuad Pilav, Zaim Pilav, Ramo Fejzić, Razim Buhić, Kadrija Becirović, and Salih Mehmedović were identified in Liplje 1, 2, 4, and 7.<sup>12140</sup> In his report, Janc indicated that DNA connections were reported when the remains of one individual were found in at least two different graves.<sup>12141</sup> Janc identified 37 DNA connections between the remains identified in the Petkovci Dam site, referred to as a primary mass grave, and the remains identified in secondary mass graves known as Liplje 1, 2, 3, 4, and 7. Fifty-two DNA connections between the remains identified in the secondary graves were also found. He further found one DNA connection between remains identified in one of the secondary graves, Liplje 2, and remains found in Čančari Road.<sup>12142</sup>

2786. The Trial Chamber received extensive forensic evidence concerning the bodies exhumed from the Petkovci Dam and the Liplje 1, 2, 3, 4, and 7 mass graves. The Trial Chamber has considered Adjudicated Facts 1583 and 1584, and the evidence of Witness RM-253, Witness RM-204 and Butler, according to which the men detained at Petkovci School were transported to, executed, and buried in an area near Petkovci Dam. It has also considered the evidence of Lawrence and Janc, linking the primary mass grave at Petkovci Dam with the secondary mass graves at Liplje 1, 2, 3, 4 and 7.

<sup>12137</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2-3, 16-17.

<sup>12138</sup> P1813 (Christopher Lawrence, Report on autopsies of human remains from Liplje Site 2, October 1998), pp. 2-3, 16-18.

<sup>12139</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 3-4, 10-11, 24-25, 41; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 39-40, 211-251.

<sup>12140</sup> P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 214-215, 224, 240, 249. *See also*, P2795 (ICMP Srebrenica Update Expert Report, 21 July 2013); P5588 (ICMP Notice of DNA Reports, December 2007).

<sup>12141</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 48.

2787. The Trial Chamber first refers to its review of Janc's methodology as set out in Appendix B. Second, the Trial Chamber notes that none of the secondary graves were solely connected to the Petkovci Dam primary grave or to secondary graves that were not connected to another primary grave.

2788. All secondary graves were connected with the Petkovci Dam primary grave and with each other. However, the Trial Chamber notes that for one of the secondary mass grave, Liplje 2, Janc identified two DNA matches, each connected to a distinct secondary mass grave, namely Čančari Road 3 and Hodžići Road 5. The Trial Chamber further notes that Janc connects both of these mass graves to two other primary graves, related to other Scheduled Incidents. In accordance with the above, the Trial Chamber then considered the frequency of DNA connections.

2789. The high number of DNA connections between Liplje 1, 2, 3, 4, and 7 and the Petkovci Dam primary grave and among each other, compared to the very low number of 'external' connections with Čančari Road 3 and Hodžići Road 5, led the Trial Chamber to find that a majority of the bodies of Liplje 1, 2, 3, 4, and 7 secondary graves are to be counted as part of Scheduled Incident E.7.2.

2790. On the basis of this evidence, the Trial Chamber took a conservative approach as explained in Appendix B, and finds that the victims of this Scheduled Incident were buried in the Petkovci Dam mass grave and that bodies from the Petkovci Dam primary mass grave were subsequently reburied in Liplje 1, 2, 3, 4, and 7 secondary mass graves and will therefore rely on the number of DNA profiles identified in Petkovci Dam as well as the majority of the bodies found in Liplje 1, 2, 3, 4, and 7 to calculate the number of victims of this Scheduled Incident (*i.e* 19 individuals from Petkovci Dam mass grave, the majority of 159 individuals from Liplje 1, the majority of 172 individuals from Liplje 2, the majority of 57 individuals from Liplje 3, the majority of 292 individuals from Liplje 4, and the majority of 116 individuals from Liplje 7). The Trial Chamber will subtract from this number the 20 individuals who were killed in Scheduled Incident E.7.1 (*see* chapter 7.8.1) as their remains may also have been buried in the Petkovci Dam or Liplje 1, 2, 3, 4, and 7 mass graves.<sup>12143</sup>

<sup>12142</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 49.

<sup>12143</sup> The Trial Chamber notes that the six victims whose remains were identified in Liplje 1, 2, 4, and 7 are included in the total number of victims per mass grave mentioned in Janc's report.

2791. Based on the foregoing, the Trial Chamber finds that on 14 and 15 July 1995, at least 401 Bosnian-Muslim males, including minors, were shot and killed at Petkovci Dam.<sup>12144</sup> With regard to the Defence's argument that the Prosecution's witnesses failed to provide evidence identifying the perpetrators, the Trial Chamber notes that it did not rely on these witnesses' testimonies to identify the perpetrators of this scheduled incident. Rather, the Trial Chamber considered Adjudicated Facts number 1583 and 1584, which indicate that the 6th Infantry Battalion of the Zvornik Brigade transported the detainees from Petkovci School to the execution site. Further, Butler testified that the execution site was in the zone of responsibility of the Zvornik Brigade. Based on the foregoing, the Trial Chamber finds that members of the 6th Infantry Battalion of the Zvornik Brigade killed the Bosnian Muslims. The men had their hands tied up prior to being killed. No military or police uniforms were identified among the clothing found on some of the bodies exhumed from the mass graves. A Serb soldier called the detainees '*Balijas*' while calling them out to be killed. One soldier ordered one of the detainees to say '*Allahu Akbar*' immediately prior to killing him. While detainees were being shot, someone also said 'Haris Silajdžić will exchange your dead bodies'. After shooting a number of detainees, the soldiers were overheard saying 'this hunting was good, these rabbits are very good.' One of the soldiers then told the others to check the rows of bodies for survivors, saying that every detainee still living should be killed with a bullet to the head. The Trial Chamber will consider the aforementioned incidents in relation to Counts 2 to 6 of the Indictment in chapter 8 below.

<sup>12144</sup> Concerning the Trial Chamber's assessment of Ljubomir Bojanović's evidence concerning a mass execution of detainees in the Zvornik Brigade's area of responsibility, *see* chapter 7.8.1.

7.9 Roćević School and Kozluk (Schedule E.8.1 and E.8.2)

2792. According to the Indictment, the Accused is responsible for the killing of some of the approximately 1,000 Bosnian-Muslim men detained at Roćević School on or about 14 or 15 July 1995 (Scheduled Incident E.8.1) and the killing of the surviving portion of these Bosnian-Muslim men on 15 July 1995 (Scheduled Incident E.8.2).<sup>12145</sup> With regard to the second incident, the men were summarily executed at a site on the bank of the Drina River near Kozluk and the victims were buried in a nearby mass grave.<sup>12146</sup> Having considered that: (i) the events alleged in Scheduled Incident E.8.1 directly preceded those alleged in Scheduled Incident E.8.2; (ii) the killings alleged in Scheduled Incident E.8.2 relate to Bosnian-Muslim men previously detained at Roćević School; and (iii) a number of witnesses testified about both incidents, the Trial Chamber considers that both incidents are intrinsically linked and will analyse them both below. In relation to Scheduled Incident E.8.1, the Defence argued that the evidence does not show that VRS members perpetrated the killings.<sup>12147</sup> Further, according to the Defence, the Prosecution failed to provide sufficient evidence to establish the number and manner of death of the victims as set forth in Schedule Incidents E.8.1 and E.8.2.<sup>12148</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts regarding Scheduled Incident E.8.2.<sup>12149</sup> Further, it received evidence from **Witness RM-269**, a Military Police Officer in the Zvornik Brigade in 1995;<sup>12150</sup> **Witness RM-281**, a Bosnian Serb from Zvornik Municipality;<sup>12151</sup> **Damjan Lazarević**, a Serb member of the Engineering Unit of the Zvornik Brigade in July 1995;<sup>12152</sup> **Miloš Mitrović**, a member of the Transport Platoon and Fortification Platoon within the Engineering Company of the Zvornik Brigade since December 1992;<sup>12153</sup> **Richard Butler**, an intelligence research specialist;<sup>12154</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12155</sup>

<sup>12145</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), Schedule E.8.1 and Schedule E.8.2.

<sup>12146</sup> Indictment, Schedule E.8.2.

<sup>12147</sup> Defence Final Brief, paras 3149-3177.

<sup>12148</sup> Defence Final Brief, para. 3177.

<sup>12149</sup> Adjudicated Fact 1576 is reviewed in chapter 7.7.

<sup>12150</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6437-6438.

<sup>12151</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8785, 8789-8790.

<sup>12152</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14431-14432.

<sup>12153</sup> P3645 (Miloš Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5589-5590, 5594.

While there are no diacritics in the name of the witness in P3645, the Trial Chamber understands that it is the same person as the one mentioned in P1486 and P3462 which contain diacritics and will therefore use this spelling.

<sup>12154</sup> Richard Butler, T. 16108.

<sup>12155</sup> **Witness RM-281**: P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790, 8800-8801. **Witness RM-269**: P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6464;



Further, it received evidence from **Srečko Ačimović, Ačimović**, a Bosnian Serb from Ročević in Zvornik Municipality and Commander of the 2nd/3rd Infantry Battalion of the Zvornik Brigade between November 1992 and 1995;<sup>12156</sup> **Dragoje Ivanović** and **Milorad Birčaković**, both Bosnian-Serb military police officers in the Zvornik Brigade from 1993 until the end of the war in 1995;<sup>12157</sup> **Stanoje Birčaković**, a Bosnian-Serb military police officer in the Zvornik Brigade from 1993 until the end of the war;<sup>12158</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>12159</sup> **Mitar Lazarević**, an officer in the 2nd Battalion of the VRS Zvornik Brigade in July 1995;<sup>12160</sup> **Dragan Jović**, the driver for VRS 2nd Battalion Commander Srečko Ačimović;<sup>12161</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon of the Bratunac Light Infantry Brigade;<sup>12162</sup> **Veljko Ivanović**, a driver of the VRS 4th Battalion in Malešić, Zvornik, under the command of Srečko Ačimović as of 23 January 1995;<sup>12163</sup> **Witness RM-266**, a Serb from Zvornik Municipality;<sup>12164</sup> **John Clark**, a forensic pathologist;<sup>12165</sup> **Jose Baraybar**, a forensic anthropologist;<sup>12166</sup> **Christopher Lawrence**, a forensic pathologist;<sup>12167</sup> and **Dušan Janc**, an investigator,<sup>12168</sup> as well as documentary evidence.

Witness RM-269, T. 12735. **Damjan Lazarević**: P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14433, 14438, 14454-14459, 14474-14475; P3642 (Zvornik Brigade vehicle log for Rovakopac Torpedo, July 1995), pp. 1, 3. **Miloš Mitrović**: P3645 (Miloš Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), pp. 5592-5596, 5603-560-5611, 5615, 5620-5622, 5634-5635; P3646 (Diagrams of machines). **Richard Butler**: P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.55, 7.57.

<sup>12156</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12930-12931; Srečko Ačimović, T. 13230.

<sup>12157</sup> P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14537-14538 ; P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11010-11011.

<sup>12158</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10740-10741.

<sup>12159</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756.

<sup>12160</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13358-13359, 13362; P3503 (Attendance for Zvornik Brigade 2nd Battalion Command Staff).

<sup>12161</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18048.

<sup>12162</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4.

<sup>12163</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18173-18174.

<sup>12164</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21003; P79 (Witness RM-266 pseudonym sheet and summary of *curriculum vitae*).

<sup>12165</sup> John Clark, T. 17185; P2236 (*Curriculum vitae* of John Clark); P2257 (John Clark, *Krstić* transcript, 30 and 31 May 2000), pp. 3897-3899; P2258 (John Clark, *Karadžić* transcript, 10 January 2012), pp. 22692-22693.

<sup>12166</sup> Jose Baraybar, T. 16002; P2071 (*Curriculum vitae* of Jose Baraybar, undated), p. 1. The evidence of Jose Baraybar (P2083) is reviewed in chapter 7.10.

<sup>12167</sup> Christopher Lawrence, T. 14695; P1803 (*Curriculum vitae* of Christopher Lawrence, undated), pp. 1-2.

<sup>12168</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

*Arrival of Bosnian-Muslims detainees at Roćević School*

2793. **Mladen Blagojević** testified that on 14 July 1995 he escorted a column of buses transporting Muslim detainees from Vuk Karadžić Elementary School in Bratunac to Roćević in Zvornik Municipality where they were transferred into the custody of the Zvornik military personnel and held in the Roćević school's gym.<sup>12169</sup> **Mile Janjić** testified that in the late afternoon hours of 14 or 15 July 1995 he drove in a military vehicle with six or seven other military policemen to Roćević School.<sup>12170</sup> He saw a UN APC in front of the school as well as the Bratunac Military Police Platoon Commander, Mirko Janković, and a military policeman named Zoran Živanović.<sup>12171</sup> The witness further saw a group of 10 to 15 soldiers in a meadow next to the school, whom he recognized as members of the Bratunac Brigade from Zenica.<sup>12172</sup> He learned from Živanović that there were Muslim men inside the school who were supposed to be brought elsewhere.<sup>12173</sup>

*Events at Roćević School on 14 July 1995*

2794. **Srečko Ačimović** testified that on 14 July 1995, both the priest and the president of the Roćević local commune told him that detainees were being held and killed in the gym of an elementary school in Roćević.<sup>12174</sup> They also told him that a woman had been accidentally shot and wounded near the school by those guarding the detainees, and that there was a lot of panic among the locals.<sup>12175</sup> Between 8 and 9 p.m., the witness entered the school yard, where a number of unfamiliar, dishevelled soldiers, behaving in a triumphant and arrogant manner refused to give him any information on what was

<sup>12169</sup> Mladen Blagojević, T. 32659-32661; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 4. See also Srečko Ačimović, T. 13234-13235.

<sup>12170</sup> P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), pp. 17948-17951; Mile Janjić, T. 11011-11014, 11059; P1148 (Photo showing Roćević school).

<sup>12171</sup> P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), p. 17951; Mile Janjić, T. 11011-11013.

<sup>12172</sup> P1446 (Mile Janjić, *Popović et al.* transcript, 20 November 2007), p. 17951; Mile Janjić, T. 11011-11013.

<sup>12173</sup> Mile Janjić, T. 11012-11013.

<sup>12174</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12934-12935, 12941, 12943; Srečko Ačimović, T. 13220-13221, 13263-13265.

<sup>12175</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12934-12935, 12941; Srečko Ačimović, T. 13220-13221. See also P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), p. 13367; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8520-8521.

happening or on the presence of their commanding officer(s).<sup>12176</sup> The witness was of the opinion that the soldiers were not from the Zvornik Brigade and later heard that some of them may have been from Bratunac, and some from Višegrad.<sup>12177</sup> He explained that the behaviour of the soldiers implied that ‘someone above the Zvornik Brigade was their superior’ and as if ‘someone else was in command and control of their unit rather than the Zvornik Brigade’.<sup>12178</sup> When one of the soldiers pointed a rifle at him, he assumed that these men were under the influence of alcohol or narcotics.<sup>12179</sup> From the schoolyard, he heard the detainees calling out for water and access to a bathroom.<sup>12180</sup> After about half an hour, he left the school to join his unit.<sup>12181</sup> **Mitar Lazarević** stated that based on what Ačimović said, he believed that the detainees at the school were civilians.<sup>12182</sup> **Dragoje Ivanović** testified that soldiers told him that ‘civilians’ from Srebrenica were held at the school.<sup>12183</sup>

2795. **Ačimović** testified that he then went to his former logistics unit’s office in Kozluk in Zvornik Municipality, from where he called the duty operations officer of the Zvornik Brigade command around 8:30 or 9:30 p.m..<sup>12184</sup> The duty operations officer said that he did not know anything about the people in the Ročević School gym, to which the witness responded that a large number of soldiers were guarding detainees at Ročević School and behaving erratically, and that they had wounded a woman.<sup>12185</sup> When the witness asked to speak with the Brigade Commander he was told that Vinko Pandurevic, the brigade commander, had not returned to the Zvornik Brigade and that Dragan Obrenovic, the Chief of Staff, was not there, so he asked the duty operations

<sup>12176</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12934-12936, 13033; Srečko Ačimović, T. 13235, 13270-13271. *See also* P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13362, 13364-13367, 13372; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8518-8519, 8521; P3503 (Attendance for Zvornik Brigade 2nd Battalion Command Staff).

<sup>12177</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 13033; Srečko Ačimović, T. 13231, 13269-13271. *See also* P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13366-13367.

<sup>12178</sup> Srečko Ačimović, T. 13270.

<sup>12179</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12936; Srečko Ačimović, T. 13231-13232. *See also* P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13362, 13364-13367, 13372; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8518-8519, 8521; P3503 (Attendance for Zvornik Brigade 2nd Battalion Command Staff).

<sup>12180</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12936-12937.

<sup>12181</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12937.

<sup>12182</sup> P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), p. 8519.

<sup>12183</sup> P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14554-14555.

<sup>12184</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12937-12938; Srečko Ačimović, T. 13221, 13262, 13295-13296, 13297.

<sup>12185</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12938.

officer to tell them about the situation and to tell them to call the witness.<sup>12186</sup> The witness then spoke with Vujadin Popović, the Assistant Commander for Intelligence and Security in the DK, on the phone and informed him that soldiers were killing detainees at Ročević School, that they had no control over the situation and that there could be a ‘general disaster and tragedy’.<sup>12187</sup> Popović told the witness to calm down and assured him that the detainees would be exchanged the following morning.<sup>12188</sup>

2796. After this phone conversation, Ačimović went back to Ročević School and told the soldiers guarding the detainees that they would be exchanged the following day and suggested to provide them with water and allow them to go out and use the toilet or to give them some containers to be used for this purpose.<sup>12189</sup> The soldiers agreed.<sup>12190</sup> Back at his battalion command, the witness discussed the situation with Vujo Lazarević, the Assistant Battalion Commander for Morale and Religious Affairs, and Mitar Lazarević.<sup>12191</sup> He then tried again unsuccessfully to contact the commander or chief of staff at the Brigade command.<sup>12192</sup>

*Events during the night of 14 to 15 July 1995*

2797. **Mitar Lazarević** stated that in the night between 14 and 15 July 1995, by telegram, the Zvornik Brigade ordered the 2nd Battalion to send a group of men to Ročević for the execution of the detainees.<sup>12193</sup> **Ačimović** testified that on 15 July 1995 between 1 and 2 a.m., the duty officer at the battalion command at the time, whom the witness believed to be Mitar Lazarević, told the witness that they had received an encrypted telegram, which contained an order from the Zvornik Brigade Command that

<sup>12186</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12938-12939; Srečko Ačimović, T. 13241.

<sup>12187</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12939-12940; Srečko Ačimović, T. 13221-13222, 13232, 13242.

<sup>12188</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12940-12941; Srečko Ačimović, T. 13232, 13303. *See also* P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13372-13373; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8521-8523.

<sup>12189</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12941-12942; Srečko Ačimović, T. 13222, 13232-13233.

<sup>12190</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12942; Srečko Ačimović, T. 13233

<sup>12191</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12943; Srečko Ačimović, T. 13235.

<sup>12192</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12943-12944; Srečko Ačimović, T. 13241, 13297.

<sup>12193</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13373-13376, 13379; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), p. 8525.

a platoon of soldiers be detached to execute the detainees at Ročević School.<sup>12194</sup> The order further stipulated that the battalion inform the company commanders about the content of the telegram.<sup>12195</sup> According to the witness, he and the personnel at the battalion command were shocked that such an order was given.<sup>12196</sup> The witness, Vujo Lazarević, and Mitar Lazarević decided not to deploy their personnel and responded to the brigade command that they did not have any personnel available for that purpose.<sup>12197</sup> **Lazarević** stated that Ačimović replied, through telegram, and refused to carry out this order.<sup>12198</sup> **Ačimović** testified that about 45 minutes later, the battalion command received another telegram from the brigade command, stressing that the order had to be carried out and instructing the witness to personally inform the company commanders and the battalion command of the order, which Ačimović did.<sup>12199</sup> The witness, Vujo Lazarević, and Mitar Lazarević reiterated their stance to the brigade command that they would not detach any of their men for this purpose.<sup>12200</sup>

2798. Ten minutes after sending the second refusal, Drago Nikolić called Ačimović at the battalion command between 1 and 2:30 a.m.<sup>12201</sup> **Lazarević** stated that Ačimović received a phone call from the brigade, putting him under pressure to comply with the order.<sup>12202</sup> **Ačimović** protested when Nikolić insisted that the order be carried out because it had ‘come from above’, which the witness understood to mean that it had come from the Main Staff Command.<sup>12203</sup> When the witness told Nikolić that they did not have enough personnel, Nikolić responded that the witness’s battalion was to do everything they could to allocate soldiers for the ordered purpose by 7 a.m., around

<sup>12194</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12944-12948; Srečko Ačimović, T. 13223-13226, 13230-13231, 13237-13238, 13261, 13263-13265.

<sup>12195</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12946.

<sup>12196</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12946; Srečko Ačimović, T. 13239.

<sup>12197</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12946-12947; Srečko Ačimović, T. 13223-13224, 13235, 13239-13240, 13242.

<sup>12198</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13375-13377; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), p. 8525.

<sup>12199</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12944, 12947-12949; Srečko Ačimović, T. 13223-13224, 13226-13227, 13231, 13238, 13243, 13246, 13251-13253, 13257.

<sup>12200</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12944, 12948-12949.

<sup>12201</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12949-12951; Srečko Ačimović, T. 13224, 13231, 13242-13243, 13264-13265.

<sup>12202</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13377-13378; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8529-8530.

<sup>12203</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12950-12951; Srečko Ačimović, T. 13224-13225, 13265-13267, 13286, 13298.

which time Nikolić would call again to check what had been done.<sup>12204</sup> Nikolić called at 7 or 8 a.m. to check whether the order had been executed, and the witness informed him, again, that they had not done so nor were they planning to execute the order.<sup>12205</sup> Nikolić, who had been talking in ‘high tones’ and swearing, told the witness that if he could not allocate men for this purpose, the witness should conduct the executions himself, using his battalion.<sup>12206</sup> Nikolić further told the witness to wait for him at the school around 9 or 10 a.m.<sup>12207</sup> The witness then called the duty operations officer again, informed him of the developments and asked to speak with the chief of staff at any cost, requesting that the duty operations officer speak with the chief of staff himself if he got the chance.<sup>12208</sup>

*Events at Ročević School on 15 July 1995*

2799. **Lazarević** stated that Ačimović told the men that he would go to Ročević to say that he was not going to provide men for executions and then left.<sup>12209</sup> **Ačimović** left to meet Nikolić at the school around the designated time.<sup>12210</sup> When **Dragan Jović** entered the school yard with Ačimović, there was a white UNPROFOR APC to the left.<sup>12211</sup> The witness saw approximately 15 to 20 military police officers there and was told either by Ačimović or someone else that they belonged to the Bratunac Brigade.<sup>12212</sup> When he looked into the school gym, he saw that three-quarters of the gym was filled with detainees, including soldiers and ‘civilians’, sitting on the floor.<sup>12213</sup> **Ačimović** testified that chaos had progressed at the school by that time; he saw many soldiers and unfamiliar faces in the school yard and at least a dozen corpses lying on the grass in front of the school bathroom.<sup>12214</sup> **Lazarević** stated that Ačimović later told him about

<sup>12204</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12950-12951; Srečko Ačimović, T. 13286, 13298.

<sup>12205</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12951-12952, 13066.

<sup>12206</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12952-12956; Srečko Ačimović, T. 13286, 13298.

<sup>12207</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12953-12954.

<sup>12208</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12957; Srečko Ačimović, T. 13262-13263, 13297.

<sup>12209</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), p. 13379; P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8530-8531.

<sup>12210</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12957. *See also* P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18051-18052.

<sup>12211</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18052-18053.

<sup>12212</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18053.

<sup>12213</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18054-18055.

<sup>12214</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12958, 12960.

his visit to the school and said that the guards had killed a few detainees.<sup>12215</sup> Those bodies lay in the grassy area behind the gym of the school.<sup>12216</sup> **Stanoje Birčaković** heard that the people held in the Ročević school building had been executed and buried on the spot but that their bodies had later been moved.<sup>12217</sup> **Jović** stated that on the eve of the execution, outside the command centre, he overheard a soldier of the 2nd Battalion saying that Muslim detainees were being held in Ročević School, that there were dead among the detainees, and that Joco Stojanović had come to take them away with a tractor.<sup>12218</sup>

2800. **Ačimović** met Popović in front of the school, but Nikolić was absent.<sup>12219</sup> Popović and the witness went to an office located on the first floor of the open school building.<sup>12220</sup> Popović demanded to know why the witness had not brought any of his men and threatened that he would be held responsible for failing to carry out an order.<sup>12221</sup> During this conversation, Popović often left the office to give instructions to some of his soldiers.<sup>12222</sup> Popović cursed throughout, and told the witness that it was impossible that none of his men wanted to participate in the executions.<sup>12223</sup> Popović tried to persuade the witness to go to the school yard and ask whether any of the soldiers would be willing to participate in the executions.<sup>12224</sup>

2801. The witness asked Popović to evacuate the detainees from the school and to either return them where they had come from or to transfer them to the Standard Barracks near Kozluk where the conditions were better to accommodate them.<sup>12225</sup> Popović, who, according to the witness, had been searching for potential execution sites, refused to discuss the witness's suggestion, and instead asked the witness to give him

<sup>12215</sup> P3500 (Mitar Lazarević, *Popović et al.* transcript, 26-27 June 2007), pp. 13366-13367.

<sup>12216</sup> P3501 (Mitar Lazarević, *Tolimir* transcript, 6 December 2010), pp. 8518-8519; P3502 (Two photographs of Ročević elementary school), p. 1.

<sup>12217</sup> P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), p. 10763.

<sup>12218</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18049-18050.

<sup>12219</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12957-12958, 12986; Srečko Ačimović, T. 13287.

<sup>12220</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12958.

<sup>12221</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12958-12959.

<sup>12222</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12959, 12964.

<sup>12223</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12960, 12965; Srečko Ačimović, T. 13286.

<sup>12224</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12960; Srečko Ačimović, T. 13286.

<sup>12225</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12965-12966, 13117; Srečko Ačimović, T. 13227-13228, 13291-13292, 13295, 13301-13304.

names of possible locations.<sup>12226</sup> Popović called the duty operations officer at the brigade command and told him that trucks had to be sent to Roćević urgently.<sup>12227</sup> Around 40 minutes after the call, a single truck, sent by the brigade command, reached the school yard.<sup>12228</sup> The truck driver, Veljko Ivanović, was a member of the witness's unit.<sup>12229</sup> While the witness talked with Popović in the office, another member of the witness's unit, Dragan Jović, was standing outside the office and listening to their conversation. Popović cursed when the truck arrived, disappointed that there was only one.<sup>12230</sup> Popović told one of the soldiers guarding the detainees that the executions had to be carried out in Roćević near the school.<sup>12231</sup> Jović interjected and said that the battalion had six or seven trucks which could be used to drive the detainees away.<sup>12232</sup> Once Jović had provided the names of the drivers, Popović told Ačimović to call them and tell them to come to the school with their vehicles.<sup>12233</sup>

2802. Popović left the office, and during this time, the witness deliberately 'played some tricks' to ensure that he could not contact any of the drivers and reported to Popović that the drivers were unavailable.<sup>12234</sup> Popović ordered the witness to physically go to the drivers' houses and check. Ačimović testified that he was unsure whether he went to the houses of Mičo Lazarević, Djoko Nikolić, and Radivoje Jekić to warn them that Popović was looking for them to transport detainees. In any event, he made it clear to them that they should make themselves scarce, and while Lazarević and Jekić did so, Nikolić was too scared.<sup>12235</sup> After 15 or 20 minutes, Nikolić arrived in a small civilian truck which had a capacity of about 15 people.<sup>12236</sup> Popović was disappointed with the size of the truck.<sup>12237</sup> Jović then left to secure a vehicle from another driver, Mičo

<sup>12226</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 13117; Srečko Ačimović, T. 13286.

<sup>12227</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12965-12967.

<sup>12228</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12967.

<sup>12229</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12967-12968, 12981-12983.

<sup>12230</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12968.

<sup>12231</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12968-12969; Srečko Ačimović, T. 13286, 13303.

<sup>12232</sup> Srečko Ačimović, T. 13288; P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12969.

<sup>12233</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12969; Srečko Ačimović, T. 13286, 13288-13289.

<sup>12234</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12969, 13105; Srečko Ačimović, T. 13288-13290.

<sup>12235</sup> Srečko Ačimović, T. 13289.

<sup>12236</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12970-12972, 12981, 13288; Srečko Ačimović, T. 13285, 13288-13289.

<sup>12237</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12972.



Stanojević, and returned with another truck.<sup>12238</sup> Popović asked the brigade command to send ‘one of the two men’ located at Petkovci or Orahovac in Zvornik Municipality to transport the detainees and ordered the witness not to leave until one of the two men showed up.<sup>12239</sup>

2803. **Jović** stated that Ačimović instructed him to see Drašković, whose brother had been killed early on in the war, to ask him if he wanted to ‘execute’.<sup>12240</sup> When Ačimović mentioned the execution, the firing and the extent of it, the witness opposed him and asked him ‘[Srečko], is that more normal? What are you doing, man?’<sup>12241</sup> Ačimović replied: ‘We have to do that. It’s an order, the order must be carried out’.<sup>12242</sup> After the witness returned from talking with Drašković, who had refused to take part in the executions, Ačimović ordered the witness to go with Veljko Ivanović in the battalion’s truck to Kozluk, because the executions of the detainees would take place there.<sup>12243</sup> The witness was to show Ivanović the place, as he knew the area.<sup>12244</sup>

2804. **Ačimović** left the school and on his way out, passed by drivers Dragan Jović, Veljko Ivanović, and Djordje Nikolić, and told them that his unit had nothing to do with the operation and that he was leaving for Malešić in Zvornik Municipality.<sup>12245</sup> He testified that these three men were involved in the transportation of detainees.<sup>12246</sup> At the battalion command, the witness informed Vujo Lazarević and Mitar Lazarević of the situation at the school.<sup>12247</sup> He then called the brigade command and updated the duty operations officer regarding the situation and the action which he had taken.<sup>12248</sup> Like the previous day, the officer informed the witness that neither the commander nor the chief of staff was available.<sup>12249</sup>

<sup>12238</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12972; Srečko Ačimović, T. 13287, 13295.

<sup>12239</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12986, 12988; Srečko Ačimović, T. 13301-13304.

<sup>12240</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18056-18057, 18080.

<sup>12241</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18056-18057, 18080.

<sup>12242</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18057, 18081.

<sup>12243</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18057-18058, 18082.

<sup>12244</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18058-18059.

<sup>12245</sup> P1595 (Srečko Ačimović, *Tolimir* transcript, 8 February 2011), pp. 9548-9549; Srečko Ačimović, T. 13285-13286. The Trial Chamber understands that t. 13289: Djoko Nikolić (mentioned by Ačimović at T. 13289) could be the same man as Dordje Nikolić (mentioned by Srečko Ačimović at T. 13285-13286).

<sup>12246</sup> Srečko Ačimović, T. 13285-13286.

<sup>12247</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), pp. 12989-12990.

<sup>12248</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12990; Srečko Ačimović, T. 13263, 13297.

<sup>12249</sup> P1594 (Srečko Ačimović, *Popović et al.* transcript, 20-22 June 2007), p. 12990.

2805. **Witness RM-269** testified that on 15 July 1995, Miomir Jasikovac ordered military police officers of the Zvornik Brigade to secure the facility and the detainees at Ročević School.<sup>12250</sup> **Milorad Birčaković** stated that on 15 July 1995 he drove Jasikovac to Ročević.<sup>12251</sup> At Ročević School, there were already soldiers guarding the detainees.<sup>12252</sup> **Witness RM-269** testified that the military police officers arrived at the school around 10 or 11 a.m and saw that the detainees were already in the school and inside the gym.<sup>12253</sup> He saw a few bodies of Muslim detainees lying around.<sup>12254</sup> Some were wearing civilian clothing, except one possibly wearing a camouflage short or trousers.<sup>12255</sup> He heard that a local man who had lost his son took a couple of these detainees from the gym and killed them.<sup>12256</sup> The detainees were guarded by members of the military police of the Zvornik Brigade, as well as other soldiers in VRS uniforms.<sup>12257</sup> The task of the military police was to secure the facility and to make sure that the detainees would stay where they were and to prevent the local population from approaching or coming close to the detainees.<sup>12258</sup>

2806. **Veljko Ivanović** stated that he was told that Ačimović had ordered him to load ammunition and bring it to Ročević School.<sup>12259</sup> When he arrived at the school, soldiers unloaded the truck and installed planks to build a ramp to the truck.<sup>12260</sup> They started loading people from the school, who had their hands tied and their eyes bound, onto the truck.<sup>12261</sup> As they started loading people, the witness asked Ačimović ‘what is going on? I can’t do this. I refuse’, to which Ačimović shrugged his shoulders and said that

<sup>12250</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6460-6461; Witness RM-269, T. 12711-12712, 12733-12734.

<sup>12251</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11045, 11047. *See also* P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14538-14539, 14553-14554.

<sup>12252</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11047. *See also* P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), p. 10761.

<sup>12253</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6461; Witness RM-269, T. 12733-12734. *See also* P2166 (Stanoje Birčaković, *Popović et al.* transcript, 1 May 2007), pp. 10741, 10743, 10760; P2169 (Dragoje Ivanović, *Popović et al.* transcript, 30 August 2007), pp. 14538-14539, 14553-14554.

<sup>12254</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6461-6462; Witness RM-269, T. 12733-12734.

<sup>12255</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6461-6464.

<sup>12256</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6461-6462; Witness RM-269, T. 12733-12735.

<sup>12257</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6462; Witness RM-269, T. 12735, 12737-12738.

<sup>12258</sup> Witness RM-269, T. 12733-12734.

<sup>12259</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18175, 18177-18179.

<sup>12260</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), p. 18177.

<sup>12261</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18177, 18182.

this had to be done.<sup>12262</sup> As many of them fell down they decided to cut the bonds and take off the blindfolds.<sup>12263</sup> **Witness RM-281**'s recollection is that he saw detainees with their hands tied on trucks located close to the school.<sup>12264</sup> **Witness RM-269** testified that the detainees were made to board onto trucks by people in VRS uniforms and the witness heard that they were taken to a dump in Kozluk, approximately 20 minutes away, where they were shot.<sup>12265</sup> **Witness RM-266** stated that he visited Roćević in mid-July 1995 after he had learned from one woman about killings at Roćević School.<sup>12266</sup> In Roćević, he saw up to 50 women and children in front of the school playground which was full of buses and soldiers.<sup>12267</sup> The witness talked to locals who told him that 'they were killing people from Srebrenica there, and [that] bursts of fire could be heard frequently'. He himself heard gunfire about 100 metres from the road.<sup>12268</sup> The locals were protesting against what was happening and said that the soldiers had brought several busloads there and were killing people behind the school.<sup>12269</sup>

2807. **Jović** stated that the first truck transporting the detainees stopped at a gravel pit about three kilometres from Kozluk.<sup>12270</sup> Two to four Bratunac Brigade military police officers accompanied the trucks.<sup>12271</sup> The detainees were offloaded by the military police officers and taken away. The witness returned to Roćević and was ordered by Aćimović to fetch a truck from Mico Stanojević.<sup>12272</sup> Stanojević's mother and wife refused to give him the truck.<sup>12273</sup> Aćimović then joined the witness and sternly ordered them to hand over the keys of the truck. The witness then continued, as ordered by Aćimović, to transport soldiers and detainees from Roćević to Kozluk with this truck. The truck could hold approximately ten detainees and the soldiers securing them.<sup>12274</sup> When the witness returned to the gravel pit, there was a larger presence of the army but

<sup>12262</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), p. 18177.

<sup>12263</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), p. 18182.

<sup>12264</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790, 8795-8796.

<sup>12265</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6464; Witness RM-269, T. 12735. *See also* Srećko Aćimović, T. 13227-13228, 13302-13304.

<sup>12266</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21040, 21043, 21091, 21096.

<sup>12267</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21040, 21043-21044.

<sup>12268</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21040.

<sup>12269</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21042.

<sup>12270</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18059.

<sup>12271</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18059, 18083.

<sup>12272</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18060.

<sup>12273</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18060-18061.

<sup>12274</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18061.

these soldiers were not from the 2nd Battalion.<sup>12275</sup> The witness carried out two or three trips.<sup>12276</sup> He also saw Milivoje Lazarević drive a truck-load of detainees.<sup>12277</sup> The entire operation started at 2 or 3 p.m. and was still ongoing when the witness left at around 5 or 6 p.m., as he was given another task. Subsequently, Mico Stanojević took over the truck from the witness.<sup>12278</sup>

2808. **Witness RM-281** stated that in the afternoon of a Saturday in July 1995<sup>12279</sup> he saw a dug out hole at Kozluk with bodies in it.<sup>12280</sup> There was also a truck with detainees on it.<sup>12281</sup> The witness estimated that there were about 50 soldiers; about half on each side of the truck, with a five- or six-metre deep hole in between them.<sup>12282</sup> When the detainees came off the truck, they fell into the hole and they were shot from both sides.<sup>12283</sup> It was not possible for the detainees to go anywhere else other than the hole, because soldiers were standing to their left and right and the hole was in front of them.<sup>12284</sup> The witness also saw an armed man, with what he thought were white cross belts, crying.<sup>12285</sup>

2809. **Ivanović** stated that the detainees were offloaded from the truck when he arrived in Kozluk.<sup>12286</sup> The witness observed about eight men shooting at and killing the detainees.<sup>12287</sup> The witness recalled one 12 to 14-year-old boy amongst the detainees who was begging for his life. Ivanović later heard that this boy had been killed.<sup>12288</sup> The witness saw detainees who tried to escape but were chased, beaten, and shot.<sup>12289</sup> When the witness came back to transport the second group of detainees, the school gym was open and he saw detainees sitting with their legs crossed one next to another.<sup>12290</sup> He drove detainees from the Roćević School to Kozluk three or four times that day.<sup>12291</sup>

<sup>12275</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18065.

<sup>12276</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18061.

<sup>12277</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), p. 18063.

<sup>12278</sup> P3633 (Dragan Jović, *Popović et al.* transcript, 21 November 2007), pp. 18063-18064.

<sup>12279</sup> The Trial Chamber notes that in July 1995, the 1st, 8th, 15th, 22nd and 29th were Saturdays.

<sup>12280</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790, 8800-8801.

<sup>12281</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790-8791, 8796.

<sup>12282</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8791, 8801-8804, 8809.

<sup>12283</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8812-8813.

<sup>12284</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8809, 8812-8813.

<sup>12285</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8804-8805, 8813.

<sup>12286</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), p. 18189.

<sup>12287</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18189-18190.

<sup>12288</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), p. 18190.

<sup>12289</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18189-18190, 18223-18224.

<sup>12290</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18182-18183.

<sup>12291</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18188, 18191.

Other drivers that day were Radivoje Jekić, Mico Stanić, Djoko Nikolić, and Dragan Jović.<sup>12292</sup> **Witness RM-281** saw Milan Tomić and Vukasin Drašković, who were both armed, on the trucks transporting detainees to Kozluk.<sup>12293</sup> **Witness RM-269** testified that by dusk, all of the detainees had been taken away from the school and the military policemen were brought back to the barracks.<sup>12294</sup>

2810. **Ivanović** learned subsequently from other people that Milan Ostojić, Zoran Simanić, ‘Zuzi’ Drasković, Beco Ristanović, and a minor called Kosović, were among the eight people who had done the shooting.<sup>12295</sup> **Ačimović** testified that he subsequently learned that the detainees were executed in Kozluk on the bank of the Drina River and that some men from his unit, but not his battalion as a whole, took part in the process.<sup>12296</sup> **Witness RM-281** stated that all the soldiers were wearing multi-coloured uniforms and some of them had white cross-belts and, according to the witness, they were members of the military police.<sup>12297</sup> The witness recognised Milan Stjepanović and Zoran Simenić<sup>12298</sup>, both armed, but he could not remember whether they were shooting.<sup>12299</sup> Simenić wore a multi-coloured uniform.<sup>12300</sup> The witness believed that he was in Srečko Ačimović’s unit.<sup>12301</sup> The witness also recognised an armed person in multi-coloured uniform and white cross-belts called ‘Cigo’, who he believed belonged to the Zvornik military police.<sup>12302</sup>

2811. A large scale execution and burial operation was carried out at Kozluk between 15 and 16 July 1995.<sup>12303</sup> On 16 July, the victims were buried in mass graves near the site of their execution.<sup>12304</sup> The Kozluk execution site is located within the zone of responsibility of the Zvornik Brigade.<sup>12305</sup>

<sup>12292</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18181-18182; *See also* P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790, 8797-8798.

<sup>12293</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8790, 8797-8798.

<sup>12294</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), p. 6465.

<sup>12295</sup> P3632 (Veljko Ivanović, *Popović et al.* transcript, 26 November 2007), pp. 18192-18193, 18209-18210. *See also* P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), p. 8790.

<sup>12296</sup> Srečko Ačimović, T. 13227-13228, 13296, 13302-13304.

<sup>12297</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), p. 8802.

<sup>12298</sup> The Trial Chamber understands that ‘Zoran Simanić’ mentioned by Ivanović is the same man as ‘Zoran Simenić’ mentioned by Witness RM-281.

<sup>12299</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8806, 8809-8811.

<sup>12300</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), p. 8809.

<sup>12301</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8809-8810.

<sup>12302</sup> P3451 (Witness RM-281, *Tolimir* transcript, 13 December 2010), pp. 8806-8808.

<sup>12303</sup> Adjudicated Facts II, no. 1586.

<sup>12304</sup> Adjudicated Facts II, no. 1587.

<sup>12305</sup> Adjudicated Facts II, no. 1588.

2812. From Roćević School, **Witness RM-266** went to the VRS Command in Zvornik to talk to the chief of the brigade, Dragan Obrenović, whom he knew well, ‘believing that they too didn’t know what was happening on the ground’.<sup>12306</sup> Ratko Vidović, Chief of the SUP in Mali Zvornik, was present at the VRS Command in Zvornik.<sup>12307</sup> After a while, a ‘lower ranking officer’ covered in black soot and wearing a soldier’s shirt arrived and cursed that he himself had to pick up a weapon and shoot because the Serbs refused to kill.<sup>12308</sup> The witness asked for his name and the officer told him that his first name was Drago.<sup>12309</sup> Later, the witness learned that the officer’s surname was Nikolić.<sup>12310</sup> That officer said that he was coming from an execution site where they were killing people and that ‘Beara had ordered that 6,900 people had to disappear within five days, from Zvornik southwards towards Bijeljina’.<sup>12311</sup> The witness later learned that Beara was the Deputy Head for Security of the VRS Main Staff.<sup>12312</sup> The officer also told the witness that ‘they were transporting men to various villages’ where they were killed.<sup>12313</sup>

#### *Burial in Kozluk*

2813. Members of the Zvornik Brigade Engineering Company, using Zvornik Brigade excavators and bulldozers, participated in the burial of Bosnian-Muslim men in mass graves at Kozluk on 16 July.<sup>12314</sup> On that day a Brigade excavator-loader operated for eight hours in Kozluk.<sup>12315</sup> A bulldozer operated in Kozluk for one and a half hours on 18 July and another hour on 19 July.<sup>12316</sup> A number of bodies exhumed at Kozluk showed signs of pre-existing disability or chronic disease, ranging from arthritis to amputations.<sup>12317</sup> Fifty-five blindfolds and 168 ligatures were uncovered at the Kozluk

<sup>12306</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21040-21042, 21094, 21096, 21106.

<sup>12307</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21040-21041, 21093-21096.

<sup>12308</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21041.

<sup>12309</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21041, 21092.

<sup>12310</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21041, 21092.

<sup>12311</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), pp. 21041, 21043, 21092, 21096.

<sup>12312</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21092.

<sup>12313</sup> P78 (Witness RM-266, *Slobodan Milošević* transcript, 22-23 May 2003), p. 21042.

<sup>12314</sup> Adjudicated Facts II, nos 1589-1590, 2883.

<sup>12315</sup> Adjudicated Facts II, no. 1591.

<sup>12316</sup> Adjudicated Facts II, no. 1592.

<sup>12317</sup> Adjudicated Facts II, no. 1593.

grave.<sup>12318</sup> Plant specimens found in the grave proved that the executions of the victims occurred around the middle of July.<sup>12319</sup> **Damjan Lazarević** stated that on 16 July 1995 ‘the major’ ordered him to go to Kozluk to bury the bodies of executed people.<sup>12320</sup> He further stated that when he was at a range of about 20 metres from a gravel pit he saw decomposing bodies in military and civilian clothing lying close to one another, most of them in the pit, and a few on the surface.<sup>12321</sup> The witness also noticed three to four uniformed young men with painted faces and masks further away from him.<sup>12322</sup> **Miloš Mitrović** stated that the corpses were dressed in civilian clothing.<sup>12323</sup>

2814. According to a report authored **John Clark**, 838 bodies or body parts were exhumed from four primary grave sites in 1999: 292 bodies and 233 body parts from Kozluk.<sup>12324</sup> The report provides a cause of death for each body and each body part.<sup>12325</sup> Due to the advanced level of decomposition of the bodies and the potential for *post mortem* damage, the report highlights some limitations of the autopsies such as correctly distinguishing *post mortem* injuries from *ante mortem* injuries.<sup>12326</sup> The autopsies were carried out on the basis of two assumptions (i) the vast majority of injuries suggestive of gunshot damage occurred in life and were fatal; and (ii) any non-gunshot injuries were caused *post mortem* unless proven otherwise.<sup>12327</sup> The report therefore concedes that some genuine blunt force injuries, such as beating, could have been misinterpreted as *post mortem* damage.<sup>12328</sup> The 292 bodies and 233 body parts were found in two main locations, with separate three bodies nearby, and some bone fragments on the surface of

<sup>12318</sup> Adjudicated Facts II, no. 1594.

<sup>12319</sup> Adjudicated Facts II, no. 1595.

<sup>12320</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14433, 14454-14455.

<sup>12321</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14456-14457.

<sup>12322</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), p. 14457.

<sup>12323</sup> P3645 (Miloš Mitrović, *Blagojević and Jokić* transcript, 3-4 December 2003), p. 5606.

<sup>12324</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 1, 6, 13, 16-17, 19, 20, 24.

<sup>12325</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 3.

<sup>12326</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 3.

<sup>12327</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 3-4.

<sup>12328</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 3.

the site in Kozluk.<sup>12329</sup> These bodies, body parts and bone fragments constituted a minimum of 340 individuals.<sup>12330</sup>

2815. Autopsies performed in 1999 on the bodies indicate the following causes of death: 83 died of gunshot injuries to the head; 76 died of gunshot injuries to the trunk; 72 died of multiple gunshot injuries; five died of gunshot injuries to the legs; and one died of gunshot injuries to the arms.<sup>12331</sup> The cause of death for 55 of the bodies was undetermined.<sup>12332</sup> At least 600 gunshot injuries were found on 260 individuals. The majority were shot at once or twice but some as many as seven times.<sup>12333</sup> The most common areas where gunshot wounds were identified, in order of frequency, were: trunk, legs, head, and arms.<sup>12334</sup> In some cases it was possible to identify from which direction a shot had been fired; the individuals were most often shot from behind but a large number of shots were fired from unknown directions.<sup>12335</sup> Given the lack of soft tissue on most of the bodies, it was impossible to identify from what distance shots had been fired. However, the shots that were ‘neatly’ placed at the back of the head suggest that some of them had been fired at close range. The fragmentation pattern of the injuries to the bones and the recovery of sharp-pointed copper jacketed bullets of 7.62 millimetres diameter indicated that high velocity rifles had been used.<sup>12336</sup> Given the difficulty in identifying whether the additional body parts found came from the whole bodies, the report does not include an analysis of their cause of death.<sup>12337</sup> Furthermore, most of the body parts were completely skeletonised.<sup>12338</sup> However, while most body

<sup>12329</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 1, 6.

<sup>12330</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 6.

<sup>12331</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 8, 11-12.

<sup>12332</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 11-12.

<sup>12333</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 8.

<sup>12334</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 8-9, 12.

<sup>12335</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 9.

<sup>12336</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 10.

<sup>12337</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 6.

<sup>12338</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 6.



parts were completely uninjured, 19 body parts showed injuries suggestive of gunshot damage.<sup>12339</sup>

2816. At the time of their death, the individuals found in Kozluk were between the ages of eight and 85 years, with the majority being over the age of 25 years. Where gender could be determined, they were all male.<sup>12340</sup> While items of clothing were found on nearly all of the bodies, the report does not indicate that they were military clothing. Personal possessions such as documents, jewellery and money were found on the bodies.<sup>12341</sup> Forty-four definite and two probable blindfolds, made of a variety of pieces of cloth, were recovered at the site. One hundred and forty individuals, with a further possible three individuals had their hands tied behind their back with ligatures, with the exception of one tied at the front. Ligatures were also present on 13 of the body parts.<sup>12342</sup> The ligatures were made from narrow strips of cloth, most of them from the same pattern material, while others were made from nylon string. A strip of cloth, which was several feet long and made of the same material as many of the ligatures, was found in the pocket of an individual whose hands were not tied. Six individuals had double ligatures and 21 had both ligatures and blindfolds.<sup>12343</sup> According to another report authored by **Clark**, an autopsy was performed on 26 July 1999 on a complete body recovered from the Kozluk mass grave.<sup>12344</sup> The report provides that the individual died from a gunshot wound to the chest.<sup>12345</sup> The individual was identified as being male and at the time of his death between the age of 35 and 60.<sup>12346</sup> While items of clothing found on the body – *i.e.* green checked long sleeve shirt, dark brown trousers, light brown shoes – could have been of military origin, the individual examined did not appear to be

<sup>12339</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 6, 11.

<sup>12340</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 6, 12.

<sup>12341</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 7.

<sup>12342</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), pp. 7, 12.

<sup>12343</sup> P2259 (John Clark, Report on autopsies of human remains from Kozluk, Nova Kasaba, Konjević Polje, Glogova, 1999), p. 7.

<sup>12344</sup> P2339 (John Clark, Report on autopsy of human remains from Kozluk, 1999), pp. 1-2, 4, 8, 13.

<sup>12345</sup> P2339 (John Clark, Report on autopsy of human remains from Kozluk, 1999), pp. 1-4, 6-7, 10, 12-14.

<sup>12346</sup> P2339 (John Clark, Report on autopsy of human remains from Kozluk, 1999), pp. 1-2, 6-7, 13.

wearing a military or police uniform, nor was he found carrying any weapons.<sup>12347</sup> The individual was found with his hands tied behind his back with a cloth ligature.<sup>12348</sup>

2817. According to a report authored by **Christopher Lawrence**, the remains of at least 159 individuals were exhumed from Čančari Road site 3, between 29 May 1998 and 10 June 1998.<sup>12349</sup> The remains were collected in 383 body bags.<sup>12350</sup> The contents of the body bags ranged from single bones to complete bodies, which resulted in the report providing causes of death for body parts in each body bag rather than for each individual.<sup>12351</sup> The author emphasized that it is therefore possible that an individual be assigned more than one cause of death.<sup>12352</sup> Autopsies were performed on the contents of the 383 body bags and the report indicates that: 254 had an undetermined cause of death; 103 had gunshot injuries sufficient to cause death; 15 had gunshot injuries that could possibly cause death; 13 had gunshot injuries which would probably cause death; and two had gunshot injuries consistent with a cause of death of gunshot wounds.<sup>12353</sup> The most common areas where gunshot wounds were found, in order of frequency, were: torso, legs, head and neck, and arms.<sup>12354</sup> Of the 35 essentially complete bodies, 29 had gunshot injuries sufficient to cause the death and only six had an undetermined cause of death.<sup>12355</sup> In the 126 cases where gender could be determined, all were identified as male. One individual was recovered wearing female clothing but because the individual was a sub-adult, gender could not be determined. A number of body bags included apparent female clothing which suggests, in the absence of female skeletal remains, that the men could have been wearing or carrying these items or, alternatively,

<sup>12347</sup> P2339 (John Clark, Report on autopsy of human remains from Kozluk, 1999), pp. 1-2, 4-5, 13.

<sup>12348</sup> P2339 (John Clark, Report on autopsy of human remains from Kozluk, 1999), pp. 1-2, 4, 13.

<sup>12349</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2-3, 9, 33.

<sup>12350</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 9, 33.

<sup>12351</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2-3, 9, 33.

<sup>12352</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 33.

<sup>12353</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2-3, 6, 9, 33, 36-46. The Trial Chamber notes that Lawrence gave the breakdown of the cause of death per body bag. However, the Trial Chambers notes a discrepancy between the overall number of body bags (383) and total number of cause of death for each body bag (387).

<sup>12354</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 12-16.

<sup>12355</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 3, 33.

that they could have been among the rubbish at the site.<sup>12356</sup> Of the 159 individuals, it was estimated that at the time of death, one individual was between the ages of 8 and 13, six between the ages of 13 and 18, three between the ages of 18 and 25, 150 over the age of 25, and at least seven were over the age of 65.<sup>12357</sup> With the exception of one individual who had an unfired cartridge in a pocket, none of the individuals appeared to be carrying weapons. With the exception of a JNA jacket recovered at the site, there was no evidence of any of the individuals wearing army or military uniforms.<sup>12358</sup> Identification documents were found on or near 12 bodies.<sup>12359</sup> There were 37 ligatures recovered from the site: 25 associated with hands or arms; eight associated with other parts of the body; and four not associated with body parts.<sup>12360</sup> The material of some of the ligatures, a white embroidered cloth with a circle and flower buds, was similar to the material of ligatures recovered at Čančari Road site 12.<sup>12361</sup> Eight blindfolds were recovered at the site, including four around the faces of individuals.<sup>12362</sup>

2818. According to another report authored by Lawrence, two body parts were exhumed from Čančari Road Site 3 near Kozluk in 1998.<sup>12363</sup> Following the autopsies which were performed on the contents of the body bags, the cause of death for the contents of one of the body bags – a skeletonised lower half of a male body – was possible gunshot wounds and the cause of death for the contents of the other one is unknown.<sup>12364</sup>

2819. According to a report authored by **Dušan Janc**, as of April 2013, the remains of 825 individuals were identified through DNA analysis from various mass graves: 341

<sup>12356</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 10.

<sup>12357</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 9.

<sup>12358</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 34.

<sup>12359</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 3, 34-35.

<sup>12360</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 20-28

<sup>12361</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 20-21, 28; P1815 (Christopher Lawrence, Report on ligatures found in Čančari Road Site 3), pp. 1-4.

<sup>12362</sup> P1808 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, August-September 1998), pp. 2, 28-31.

<sup>12363</sup> P1805 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, June 1999).

<sup>12364</sup> P1805 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 3, June 1999); P1809 (Christopher Lawrence, Report on autopsies of human remains from Hodžići Road Site 3, 3 October 1998), p.5.

individuals from the Kozluk mass grave; 53 individuals from Čančari Road 1; 120 individuals from Čančari Road 2; 140 individuals from Čančari Road 3; 110 individuals from Čančari Road 7, and 61 individuals from Čančari Road 13.<sup>12365</sup> In particular, the remains of Kasim Hafizović and Senahid Hafizović were exhumed from and identified in Kozluk and Čančari Road 3, respectively.<sup>12366</sup> Janc identified 113 DNA connections between the remains identified in the Kozluk site, referred to as a primary mass grave, and the remains identified in secondary mass graves known as Čančari Road 1, 2, 3, 7, and 13: three connections with Čančari Road 1; ten with Čančari Road 2; 67 with Čančari Road 3; 20 with Čančari Road 7; and 13 with Čančari Road 13.<sup>12367</sup> Twenty-nine DNA connections between the remains identified in the Čančari Road secondary mass graves were also found: five between Čančari Road 1 and 2; four between Čančari Road 1 and 13; 15 between Čančari Road 2 and 7; and five between Čančari Road 3 and 13.<sup>12368</sup> Janc further found two DNA connections between the remains identified in two of the secondary mass graves connected to the Kozluk site and two other secondary mass graves connected to two distinct primary mass graves: one of these connections was between Čančari Road 3 and Liplje 2 and the other was between Čančari Road 7 and Čančari Road 11.<sup>12369</sup>

*The Trial Chamber's findings concerning Scheduled Incident E.8.1*

2820. With regard to Scheduled Incident E.8.1 the Trial Chamber notes that it received reliable evidence depicting the circumstances surrounding the events at Ročević School from Ačimović, Mitar Lazarević, Stanoje Birčaković and Ivanović that contrasts with Witness RM-269's vague and unsourced evidence that a local killed some of the Bosnian-Muslim detainees at Ročević School and will thus not rely on Witness RM-269's evidence in this respect. Therefore, the Trial Chamber finds that on 14 or 15 July

<sup>12365</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 2-4, 11, 14-18, 20, 41; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 41-54, 89-104, 129-134, 175-178.

<sup>12366</sup> P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 49, 102. *See also* P2795 (ICMP Srebrenica Update Expert Report, 21 July 2013); P5588 (ICMP Notice of DNA Reports, December 2007).

<sup>12367</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 48-49, 75-76. For Janc's methodology, *see* Appendix B.

<sup>12368</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 49, 75-76.

<sup>12369</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 49, 75-77.

1995, members of the 2nd Infantry Battalion or members of the military police of the Zvornik Brigade<sup>12370</sup> killed at least twelve Bosnian Muslims who prior to their killing were detained among a group of only Bosnian Muslims at Ročević School in Zvornik Municipality, behind the school.<sup>12371</sup> Some of the bodies were wearing civilian clothing. The Trial Chamber will consider this incident in relation to Counts 2 to 6 of the Indictment in chapter 8 below.

*The Trial Chamber's findings concerning Scheduled Incident E.8.2*

2821. With regard to Scheduled Incident E.8.2, the Trial Chamber first refers to its review of Janc's methodology as set out in Appendix B. Second the Trial Chamber notes that none of the secondary graves were solely connected to Kozluk primary grave or to secondary graves that were not connected to another primary grave.

2822. All secondary graves were connected with Kozluk primary grave and with each other. However, there were also two DNA matches in Čančari Road 3 and 7 which were also connected to secondary graves connected to other primary graves. In accordance with the above, the Trial Chamber then considered the frequency of DNA connections.

2823. The high number of DNA connections between Čančari Road 1, 2, 3, 7, and 13 and the Kozluk primary grave and among each other, compared to the very low number of 'external' connections with Liplje 2 and Čančari Road 11, led the Trial Chamber to find that a majority of the bodies of Čančari Road 1, 2, 3, 7, and 13 secondary graves are to be counted as part of Scheduled Incident E.8.2.

2824. On the basis of this evidence, the Trial Chamber took a conservative approach as explained in Appendix B, and finds that the victims of this Scheduled Incident were buried in the Kozluk mass grave and that bodies from the Kozluk primary mass grave were subsequently reburied in the Čančari Road 1, 2, 3, 7, and 13 secondary mass

<sup>12370</sup> Srečko Ačimović, Mile Janjić, Mladen Blagojević, and Dragan Jović testified about the presence of members of the Bratunac Brigade military police during the transportation of Bosnian Muslims from Vuk Karadžić Elementary School in Bratunac to Ročević School and prior to their transportation out of the Ročević School. However, the Trial Chamber received no evidence that members of this unit participated in the killings at Ročević School.

<sup>12371</sup> With regard to the Defence's argument that the Prosecution has failed to provide sufficient evidence on the number the victims, the Trial Chamber notes that it received reliable evidence showing that at least twelve bodies were seen in and around Ročević School on 15 July 1995. Regarding the Defence's argument on the manner of death, the Trial Chamber considers that its finding that the detainees were killed is sufficient for a positive factual finding on this Scheduled Incident and thus the 'manner' of death as raised by the Defence is irrelevant in the context of this finding.

graves and will therefore rely on the number of DNA profiles identified in Kozluk as well as the majority of the bodies found in Čančari Road 1, 2, 3, 7, and 13 to calculate the number of victims of this Scheduled Incident (*i.e* 341 individuals from Kozluk mass grave, the majority of 53 individuals from Čančari Road, the majority of 120 individuals from Čančari Road 2, the majority of 140 individuals from Čančari Road 3, the majority of 110 individuals from Čančari Road 7, and the majority of 61 individuals from Čančari Road 13). The Trial Chamber will subtract from this number the 12 individuals who were killed in or around Roćević School, and which pertain to Scheduled Incident E.8.1 (*see* chapter 7.9), as their remains may have also be buried in the Kozluk and Čančari Road 1, 2, 3, 7 or 13 secondary mass graves.

2825. Based on the foregoing, the Trial Chamber finds that on 15 July 1995, members of the Zvornik and Bratunac Brigades, including members of the military police of these brigades, shot and killed at least 575 Bosnian-Muslim males who prior to their killing were detained among a group of only Bosnian Muslims at Roćević School. The victims were shot from both sides as they got off the truck and fell into a hole. The victims included minors and elderly people. Some of the bodies were dressed in civilian clothing while others were dressed in military clothing. Some of the bodies had their hands tied and blindfolds over their eyes. The Trial Chamber will further consider the above in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

7.10 Kula School (Schedule E.9.1), Branjevo Military Farm (Schedule E.9.2), and Pilica Cultural Centre (Schedule E.10.1)

2826. According to the Indictment, the Accused is responsible for the killing of a number of the approximately 1,200 Bosnian-Muslim men detained at Kula School near Pilica on or about 14 or 15 July 1995;<sup>12372</sup> then, on 16 July 1995, the transport of the the survivors from Kula School to Branjevo Military Farm and killing of them there;<sup>12373</sup> and then the killing of approximately 500 Bosnian Muslim men inside the Pilica Cultural Centre.<sup>12374</sup> Having considered that the events alleged in Scheduled Incidents E.9.1 and E.9.2 directly preceded those alleged in Scheduled Incident E.10.1; and that the killings alleged in Scheduled Incident E.9.2 relate to Bosnian-Muslim men previously detained at Kula School, the Trial Chamber considers that these incidents are closely related and will analyse them together below. In its Final Brief in relation to incidents E.9.1 and E.9.2, the Defence mainly argued that the Prosecution premised its allegations on witnesses who are not reliable, namely Dražen Erdemović, Witness RM-255, and Witness RM-346.<sup>12375</sup> With regard to Scheduled Incident E.10.1, the Defence argued that the Prosecution presented ‘limited evidence’, that was insufficient and unreliable to establish the perpetrators and circumstances of death.<sup>12376</sup>

2827. The Trial Chamber took judicial notice of a number of Adjudicated Facts related to these incidents.<sup>12377</sup> Further, it received evidence from **Slavko Perić**, the Assistant Commander for the Intelligence and Security Section of the 1st Battalion of the Zvornik Brigade;<sup>12378</sup> **Jevto Bogdanović**, a Bosnian-Serb member of a work platoon of the Zvornik Brigade;<sup>12379</sup> **Witness RM-255**, a Bosnian Muslim from Srebrenica Municipality;<sup>12380</sup> **Witness RM-346**, a Bosnian Muslim from Srebrenica who served in the ABiH;<sup>12381</sup> **Dražen Erdemović**, a Bosnian-Croat member of the VRS 10th Sabotage Detachment;<sup>12382</sup> **Damjan Lazarević** and **Cvijetin Ristanović**, Serb members of the

<sup>12372</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.9.1.

<sup>12373</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.9.2.

<sup>12374</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iii), 65(a), Schedule E.10.1.

<sup>12375</sup> Defence Final Brief, paras 3179-3183.

<sup>12376</sup> Defence Final Brief, paras 3203-3204.

<sup>12377</sup> Adjudicated Fact no. 1349 is reviewed in chapter 3.1.2.

<sup>12378</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11367, 11369, 11371.

<sup>12379</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11313-11314.

<sup>12380</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2.

<sup>12381</sup> P1118 (Witness RM-346, prior testimony), p. 3016; P1117 (Witness RM-346, pseudonym sheet);

Witness RM-346, T. 9576.

<sup>12382</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 832, 834-835.

Engineering Unit of the Zvornik Brigade;<sup>12383</sup> **William Haglund**, a forensic anthropologist;<sup>12384</sup> **Christopher Lawrence**, a forensic pathologist;<sup>12385</sup> and **Richard Butler**, an intelligence research specialist;<sup>12386</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12387</sup> The Trial Chamber also received evidence from **Milorad Birčaković**, a member of the VRS Zvornik Brigade military police;<sup>12388</sup> **Husein Delić**, a Bosnian Muslim from Srebrenica,<sup>12389</sup> reviewed in chapter 7.13.1; and **Milenko Tomić**, a Bosnian Serb working as a truck driver for the Zvornik-based *Metalno* company assigned to what the witness called the ‘R Battalion.’;<sup>12390</sup> **Jose Baraybar**, a forensic anthropologist;<sup>12391</sup> and **Dušan Janc**, a former Prosecution investigator.<sup>12392</sup>

<sup>12383</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14431-14432; P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5359-5360.

<sup>12384</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3724; William Haglund, T. 14974.

<sup>12385</sup> Christopher Lawrence, T. 14695; P1803 (*Curriculum vitae* of Christopher Lawrence, undated), pp. 1-2.

<sup>12386</sup> Richard Butler, T. 16108; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.28-7.30.

<sup>12387</sup> **Slavko Perić**: P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11367, 11369, 11371, 11407-11418. **Jevto Bogdanović**: P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11313-11314, 11330-11333. **Witness RM-255**: P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-5; Witness RM-255, T. 1199-1200. **Witness RM-346**: P1118 (Witness RM-346, prior testimony), p. 3016, 3029, 3031, 3039-3045; P1119 (Witness RM-346, *Karadžić* transcript, 2 February 2012), p. 24127; Witness RM-346, T. 9576, 9617; P1122 (Photograph of Helicopter view of Branjevo farm, with area for executioners marked by Witness RM-346); P1127 (Annotated aerial photo of Branjevo Farm, marked by Witness RM-346 in *Karadžić*, 2 February 2012). **Dražen Erdemović**: P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 839-841, 843-847, 849; Dražen Erdemović, T. 13744-13746, 13756, 13760-13761, 13765-13766; P1686 (Photograph of the Zvornik Brigade Headquarters, marked and initialled by Dražen Erdemović on 4 May 2007); P1674 (Dražen Erdemović, *Popović et al.* transcript, 4 May 2007), pp. 10964-10967, 10978-10979; P1675 (Dražen Erdemović’s plea agreement, 8 January 1998), p. 4; P1685 (Aerial photograph of the Branjevo Military Farm, 17 July 1995). **Damjan Lazarević**: P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14459-14465, 14472, 14480; P3641 (Aerial image of Branjevo Military Farm, marked by Damjan Lazarević); P3644 (Aerial image of Branjevo Military Farm, marked by Damjan Lazarević); **Cvijetin Ristanović**: P3647 (Cvijetin Ristanović, *Blagojević and Jokić* transcript, 1 December 2003), pp. 5363, 5389-5395; P3643 (Zvornik Brigade vehicle log for a Mercedes 2626); P3650 (Sketch), p. 1; P1489 (Brochure for an ULT-200); **William Haglund**: P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3751-3752, 3754; P1833 (William Haglund, Pilica report, 15 June 1998), pp. 11, 56-60, 62-63; **Christopher Lawrence**: P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 33; **Richard Butler**: P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.36-7.37, 7.39, 7.40-7.41, 7.43-7.48.

<sup>12388</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11010-11011.

<sup>12389</sup> P1013 (Husein Delić, witness statement, 21 June 2000), pp. 1-2; P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), pp. 1-2.

<sup>12390</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 20997-20999.

<sup>12391</sup> Jose Baraybar, T. 16002; P2071 (*Curriculum vitae* of Jose Baraybar, undated), p. 1.

<sup>12392</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).



*Kula School (Schedule E.9.1)*

2828. **Rajko Babić** stated that on 14 July 1995 between 8 and 9 a.m., he read a note in the Zvornik Brigade duty officer's logbook, that a group of between 100 and 200 people from Srebrenica were to arrive at the Pilica school, where they would stay overnight and be exchanged the following day.<sup>12393</sup> The message was sent from the Zvornik Brigade command.<sup>12394</sup>

2829. **Slavko Perić** stated that on 14 July 1995, all staff of the 1st Battalion of the Zvornik Brigade were at the battalion command in the village of Manojlovići, except the Battalion's Commander, Milan Stanojević, who was in Srebrenica.<sup>12395</sup> Momir Pelemiš, the Battalion's Deputy Commander, was in charge of the battalion that day.<sup>12396</sup> Pelemiš told those present at the command that someone at the brigade had informed him that around 200 Muslim detainees would be arriving and would be put up in the schoolhouse near Kula, to spend the night and be exchanged the next day.<sup>12397</sup> The Kula School was also called Pilica School.<sup>12398</sup> The news from Pelemiš was followed by a telegram and about one hour later the witness received a call from Drago Nikolić, the Assistant Zvornik Brigade Commander for Intelligence and Security, who repeated more or less the content of the telegram. Nikolić told the witness that regardless of who Pelemiš appointed to go to Kula School, the witness should also go to prevent any problems with local citizens.<sup>12399</sup>

2830. The witness agreed to go to Kula School and did so with the Officer for General Affairs of the 1st Battalion of the Zvornik Brigade, Rajko Babić; and the Assistant Commander for Morale and Information of the Battalion, Dragan Pantić.<sup>12400</sup> Sometime that afternoon, the witness and his two colleagues arrived at the school, but no one was there, and the witness went to his house to see his family for about 20 minutes.<sup>12401</sup> When he returned to the school, there was a convoy of about ten vehicles, mainly buses, along with three or four men escorting each vehicle, and the school's gymnasium was

<sup>12393</sup> P3459 (Rajko Babić, witness statement, 14 September 2005), para. 3.

<sup>12394</sup> P3459 (Rajko Babić, witness statement, 14 September 2005), para. 3.

<sup>12395</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11371, 11373-11374.

<sup>12396</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11371, 11373-11375.

<sup>12397</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11371, 11374-11377, 11391.

<sup>12398</sup> Adjudicated Facts II, no. 1599.

<sup>12399</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11370, 11376-11379.

<sup>12400</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11371, 11379-11380.

<sup>12401</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11381.

already full of detainees.<sup>12402</sup> **Witness RM-255** testified that there were seven buses, each bus carrying about 50 detainees.<sup>12403</sup> According to **Perić**, there was not enough space for all the detainees inside the school and detainees remained in the vehicles parked outside the school.<sup>12404</sup>

2831. The men were held at the school for two nights.<sup>12405</sup> There was no food or water and several men died in the school gym from heat and dehydration.<sup>12406</sup> The prisoners were not always allowed to go to the toilet. When they were allowed, some of them were beaten by the soldiers with their rifles.<sup>12407</sup> Four witnesses provided further details about the conditions at the school: Witness RM-346, Witness RM-255, Perić, and Jevto Bogdanović.

2832. **Witness RM-346** testified that when he arrived at the school on 14 July 1995, it was less than half full with Muslim men but later filled up, becoming overcrowded.<sup>12408</sup> **Witness RM-255** testified that he was put in a room at the school with about 200 to 300 men.<sup>12409</sup> From time to time throughout the night, soldiers wearing camouflage uniforms without police insignia came in and took out one or two men at a time.<sup>12410</sup> Subsequently, the witness heard shouting, screaming, and shooting, which led him to believe that the men taken out had been killed.<sup>12411</sup> **Witness RM-346** testified that he heard a bus arriving, followed by shooting and people crying for help from behind the school.<sup>12412</sup> The men at the school did not receive any medical treatment.<sup>12413</sup> On 15 July 1995, the soldiers took jewellery, watches and money from the prisoners.<sup>12414</sup> According to **Witness RM-346**, soldiers came and asked the detainees for 10,000 DEM and said if they did not pay they would all be killed, but the detainees did not have any

<sup>12402</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11381-11383.

<sup>12403</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 3; Witness RM-255, T. 1199.

<sup>12404</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11393.

<sup>12405</sup> Adjudicated Facts II, no. 1598.

<sup>12406</sup> Adjudicated Facts II, no. 1597.

<sup>12407</sup> Adjudicated Facts II, no. 1601.

<sup>12408</sup> P1118 (Witness RM-346, prior testimony), pp. 3031-3032, 3035; Witness RM-346, T.9568, 9606, 9609.

<sup>12409</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 3-4.

<sup>12410</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4. The Trial Chamber understands the reference to 'police insignia' in P55 to be a reference to the Military Police insignia which Witness RM-255 had previously seen on the uniforms of those who were taking out detainees in Bratunac.

<sup>12411</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4.

<sup>12412</sup> P1118 (Witness RM-346, prior testimony), p. 3033; P1119 (Witness RM-346, *Karadžić* transcript, 2 February 2012), p. 24126; P1121 (Photograph of helicopter overview of the area).

<sup>12413</sup> P1118 (Witness RM-346, prior testimony), pp. 3036-3037.

<sup>12414</sup> Adjudicated Facts II, no. 1602.

money.<sup>12415</sup> During the night of 15 July 1995 men were taken out of the gymnasium and only some of them returned.<sup>12416</sup> No sounds were heard when those men were taken out of the gym.<sup>12417</sup> **Witness RM-255** testified that around 16 July 1995, two ‘*Chetniks*’ in uniform entered the room where he was being held and took about 12 detainees aged 15 and 16 out of the room, telling them that they would be sent to Fikret Abdić and added ‘who needs guys like you’.<sup>12418</sup> Later on, the beating and the killing started again.<sup>12419</sup> At some point, a soldier entered the room and announced that the detainees who could pay 20 DEM could be sent to Sarajevo. Around 20 detainees wanted to pay, and those detainees were taken out of the room. Afterwards, the witness heard buses leaving. The detainees who remained then had to tie the hands of the other prisoners behind their backs, and they were all ordered out of the room. The detainees went down to the ground floor, where the witness saw one dead body lying on the floor. The detainees were then placed on buses and they travelled away from the school.<sup>12420</sup>

2833. The prisoners were guarded by VRS soldiers who rotated in shifts.<sup>12421</sup> **Perić** stated that a group of around 10 to 15 men, sent by Pelemiš, arrived to protect the detainees from the local population.<sup>12422</sup> **Bogdanović** stated that the commander of his work platoon in the Zvornik Brigade, Captain Radivoje Lakić, held a daily roll-call at Branjevo Military Farm, where his work platoon was stationed.<sup>12423</sup> A few days after 12 July 1995, Lakić sent two men from the platoon, Stevo Ostojić and Rajo Jurosević, to the witness’s house where they relayed Lakić’s order to report to the Kula School, otherwise known as the Nikola Tesla School, because ‘some people had been brought there.’<sup>12424</sup> When the witness arrived at the school, he saw Lakić and some soldiers he could not identify. The witness was ordered by the soldiers present at the school to stand guard at the entrance facing the road so that the people kept inside would not be able to escape and could be put on buses and taken away.<sup>12425</sup> From where he was standing, the witness could see people inside the school and observed that they were all in civilian

<sup>12415</sup> P1118 (Witness RM-346, prior testimony), pp. 3037-3038.

<sup>12416</sup> P1118 (Witness RM-346, prior testimony), p. 3038.

<sup>12417</sup> P1118 (Witness RM-346, prior testimony), p. 3039.

<sup>12418</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4; Witness RM-255, T. 1199.

<sup>12419</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4.

<sup>12420</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4.

<sup>12421</sup> Adjudicated Facts II, no. 1600.

<sup>12422</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11381, 11383, 11385.

<sup>12423</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11314-11316.

<sup>12424</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11318-11320.

<sup>12425</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11320-11321.

clothing.<sup>12426</sup> The witness was uncertain as to the number of people in the school but said that buses leaving the school were ‘crammed’ and the school was ‘crowded’.<sup>12427</sup> The witness saw nine dead bodies lying approximately 50 metres from the school.<sup>12428</sup> As the detainees from the school were taken outside and put on buses to be transported to Pilica Dom the witness and some other men from his work platoon were forced to put the dead bodies onto the trailer of a tractor after which a man drove the tractor away.<sup>12429</sup> **Milorad Birčaković** stated that when on 15 July 1995 he drove Miomir Jasikovac, Commander of the Military Police Company, to inspect the battalion in Pilica and Lokanj, they stopped at Pilica School.<sup>12430</sup> The witness saw a corpse outside the school and heard from a local man that the man had died trying to jump out of the window.<sup>12431</sup> The witness later saw on television that the detainees were ultimately killed.<sup>12432</sup>

2834. **Perić** provided further details about his attempts to have the detainees removed from the school. He stated that on the morning of 15 July 1995, the buses, in which some detainees had spent the night parked outside of the school, left.<sup>12433</sup> Pelemiš talked to the witness on the phone and both realized that the detainees remaining in the school were not leaving as the witness and Pelemiš had been told earlier. Pelemiš told the witness that he had spoken with someone from the Zvornik Brigade Command and that he had requested that the detainees be driven away.<sup>12434</sup> However, because ‘this request was not met with any understanding’, they agreed that the witness was to go to the Zvornik Brigade Command and see the commanding officer on duty with the same request.<sup>12435</sup>

2835. At around 10 or 11 a.m., the witness went to the Brigade Command, together with a driver, Milan Jovanović, to see the commanding officer on duty.<sup>12436</sup> The witness had an informal discussion with four or five uniformed commanding officers from the Brigade, about the detainees and he was surprised by their lack of concern with the

<sup>12426</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11321-11322.

<sup>12427</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), p. 11322.

<sup>12428</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11323-11324.

<sup>12429</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11322-11324.

<sup>12430</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11012, 11045-11046.

<sup>12431</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), pp. 11045-11046.

<sup>12432</sup> P2161 (Milorad Birčaković, *Popović et al.* transcript, 7-8 May 2007), p. 11046.

<sup>12433</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11393, 11430.

<sup>12434</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11392.

<sup>12435</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11392, 11395.

<sup>12436</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11395.

situation and their disinterest in his request to have the detainees driven away from Kula School as soon as possible.<sup>12437</sup> At some point one of the officers asked the witness something along the lines of, ‘are there any woods close to where you are’ or ‘why aren’t you killing them off’. The witness responded that he and his men could not kill anyone, to which he believed an officer replied something like, ‘if you are not going to kill them, then let them drown you all down at the village.’<sup>12438</sup> One of the officers left the office during the discussion and returned with information that Major Obrenović was not interested in the problem.<sup>12439</sup> Based on the unusual responses of these officers and the fact that no one was responding to his request for help, the witness concluded that operations involving the detainees were being conducted from a level much higher than that of the Brigade.<sup>12440</sup> After the discussion with the officers at the Brigade Command, the witness and his driver stopped briefly at Pilica Cultural Centre before returning to Kula School where, he believed, he spoke to Pelemiš again over the radio and told him about the results of his trip to the Brigade Command.<sup>12441</sup> During this conversation, Pelemiš and the witness agreed to replace the shift of 15 soldiers stationed at the school, which, the witness believed, was done that evening.<sup>12442</sup> Babić and Pantić reported to the witness that there had been no incidents at the school and Perić stayed at the school until around 10 p.m. at which time he went home.<sup>12443</sup>

2836. On the morning of 16 July 1995, Babić and Pantić again reported to the witness that there had been no incidents at the school and, at around 8 or 9 a.m., Pelemiš called the witness to tell him that someone from the Zvornik Brigade Command had called to say that they should not worry because the detainees would be taken away.<sup>12444</sup> Around noon, two officers arrived, followed by a van with around ten to twelve soldiers and then an empty bus.<sup>12445</sup> The witness did not recognize the officers at the time, but knew they were not commanding officers from the Zvornik Brigade.<sup>12446</sup> The witness overheard a soldier calling one of the officers ‘Pope’. He explained that he noticed a resemblance between the two officers and pictures he later saw in the media of Beara

<sup>12437</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11397-11401.

<sup>12438</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11399.

<sup>12439</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11400-11402.

<sup>12440</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11397, 11402.

<sup>12441</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11404-11406.

<sup>12442</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), p. 11405.

<sup>12443</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11406-11407.

<sup>12444</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11407-11408.

<sup>12445</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11409-11410.

<sup>12446</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11411-11413.

and Popović.<sup>12447</sup> The soldiers and officers were hostile towards members of the witness's battalion and began loading detainees on the bus right away.<sup>12448</sup>

2837. As the bus left, followed by the soldiers who had been guarding the detainees at the school, it passed by the witness who believed that he saw that detainees were blindfolded.<sup>12449</sup> The same bus drove back and forth about four or five times to take all of the detainees away, with each roundtrip taking about two hours.<sup>12450</sup> When the bus had departed for the second or third time, the witness heard gun shots, and he and the other members of his battalion assumed that the detainees were being executed not far away.<sup>12451</sup> **Babić** stated that on 16 July 1995 he discovered that the duty officer's logbook note regarding the arrival of the detainees at the Pilica school had been removed.<sup>12452</sup>

2838. **Husein Delić** stated that on 17 April 1992 he left Srebrenica for Tuzla, together with most of his family.<sup>12453</sup> His brother Bajazit Delić, whose family also fled with the witness, stayed in Srebrenica.<sup>12454</sup> The witness was told that when the Serbs attacked Srebrenica in July 1995, his brother went to Potočari and was taken prisoner by the Serbs.<sup>12455</sup> The witness was further told that his brother was last seen in Pilica.<sup>12456</sup> The witness has not seen his brother since then and considers that he was killed.<sup>12457</sup> The witness further stated that his wife's brother, Salčin Halilović, and his cousin, Ahmo Gurdić, were missing.<sup>12458</sup>

<sup>12447</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11414-11415.

<sup>12448</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11410, 11415.

<sup>12449</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11415-11416.

<sup>12450</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11416, 11418.

<sup>12451</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11416-11417.

<sup>12452</sup> P3459 (Rajko Babić, witness statement, 14 September 2005), para. 9.

<sup>12453</sup> P1013 (Husein Delić, witness statement, 21 June 2000), p. 2; P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>12454</sup> P1013 (Husein Delić, witness statement, 21 June 2000), p. 2; P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>12455</sup> P1013 (Husein Delić, witness statement, 21 June 2000), pp. 2-3; P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), p. 2; P1015 (Photograph showing Bajazit Delić, Salčin Halilović, and Ahmo Gurdić).

<sup>12456</sup> P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>12457</sup> P1014 (Husein Delić, statement taken by Sarajevo Cantonal Court, 21 June 2000), p. 2.

<sup>12458</sup> P1013 (Husein Delić, witness statement, 21 June 2000), p. 3; P1015 (Photograph showing Bajazit Delić, Salčin Halilović, and Ahmo Gurdić).

*Branjevo Military Farm (Schedule E.9.2)*

2839. On 16 July 1995, Bosnian-Muslim men, who had been detained for two days at the Pilica School, were taken by bus to the nearby Branjevo Military Farm and executed.<sup>12459</sup> Branjevo Military Farm was under the direct authority and control of the 1st Infantry Battalion of the Zvornik Brigade.<sup>12460</sup> **Witness RM-346** described the detainees as young men.<sup>12461</sup> They were called out of the school and loaded onto buses.<sup>12462</sup> **Witness RM-346** testified that when his group was taken out, they were asked if anyone had relatives abroad that could send money, and those who spoke up were separated from the group.<sup>12463</sup>

2840. **Erdemović** testified that, in the meantime, on the morning of 16 July 1995, pursuant to an order issued by his superior Pelemiš, he, Brano Gojković, Marko Boškić, Franc Kos, Aleksandar Cvetković, Vlastimir Golijanin, Stanko Savanović, and Zoran Goronja departed from their base in Dragaševac for the Zvornik Brigade headquarters, with Gojković acting as the squad's commander.<sup>12464</sup> According to Erdemović, the order was relayed to the members of the 10th detachment by Gojković, and Gojković indicated that it had been issued by Pelemiš.<sup>12465</sup> After having parked the van in which they had been travelling in front of the Zvornik Brigade headquarters, Gojković went into the building and shortly after came out with a lieutenant colonel in a VRS uniform and two members of the DK military police.<sup>12466</sup> The witness concluded that the lieutenant colonel was also from the DK since he was in Zvornik.<sup>12467</sup> The lieutenant colonel and the two military policemen then got into another vehicle and led the squad to the Branjevo Military Farm, near the town of Pilica.<sup>12468</sup> At the farm, the lieutenant

<sup>12459</sup> Adjudicated Facts II, no. 1604.

<sup>12460</sup> Adjudicated Facts II, no. 1603.

<sup>12461</sup> P1118 (Witness RM-346, prior testimony), pp. 3039-3040.

<sup>12462</sup> Adjudicated Facts II, no. 1605.

<sup>12463</sup> P1118 (Witness RM-346, prior testimony), p. 3041.

<sup>12464</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 839-840, 843; Dražen Erdemović, T. 13744-13746, 13756, 13760, 13765.

<sup>12465</sup> Dražen Erdemović, T. 13745-13746, 13756.

<sup>12466</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 840-841; P1674 (Dražen Erdemović, *Popović et al.* transcript, 4 May 2007), pp. 10964-10967; Dražen Erdemović, T. 13760-13761; P1686 (Photograph of the Zvornik Brigade Headquarters, marked and initialled by Dražen Erdemović on 4 May 2007).

<sup>12467</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 840.

<sup>12468</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 840-841; P1674 (Dražen Erdemović, *Popović et al.* transcript, 4 May 2007), pp. 10966-10967; Dražen Erdemović, T. 13760-13761.

colonel only spoke with Gojković and Cvetković.<sup>12469</sup> Erdemović overheard the lieutenant colonel tell Gojković that buses would be coming to the farm.<sup>12470</sup> After the lieutenant colonel left, Gojković announced to the squad that the lieutenant colonel had told him that buses carrying detainees from Srebrenica would be arriving at the farm and that the members of the detachment were ordered to execute those detainees by shooting them.<sup>12471</sup> When Erdemović objected, he was told by Gojković that he could hand in his rifle, stand with the detainees, and be shot together with them.<sup>12472</sup> Sometime between 10 and 11 a.m., before the lieutenant colonel had left the farm, the first bus arrived.<sup>12473</sup> **Richard Butler** testified that Erdemović's unit operated under direct command of the 1st Infantry Battalion Commander, Lieutenant Milan Stajonević.<sup>12474</sup>

2841. Buses began to arrive at the farm carrying Bosnian-Muslim men, some of whom were blindfolded and had their hands tied.<sup>12475</sup> Colonel Popović was involved in organising fuel to transport the Bosnian-Muslim prisoners to the execution site at the farm, and the allocation of fuel was coordinated through the DK Command.<sup>12476</sup> Upon reaching the farm, DK military police, who had escorted and guarded the buses of prisoners, began unloading the Bosnian-Muslim men ten at a time to be then taken away and executed.<sup>12477</sup> **Witness RM-255** testified that when the buses arrived, 'Chetniks' were standing next to the bus door, cursing at the detainees by saying 'Alija does not want you, step out.'<sup>12478</sup> The prisoners were brought to a meadow. Soldiers, standing in a line, told the men to turn their backs and then shot the prisoners with automatic rifles and machine guns.<sup>12479</sup> **Erdemović** described how some detainees were brought to the meadow by Gojković and Golijanin and, on the order of Gojković, were shot in the back

<sup>12469</sup> Dražen Erdemović, T. 13761.

<sup>12470</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 842; Dražen Erdemović, T. 13762, 13764.

<sup>12471</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 842-843; Dražen Erdemović, T. 13761-13762, 13764; P1675 (Dražen Erdemović's plea agreement, 8 January 1998), p. 4.

<sup>12472</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 845; Dražen Erdemović, T. 13764; P1675 (Dražen Erdemović's plea agreement, 8 January 1998), p. 4.

<sup>12473</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 843; Dražen Erdemović, T. 13762-13764.

<sup>12474</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.36, 7.39, 7.46.

<sup>12475</sup> Adjudicated Facts II, no. 1606.

<sup>12476</sup> Adjudicated Facts II, no. 1608.

<sup>12477</sup> Adjudicated Facts II, nos 1609, 1613.

<sup>12478</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4.

<sup>12479</sup> Adjudicated Facts II, no. 1610.



by the witness and his fellow soldiers from the 10th Sabotage Detachment.<sup>12480</sup> The witness testified that as one elderly Bosnian-Muslim detainee was being taken off a bus, he said that he had saved many Serbs and that he should be spared. When Erdemović asked Gojković to let the man live, Gojković responded by saying that he did not want to have any witnesses of that crime. Subsequently, the man was led to the execution site by Golijanin.<sup>12481</sup> **Witness RM-346** threw himself on the ground when the shooting started and another person fell on his head.<sup>12482</sup> After every group of Bosnian-Muslim men was executed, the soldiers asked if there was anybody still alive. The men who responded were then also killed.<sup>12483</sup> **Witness RM-346** heard a voice saying that they should shoot the victims in the back as opposed to the head so their brains would not spill out.<sup>12484</sup> The soldiers shot the witness in the back but the bullet passed under his armpit and only scratched him.<sup>12485</sup> He remained lying there for approximately four hours while the shooting continued.<sup>12486</sup> **Witness RM-255** described how, after having been taken off the bus, a ‘*Chetnik*’ asked him for money, and when he said that he did not have any, the ‘*Chetnik*’ kicked him in the stomach. The witness heard another ‘*Chetnik*’ saying to the first one: ‘don’t commit genocide, if you want to kill ... take a rifle and strike in a military way.’ The ‘*Chetnik*’ who had kicked the witness earlier asked the detainees if one of them wanted to declare himself as a Serb and to be released. Two of the men said they were Serbs, but were not separated from the line. The witness heard the soldiers who had escorted them step back a few metres. One of the soldiers ordered the detainees to lay down, and the soldiers opened fire immediately.<sup>12487</sup> The witness fell down, and the body of Behaja Malkić, who had been in the same room as the witness in Pilica, fell on top of him.<sup>12488</sup>

2842. **Erdemović** testified that later, in the early afternoon, a group of approximately ten soldiers in VRS uniforms arrived at the farm.<sup>12489</sup> These soldiers, who Erdemović

<sup>12480</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 844-847; P1674 (Dražen Erdemović, *Popović et al.* transcript, 4 May 2007), pp. 10978-10979; P1675 (Dražen Erdemović’s plea agreement, 8 January 1998), p. 4; P1685 (Aerial photograph of the Branjevo Military Farm, 17 July 1995).

<sup>12481</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 847.

<sup>12482</sup> P1118 (Witness RM-346, prior testimony), p. 3041.

<sup>12483</sup> Adjudicated Facts II, no. 1611.

<sup>12484</sup> P1118 (Witness RM-346, prior testimony), p. 3041.

<sup>12485</sup> P1118 (Witness RM-346, prior testimony), pp. 3041-3042; Witness RM-346, T. 9617.

<sup>12486</sup> P1118 (Witness RM-346, prior testimony), p. 3042.

<sup>12487</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 4.

<sup>12488</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 4, 6.

<sup>12489</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 846; Dražen Erdemović, T. 13769.

believed to be from Bratunac, proceeded to beat and humiliate the detainees by, for example, forcing them to ‘pray in the Muslim manner’ just before executing them.<sup>12490</sup>

The witness further recalled that Gojković entered every bus, gave an automatic rifle to its driver and ordered each driver to kill at least one Bosnian Muslim. According to Erdemović, Gojković did this so that the drivers could not testify.<sup>12491</sup>

2843. Erdemović testified that Stanko Savanović boasted about having killed 250 Bosnian Muslims from Srebrenica as revenge for what he alleged to be the murder of his brother.<sup>12492</sup> When the last groups of Bosnian-Muslim men were being executed, the lieutenant colonel returned to the farm and saw the corpses in the field. Around the same time, Erdemović was informed by one of the guards in charge of watching the Branjevo Military Farm that excavators would eventually be brought there in order to bury the victims.<sup>12493</sup> Between 1,000 and 1,200 men were killed in the course of that day at this execution site.<sup>12494</sup> Erdemović testified that the men were between 17 and 70 years old.<sup>12495</sup>

2844. **Witness RM-255** testified that later, when he heard sounds of machinery and feared it could be bulldozers, he fled into the bushes.<sup>12496</sup> As he gathered with four other survivors, he saw soldiers checking the area; as someone tried to escape, the soldiers began to shout and opened fire.<sup>12497</sup> While he was hiding, the witness overheard a conversation between two soldiers, from which he understood that they were still trying to catch a survivor they had noticed fleeing. The witness heard one soldier tell the other: ‘we committed the genocide like in Jasenovac in 1941.’<sup>12498</sup> During the night, the witness was left behind by the other four survivors.<sup>12499</sup> The next day, while walking along a road, the witness saw a truck passing by him, its rear loaded with a pile of dead bodies. The witness heard someone on the truck shouting that he was the man who had escaped the day before, but as the witness did not attempt to flee, the truck driver

<sup>12490</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 846.

<sup>12491</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 848.

<sup>12492</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 848, 852.

<sup>12493</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 849.

<sup>12494</sup> Adjudicated Facts II, no. 1612.

<sup>12495</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 843, 845, 849.

<sup>12496</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 5.

<sup>12497</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 5; Witness RM-255, T. 1175.

<sup>12498</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 5.

<sup>12499</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 5; Witness RM-255, T. 1175-1176.

continued on his way. According to the witness, the truck driver was not wearing a military jacket but his trousers might have been camouflage.<sup>12500</sup>

2845. Zvornik Brigade equipment was used for activities relating to the burial of the victims in the Branjevo Military Farm.<sup>12501</sup> On 16 July 1995, the Zvornik Brigade First Battalion requested that a loader, an excavator, and a dump truck be brought to the farm the next day.<sup>12502</sup> Zvornik Brigade vehicle records show that a 'ULT 220' was in operation at Branjevo for eight and a half hours on 17 July 1995 and that a truck towed a 'BG-700' that day.<sup>12503</sup> On 17 July 1995, the Zvornik Brigade Engineering Company provided an excavator, which was used to dig a mass grave. Members of the Company participated in digging mass graves.<sup>12504</sup> The Fuel Disbursal Log reveals that 100 litres of diesel fuel was disbursed to a BGH-700 on 17 July 1995.<sup>12505</sup> The Daily Orders Journal of the Zvornik Brigade Engineering Company records work assignments of a ULT 220 in Branjevo and transportation of a BGH-700 to Branjevo on 17 July 1995.<sup>12506</sup> **Damjan Lazarević** stated that the burial operation was no secret to anybody within his unit as everybody knew about it and soldiers were openly talking among themselves about the operation.<sup>12507</sup>

2846. **William Haglund** testified that the Pilica grave site, a.k.a. the Branjevo Military Farm grave site, contained the remains of at least 132 men.<sup>12508</sup> Mean ages at the time of death ranged from 15 to 61 years for 125 individuals and all but one (who had 'military-type' trousers) of the clothed individuals wore civilian attire.<sup>12509</sup> Seventy-seven had their hands tied behind their backs.<sup>12510</sup> Muslim paraphernalia were found on five individuals.<sup>12511</sup> Eight of the individuals, identified by recovered name bearing documents, were last seen on 11 and 13 July 1995 according to the ICRC.<sup>12512</sup> Haglund

<sup>12500</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 5.

<sup>12501</sup> Adjudicated Facts II, no. 1614.

<sup>12502</sup> Adjudicated Facts II, no. 1615.

<sup>12503</sup> Adjudicated Facts II, no. 1616.

<sup>12504</sup> Adjudicated Facts II, no. 1617.

<sup>12505</sup> Adjudicated Facts II, no. 1618.

<sup>12506</sup> Adjudicated Facts II, no. 1619.

<sup>12507</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14450, 14465-14466.

<sup>12508</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3751-3752, 3754; P1833 (William Haglund, Pilica report, 15 June 1998), pp. 10-11, 17, 55.

<sup>12509</sup> P1833 (William Haglund, Pilica report, 15 June 1998), pp. 11, 61.

<sup>12510</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), p. 3754; P1833 (William Haglund, Pilica report, 15 June 1998), pp. 11, 61.

<sup>12511</sup> P1833 (William Haglund, Pilica report, 15 June 1998), pp. 11, 64.

<sup>12512</sup> P1833 (William Haglund, Pilica report, 15 June 1998), pp. 11, 81.

could not determine whether the Pilica grave site was a disturbed primary or undisturbed secondary grave.<sup>12513</sup>

2847. According to a report authored by **Jose Baraybar**, between 1996 and 1999 a team of forensic anthropologists examined the remains of at least 1,866 people exhumed from 29 primary and secondary gravesites in Bosnia-Herzegovina.<sup>12514</sup> 1,656 were identified as male and one as female.<sup>12515</sup> Seven of the individuals were aged between 8 and 12 years, 329 were aged between 13 and 24 years, and a further 1547 were aged 25 years or more at time of death.<sup>12516</sup> Soil and pollen analyses indicated that the bodies recovered from secondary graves were originally disposed of in sites identified as primary. Bodies recovered from the secondary site from Čančari Road Site 12 were originally disposed of at the primary site of the Branjevo Military Farm.<sup>12517</sup> The matches were corroborated by archaeological findings and demonstrate that some primary sites were 'robbed' by forcefully extracting the contents of the graves in order to conceal or destroy them prior to ICTY exhumation, and dispose of the contents in secondary graves.<sup>12518</sup>

2848. According to a report authored by **Christopher Lawrence**, the remains of at least 177 individuals were exhumed from Čančari Road Site 12 between April 1998 and 25 May 1998.<sup>12519</sup> The remains were collected in 313 body bags, which resulted in the report providing causes of death for body parts in each body bag rather than for each individual.<sup>12520</sup> The author emphasised the possibility that a divided individual might be assigned more than one cause of death.<sup>12521</sup> Autopsies were performed on the contents of approximately 313 body bags and the report indicates that the remains in 145 body

<sup>12513</sup> P1828 (William Haglund, *Krstić* transcript, 29 May 2000), pp. 3758-3759; P1833 (William Haglund, Pilica report, 15 June 1998), pp. 10-11, 77-79; William Haglund, T. 14966.

<sup>12514</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 1, 3, 5, 9.

<sup>12515</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 3, 11.

<sup>12516</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 3, 6-7, 9-10.

<sup>12517</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 3, 8.

<sup>12518</sup> P2083 (Jose Baraybar, Report on the anthropology examination of human remains from eastern Bosnia, 8 December 1999), pp. 3-5.

<sup>12519</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2-3, 11, 14, 44.

<sup>12520</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 3, 33, 44.

<sup>12521</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), p. 3.

bags had an undetermined cause of death, 145 had gunshot injuries sufficient to cause death, 15 had gunshot injuries that could possibly cause death, eight had gunshot injuries which could probably cause death, and two had gunshot injuries consistent with causing death.<sup>12522</sup> The most common areas that gunshot wounds were found, in order of frequency, were: torso, legs, head and neck and arm.<sup>12523</sup> Of the 43 almost complete bodies 39 had gunshot injuries sufficient to cause death and four had an undetermined cause of death.<sup>12524</sup> The report states that these four bodies probably sustained perforating gunshot wounds to soft tissue which could no longer be recognised because of loss of soft tissue and bone damage.<sup>12525</sup> There was a cluster of 22 bodies with gunshot wounds to the tops of their heads, which may be explained by one or more of the following reasons: individual heads were flexed forward, the shooter(s) were positioned above the victims; or individuals were lying on the ground when the shots were fired.<sup>12526</sup> A large number of peripheral gunshot wounds, especially in the knee, raises the possibility that they may have been deliberately inflicted to incapacitate and cause pain.<sup>12527</sup> In all 144 instances in which gender could be determined, it was identified as male.<sup>12528</sup> At the time of their deaths, five individuals were between the ages of 8 and 13, eleven were between the ages of 13 and 18, 23 were between the ages of 18 and 25, and 138 were over the age of 25.<sup>12529</sup> There were at least five individuals between the ages of 55 and 64 and one over the age of 65.<sup>12530</sup> While some items of clothing found on the bodies could have been of military origin, none of the individuals examined appeared to be in military or police uniforms and none appeared to be carrying ammunition or weapons.<sup>12531</sup> Also among the bodies were individuals with

<sup>12522</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 3, 11, 15-17, 44-52.

<sup>12523</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 15-17, 45-52.

<sup>12524</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 3, 11, 44.

<sup>12525</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), p. 3.

<sup>12526</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 20.

<sup>12527</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), p. 2.

<sup>12528</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 14.

<sup>12529</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 14.

<sup>12530</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 14.

<sup>12531</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 44.

significant disabilities such as hip replacements or poorly-healed fractures that would preclude military service.<sup>12532</sup> Identification documents were found on or near 14 bodies.<sup>12533</sup> There were 18 ligatures recovered at the site: 12 associated with hands, four not associated with body parts, and two associated with other parts of the body.<sup>12534</sup> Two of the ligatures were made with the same white cloth, embroidered with circles and flowers as ligatures recovered at Čančari Road Site 3.<sup>12535</sup> Six blindfolds were also recovered, three of which were used around the face.<sup>12536</sup> The report indicates that a bullet hole was found on one of the blindfolds.<sup>12537</sup>

2849. According to a report authored by **Dušan Janc**, as of April 2013, the remains of 1,751 individuals were identified through DNA analysis from various mass graves: 140 individuals in the Branjevo Military Farm; 186 individuals in Čančari Road 4; 290 individuals in Čančari Road 5; 185 individuals in Čančari Road 6; 51 individuals in Čančari Road 8; 210 individuals in Čančari Road 9; 382 individuals in Čančari Road 10; 140 individuals in Čančari Road 11; and 167 individuals in Čančari Road 12.<sup>12538</sup> Through DNA connections, Janc established that Čančari Road secondary graves were linked to either the Branjevo Military Farm or Kozluk primary graves.<sup>12539</sup> Janc identified 43 DNA connections between the remains identified at the Branjevo Military Farm primary mass grave, and the remains identified in the Čančari Road 4, 8, 9, 11, and 12 secondary mass graves: one with Čančari Road 4, two with Čančari Road 8, 30 with Čančari Road 9, six with Čančari Road 11, and four with Čančari Road 12.<sup>12540</sup>

<sup>12532</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), p. 2.

<sup>12533</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 3, 34-35.

<sup>12534</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 25.

<sup>12535</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 28; P1814 (Christopher Lawrence, Report on ligatures found in Čančari Road Site 12), pp. 1-3.

<sup>12536</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 33.

<sup>12537</sup> P1807 (Christopher Lawrence, Report on autopsies of human remains from Čančari Road Site 12, August 1998), pp. 2, 33.

<sup>12538</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 3, 4, 10, 16-17, 18-20, 39-41; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), pp. 105-128, 135-174.

<sup>12539</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 38-39.

<sup>12540</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 48.

Additionally, 110 DNA connections were found between remains identified in the secondary graves.<sup>12541</sup>

*Pilica Cultural Centre (Schedule E.10.1)*

2850. **Erdemović** testified that on 16 July 1995, as the last groups of Bosnian-Muslim men were being executed at the Branjevo Military Farm, a VRS lieutenant colonel returned to the farm and informed members of the 10th Sabotage Detachment that there were some 500 Bosnian-Muslims in the Pilica Cultural Centre who must be executed.<sup>12542</sup> The Pilica Cultural Centre was in the DK zone of responsibility.<sup>12543</sup> **Butler** specified that it was located in the area of the 1st Battalion of the Zvornik Brigade.<sup>12544</sup> **Erdemović** and other members of the 10th Sabotage Detachment, namely Franc Kos, Marko Boškić, and Zoran Goronja refused to comply with this order.<sup>12545</sup> Instead, soldiers from Bratunac left the farm with the lieutenant colonel.<sup>12546</sup> Shortly thereafter, Brano Gojković, commander of a squad of the Vlasenica platoon of the VRS 10th Sabotage Detachment, told Erdemović that the lieutenant colonel had ordered Gojković to Pilica for a meeting so the witness and the rest of his squad left for Pilica.<sup>12547</sup> When he arrived in Pilica with members of his unit, Erdemović heard the sound of gunfire and hand-grenade explosions coming from the Pilica Cultural Centre.<sup>12548</sup> On that day, approximately 500 Bosnian-Muslim men were killed by VRS soldiers in the Pilica Cultural Centre.<sup>12549</sup> **Butler** testified that there were no known survivors.<sup>12550</sup>

2851. **Butler** further testified that his review of intercepts established that on 16 July 1995, 500 liters of fuel were distributed to the DK Command so that Lieutenant-Colonel Vujadin Popović, the DK Assistant Commander for Security, could continue his

<sup>12541</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 49.

<sup>12542</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 850; Dražen Erdemović, T. 13745, 13760, 13780. The Trial Chamber understands the reference to the 'hall' in P1673 to be a reference to the Pilica Cultural Centre.

<sup>12543</sup> Adjudicated Facts II, no. 1621.

<sup>12544</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.47.

<sup>12545</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), p. 850.

<sup>12546</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 846, 850.

<sup>12547</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 834, 840, 850.

<sup>12548</sup> P1673 (Dražen Erdemović, Rule 61 hearing transcript, 5 July 1996), pp. 850-851.

<sup>12549</sup> Adjudicated Facts II, no. 1622.

‘work’.<sup>12551</sup> Later on the same day, Popović told Rašić that he ‘finished the job’ and would come back the next day to report to General Krstić.<sup>12552</sup> The witness further testified that one of the intercepts reviewed established that Colonel Slobodan Cerović, the DK Assistant Commander for Moral, Legal and Religious Affairs, told Colonel Beara on the morning of 16 July 1995 that he had instructions from above and that the ‘triage’ needed to be done on the detainees.<sup>12553</sup>

2852. **Bogdanović** stated that a few days after 12 July 1995, the Commander of a work platoon of the Zvornik Brigade, Captain Radivoje Lakić, ordered him, together with other men from his work platoon, to go to Pilica ‘because some people had been brought there’.<sup>12554</sup> The witness walked with Lakić and other members of his work platoon from Branjevo Military Farm to the Pilica Cultural Centre, and saw approximately ten corpses along the way, dressed in civilian clothes, who had been shot.<sup>12555</sup> Upon arrival at the Pilica Cultural Centre, which the witness described as a youth hall with just one room which looked like a sports hall, he observed soldiers securing the area who were not members of his work platoon.<sup>12556</sup> Inside the Pilica Cultural Centre, he saw the bodies of men and of two women, all wearing civilian clothes, piled up on each other and scattered all over the place.<sup>12557</sup>

2853. **Milenko Tomić** stated that on 17 July 1995, Radislav Pantić, Head of Transports, gave him a travel order to report to Pilica and then Kula to drive soldiers.<sup>12558</sup> The witness was wearing an old JNA uniform.<sup>12559</sup> His truck was a freight vehicle and he was the only truck driver sent to Pilica on that day.<sup>12560</sup> On his way out of Pilica, about 100 metres away from the centre of the village, the witness was pulled over by a soldier, wearing an old JNA uniform without rank or insignia, who told him to

<sup>12550</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.47.

<sup>12551</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 10.41-10.42.

<sup>12552</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 10.44.

<sup>12553</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 10.40.

<sup>12554</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11314, 11319, 11326-11327.

<sup>12555</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11326-11327.

<sup>12556</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11327-11328.

<sup>12557</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11330-11332.

<sup>12558</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21000-21001, 21003, 21012-21013, 21023; P3655 (Excerpt of Zvornik brigade transportation records).

<sup>12559</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21004.

<sup>12560</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21006-21007, 21009-21010, 21023; P3655 (Excerpt of Zvornik brigade transportation records).



report outside the Pilica Cultural Centre and to park next to a side door.<sup>12561</sup> The soldier told him to wait in a nearby house and come back about half an hour later.<sup>12562</sup> Tomić noticed that the tarpaulin of the truck had been lowered without being tied and, after inquiring about the content of the truck, he was told by the soldier that they were about to drive dead bodies to Branjevo.<sup>12563</sup>

2854. **Bogdanović** stated that on the order of Commander Lakić, 12 members of the work platoon, including himself, loaded the bodies onto two gravel trucks by dragging them from the Pilica Cultural Centre.<sup>12564</sup> Lakić was present during this process.<sup>12565</sup>

2855. **Tomić** stated that after his arrival at Branjevo, he saw some individuals wearing civilian clothes and was told by the soldier to wait in cattle barns.<sup>12566</sup> Later, the soldier told him to drive back to the Pilica Cultural Centre and to wait in the same house.<sup>12567</sup> The soldier returned half an hour later and told the witness that they should leave again.<sup>12568</sup> Back in Branjevo, Tomić saw five or ten bodies lying on the ground next to the backside of the barn and a few civilians eating nearby.<sup>12569</sup> He parked the truck and waited in the barn for half an hour.<sup>12570</sup> On his way back to the Pilica Cultural Centre, Tomić was alerted by a soldier that one side of the back of his truck had not been lowered, and saw that the backside of the truck was muddy and bloody.<sup>12571</sup> Tomić then left for Zvornik, where he left the truck on the barracks' parking lot along with the keys and the travel order.<sup>12572</sup> **Butler** testified that it was noted that on 17 July 1995, one TAM 130 truck registered to the Zvornik-based *Metalno* Company made a total of five trips between Zvornik, Pilica, and Kula.<sup>12573</sup>

2856. The Prosecution sent a team of experts to conduct a forensic examination of the Pilica Cultural Centre between 27 and 29 September 1996, and again on 2 October

<sup>12561</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21001, 21003.

<sup>12562</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21001, 21008; P3653 (Sketch of the Pilica Dom and location of his truck, drawn by Milenko Tomić).

<sup>12563</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21001.

<sup>12564</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11328-11329, 11332.

<sup>12565</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), p. 11332.

<sup>12566</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21002.

<sup>12567</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21002; P3653 (Sketch of the Pilica Dom and location of his truck, drawn by Milenko Tomić).

<sup>12568</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21002.

<sup>12569</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21002, 21005.

<sup>12570</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), p. 21002; P3653 (Sketch of the Pilica Dom and location of his truck, drawn by Milenko Tomić).

<sup>12571</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21002-21003, 21005-21006.

<sup>12572</sup> P3652 (Milenko Tomić, *Popović et al.* transcript, 5 February 2008), pp. 21003, 21005.

1998.<sup>12574</sup> Experts determined the presence of bullet strikes, explosives residue, bullets and shell cases, as well as human blood, bones, and tissue adhering to the walls, ceilings, and floors.<sup>12575</sup> A DNA analysis of blood and tissue samples collected at the centre identified the samples as being of human origin.<sup>12576</sup>

2857. **Richard Butler** testified that Lieutenant-Colonel Vinko Pandurević reported to the DK on 16 July 1995 that his forces consisted of the Zvornik Infantry Brigade, a MUP company of 100 people, two platoons from the Bratunac Infantry Brigade, and a part of the Military Police Platoon from the IBK.<sup>12577</sup>

### *The Trial Chamber's Findings*

2858. With regard to the Defence's arguments concerning the reliability of witnesses for these three incidents, the Trial Chamber notes that for the central aspects of its findings, including the identification of perpetrators and number of victims, it relies on unrebutted Adjudicated Facts. With regard to other aspects, the Trial Chamber relied on, among others, Dražen Erdemović, Witness RM-255, and Witness RM-346. In order to assess the reliability of the witnesses' evidence, it observed their demeanour while testifying, considered that their evidence was internally consistent, and considered that their evidence was overall consistent with each other. For these reasons, the Trial Chamber finds that their evidence is reliable.

2859. With regard to Scheduled Incident E.9.1, the Trial Chamber finds that on or about 14 or 15 July 1995, members of the VRS Zvornik Brigade's 1st Battalion killed at least eight Bosnian-Muslim men at the Kula School near Pilica.<sup>12578</sup> The VRS soldiers killed some of the men by shooting them outside of the school, and others by keeping

<sup>12573</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 7.52.

<sup>12574</sup> Adjudicated Facts II, no. 1626. The Trial Chamber understands the reference to the Pilica Dom in Adjudicated Fact number 1626 to be a reference to the Pilica Cultural Centre.

<sup>12575</sup> Adjudicated Facts II, no. 1627.

<sup>12576</sup> Adjudicated Facts II, no. 1624.

<sup>12577</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para.7.49.

<sup>12578</sup> In determining the total number of victims, the Trial Chamber has considered, *inter alia*, evidence that one person might have committed suicide at Kula school. In addition, it is insufficiently clear whether the body seen by Witness RM-255 was included in the nine bodies seen by Bogdanović. The Trial Chamber has, therefore, made a conservative calculation that the minimum number of victims was eight.

them in hot, overcrowded conditions with no food or water. The victims wore civilian clothing.

2860. With regard to Scheduled Incident E.9.2, the Trial Chamber notes that it received extensive forensic evidence concerning the bodies exhumed from the Branjevo Military farm and the Čančari Road 4, 8, 9, 11, and 12 mass graves. The Trial Chamber has considered Adjudicated Fact 1604, and the evidence of Witness RM-346, Witness RM-255 and Richard Butler, according to which the men detained at Kula School were transported to, executed, and buried in the Branjevo Military Farm. It has also considered the evidence of Haglund, Baraybar and Janc with respect to the connections between the primary mass grave at the Branjevo Military Farm and the secondary mass graves at Čančari Road. The Trial Chamber considers that since the Branjevo Military Farm and Čančari Road mass graves contained bodies from multiple incidents, the evidence of Haglund, Baraybar, and Janc, in this respect, does not establish the total number of victims of the Branjevo Military Farm incident. Accordingly, the Trial Chamber finds that this evidence does not contradict Adjudicated Fact 1612 with respect to the total number of victims.

2861. The Trial Chamber finds that on 16 July 1995, VRS soldiers, including members of the 10th Sabotage Detachment and a group of soldiers from Bratunac, summarily executed between 1,000 and 1,200 male Bosnian-Muslim detainees from Kula School in Pilica by shooting them at the Branjevo Military Farm. The victims were bussed to the farm and led to the execution site in groups of around ten. One of the perpetrators said that they should shoot the victims in the back as opposed to the head so their brains would not spill out. The perpetrators ordered the victims to turn their backs or to lie down before they were shot. The victims were men aged between 17 and 70 and some of them had their hands tied and were blindfolded. Just prior to killing the detainees, the soldiers from Bratunac beat them and humiliated some of the detainees by forcing them to ‘pray in the Muslim manner’. The perpetrators cursed the detainees by telling them ‘Alija does not want you, step out’. Perpetrators were saying to one another: ‘don’t commit genocide, if you want to kill ... take a rifle and strike in a military way’ and ‘we committed the genocide like in Jasenovac in 1941.’ The Trial Chamber also finds that the victims of this incident were buried at the Branjevo Military Farm mass grave, and that bodies from this mass grave were subsequently reburied in the Čančari Road 4, 8, 9, 11, and 12 mass graves.

2862. With regard to Scheduled Incident E.10.1, the Trial Chamber has considered the Defence submission that the Prosecution presented only 'limited evidence' that was insufficient to establish the perpetrators and circumstances of death. The Chamber notes, however, the Prosecution adduced evidence from multiple witnesses, as set out above, which the Trial Chamber found to be relevant and probative in determining the alleged perpetrators and the circumstances of the victims' deaths. Having considered this evidence as well as the relevant adjudicated facts, the Trial Chamber finds that on 16 July 1995, VRS soldiers, including soldiers from Bratunac, killed approximately 500 Bosnian-Muslim men and two women inside the Pilica Cultural Centre. The soldiers killed the victims by shooting them and using hand-grenades against them. Some of the victims were wearing civilian clothes. Lieutenant-Colonel Vujadin Popović oversaw the execution process.

2863. The Trial Chamber will further consider these incidents in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

7.11 Bišina (Schedule E.12.1)

2864. According to the Indictment, the Accused is responsible for the killing of over 30 Bosnian-Muslim men, some of whom had previously been detained in Sušica prison, in Bišina in Šekovići Municipality on 23 July 1995.<sup>12579</sup> The Defence argued that (i) Witness RM-318 failed to provide an adequate explanation when confronted with evidence excluding the presence of Popović in Bišina on 23 July 1995 and (ii) the criminal activities charged were committed by individuals outside the VRS chain of command.<sup>12580</sup> The Trial Chamber received evidence from **Svetozar Andrić**, Commander of the VRS Birač Brigade in Šekovići from 19 May 1992 to 6 August 1995, then Chief of Staff of the DK until March 1996;<sup>12581</sup> **Witness RM-318**, a Bosnian-Serb VRS military policeman in July 1995;<sup>12582</sup> **Witness RM-285**, a member of the DK;<sup>12583</sup> **Dragan Todorović**, a Bosnian Serb who served as a logistics officer in the 10th Sabotage Detachment unit of the VRS;<sup>12584</sup> **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>12585</sup> **Nikodin Jovičić**, Deputy Commander of the Uniformed Police for the Han Pijesak SJB in July 1995;<sup>12586</sup> **Dušan Janc**, an investigator;<sup>12587</sup> and **Helge Brunborg**, a demographer who analyzed the deaths in Srebrenica,<sup>12588</sup> as well as documentary evidence.

2865. According to **Svetozar Andrić**, the Birač Infantry Brigade was established on 19 May 1992 and had its command post in Šekovići.<sup>12589</sup> As of late January 1993, its zone of responsibility comprised of the municipalities of Šekovići, Kalesija, and part of the

<sup>12579</sup> Indictment, paras 11-12, 46(a), 59(a)(iii), 65(a), Schedule E.12.1.

<sup>12580</sup> Defence Final Brief, para. 3214.

<sup>12581</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), para. 1; Svetozar Andrić, T. 34737;

D1034 (Order of hand-over of duties as Commander of the 1st Birač Infantry Brigade from Andrić to Colonel Ljubomir Vlačić, 6 August 1995)

<sup>12582</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32566-32567; Witness RM-318, T. 14874; P1820 (Pseudonym sheet for Witness RM-318).

<sup>12583</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), p. 32781; P3635 (Pseudonym sheet for Witness RM-285).

<sup>12584</sup> Dragan Todorović, T. 35356, 35365-35367, 35411.

<sup>12585</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676.

<sup>12586</sup> P2170 (Nikodin Jovičić, witness statement, 17 March 2008), p. 1, paras 4-7; P2171 (Nikodin Jovičić, *Tolimir* transcript, 13 May 2010), p. 1706.

<sup>12587</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 1; P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

<sup>12588</sup> P1900 (2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-Based Identification, 9 April 2009); P1890 (Helge Brunborg, *curriculum vitae*), p. 1.

<sup>12589</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), paras 1-2; P7352 (1st Birač Infantry Brigade Report on the Establishment of the DK, 30 October 1993), p. 1.

municipality of Kladanj.<sup>12590</sup> As of 30 October 1993, its zone of responsibility started from Memići village, in the east, and was around 62 kilometres in length towards the west, encompassing the Bišina area.<sup>12591</sup> The Brigade consisted of five infantry battalions.<sup>12592</sup> The 3rd Bišina Battalion had its combat position along the defence line between Makalići and Zaboј.<sup>12593</sup>

2866. **Witness RM-318** testified that approximately ten days after the fall of Srebrenica, at around 8 or 9 a.m., he and two other soldiers were ordered to drive to the nearby Sušica prison in Vlasenica Municipality, which he believed was under the control of the VRS at that time, to collect detainees and take them to be exchanged.<sup>12594</sup> A vehicle log indicates that a TAM-110 truck carrying 15 people took the Vlasenica-Bišina-Vlasenica route on 23 July 1995.<sup>12595</sup> When they arrived at Sušica prison, another truck was already there.<sup>12596</sup> After the prison security officers loaded detainees onto the witness's truck, the convoy, consisting of the two trucks and a car, set off in the direction of Šekovići, stopping at the Lovac restaurant just before Šekovići.<sup>12597</sup> At the restaurant, more detainees were loaded onto the two trucks.<sup>12598</sup> The convoy then set out in the direction of Bišina.<sup>12599</sup>

2867. **Witness RM-285** stated that on 23 July 1995, in the meantime, his commander 'Momo' Amović ordered him to pick up people by the side of a road near Dragasevac.<sup>12600</sup> The Vlasenica base of the 10th Sabotage Detachment was in Dragasevac.<sup>12601</sup> When he arrived there, five or six men in military fatigues of different colours, masked and wearing caps over their heads, got into the car.<sup>12602</sup> On the basis of

<sup>12590</sup> P7352 (1st Birač Infantry Brigade Report on the Establishment of the DK, 30 October 1993), pp. 2-3; see also P1087 (Srebrenica Court Binder of maps), p. 7.

<sup>12591</sup> P7352 (1st Birač Infantry Brigade Report on the Establishment of the DK, 30 October 1993), pp. 1, 10.

<sup>12592</sup> P7352 (1st Birač Infantry Brigade Report on the Establishment of the DK, 30 October 1993), pp. 1, 10.

<sup>12593</sup> P7352 (1st Birač Infantry Brigade Report on the Establishment of the DK, 30 October 1993), p. 10.

<sup>12594</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32570, 32575; Witness RM-318, T. 14877-14879.

<sup>12595</sup> P1822 (Vehicle log for a 'TAM' 110 T7, 1-31 July 1995), pp. 1-2.

<sup>12596</sup> Witness RM-318, T. 14878.

<sup>12597</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32570-32571; Witness RM-318, T. 14879-14881.

<sup>12598</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32571-32572; Witness RM-318, T. 14881.

<sup>12599</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32571-32572; Witness RM-318, T. 14881-14882.

<sup>12600</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32782-32783.

<sup>12601</sup> Dragan Todorović, T. 35366-35367, 35384.

<sup>12602</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32784-32785.

hearing these men speak to each other, he concluded that there were some Muslims and some Croats among them.<sup>12603</sup> With regard to the mixed composition of the 10th Sabotage Detachment, the Trial Chamber refers to chapter 3.1.2. Around noon, the witness drove the men to the 4th Battalion of the Šekovići Brigade in Bišina, stopping about 200 to 300 metres away from the 4th Battalion headquarters, along a macadam road.<sup>12604</sup> The witness stated that Amović had initially told him to take the men to the Šekovići Brigade, but *en route*, one of the men who had gotten in the car had told the witness to head directly to the 4th Battalion.<sup>12605</sup>

2868. **Witness RM-318** testified that when they stopped on a village road in Bišina, he noticed that a second car, which he recognized as Vujadin Popović's car, a Golf D-2, had joined the convoy.<sup>12606</sup> Five soldiers then got out of the first car.<sup>12607</sup> Among them were soldiers who had the insignia of the 10th Sabotage Detachment on their upper left sleeve, soldiers who wore camouflage uniforms, and soldiers who wore civilian T-shirts.<sup>12608</sup> The witness could not see their faces because they were wearing hats and sunglasses.<sup>12609</sup> **Witness RM-285** noticed that all of them carried automatic rifles.<sup>12610</sup> He also observed three or four men in uniform standing close to the 4th Battalion headquarters wearing belts that were either yellow or white, and two vehicles, one of which was a TAM-110 truck.<sup>12611</sup> The witness was instructed to wait near the barracks that were being built about one kilometre away.<sup>12612</sup>

2869. **Witness RM-318** testified that the five soldiers opened the back door of one of the trucks and took out five detainees.<sup>12613</sup> They took the detainees about 30 metres away from the trucks and then the witness heard shots.<sup>12614</sup> The procedure continued at

<sup>12603</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), p. 32784.

<sup>12604</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32783, 32785-32787, 32789.

<sup>12605</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32783, 32785-32786, 32789.

<sup>12606</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32572; Witness RM-318, T. 14880, 14894-14895.

<sup>12607</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32572-32573; Witness RM-318, T. 14882.

<sup>12608</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32575, 32588; Witness RM-318, T. 14883.

<sup>12609</sup> Witness RM-318, T. 14883, 14889.

<sup>12610</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), p. 32788.

<sup>12611</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32787-32789.

<sup>12612</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32787-32788

<sup>12613</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), pp. 32572-32573; Witness RM-318, T. 14884.

<sup>12614</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32573; Witness RM-318, T. 14884-14885.

the same rate until all detainees had been taken off the trucks.<sup>12615</sup> The witness did not know how many detainees were in the two trucks, but testified that normally these types of trucks carried ten people with equipment.<sup>12616</sup> The five soldiers finished the task very quickly, got back into their car, and left.<sup>12617</sup> When asked what had just happened, Popović did not reply and had tears in his eyes.<sup>12618</sup> Popović was present during the entire incident, but the witness did not see him give any orders to the five soldiers.<sup>12619</sup> After a while, a big construction machine arrived and dug a hole.<sup>12620</sup> Popović then asked two of the soldiers to bury the bodies, which they did.<sup>12621</sup> According to a vehicle log, the Golf D-2 used by Popović travelled along the Vlasenica-Zvornik-Vlasenica route on 23 July 1995.<sup>12622</sup> According to Witness RM-318, Bišina is not on that route.<sup>12623</sup> **Witness RM-285** stated that after three to five hours, the men he had dropped off approached the car and told the witness to drive them back to the road near Dragasevac.<sup>12624</sup>

2870. According to a vehicle log, the car driven by Witness RM-285 carried eight people and took the Vlasenica-Šekovići-Bišina-Šekovići route on 23 July 1995.<sup>12625</sup> According to the witness, vehicle logs were supposed to be signed immediately after a journey was finished, but on this occasion his vehicle log was not signed. After his journey, he was told to leave the vehicle log on a desk and get out. Two or three days later, there was a signature on the vehicle log and his 'boss' asked him whose signature it was.<sup>12626</sup> The witness could not discern whose signature it was, but his 'boss' told him that Popović was probably the one in charge, so the witness wrote Popović's name next to the signature.<sup>12627</sup> On 23 July 1995, **Ljubomir Bojanović**, in accordance with his duties as the Duty Operations Officer, recorded in the duty operations officer's

<sup>12615</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32573; Witness RM-318, T.14884.

<sup>12616</sup> Witness RM-318, T. 14884.

<sup>12617</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32573; Witness RM-318, T. 14885.

<sup>12618</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32574.

<sup>12619</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32575; Witness RM-318, T. 14885.

<sup>12620</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32573; Witness RM-318, T. 14885.

<sup>12621</sup> P1821 (Witness RM-318, *Popović et al.* transcript, 10 March 2009), p. 32574; Witness RM-318, T. 14885-14888, 14890, 14902.

<sup>12622</sup> D341 (Vehicle work log for a car model Golf D-2, 1-31 July 1995), pp. 1, 4.

<sup>12623</sup> Witness RM-318, T. 14895.

<sup>12624</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32789-32790.

<sup>12625</sup> P1823 (Vehicle work log for minibus, 18-31 July 1995), pp. 1-2.

<sup>12626</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), p. 32795.



notebook that at 8:30 a.m., Lieutenant Colonel Cerović had relayed a message for the commander that Popović would arrive at the command of the Zvornik Brigade by 5 p.m. that day.<sup>12628</sup>

2871. One witness provided evidence about one of the victims of this incident. **Nikodin Jovičić** stated that Himzo Mujić, a Bosnian Muslim from the Muslim village of Rijeke, was an operational contact of his, but that he had lost contact with him in mid-1992.<sup>12629</sup> According to the transcript of a phone intercept of 24 July 1995 between 'Kane' and an unknown person, Mujić was a detainee, and in an attempt to be exchanged, had mentioned the witness's name.<sup>12630</sup> The witness stated that Goran Kanostrevac, a.k.a. Kane, was the Chief of the Han Pijesak SJB.<sup>12631</sup> The intercept furthermore specifies that a certain Dragić was the warden of the prison in which Mujić was detained.<sup>12632</sup> According to the transcript of another phone intercept of the same day, between two unidentified individuals, Mujić was no longer in the prison and Popović was the only one who knew where Mujić went and what had happened to him.<sup>12633</sup>

2872. **Dušan Janc** testified that bodies were exhumed from a primary mass grave in the Bišina area above Šekovići between 20 May and 7 June 2006 and DNA examination identified 39 individuals, two of whom were under the age of 18.<sup>12634</sup> Eighteen ligatures and four blindfolds were also found in this grave.<sup>12635</sup> Himzo Mujić is listed among those identified.<sup>12636</sup> In addition, bodies were exhumed from a primary mass grave located in a cave in the Bišina area above Šekovići between 5 and 27 October 2009 and

<sup>12627</sup> P3634 (Witness RM-285, *Popović et al.* transcript, 25 March 2009), pp. 32795, 32796-32797.

<sup>12628</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11695-11696, 11698, 11701, 11703-11704, 11742, 11760; P1501 (Zvornik Brigade Duty Officer Log Book, Teacher's edition, 11-23 July 1995), p. 143. With regard to the location of the command of the Zvornik Brigade, *see* P1087 (Srebrenica Court Binder of maps), p. 7.

<sup>12629</sup> P2170 (Nikodin Jovičić, witness statement, 17 March 2008), para. 8.

<sup>12630</sup> P2170 (Nikodin Jovičić, witness statement, 17 March 2008), para. 10; P2172 (Transcript of intercept, 24 July 1995), pp. 1-2.

<sup>12631</sup> P2170 (Nikodin Jovičić, witness statement, 17 March 2008), para. 6.

<sup>12632</sup> P2172 (Transcript of intercept, 24 July 1995), pp. 1-2.

<sup>12633</sup> P1390 (Transcript of intercept of phone conversation), pp. 1-2; P1391 (ABiH intercept of phone conversation, 24 July 1995), pp. 1-2.

<sup>12634</sup> P1987 (Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), Annex A, pp. 26-27; P1982 (Annex D to Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), pp. 302-304; P1984 (Explanation of photographic documentation, exhumation of Bišina, Tuzla Canton Prosecutor's Office, 3 February 2008), p. 6; Dušan Janc, T. 15262-15263.

<sup>12635</sup> P1987 (Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), Annex A, pp. 26-27; Dušan Janc, T. 15373.

DNA examinations identified 16 individuals.<sup>12637</sup> A 2008 Tuzla Canton exhumation report indicates that 39 bodies were exhumed from a primary mass grave in Bišina located near the local road to the Sajtovići neighbourhood.<sup>12638</sup> Twenty-seven of the bodies had wire ligatures around their hands.<sup>12639</sup> A 2009 report on the people reported missing and dead after the take-over of Srebrenica includes the names of all 39 individuals later identified from the Bišina grave, indicating that 38 of them were male while the gender for one individual, with the first name Mirsad, is not listed.<sup>12640</sup> According to the report, 85.8 to 99.1 per cent of the 7,663 individuals reported missing and dead in Srebrenica were of Muslim ethnicity, as checked against the 1991 Population Census.<sup>12641</sup> According to another 2009 report on the people missing from Srebrenica, 27 of the bodies exhumed from the mass grave in Bišina were identified from ABiH military records of dead and missing soldiers and other military personnel.<sup>12642</sup>

2873. The Trial Chamber sees no merit in the Defence's argument that Witness RM-318 failed to provide an adequate explanation when confronted with evidence that excluded the presence of Popović in Bišina on 23 July 1995.<sup>12643</sup> The Trial Chamber notes that Witness RM-318 was presented with the vehicle log for Popović's car and the

<sup>12636</sup> P1982 (Annex D to Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), pp. 302-304.

<sup>12637</sup> P1987 (Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), Annex A, p. 27; *see also* P1982 (Annex D to Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), pp. 305-306.

<sup>12638</sup> P1984 (Explanation of photographic documentation, exhumation of Bišina, Tuzla Canton Prosecutor's Office, 3 February 2008), pp. 1-6.

<sup>12639</sup> P1984 (Explanation of photographic documentation, exhumation of Bišina, Tuzla Canton Prosecutor's Office, 3 February 2008), pp. 1-6.

<sup>12640</sup> P1901 (Prosecution 2009 Progress Report on the DNA-Based Identification by ICMP, 9 April 2009), pp. 8, 11-12, 22-23, 35, 45, 53, 55, 59, 66, 72-73, 78, 88, 90, 93, 102-103, 107, 129, 132, 137, 139, 141, 147, 150, 155, 166, 172, 193, 204, 216, 232; *see also* P1982 (Annex D to Dušan Janc update to summary of forensic evidence, Srebrenica investigation, 28 June 2013), pp. 302-304.

<sup>12641</sup> P1901 (Prosecution 2009 Progress Report on the DNA-Based Identification by ICMP, 9 April 2009), p. 3. The list of 7,663 individuals reported missing and dead includes the records of 1,032 missing persons that could not be linked with the 1991 census. The report states that although the ethnicity of these unlinked individuals is unknown, it can be safely assumed that the proportion of Muslims among them is about the same as for those who were linked, which would bring the total of missing Muslims to 7,619, or 99.1 per cent. The Trial Chamber moreover notes that the report lists an additional 213 individuals reported as missing in the ICMP records. These individuals were not included in the analysis on ethnicity and include one of the individuals identified from the Bišina grave.

<sup>12642</sup> P1900 (2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-Based Identification, 9 April 2009), pp. 56, 96. The Trial Chamber notes that the report indicates that the ABiH military reports may include non-army personnel and that the expert assessed that the impact of this was likely small, but would need further investigation, *see ibid.* pp. 94-95.

<sup>12643</sup> The Trial Chamber notes that when Witness RM-318 was presented with the vehicle log for Popović's car, D341, and the notebook of the Duty Operations Officer of the Zvornik Brigade, P1501,

notebook of the Duty Operations Officer of the Zvornik Brigade and was asked if this evidence would change his claim regarding Popović's presence in Bišina during the alleged killings, and the witness responded that it would not.<sup>12644</sup> The Trial Chamber finds that the witness gave a reliable and coherent eyewitness account of the events unfolding in Bišina that day and, having never seen the evidence presented to him before, was not in a position to weigh it against his own testimony. The Trial Chamber therefore rejects the Defence's contention that the witness's response was inadequate. Moreover, the Trial Chamber notes that the Duty Operations Officer's notebook presented to the witness does not exclude the presence of Popović in Bišina during the alleged killings.<sup>12645</sup> With regard to the vehicle log, the Trial Chamber notes that the entry referring to the duration that the vehicle was used on 23 July is incomplete, the date of 23 July appears to have been altered, and the entry referring to the vehicle's odometer reading on 28 July does not match up with the corresponding entry pertaining to the number of kilometres travelled that day.<sup>12646</sup> The Trial Chamber is therefore not convinced of the accuracy of the entries in the log. In light of the above, the Trial Chamber rejects the Defence's submission in its totality.

2874. The Trial Chamber notes that the forensic evidence, in particular Janc's report, refers to the discovery of two mass graves, one being the Bišina grave near the Sajtovići neighbourhood and the other one a cave in the Bišina area. In this regard, the Trial Chamber notes that Witness RM-318 testified that he was present during the killings, the digging of the grave, and the burial of the bodies and did not testify to the presence of a cave at the grave site. In light of this, and given that the number of bodies exhumed from the grave in Bišina, near the Sajtovići neighbourhood, is close to the number of victims indicated by Witness RM-318, the Trial Chamber is satisfied that the forensic evidence in relation to the grave relates to Scheduled Incident E.12.1. The Trial Chamber, therefore, will not further consider the forensic evidence in relation to the cave in the Bišina area in relation to this incident.

and was asked if this evidence would change his claim regarding Popović's presence in Bišina during the alleged killings, the witness responded that it would not. Witness RM-318, T. 14895-14900.

<sup>12644</sup> Witness RM-318, T. 14895-14900

<sup>12645</sup> The Trial Chamber notes that since the alleged killings occurred around noon and in light of the fact that the command of the Zvornik Brigade was located about 35 kilometres from Bišina, Popović's arrival at the Zvornik Brigade by 5 p.m. would not exclude the possibility that he was present at the site of the alleged killings in Bišina around noon.

<sup>12646</sup> With respect to the vehicle log, the Trial Chamber relies on the original vehicle log submitted into evidence and not the translation.

2875. The Trial Chamber further notes that it received no direct evidence regarding the ethnicity of the individuals found in the Bišina grave. However, the Trial Chamber received evidence that 27 of the 39 individuals exhumed from the mass grave in Bišina were members of the ABiH. All 39 individuals identified from the Bišina grave were moreover included in the 2009 report on the people reported missing and dead after the take-over of Srebrenica. Out of the 7,663 people reported as missing and dead from Srebrenica, 85.8 per cent are confirmed to have been Bosnian Muslim, while up to 99.1 per cent are estimated to have been Bosnian Muslims. In light of the above, the Trial Chamber is satisfied that, if not all, almost all of the individuals found in the Bišina grave were Bosnian Muslims.

2876. Based on the foregoing, the Trial Chamber finds that on 23 July 1995, members of the VRS 10th Sabotage Detachment shot and killed 39 men and boys, almost all of whom were Bosnian Muslims, in Bišina.<sup>12647</sup> With regard to the Defence's argument that the evidence is insufficient to establish involvement of an entire VRS unit or the 10th Sabotage Detachment and instead shows criminal activity outside the VRS chain of command, the Trial Chamber notes that it did not receive any evidence supporting this claim. On the contrary, Witness RM-318 identified some of the soldiers as members of the 10th Sabotage Detachment. In addition, Witness RM-285 picked up the soldiers near the base of the 10th Sabotage Detachment. Among those killed were Himzo Mujić, a Bosnian-Muslim man, and two minors. Several of the bodies exhumed from the gravesite in Bišina had ligatures on their hands and a few had blindfolds on. The Trial Chamber will further consider the above in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

<sup>12647</sup> As noted above, the Prosecution 2009 Progress Report on the DNA-Based Identification by ICMP does not indicate the gender for one victim with the first name Mirsad. In light of the fact that Mirsad is a common name for males in Bosnia-Herzegovina, the Trial Chamber finds that this person was also male.

7.12 Trnovo (Schedule E.13.1)

2877. According to the Indictment, sometime in late July or early August 1995, members of the Serb forces and Bosnian-Serb political and governmental organs (as defined in the Indictment) killed six Bosnian Muslim men and boys from Srebrenica near the town of Trnovo. The Trial Chamber received evidence from **Witness RM-280**, a Serb from Croatia;<sup>12648</sup> **Mujo Subašić**, a Bosnian Muslim from Podžepelj in Han Pijesak Municipality, who worked as a nurse in the Srebrenica hospital from April 1993 until 11 July 1995;<sup>12649</sup> **Witness RM-311**, a Muslim from Srebrenica Municipality;<sup>12650</sup> and Dušan Janc, a former ICTY Prosecution investigator;<sup>12651</sup> as well as documentary evidence in relation to this incident.

2878. **Witness RM-280** testified that at a certain point in 1995, after an operation in Velika Kladuša, the Assistant Minister of Police for the RSK, Milan Milanović a.k.a. Mrgud, told the Skorpions that they would go to Trnovo in Bosnia-Herzegovina for an operation.<sup>12652</sup> Mrgud provided the unit with new badges from the Serbian MUP.<sup>12653</sup> Sometime around early July 1995, the unit, comprising approximately 150 men, travelled from Đeletovci to Trnovo.<sup>12654</sup> Two days after arrival, the unit was sent to a defence line on Mount Treskavica.<sup>12655</sup> The Skorpions replaced one VRS or police unit in the area.<sup>12656</sup> The witness was told that units were regrouping around Srebrenica and that the purpose of the operation was to simulate an attack on Sarajevo.<sup>12657</sup> The simulated attack took place simultaneously with the Serb offensive in Srebrenica.<sup>12658</sup> During the operation, the Skorpions worked in co-ordination with VRS units, in an area

<sup>12648</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 1-2, 6; Witness RM-280, T. 18687; P2576 (Pseudonym sheet for Witness RM-280). The evidence of Witness RM-280 is also reviewed in chapter 9.2.8.

<sup>12649</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), p. 1, paras 3, 10-11, 29, 31.

<sup>12650</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), pp. 1-2; P3521 (Witness RM-311, *Popović et al.* transcript, 31 October 2006), p. 3306.

<sup>12651</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 1.

<sup>12652</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 7, 9; Witness RM-280, T. 18711, 18718.

<sup>12653</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 7, 10; Witness RM-280, T. 18712.

<sup>12654</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 9-11; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15666-15672, 15676; Witness RM-280, T. 18718; P2584 (Annotated map of travel route from Đeletovci to Trnovo).

<sup>12655</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 10; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), p. 15676; Witness RM-280, T. 18728.

<sup>12656</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 10; Witness RM-280, T. 18717-18718, 18742.

<sup>12657</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 10.

<sup>12658</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 10.

falling under the responsibility of the SRK.<sup>12659</sup> The witness further specified that during the operation, Medić and a man known as ‘Asteriks’ received their orders from Mrgud, who himself received his orders from the Serbian SDB.<sup>12660</sup> The witness testified that the members avoided referring to themselves as Skorpions when dealing with the VRS and rather claimed to be from the police of the RSK.<sup>12661</sup> The operation lasted for approximately 21 days and the Skorpions returned to Đeletovci in late July or early August 1995.<sup>12662</sup>

2879. Witness RM-280 learned about the alleged killings by watching a video tape of the Skorpions’ Trnovo operation and hearing about them from members of the Skorpions who participated in the operation.<sup>12663</sup> Sometime around mid-July 1995, towards the end of the Skorpions’ operation in Trnovo, someone in the chain of command ordered Medić to send a bus and a truck as well as the two drivers, Braco and Đuro Meleusić, and go to Srebrenica.<sup>12664</sup> The drivers came back to the Skorpions’ camp near Trnovo with six Muslim men.<sup>12665</sup> Medić issued the order to take the men away and kill them.<sup>12666</sup> He chose the men who should kill the prisoners: the driver Branislav Medić, his body-guards Aleksander Medić, Pero Petrašević, and Milorad Momić, and the person in charge of the kitchen, Slobodan Davidović.<sup>12667</sup> Slobodan Stojković, a.k.a. Bugar, was sent with them to videotape the execution.<sup>12668</sup>

<sup>12659</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 6, 10-11; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), p. 15677; Witness RM-280, T. 18715-18717.

<sup>12660</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; Witness RM-280, T. 18713-18714, 18718.

<sup>12661</sup> Witness RM-280, T. 18727.

<sup>12662</sup> P2578 (Witness RM-280, witness statement, 25 May 2005), para. 6; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15677, 15680, 15718-15719; Witness RM-280, T.18728.

<sup>12663</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 12; P2578 (Witness RM-280, witness statement, 25 May 2005), paras 8-10; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), p. 15680; P2581 (Skorpions video of Trnovo operation), 1’38’’59-1’57’’17.

<sup>12664</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15693-15694, 15713, 15718-15719; Witness RM-280, T. 18691-18692, 18728.

<sup>12665</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15693-15694, 15701-15702, 15715; Witness RM-280, T. 18691-18692.

<sup>12666</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; Witness RM-280, T. 18731-18733, 18744.

<sup>12667</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; Witness RM-280, T. 18729-18733, 18733-18735; P2582 (Photograph of Aleksander Medić, Slobodan Medić, Slobodan Davidović, Miroslav Grkinić, and Nikola Koljević at the hotel in Jahorina).

<sup>12668</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 11; P2578 (Witness RM-280, witness statement, 25 May 2005), para. 7; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15669-15670, 15681-15682.

2880. The witness identified the following members of the unit escorting the six captured Muslim males down the road in the video: Pero Petrašević, Branislav Medić, Milorad Momić, Aleksander Medić, Slobodan Davidović, Slobodan Stojković, a man called Šiptar, a man called Saša a.k.a. Vuk, and two members of the reconnaissance platoon.<sup>12669</sup> All of the Muslim detainees were wearing civilian clothing.<sup>12670</sup> Before the killings, a member of the Skorpions unit said, “Fuck you and your Alija who gave you thick socks to wage war in”.<sup>12671</sup> Petrašević, Branislav Medić, Momić, Aleksander Medić, Davidović, and Šiptar walked off the road and entered a grassy area beside an abandoned summer house where they made some of the captured men walk on their knees.<sup>12672</sup> Two of the captives had to lie down on the grass.<sup>12673</sup> Petrašević killed the first three captured men and Branislav Medić killed the fourth.<sup>12674</sup> They then made the two remaining captured men stand up and Šiptar untied their hands.<sup>12675</sup> Davidović shot the four dead bodies in the head.<sup>12676</sup> The two remaining captured men were forced to carry the bodies behind nearby trees.<sup>12677</sup> Branislav Medić killed the two remaining captured men inside the abandoned summer house and others shot at the two dead bodies.<sup>12678</sup> Copies of the video were made after the unit came back from Bosnia-Herzegovina.<sup>12679</sup> Some days after their return, members of the unit watched the video in the command room in the camp.<sup>12680</sup>

2881. **Mujo Subašić** stated that he recognized Sidik Salkić from Joševo as one of the victims on a TV broadcast showing the execution of six men in Trnovo who had fled

<sup>12669</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'48''10-1'49''07.

<sup>12670</sup> P2581 (Skorpions video of Trnovo operation), from 1'38''59 onwards.

<sup>12671</sup> P2581 (Skorpions video of Trnovo operation), transcript, p. 91.

<sup>12672</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'49''07-1'49''46.

<sup>12673</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), transcript, p. 95.

<sup>12674</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'49''52-1'50''28.

<sup>12675</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'50''56-1'51''48.

<sup>12676</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'51''50-1'51''55.

<sup>12677</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'52''01-1'55''16.

<sup>12678</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 15; P2581 (Skorpions video of Trnovo operation), 1'55''50-1'57''17.

<sup>12679</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 12; P2578 (Witness RM-280, witness statement, 25 May 2005), para. 9.

<sup>12680</sup> P2578 (Witness RM-280, witness statement, 25 May 2005), para. 10.

Srebrenica.<sup>12681</sup> **Witness RM-311** identified Safet Fejzić in video stills shown to her by a Prosecution investigator.<sup>12682</sup> Fejzić was not in the military and was a 17-year old minor dressed in civilian clothes, when he fled Srebrenica with the column of men, which was the last time that the witness saw him alive.<sup>12683</sup> According to a report authored by Janc, the remains of six bodies, including those of three minors, two aged 16 and one aged 17 at the time of the killings, were recovered from Godinjske Bare near Trnovo, on 28 April 1999, and subsequently identified.<sup>12684</sup> All of the individuals were reported to have disappeared on 11 or 12 July 1995 after the take-over of the Srebrenica enclave by the VRS.<sup>12685</sup>

2882. Based on the above, the Trial Chamber finds that sometime between mid-July and mid-August 1995, members of the Skorpions Unit, commanded by Slobodan Medić, killed six detained Bosnian-Muslim males dressed in civilian clothing, at a location near Trnovo. Before they were shot, a member of the Skorpions Unit said to the victims, “Fuck you and your Alija who gave you thick socks to wage war in.” The victims, two aged 16 and one aged 17, were reported missing on 11 or 12 July after the fall of Srebrenica. At the time, the Skorpions worked in coordination with VRS units in an area under the responsibility of the SRK. The Trial Chamber will further consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

<sup>12681</sup> P3306 (Mujo Subašić, witness statement, 3 October 2012), para. 35.

<sup>12682</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 3 and pp. 6-11 (B/C/S version); P3522 (Video still).

<sup>12683</sup> P3520 (Witness RM-311, witness statement, 5 December 2004), p. 2.

<sup>12684</sup> P1982 (Dušan Janc, List of Names of Victims, Annex D), pp. 336-337; P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 39; P2795 (Ewa Tabeau, ICMP Annexes to 2013 Srebrenica Update). The following persons were identified at Godinjske Bare: Safet Fejzić (1978), Azmir Alispahić (1978), Sidik Salkić (1959), Juso Delić (1970), Dino Salihović (1979), and Smajil Ibrahimović (1960).

<sup>12685</sup> P1901 (Srebrenica missing, The 2009 Progress Report on the DNA-based Identification by ICMP, 9 April 2009), pp. 21, 46, 95, 176, 183; P1982 (Dušan Janc, List of Names of Victims, Annex D), pp. 336-337; P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence), p. 39; P2795 (Ewa Tabeau, ICMP Annexes to 2013 Srebrenica Update).



### 7.13 Potočari (Schedule E.14)

#### *7.13.1 Near the UN Compound (Schedule E.14.1)*

2883. According to the Indictment, the Accused is responsible for killing nine Bosnian-Muslim men near the UN Compound on the Budak side of the main road in Potočari on or about 12 July 1995.<sup>12686</sup> The Defence argued that the absence of eyewitness to the killings and the evidence on the presence of MUP at the White House at the time of the incident suggests that it cannot be concluded beyond reasonable doubt that VRS soldiers perpetrated this alleged killing.<sup>12687</sup> The Trial Chamber took judicial notice of Adjudicated Fact 1486 with regard to this incident. Further, it received evidence from **Hana Mehmedović**, a Bosnian Muslim from Bostahovina in Srebrenica Municipality;<sup>12688</sup> **Eelco Koster**, a member of DutchBat;<sup>12689</sup> and **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995,<sup>12690</sup> and finds that this evidence is consistent with the Adjudicated Fact.<sup>12691</sup> In addition, the Trial Chamber received evidence from **Behara Krdžić**, a Bosnian Muslim from Sase, Srebrenica Municipality.<sup>12692</sup>

2884. During the days immediately after the fall of the Srebrenica enclave, a number of corpses were discovered in the Potočari area.<sup>12693</sup> The bodies of nine men who had been killed were discovered on 13 July by DutchBat in a field near the river, about 500 metres from the UN Compound.<sup>12694</sup> The dead men were all dressed in civilian clothes and had been shot in the back.<sup>12695</sup> One of the DutchBat soldiers, **Eelco Koster**, testified

<sup>12686</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iv), 65(b), Schedule E.14.1.

<sup>12687</sup> Defence Final Brief, para. 3249.

<sup>12688</sup> P1038 (Hana Mehmedović, witness statement, 17 June 2000), pp. 1-2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. The evidence of this witness is reviewed in chapter 7.1.3.

<sup>12689</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1.

<sup>12690</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>12691</sup> **Hana Mehmedović**: P1038 (Hana Mehmedović, witness statement, 17 June 2000), p. 2; P1039 (Hana Mehmedović, statement taken by the Cantonal Court of Tuzla, 17 June 2000), p. 2. **Eelco Koster**: P57 (Eelco Koster, witness statement, 26 September 1995), p. 15; P59 (Aerial image of Potočari dated 13 July 1995, titled 'Overview' marked by Eelco Koster); P60 (Aerial image of Potočari marked by Eelco Koster); Eelco Koster, T. 1213-1214, 1217, 1219, 1258, 1272-1273; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 4; **Robert Franken**: P1417 (Robert Franken, witness statement, 15 January 2012), para. 94; Robert Franken, T. 10738; P1422 (Aerial image of Potočari marked by the witness, undated); P1429 (Aerial image of Potočari marked by the witness, 13 July 1995).

<sup>12692</sup> P1024 (Behara Krdžić, witness statement, 16 June 2000), pp. 1-2; P1025 (Behara Krdžić, statement taken by the Tuzla Cantonal Court, 16 June 2000), pp. 1-2.

<sup>12693</sup> Adjudicated Facts II, no. 1486.

<sup>12694</sup> Adjudicated Facts II, no. 1486.

<sup>12695</sup> Adjudicated Facts II, no. 1486.

that, on the same day, he saw nine people lying roughly in a line on their stomachs with their heads bent forwards.<sup>12696</sup> The witness thought that they had been shot fairly recently, as the blood had not yet clotted, but he could not tell exactly how long the bodies had been lying there.<sup>12697</sup> The location where the bodies were found is on the west side of the main road.<sup>12698</sup> Budak is on the west side of the main road.<sup>12699</sup> **Robert Franken** specified that he received a report that the bodies had been found in the meadow near a brook, 80 to 100 metres south - south west of the White House.<sup>12700</sup> The Chamber also received evidence from Hana Mehmedović and Behara Krdžić in relation to the people who had gathered in and around the UN compound and the presence of ‘Chetniks’ during these alleged killings, which has been reviewed in chapter 7.1.3.

2885. With regard to the Defence’s argument concerning the absence of eyewitness to the killings, the Trial Chamber notes that the mere fact it did not receive eyewitness evidence to the alleged killing is not sufficient, in light of the reliable circumstantial evidence it reviewed in relation to this incident, to affect its finding that a killing incident took place.

2886. Based on the foregoing, the Trial Chamber finds that on 12 July 1995, members of the VRS<sup>12701</sup> led some Bosnian-Muslim men who had gathered in and around the UN compound in Potočari towards the river near Budak, situated about 500 metres from the compound. There, in a field close to the river, the members of the VRS lined up nine of the men, shot them in the back, killing them. The men were wearing civilian clothes. The Trial Chamber will further consider this incident in relation to Counts 2 through 6 of the Indictment in chapter 8 below.

<sup>12696</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 15; Eelco Koster, T. 1217-1219, 1271-1272; P60 (Aerial image of Potočari marked by Eelco Koster); D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 4.

<sup>12697</sup> P57 (Eelco Koster, witness statement, 26 September 1995), p. 15; Eelco Koster, T. 1219.

<sup>12698</sup> Adjudicated Facts II, no. 1486.

<sup>12699</sup> Adjudicated Facts II, no. 1486.

<sup>12700</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 94; Robert Franken, T. 10738; P1422 (Aerial image of Potočari marked by the witness, undated); P1429 (Aerial image of Potočari marked by the witness, 13 July 1995).

<sup>12701</sup> With regard to the Defence’s argument concerning the perpetrators of this killing, the Trial Chamber is satisfied that the authorities in charge of the Bosnian-Muslims in Potočari on 12 July 1995 at the time of the killing are responsible for this killing incident and refers to its finding in chapters 7.1.3 and 7.1.5.

7.13.2 Near the 'White House' (Schedule E.14.2)

2887. According to the Indictment, the Accused is responsible for killing one Bosnian-Muslim man behind a building near the White House in Potočari on or about 13 July 1995.<sup>12702</sup> The Defence challenged the credibility of Paul Groenewegen and submitted that the witness could not identify the perpetrator and that it was therefore impossible to establish that the perpetrator of this alleged crime was a VRS member.<sup>12703</sup> It further submitted that the evacuation proceeded without mistreatment and that therefore the killing of the man could have been the act of a few individuals without any superior order.<sup>12704</sup> Additionally, it submitted that Groenewegen testified that the perpetrators of this alleged crime hesitated as to who would fire the shot and that this is not the way a professional soldier would execute an order.<sup>12705</sup> Therefore, it is not proven beyond reasonable doubt that the killing was ordered.<sup>12706</sup> The Trial Chamber received evidence from **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>12707</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995,<sup>12708</sup> **Witness RM-268** a member of the Special Police Brigade in 1995;<sup>12709</sup> **Joseph Kingori**, an UNMO present in the Srebrenica enclave from March 1995 to around 20 July 1995;<sup>12710</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>12711</sup> **Witness RM-362**, who lived in Srebrenica Municipality until 11 July 1995;<sup>12712</sup> and **Miladin Mladenović**, a watchman at the Vihor vehicle fleet in Borkovac during the Srebrenica operation.<sup>12713</sup>

2888. **Robert Franken** testified that around 12 July 1995 he received reports that the men in the White House were being treated badly.<sup>12714</sup> Franken sent DutchBat patrols to

<sup>12702</sup> Indictment, paras 11-12, 21-22, 46(a), 59(a)(iv), 65(b), Schedule E.14.2.

<sup>12703</sup> Defence Final Brief, paras 3252, 3257.

<sup>12704</sup> Defence Final Brief, para. 3256.

<sup>12705</sup> Defence Final Brief, para. 3256.

<sup>12706</sup> Defence Final Brief, para. 3256.

<sup>12707</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6.

<sup>12708</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>12709</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), pp. 8565, 8567. The evidence of Witness RM-268 is also reviewed in chapter 7.1.5.

<sup>12710</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 3, 7.

<sup>12711</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

<sup>12712</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302. The evidence of Witness RM-362 is reviewed in chapter 7.1.5.

<sup>12713</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), paras 2, 4. The evidence of Miladin Mladenović is reviewed in chapter 7.1.5.

<sup>12714</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 89.

the White House in the afternoon, but they were blocked by the Serb forces.<sup>12715</sup> Franken informed Colonel Janković about the mistreatment of the men, and Janković told him that the men were POWs and that if the Serb soldiers' actions were too aggressive, he would take steps to prevent it.<sup>12716</sup> However, Janković also stated that he had nothing to do with the evacuation because he was only there to deal with the withdrawal of DutchBat.<sup>12717</sup> Franken did not know whether Janković took any steps to prevent the aggression, but he did not see any results thereof.<sup>12718</sup>

2889. **Paul Groenewegen** testified that on 13 July 1995 three or four Serb soldiers, wearing camouflage uniforms in various shades or colours, separated a man, by force, from the rest of the 'refugees' gathered in Potočari.<sup>12719</sup> The man was wearing blue jeans and a blue-green sweater and was unarmed; the witness believed him to be a civilian and approximately 30 or 40 years old.<sup>12720</sup> The camouflage uniforms worn by the soldiers were identical to those worn by the vast majority of the soldiers present at the site.<sup>12721</sup> Based on his observation of how the soldiers behaved and their interactions with other soldiers present, the witness concluded that the soldiers must have belonged to the VRS.<sup>12722</sup> The witness strayed further from the road where the crowd was gathered, and approximately 10 to 15 minutes after seeing the man being taken away, he saw the Serb soldiers turning the man with his face towards the wall of a house, and one of the soldiers shot the man in the head from a distance of about three metres.<sup>12723</sup> The man who had been shot collapsed immediately after being hit by the bullet.<sup>12724</sup> The witness observed this incident from a distance of about 30 metres with nothing obstructing his view except the corner of the house, which prevented him from seeing

<sup>12715</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 89.

<sup>12716</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 89; Robert Franken, T. 10733-10734.

<sup>12717</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 89; Robert Franken, T. 10733-10734.

<sup>12718</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 89; Robert Franken, T. 10734.

<sup>12719</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 58-62, 67; Paul Groenewegen, T. 10489-10490, 10519, 10525, 10528-10531; P1158 (Aerial image marked by Paul Groenewegen, 13 July 1995).

<sup>12720</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 61-63.

<sup>12721</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 59.

<sup>12722</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 59-60.

<sup>12723</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 61, 64-65, 67; Paul Groenewegen, T. 10485-10486, 10488-10490, 10493, 10532; P1158 (Aerial image marked by Paul Groenewegen, 13 July 1995); P1160 (Aerial image marked by Paul Groenewegen, 13 July 1995).

<sup>12724</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 65.

the face of the man who had been shot.<sup>12725</sup> The shooting took place 100 to 150 metres away from the rest of the ‘refugees’.<sup>12726</sup> Other Serb soldiers in the vicinity saw the incident but did not react and continued their activities.<sup>12727</sup> The witness unofficially reported the incident to his sergeant that evening, and gave an official statement to Lieutenant Schotman the next morning.<sup>12728</sup>

2890. **Joseph Kingori** testified that on 13 July, the men who had been separated from the women were continuously held under gravely dissatisfactory circumstances in the White House, which was lacking water, food, and sanitation.<sup>12729</sup> **Ljubodrag Gajić** testified that DutchBat members protested about the poor conditions in the White House and the fact that the Bosnian-Muslim men who were held there were crammed inside and had to sit on top of each other.<sup>12730</sup>

2891. **Witness RM-268** stated that he did not recall that civilians were abused, hit, kicked or pushed towards or on any of the buses on 13 July, nor did he receive any reports about this.<sup>12731</sup>

2892. The Trial Chamber notes that the Defence raised concerns with regard to Groenewegen’s credibility.<sup>12732</sup> The Trial Chamber took note of these concerns but nevertheless finds his evidence with regard to this incident credible and reliable. Groenewegen provided a detailed account of the killing incident. Although he indicated his lack of knowledge about certain details of the incident, the Trial Chamber considers those details to be of minor relevance and finds that it does not negatively impact his testimony with regard to this incident.

2893. The Trial Chamber reviewed the evidence of Witness RM-268 and Mladenović on the absence of any abuse during the evacuation in Potočari above and in chapter 7.1.5 and further notes that both witnesses did not testify specifically about the absence of any killings in Potočari.

<sup>12725</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 65; Paul Groenewegen, T. 10532-10534.

<sup>12726</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 65.

<sup>12727</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 65.

<sup>12728</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), para. 66; Paul Groenewegen, T. 10526-10528.

<sup>12729</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), para. 191; Joseph Kingori, T. 1058-1059.

<sup>12730</sup> Ljubodrag Gajić, T. 40298-40300.

<sup>12731</sup> P2176 (Witness RM-268, *Popović et al.* transcript, 9, 12-13 March 2007), p. 8619.

<sup>12732</sup> Defence Final Brief, para. 3252.

2894. Based on the foregoing, the Trial Chamber finds that on 13 July 1995, three or four VRS soldiers separated an unarmed Bosnian-Muslim man wearing civilian clothing from the people gathered in Potočari and took him to a house near the White House. One of the VRS soldiers shot the man in the head while his face was turned towards the wall of that house, thereby killing him. The Trial Chamber further finds that the Bosnian-Muslim men at the White House were held under unsatisfactory circumstances and that the house was overcrowded and lacked water and sanitation (*see also* chapter 7.1.3). The Trial Chamber will further consider this incident in relation to Counts 2 through 6 in the Indictment in chapter 8 below.

## 7.14 Bratunac Town (Schedule E.15)

### *7.14.1 In and around the Vuk Karadžić elementary school (Schedule E.15.1)*

2895. According to the Indictment, the Accused is responsible for killing 50 or more Bosnian-Muslim men inside and outside Vuk Karadžić Elementary School and in the surrounding area between 12 and 15 July 1995.<sup>12733</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to this incident. It also received evidence from **Witness RM-255, Mevludin Orić**, and **Witness RM-362**, all Bosnian Muslims from Srebrenica Municipality;<sup>12734</sup> **Mile Janjić, Mladen Blagojević**, and **Pero Andrić**, all members of the Bratunac Brigade military police platoon;<sup>12735</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>12736</sup> **Witness RM-260**, a member of the Civilian Protection staff in Bratunac Municipality;<sup>12737</sup> **Zlatan Čelanović**, a member of the VRS 1st Bratunac Light Infantry Brigade in 1995;<sup>12738</sup> **Witness RM-306**, a Serb from Bratunac;<sup>12739</sup> **Richard Butler**, an intelligence research specialist,<sup>12740</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12741</sup> The Trial Chamber also

<sup>12733</sup> Indictment, paras 11-12, 46 (a), 59 (a) (iv), 65 (b), Schedule E.15.1. The Trial Chamber noticed that the Indictment and some witnesses refer to 'Vuk Karadžić Elementary School', while Adjudicated Facts and other witnesses refer to it as 'Vuk Karadžić School'. It understood that they are the same school and chose to use the name of the school as used in the Indictment throughout the Judgment.

<sup>12734</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2; P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302.

<sup>12735</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756; D922 (Mladen Blagojević, witness statement, 6 June 2014), para. 3, P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4; Pero Andrić, T. 34096-34097, 34130-34131, P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1, P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2.

<sup>12736</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>12737</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7861-7862.

<sup>12738</sup> P1451 (Zlatan Čelanović, *Popović et al.* transcript, 31 January 2007), p.6626.

<sup>12739</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9357-9358; Witness RM-306, T. 11446; D293 (Witness RM-306, statement to the Bosnian-Serb MUP, 26 December 2005), pp. 1-2.

<sup>12740</sup> Richard Butler, T. 16108.

<sup>12741</sup> **Witness RM-255**: P55 (Witness RM-255, witness statement, 25 May 1996), p. 3. **Mevludin Orić**: P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 908-909, 915-919,933. **Witness RM-362**: P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17315-17317, 17319-17322, 17324; P3381 (Witness-362, *Tolimir* transcript, 22 March 2010), p. 748-751. **Mile Janjić**: P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9799, 9804-9805, 9811-9812; Mile Janjić, T. 11052-11055, 11058. **Mladen Blagojević**: Mladen Blagojević, T. 32625-32627, 32636-32642, 32646; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 4, 9, 11, 18, 20. **Pero Andrić**: P7298 (Bosnia-Herzegovina Prosecutor's Office witness examination record, 28 February 2007), paras 3-6, p. 9; Pero Andrić, T. 34144. **Momir Nikolić**: D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 11; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 4. **Witness RM-260**: P3621

received evidence from **Bojan Subotić**, commander of a platoon in the military police battalion of the 65th Motorised Protection Regiment in July 1995;<sup>12742</sup> **Miladin Mladenović**, a watchman at the Vihor vehicle fleet in Borkovac during the Srebrenica operation;<sup>12743</sup> **Witness RM-372**, an UNPROFOR official stationed in Bosnia-Herzegovina as of January 1995;<sup>12744</sup> **Witness RM-346**, a Bosnian Muslim from Srebrenica who served in the ABiH;<sup>12745</sup> and **Witness RM-265**, a member of the Bratunac Brigade.<sup>12746</sup>

2896. **Bojan Subotić** testified that on 13 July 1995 at the Nova Kasaba football field, having addressed the Muslims from the column who had surrendered and were being guarded there, Mladić ordered the Commander of the Military Police Battalion of the 65th Motorized Protection Regiment Major Zoran Malinić and the witness to secure the transfer of detainees to Bratunac, stating that the buses and trucks would arrive in an hour or an hour and a half (*see also* chapter 7.1.6).<sup>12747</sup> In accordance with Mladić's order, the witness was tasked with getting the men onto the buses alive and well, escorting them to Vuk Karadžić Elementary School in Bratunac, and handing them over to the civilian police.<sup>12748</sup> After a while, about six or seven buses, and as many trucks arrived from the direction of Zvornik and Milići, and the witness instructed the Muslim soldiers to drink some water before getting on the buses and trucks.<sup>12749</sup> At around 7 p.m., the column of buses and trucks set off for Bratunac, headed by the witness in a combat armoured vehicle (a 'BOV-7') with about three soldiers from the regiment and escorted, at the rear, by a Praga.<sup>12750</sup> Upon arrival of the column in Bratunac at 9:15 or

(Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7883, 7917, 7920; P3622 (Witness RM-260, *Popović et al.* transcript, 19 November 2007), pp. 17864, 17866-17867; **Zlatan Čelanović**: P1451 (Zlatan Čelanović, *Popović et al.* transcript, 31 January 2007), pp. 6638-6642, 6646, 6650-6653; Zlatan Čelanović, T. 11082. **Witness RM-306**: P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9372, 9388-9389; Witness RM-306, T. 11440, 11468-11469. **Richard Butler**: P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 6.2, 6.3, 6.5.

<sup>12742</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 2, 4.

<sup>12743</sup> D707 (Miladin Mladenović, witness statement, 6 June 2014), paras 2, 4. The evidence of Miladin Mladenović is reviewed in chapter 7.1.5.

<sup>12744</sup> P3499 (Witness RM-372, witness statement, 6 October 2013), para. 3. The evidence of Witness RM-372 is reviewed in chapter 7.1.5.

<sup>12745</sup> P1118 (Witness RM-346, prior testimony), p. 3016; P1117 (Witness RM-346, pseudonym sheet); Witness RM-346, T. 9576.

<sup>12746</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800; P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282.

<sup>12747</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 3, 5, 11, 29-30, 33; Bojan Subotić, T. 32825-32826, 32911-32914, 32976.

<sup>12748</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 31, 34; Bojan Subotić, T. 32911.

<sup>12749</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 31-34; Bojan Subotić, T. 32828.

<sup>12750</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 35; Bojan Subotić, T. 32969-32970.



9:30 p.m., the witness notified a civilian policeman present at the Elementary School that he was escorting detainees, to which the civilian policeman responded that everything was in order.<sup>12751</sup> The witness saw military police at a checkpoint at the entrance to Bratunac and in the town. While he did not observe military policemen at the school, the witness testified he did not enter Vuk Karadžić Elementary School or the school yard and therefore did not know who was involved in securing the school.<sup>12752</sup> Only some buses entered the school yard due to its size, after which a civilian policeman took over the detainees and the witness together with the soldiers returned to the command.<sup>12753</sup>

2897. **Richard Butler** testified that, according to a witness, Muslim men were separated in Potočari from women, children, and elderly and moved into a white house across from the UN compound on 13 July 1995.<sup>12754</sup> Once the house was full, the men were loaded into three or four buses and transported to Bratunac, to the old school located behind Vuk Karadžić Elementary School.<sup>12755</sup> Other Muslim detainees arrived at the school throughout that day, and they were all held there until the afternoon of 15 July 1995, when they were transported to Pilica.<sup>12756</sup>

2898. **Mevludin Orić** stated that around 9 to 10 p.m. on 13 July 1995, he and nine other men were transported by bus from Konjevic Polje to Vuk Karadžić Elementary School where they arrived late in the evening.<sup>12757</sup> They were accompanied, on the bus, by three military policemen who the witness identified by insignia on their arms bearing the letters 'VP'. The witness noted that they were also wearing blue flak jackets he associated with UNPROFOR.<sup>12758</sup> *En route* to Bratunac the bus stopped in Kravica where about 400 to 500 detainees were sitting on a meadow adjacent to a warehouse, guarded by soldiers.<sup>12759</sup> Some of them were transferred onto the two buses in the witness's convoy until the buses reached capacity.<sup>12760</sup> The witness noted that upon

<sup>12751</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 36.

<sup>12752</sup> Bojan Subotić, T. 32975-32976.

<sup>12753</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), para. 37.

<sup>12754</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), para. 6.4.

<sup>12755</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 6.4, 7.37.

<sup>12756</sup> P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 6.4, 6.5, 7.37.

<sup>12757</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 887, 889-891, 908.

<sup>12758</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 890-892, 908-909.

<sup>12759</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 898.

<sup>12760</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 898, 907.

arrival in Bratunac, two additional buses were parked in front of the school, guarded by soldiers.<sup>12761</sup> From 12 to 14 July 1995, several thousand Bosnian-Muslim men were detained in and around Vuk Karadžić Elementary School and on board the between 80 to 120 buses lining the streets of Bratunac Town.<sup>12762</sup> Groups of men were taken from the buses to the school all through the night and did not return.<sup>12763</sup> The prisoners were deprived of sufficient food, water and medical aid.<sup>12764</sup> **Orić** stated that, in the night of 13 July 1995, a ‘soldier’ wearing a camouflage t-shirt, and who appeared to be drunk, entered the bus which was parked in front of the school, recognized one of the men detained on the bus, and beat him with the wooden butt of his automatic rifle. Whilst beating the man, the ‘soldier’ was asking him who had killed Serbs in Jadro in an ambush. The man replied that he did not know and the ‘soldier’ continued to strike him with his rifle butt and kicked him. The beating continued until the members of the military police, who escorted the bus on its way to the school, returned and chased the ‘soldier’ away.<sup>12765</sup>

2899. Vuk Karadžić Elementary School and the various buildings surrounding it were secured by several units of the Bosnian-Serb Republic armed forces, including by members of the Bratunac Brigade Military Police Platoon, the special police, the civilian police of the MUP, as well as members of the Drina Wolves and paramilitary formations.<sup>12766</sup> Members of the Bratunac Brigade Military Police also participated in guarding the hundreds of Bosnian-Muslim men detained in the buses parked around town on the night of 12 and 13 July.<sup>12767</sup> **Mile Janjić** testified that in the evening of 13 July 1995 he went to the military police building near the Bratunac Brigade headquarters, where Momir Nikolić gave the order that all the policemen present at this moment should engage in protecting the Muslim men brought from Potočari and placed in the school and the buses.<sup>12768</sup> With respect to the buses, Momir Nikolić ordered the policemen not to open the doors of the buses or let anyone in or out, and to keep away civilians from the buses in order to prevent any incidents.<sup>12769</sup> **Blagojević** testified that

<sup>12761</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 908-909.

<sup>12762</sup> Adjudicated Facts II, no. 1503.

<sup>12763</sup> Adjudicated Facts II, no. 1518.

<sup>12764</sup> Adjudicated Facts II, nos 1503, 1508.

<sup>12765</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), p. 914.

<sup>12766</sup> Adjudicated Facts II, nos 1506.

<sup>12767</sup> Adjudicated Facts II, nos 1502, 1506, 1517.

<sup>12768</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9799, 9804-9805; Mile Janjić, T. 11052-11055.

<sup>12769</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9807, 9811.

on 13 July 1995 he and eight other military policemen, including Milovan Mitrović, Slobodan Mijatović, Borivoje Jakovljević, and Pero Andrić, assisted in securing captured Muslims held at the school following an order issued by a superior officer to do so.<sup>12770</sup>

2900. On the evening of 12 July 1995, prisoners were detained in a warehouse-looking building called the hangar,<sup>12771</sup> which was located behind Vuk Karadžić Elementary School.<sup>12772</sup> **Witness RM-362** stated that the detainees were elderly and/or infirm.<sup>12773</sup> The hangar became so full that there was not enough space for everyone to sit down.<sup>12774</sup> The witness estimated that there were at least about 400 people in the hangar.<sup>12775</sup> The detained men complained that they would suffocate due to the lack of space and air. The soldiers threatened to kill them if they did not keep silent.<sup>12776</sup> The witness stated that when they complained about the conditions the guards fired over the men's heads.<sup>12777</sup> One man was taken from the hangar, and the prisoners then heard blunt blows and his screams and moans. When the screams stopped, the soldiers came back with flashlights and called out again for people from various towns to identify themselves.<sup>12778</sup> According to the witness, the soldiers pointed torches at those who responded, and told them they should get up and go out of the hangar.<sup>12779</sup> When prisoners did not respond, the soldiers selected people at random with the beam of a flashlight.<sup>12780</sup> The witness was under the impression that when it was dark, the soldiers were randomly pointing torches at anyone, while the next morning the soldiers were selecting people who seemed to be more fit than the others. People who got up would ask if they needed to take anything with them, in response to which the soldiers would say that they would not need anything anymore.<sup>12781</sup> After those selected left the hangar,

<sup>12770</sup> In his statement, the witness indicated it was Momir Nikolić who issued this order. In court, the witness testified he could not recall whether it was Bratunac Brigade Military Police Commander Mirko Janković or Momir Nikolić who issued the order. Mladen Blagojević, T. 32611, 32625-32627, 32636-32637, 32641; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 4, 11, 18, 20.

<sup>12771</sup> A number of witnesses referred to the hangar as 'the warehouse'; the Trial Chamber understands their testimony to refer to the hangar as well and has described their evidence as such.

<sup>12772</sup> Adjudicated Facts II, no. 1511.

<sup>12773</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17315-17317.

<sup>12774</sup> Adjudicated Facts II, no. 1512.

<sup>12775</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17316.

<sup>12776</sup> Adjudicated Facts II, no. 1512.

<sup>12777</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17319.

<sup>12778</sup> Adjudicated Facts II, no. 1513.

<sup>12779</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17319.

<sup>12780</sup> Adjudicated Facts II, no. 1513.

<sup>12781</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17320.

the witness heard a voice of soldiers commanding these people to stand in front of them after which the witness would hear blunt blows followed by moaning and screaming, a fall, and a voice saying something like: 'Alright, he is finished. Just drag him off over here.'<sup>12782</sup> According to the witness, a man named Hamed Efendić was taken out from the hangar and shot dead that evening.<sup>12783</sup>

2901. On a few occasions, soldiers brought beaten up prisoners back into the hangar.<sup>12784</sup> Some men had to hold badly beaten prisoners due to the lack of space and some of the wounded died overnight.<sup>12785</sup> On 13 July 1995, the soldiers allowed the prisoners to take the dead bodies out of the hangar.<sup>12786</sup> When the chosen men returned to the hangar they were crying and said that they saw a pile of dead bodies behind the hangar. Witness RM-362 heard the sound of machinery which he described as buses and trucks, arriving. A soldier then entered the hangar and said he needed ten people to go and 'do something'.<sup>12787</sup> Ten men were chosen to load bodies in vehicles and these men never came back.<sup>12788</sup> Witness RM-362 stated that about an hour after the men had left the hangar, he heard the vehicles departing again.<sup>12789</sup>

2902. Prisoners were called out one by one to 'get up' and were either allowed to use a room next to the hangar that was used as a toilet, or they were taken by the shoulder in order to be killed. The witness was taken to the room that was used as a toilet, from where he observed a man taken by the shoulder and being told by a soldier with an automatic rifle to walk towards him, passing three to four other guards on either side of him.<sup>12790</sup> While approaching the armed guard, one of the guards on the left side hit the man with an iron bar on the head. The man fell to the ground and another soldier from the right side started hitting him on his backbone with an axe. The witness was then returned to the hangar.<sup>12791</sup> A tall man with dark hair wearing a camouflage uniform demanded that the people hand over their belongings, including identification documents, money and watches, throwing everything into a bag and threatening them

<sup>12782</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17320-17323.

<sup>12783</sup> P3381 (Witness RM-362, *Tolimir* transcript, 22 March 2010), p. 748; P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17321.

<sup>12784</sup> Adjudicated Facts II, no. 1514.

<sup>12785</sup> Adjudicated Facts II, no. 1515.

<sup>12786</sup> Adjudicated Facts II, no. 1516.

<sup>12787</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17322.

<sup>12788</sup> Adjudicated Facts II, no. 1516.

<sup>12789</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17322.

<sup>12790</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17322-17323.

<sup>12791</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17323.

that if anyone tried to hide money he would find out and bring dogs.<sup>12792</sup> Men continued to be taken out of the hangar until the afternoon of 13 July, until two trucks arrived. At that point, the events of the morning were repeated, starting with ten of the men from inside the hangar again being separated and assigned to go to ‘do something’.<sup>12793</sup>

2903. **Butler** testified that, according to a witness, on 13 July 1995 at 6 p.m., one of the detainees counted the number of men in the hangar for transportation purposes, which totalled 296.<sup>12794</sup> **Momir Nikolić** testified that a member of the civilian protection unit who was responsible for clearing up the relevant terrain, told him that 80 to 100 Muslims had been murdered in the hangar on the evening of 13 July 1995.<sup>12795</sup> After the murder, their bodies were deposited on a hillside and covered with dirt.<sup>12796</sup> **Butler** testified that the men who survived their detention at the hangar were transported to Grbavci School during the evening of 13 July 1995 in six buses, arriving in the early morning of 14 July.<sup>12797</sup>

2904. Prisoners would frequently be taken out of Vuk Karadžić Elementary School by VRS soldiers in camouflage uniforms and policemen in blue uniforms.<sup>12798</sup> During the nights, when individual prisoners in Bratunac were called out, cries of pain and gunfire could be heard.<sup>12799</sup> Men detained in Bratunac between 12 and 14 July 1995 were executed at night opportunistically.<sup>12800</sup>

2905. **Janjić** testified that around midnight on 13 July 1995, he heard a male voice from the direction of Vuk Karadžić Elementary School, shouting something like ‘People from Glogova, where are you? What are we waiting for? Don’t you see they’re going to kill us all?’.<sup>12801</sup> Thereafter, the witness heard shootings from the same direction and the shouts did not continue.<sup>12802</sup> **Blagojević** testified that he heard that some Muslims

<sup>12792</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17326.

<sup>12793</sup> P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), p. 17323.

<sup>12794</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 6.3.

<sup>12795</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 11; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 4.

<sup>12796</sup> D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 11.

<sup>12797</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 6.3.

<sup>12798</sup> Adjudicated Facts II, no. 1509.

<sup>12799</sup> Adjudicated Facts II, no. 1507.

<sup>12800</sup> Adjudicated Facts II, no. 1505.

<sup>12801</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9812; Mile Janjić, T. 11057-11058.

<sup>12802</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), pp. 9811-9812; Mile Janjić, T. 11058.

attempted to escape.<sup>12803</sup> He later heard that armed Bosnian Serbs took Muslims out of buses and killed them behind the school.<sup>12804</sup>

2906. **Witness RM-255** testified that on 13 July 1995, shortly after he and other male detainees had arrived at the old school in Bratunac, the military police arrived at the classroom where the witness was held, wearing camouflage uniforms with a round insignia on the sleeve which had 'POLICIA' written on it.<sup>12805</sup> One military policeman started to beat a detainee with a whip and a rifle. After the military police had left the classroom with two of the detainees, the witness could hear screams for help coming from outside. The military police later came back and took out the man who had been beaten, and he never returned. The detainees were forced to stay in a sitting position and were not allowed to use the toilets, therefore had to urinate on themselves. Shots were fired from outside to prevent the detainees from standing up or from looking through the window. The remaining detainees stayed in the classroom until 15 July 1995.<sup>12806</sup>

2907. **Zlatan Čelanović** testified that on the evening of 12 July 1995, or the morning of 13 July 1995, he met with Ljubiša Beara in the yard in front of the military police building in Bratunac, which was located next to the Bratunac Brigade Headquarters.<sup>12807</sup> Beara enquired whether the witness had any information about any individuals who had 'sinned' against the Serb people, and asked the witness to interrogate individuals.<sup>12808</sup> On 13 July 1995 at approximately 10 or 11 a.m., the witness observed that soldiers - who referred to themselves as the 'special forces' - arrived in front of the building,

<sup>12803</sup> Mladen Blagojević, T. 32640-32642; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 4, 20.

<sup>12804</sup> Mladen Blagojević, T. 32638-32639. In a verdict of 6 November 2008 by the court of Bosnia-Herzegovina in the case against Mladen Blagojević, the court held that on the night of 13 to 14 July 1995 several hundred civilian Bosnian-Muslim men were detained in Vuk Karadžić Elementary School. One of the Bosnian-Muslim men appeared at the window of a room at the school, whereupon, Mladen Blagojević mounted on a Pinzgauer (military vehicle), pointed a Browning machine gun at the window at which a Bosnian-Muslim man appeared and opened fire from the gun targeting both the man and other men inside the same room, while the bullets hit the window and the wall around the window. P1517 (Bosnia-Herzegovina Court Verdict, 6 November 2008), p. 2. In court, Blagojević confirmed the verdict against him was upheld on appeal, T. 32610-32611. When confronted with this verdict, Blagojević conceded he had been ordered to operate the Browning machine gun, but denied having fired it at the prisoners inside the school. Instead, Blagojević claimed that at some point that evening, he had left the Pinzgauer on which the Browning machine gun was mounted, following which he believed 'military policemen and the army troops who were there' fired the machine gun at the prisoners inside the school. The witness testified he observed the machine gun being fired from a distance, Mladen Blagojević, T. 32610-32611, 32641-32645.

<sup>12805</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 2-3; Witness RM-255, T. 1172.

<sup>12806</sup> P55 (Witness RM-255, witness statement, 25 May 1996), p. 3.

<sup>12807</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6627-6631, 6649; P1456 (Aerial image of Bratunac town, marked by Zlatan Čelanović); P1458 (Aerial image of Bratunac town, marked by Zlatan Čelanović).

escorting five Muslim detainees.<sup>12809</sup> These special forces soldiers, who wore new uniforms that consisted of black, dark blue or multicoloured camouflage overalls and modern belts, said they had been instructed to transport the detainees to the school and asked for directions to Vuk Karadžić Elementary School.<sup>12810</sup> The witness told them that he would first need to identify and interrogate the prisoners, in accordance with Beara's instructions, before they could be transferred to the school.<sup>12811</sup> At some point following this exchange, Momir Nikolić escorted Rešid Sinanović into the witness's office, and asked the witness to interrogate Sinanović regarding suspicions of having participated in an attack on a Serb village.<sup>12812</sup> The witness testified that his interrogations revealed that Sinanović had not been involved in an attack and that the majority of the five Muslim prisoners brought by the special forces were civilians.<sup>12813</sup> Nonetheless, following the interrogations, the 'special forces' escorted all six men to Vuk Karadžić Elementary School.<sup>12814</sup>

2908. On the evening of 13 July 1995, around dusk, Čelanović met Beara in front of the military police building.<sup>12815</sup> At approximately the same time, numerous trucks and buses carrying Muslim men were parked on the street leading to Vuk Karadžić

<sup>12808</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6631-6632.

<sup>12809</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6627-6628, 6632, 6647, 6655, 6658-6659; P1452 (Zlatan Čelanović, Bratunac Brigade Interrogation Notes); P1454 (Zlatan Čelanović, Bratunac Brigade Interrogation Notes); P1457 (Zlatan Čelanović, Bratunac Brigade Interrogation Notes).

<sup>12810</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6632, 6639, 6645, 6670-6671.

<sup>12811</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6631-6632.

<sup>12812</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6627, 6629, 6633-6634.

<sup>12813</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6634, 6636-6637, 6639, 6644-6645, 6657-6658.

<sup>12814</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6639, 6645-6646; Zlatan Čelanović, T. 11091. Čelanović concluded that, based on a Banja Koviljaca medical report of 15 July 1995, Sinanović survived the war and was alive. Zlatan Čelanović, T. 11091; P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6660-6661; P1455 (Letter addressed to Veselin Londrović attaching photocopy of medical register from Banja Koviljača, signed by Dr. Zoran Jović, 5 March 2003). Nikolić testified, however, that Sinanović was transported to Vuk Karadžić Elementary School in order to be executed, but that Sinanović somehow survived the execution with severe injuries. When members of the Zvornik police were subsequently informed that Sinanović had survived and was hospitalized, they lifted Sinanović from the hospital and liquidated him on a bridge in the Zvornik sector. Momir Nikolić, T. 11941-11944. The Trial Chamber observes Rešid Sinanović was still listed as a missing person from Srebrenica in 2009 and was recorded as last seen on 12 July 1995. P1901 (Prosecution 2009 Progress Report on the DNA-Based Identification by ICMP, 9 April 2009), p. 190. *See also* Richard Butler, T. 16271-16272; Milovan Milutinović, T. 30112; P7027 (newspaper article dated 25 July 1995), pp. 1-2.

<sup>12815</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6638, 6641; P1456 (Aerial image of Bratunac town, marked by Zlatan Čelanović); P1458 (Aerial image of Bratunac town, marked by Zlatan Čelanović).

Elementary School and at the stadium.<sup>12816</sup> The witness told Beara that he was concerned about the security of the town, considering the large number of Muslim detainees in contrast to the number of Serb soldiers, to which Beara responded, 'I hope that they will make it through the night and we will too, because I guess they're going to Kladanj tomorrow'.<sup>12817</sup> Then they walked towards the school; on the way Beara observed the vehicles and the guards but did not address any of the detainees.<sup>12818</sup> When the witness asked why the detainees on the vehicles were not being transported out of Bratunac immediately, Beara responded that there were too few vehicles to transport them.<sup>12819</sup> The vehicles that took women and children had to be returned, then transportation would be reorganized, and the detainees would be transported to Kladanj the next morning. When the witness and Beara arrived at the street leading towards the school, Beara continued 10 to 15 metres ahead, and on his return told the witness that it was not quite safe, but that there would not be any problems.<sup>12820</sup> Through the windows of the school, the witness observed Muslim detainees shouting for water and asking when they would let the detainees go.<sup>12821</sup> He did not observe any of the guards responding to these requests.<sup>12822</sup> He also observed soldiers within the vicinity of the school and the stadium but was not able to identify whether those soldiers were members of the Bratunac Brigade or not.<sup>12823</sup> They then went to the stadium, where the witness saw approximately two or three vehicles next to the gate outside the stadium and, because the gate obstructed his view, only parts of buses and trucks inside the stadium.<sup>12824</sup> He may have seen Muslims on the first vehicle and people on the vehicles inside the stadium.<sup>12825</sup> Beara and the witness then returned to the military police building via the school and the witness observed, alongside Beara, approximately 20 or

<sup>12816</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007). pp. 6638-6642, 6650-6652; P1456 (Aerial image of Bratunac town, marked by Zlatan Čelanović); P1458 (Aerial image of Bratunac town, marked by Zlatan Čelanović).

<sup>12817</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007). pp. 6640-6641.

<sup>12818</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007). pp. 6640-6641, 6650; P1456 (Aerial image of Bratunac town, marked by Zlatan Čelanović); P1458 (Aerial image of Bratunac town, marked by Zlatan Čelanović).

<sup>12819</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007). p. 6641.

<sup>12820</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6640-6641.

<sup>12821</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6646, 6653; Zlatan Čelanović, T. 11082.

<sup>12822</sup> Zlatan Čelanović, T. 11082.

<sup>12823</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6690-6691.

<sup>12824</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6641-6643, 6652-6653; P1456 (Aerial image of Bratunac town, marked by Zlatan Čelanović); P1458 (Aerial image of Bratunac town, marked by Zlatan Čelanović).

<sup>12825</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), p.6642.



so vehicles containing Muslims near the school, together with some empty buses and trucks on the side streets.<sup>12826</sup>

2909. Between 12 and 14 July 1995, more than 50 Bosnian-Muslim men were summarily executed in and around Vuk Karadžić Elementary School.<sup>12827</sup> On or after 15 July 1995, 40 to 50 bodies were discovered in the classrooms at the school in Bratunac.<sup>12828</sup> **Blagojević** testified that on the morning of 14 July, he saw bodies of 10 to 15 Muslims in a second floor hallway in the school and four or five bodies outside the school.<sup>12829</sup> The witness did not report the killings to his superiors.<sup>12830</sup> Detainees were taken out of the school and put on buses in the presence of the civilian police and the army.<sup>12831</sup> One of the police officers, Sreten Micić, was pushing and hurrying people onto the bus.<sup>12832</sup> The witness saw some people being taken out of the bus by people wearing uniforms, brought behind the school, and heard shots.<sup>12833</sup>

2910. **Pero Andrić** testified that on 14 July 1995, between 11 a.m. and noon, he passed the school where some elderly men, including his father, who had been mobilised into a ‘Work Obligation Platoon’, were ordered to load dead bodies of Bosnian Muslims on a yellow truck.<sup>12834</sup> The witness was later informed that the buses and trucks had left for Zvornik, escorted by the military police.<sup>12835</sup>

2911. A representative of the Bratunac Department of Defence arranged for a truck which transported the bodies from the school to Glogova where a grave had already been dug.<sup>12836</sup> The Trial Chamber also considered the evidence of **Witness RM-260** on the burial operation, which has been placed in the confidential annex in Appendix D.

<sup>12826</sup> P1451 (Zlatan Čelanović, *Popović et al* transcript, 31 January 2007), pp. 6641, 6643, 6651-6652; Zlatan Čelanović, T. 11083-11084, 11105.

<sup>12827</sup> Adjudicated Facts II, no. 1519.

<sup>12828</sup> Adjudicated Facts II, no. 1520.

<sup>12829</sup> Mladen Blagojević, T. 32639; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 4.

<sup>12830</sup> Mladen Blagojević, T. 32642.

<sup>12831</sup> Mladen Blagojević, T. 32654.

<sup>12832</sup> Mladen Blagojević, T. 32654-32655; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 9.

<sup>12833</sup> Mladen Blagojević, T. 32655-32658, 32670-32672; P7187 (Video of US Department of Homeland Security interview of Mladen Blagojević, 15 October 2004), p. 82.

<sup>12834</sup> P7298 (Bosnia-Herzegovina Prosecutor’s Office witness examination record, 28 February 2007), paras 9-10, p. 9.

<sup>12835</sup> P7298 (Bosnia-Herzegovina Prosecutor’s Office witness examination record, 28 February 2007), para. 11.

<sup>12836</sup> Adjudicated Facts II, no. 1521.

2912. **Witness RM-306** testified that on 14 July 1995, in accordance with the order of Colonel Beara, graves were dug out by workers from Bratunac Public Utility Company in Glogova and the burial operation was carried out.<sup>12837</sup> The witness assumed the bodies were from Kravica, however a group of workers collected 10 to 15 bodies in Konjević Polje.<sup>12838</sup> They also collected a military bus full of bodies from the road between Konjević Polje and Bratunac and five to six bodies from Vuk Karadžić Elementary School.<sup>12839</sup> All these bodies were buried in the graves in Glogova.<sup>12840</sup> On that same day, the witness saw these five to six bodies in front of Vuk Karadžić Elementary School and one of the drivers told him about a lot more bodies in the vicinity of the school.<sup>12841</sup>

2913. **Witness RM-346** testified that on 13 July 1995, approximately an hour before night fell, he and the other prisoners were ordered to get onto buses which drove to Bratunac and the detainees had to spend the night on the buses.<sup>12842</sup> During the night he heard shooting and four or five men were taken out of the bus and did not return.<sup>12843</sup> On the morning of 14 July 1995, the driver started the engine and turned on the heating and then left the bus.<sup>12844</sup> The detainees were not given any water and during the afternoon some people fainted because of the heat.<sup>12845</sup> Later, the buses drove northwards, through Zvornik, towards the area of Pilica.<sup>12846</sup>

2914. **Witness RM-265** stated on 13 July 1995, Muslim men started to gather at the intersection; they were then directed by soldiers to a gas station building on the right-hand side of the road.<sup>12847</sup> Once that building was full, the remaining Muslims, about 30 men, were taken to another building nearby.<sup>12848</sup> To the witness' knowledge, both

<sup>12837</sup> Witness RM-306, T. 11440-11441, 11464-11465.

<sup>12838</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9372, 9388-9389; Witness RM-306, T. 11435-11436, 11442; P1479 (Photo marked by Witness RM-306).

<sup>12839</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9372, 9388-9389; Witness RM-306, T. 11468-11469.

<sup>12840</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9372, 9388-9389; Witness RM-306, T. 11440.

<sup>12841</sup> P1474 (Witness RM-306, *Popović et al.* transcript, 23, 26-27 March 2007), pp. 9372, 9389-9391; Witness RM-306, T. 11468-11469; P1475 (Photograph: Aerial annotated with various key locations); P1476 (Aerial of Bratunac town, marked by Witness RM-306).

<sup>12842</sup> P1118 (Witness RM-346, prior testimony), pp. 3025-3028; Witness RM-346, T. 9568, 9594, 9604.

<sup>12843</sup> P1118 (Witness RM-346, prior testimony), p. 3029; Witness RM-346, T. 9605.

<sup>12844</sup> P1118 (Witness RM-346, prior testimony), pp. 3029-3030.

<sup>12845</sup> P1118 (Witness RM-346, prior testimony), p. 3030.

<sup>12846</sup> P1118 (Witness RM-346, prior testimony), pp. 3030, 3032; Witness RM-346, T. 9568.

<sup>12847</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3824-3825.

<sup>12848</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3824-3825.

groups were transferred to Bratunac.<sup>12849</sup> The witness later heard that the men were detained in Vuk Karadžić Elementary School, the civil technical engineering school and a hangar located between both schools.<sup>12850</sup> Upon orders of Nikolić, the military police was assigned to assist another unit in guarding these detainees in Bratunac.<sup>12851</sup>

2915. The Trial Chamber received forensic evidence regarding primary graves in Glogova and connected secondary graves in Zeleni Jadar, Blječeva, Zalazje and Budak, which it reviewed in chapter 7.4, and found that Hamed Efendić's remains were identified by DNA in the Zeleni Jadar 5 secondary grave.<sup>12852</sup> It considered that the persons found in the graves at Glogova were killed in various incidents, and some of them were reburied in secondary graves. The Trial Chamber observes that in relation to the killings at Vuk Karadžić Elementary School, it has only identified Hamed Efendić from the aforementioned graves. For these reasons, the Trial Chamber was unable to rely on this forensic evidence to determine the number of victims of this scheduled incident.

2916. The Trial Chamber received evidence from Bojan Subotić, who testified that on the evening of 13 July 1995, he only saw military police at a checkpoint at the entrance of Bratunac and in the town, but not near Vuk Karadžić Elementary School. This seems to contrast Adjudicated Fact 1506 that Vuk Karadžić Elementary School and the various buildings surrounding it were secured by, amongst others, members of the Bratunac Brigade Military Police Platoon. The witness testified that he arrived in Bratunac on 13 July at around 9:15 or 9:30 p.m. and left shortly after. He further testified that he did not enter the school or its yard and that he did not know who was inside, securing the school. Considering the limited time the witness spent in Bratunac and in light of the fact that he did not approach or enter the school that day, also the fact that the witness did not see military police does not necessarily mean that they were not present there, the Trial Chamber finds that his evidence does not contradict Adjudicated Fact 1506 regarding the presence of military police on 13 July 1995 in and around Vuk Karadžić Elementary School.

<sup>12849</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3824-3825.

<sup>12850</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3833.

<sup>12851</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3834-3836.

<sup>12852</sup> P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc), p.268.

2917. Based on the foregoing, the Trial Chamber finds that from 12 to 14 July 1995, members of the VRS Bratunac Brigade Military Police Platoon, members of the special police, members of the Bosnian-Serb MUP civilian police, members of the Drina Wolves and paramilitary formations held several thousand Bosnian-Muslim civilians and soldiers in and around Vuk Karadžić Elementary School, and on buses parked outside the school. Members of the aforementioned groups killed more than 50 Bosnian-Muslim men<sup>12853</sup> inside and outside the school in the surrounding area. The first of these killings started on the night of 12 and 13 July. The Chamber will further consider the above incidents in relation to Counts 2 to 6 in chapter 8, below.

*7.14.2 In front of the Vuk Karadžić elementary school (Schedule E.15.3)*

2918. According to the Indictment, the Accused is responsible for executing a ‘mentally retarded’ Bosnian-Muslim man taken off a bus parked in front of the Vuk Karadžić elementary school in Bratunac in the evening of 13 July 1995.<sup>12854</sup> The Defence argued that the evidence of Mevludin Orić is insufficient to establish beyond a reasonable doubt the identity of the perpetrator(s) or whether the individual was shot resisting arrest or in self-defence.<sup>12855</sup> The Trial Chamber received evidence from **Mevludin Orić**, a Bosnian Muslim from Lehovići in Srebrenica Municipality,<sup>12856</sup> with regard to this incident. The Trial Chamber also considered the following Adjudicated Facts set out in chapter 7.14.1: 1502-1503, 1505-1506, and 1517-1519.

2919. **Mevludin Orić** stated that in the night of 13 July 1995, one man, who the witness heard was mentally unstable, fell asleep in a bus parked in front of the Vuk Karadžić school despite an instruction from the military policemen that they were not to sleep that night.<sup>12857</sup> The man was hit on the shoulder by a military policeman and the witness heard from other detainees that the man had hit the policeman back.<sup>12858</sup> Two other military policemen then entered the bus, took the man off it, and dragged him

<sup>12853</sup> The Trial Chamber observes that Momir Nikolić gave testimony which suggests that the number of victims was significantly greater than 50 persons. Considering that Nikolić’s evidence on this point is hearsay evidence, while the source he relied on did not corroborate this information, the Trial Chamber has not relied on Nikolić’s testimony to determine the number of victims of this scheduled incident.

<sup>12854</sup> Indictment, paras 11-12, 46(a), 59(a)(iv), 65(b), Schedule E.15.3.

<sup>12855</sup> Defence Final Trial Brief, para. 3265.

<sup>12856</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869. The evidence of Mevludin Orić is also reviewed in chapter 7.14.1.

<sup>12857</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 908-909, 911-912.

<sup>12858</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 911-912.

towards the school.<sup>12859</sup> The witness heard a single burst of fire and the man screaming but did not see who fired the shot.<sup>12860</sup> He then heard someone say ‘drag him into the school’.<sup>12861</sup>

2920. Based on the foregoing, the Trial Chamber finds that in the night of 13 July 1995, VRS military policemen forced a Bosnian-Muslim man off a bus parked in front of the Vuk Karadžić elementary school in Bratunac Town and dragged him towards the school. Orić did not see the killing but heard fire and the man screaming, and then someone saying ‘drag him into the school’. With regard to the Defence’s submission that the evidence is insufficient to establish the identity of the perpetrator beyond reasonable doubt, the Trial Chamber notes that there is no requirement that perpetrators are identified in order to come to a positive finding; it is sufficient that the affiliation of the perpetrators is known to the Trial Chamber. It further finds that the evidence does not support the Defence’s assertion that that the Bosnian-Muslim man might have been shot while resisting arrest or that the perpetrators were acting in self-defence. Shooting the man, and thereby killing him, was not a proportional and justified response to him allegedly resisting arrest. Moreover, considering the circumstances, namely that an unarmed mentally unstable man had allegedly hit a military policeman in response to being hit by that policeman himself and was consequently dragged off a bus and taken away by at least two military policemen, the Trial Chamber also finds that the perpetrators who shot the man did not do so in self-defence.

2921. Based on this, the Trial Chamber is convinced that the man was killed by the military policemen who forced him off the bus. The Trial Chamber will further consider this incident in relation to Counts 2-6 of the Indictment in chapter 8, below.

<sup>12859</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 911-913.

<sup>12860</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 911-914.

<sup>12861</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 911-913.

### 7.15 Other incidents of killings

2922. In addition to the Scheduled Incidents discussed above, the Indictment further alleges that the Accused is responsible for other killings of Bosnian-Muslim men and boys in Srebrenica.<sup>12862</sup>

#### *Killings on 13 and 14 July 1995 outside the Kravica supermarket*

2923. The Prosecution argued that on 13 July 1995, at least four or five trucks escorted by members of the 65th Motorized Protection Regiment Military Police Battalion drove from Nova Kasaba to Kravica and stopped near the supermarket where during the night 'Srebrenica Forces' took five detainees off one of the trucks after which shots were heard and later about ten detainees were beaten and shot near the same truck.<sup>12863</sup>

2924. The Trial Chamber recalls its finding in chapter 7.1.6 where it found that during the night of 13 July 1995 and in the morning of 14 July 1995, VRS soldiers, among them a man called Radovan Grujicić from Orahovica in Srebrenica Municipality, shot and killed at least 15 Bosnian-Muslim detainees who were being held in trucks escorted by the Military Police Battalion of the 65th Motorized Protection Regiment outside the supermarket in Kravica. The soldiers selected some men from among the detainees after asking whether they were from certain villages and threatened, beat, and shot them dead. Before Witness RM-253 boarded the trucks he had heard a Serb soldier tell another detainee that he would not get his bag back because he would not need it anymore. The Trial Chamber will further consider this incident in relation to Counts 2-6 of the Indictment in chapter 8, below.

#### *Killings on or about 18 July 1995*

2925. The Prosecution argued that on or about 19 July 1995, VRS soldiers from the 16th Krajina Motorized Brigade killed at least four Bosnian Muslims whom they had captured at Tisova Kosa.<sup>12864</sup>

<sup>12862</sup> Indictment paras 20-22, 46(a), 47-48, 57, 59(a), 60, 65.

<sup>12863</sup> Prosecution Final Brief, paras 1262, 1424-1425.

<sup>12864</sup> Prosecution Final Brief, paras 1546-1551.

2926. The Trial Chamber recalls its finding in chapter 7.1.6 where it found that on or about 18 July 1995, VRS soldiers shot and killed four Bosnian Muslims, including a 15-year-old boy, whom they had captured at Tisova Kosa. They beat the Bosnian Muslims and referred to one as ‘Alinovac’ (member of Alija’s army) and ‘Baliija’. They forced the Bosnian Muslims to lie down, and ‘Stari’, the commander of the group, ordered his soldiers to shoot them in the back one at a time. While the commander was interrogating Witness RM-358, one of the soldiers came to him and asked the commander if he could use his bayonet to kill one of the captives. The commander answered that he could choose anyone after which the soldier chose the witness. The soldier who had wanted to use the bayonet was not pleased when the commander ordered his men not to kill the witness because as a soldier he could be used for exchange purposes. The Trial Chamber will further consider this incident in relation to Counts 2-6 of the Indictment in chapter 8, below.

*Killings on or about 23 July 1995 of detainees held at the Standard Barracks at the Zvornik Brigade*

2927. The Prosecution argued that on or around 23 July 1995 ten wounded Muslim patients were taken from the Zvornik Barracks and executed by the Zvornik Brigade Military Police.<sup>12865</sup> The Defence submitted that Witness RM-322, who testified about the alleged killings, never witnessed this incident and that his testimony is unreliable.<sup>12866</sup> With regard to this incident, the Trial Chamber received evidence from **Jugoslav Gavrić**, Director of the Zvornik Hospital in July 1995;<sup>12867</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>12868</sup> and **Nebojša Jeremić**, member of the military police in the Zvornik Brigade from April 1993 until the end of July 1995,<sup>12869</sup> as well as documentary evidence. Parts of the documentary evidence are reviewed in chapter 7.11.<sup>12870</sup>

<sup>12865</sup> Prosecution Final Brief, paras 1376-1378.

<sup>12866</sup> Defence Final Brief, paras 3217-3220.

<sup>12867</sup> P3338 (Jugoslav Gavrić, witness statement, 20 March 2007), p. 1; P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 1.

<sup>12868</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

<sup>12869</sup> Nebojša Jeremić, T. 34273, 34299.

<sup>12870</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11695-11696, 11698, 11701, 11703-11704, 11742, 11760; P1501 (Zvornik Brigade Duty Officer Log Book, Teacher’s edition, 11-23 July 1995), p. 143.

2928. According to patient files and a patient log book, eleven males were admitted into the Sveti Nikola Hospital in Milići on 13 July 1995 and were treated there between 13 and 14 July 1995 for various injuries.<sup>12871</sup> On 20 July 1995, the Director of the Milići Hospital reported that following an order by the Chief of the VRS Medical Corps, the Head of the Municipality, and the Chief of the Milići SJB, injured persons were to be transferred to Zvornik Hospital and that Dr. Gavrić had taken charge of them.<sup>12872</sup> **Jugoslav Gavrić** stated that General Rokvić, Chief Medical Officer of the VRS, ordered him to go to Milići and transfer all 10 to 15 wounded Muslim men to Zvornik Hospital for surgical treatment.<sup>12873</sup> Some of them were heavily wounded.<sup>12874</sup> The witness, a nurse, a policeman, and the driver of the transport vehicle belonging to the 'Drina Transport Cie' arrived in Milići around noon and loaded the patients into the vehicle.<sup>12875</sup> The witness stated that he probably signed for the patients list in Milići.<sup>12876</sup> Towards the evening they arrived at Zvornik Hospital and the witness handed the patients over to Dr. Zoran Lazarević.<sup>12877</sup> According to Milići hospital patient files, all patients were discharged on 14 July 1995 and transferred to Zvornik Hospital for further treatment on the orders of the VRS Chief of the Medical Corps.<sup>12878</sup> **Gavrić** stated that because some civilians and some patients protested firmly against admitting Muslims to the hospital, the witness asked for security and the hospital ensured that the wounded Muslims were kept separate from the other wounded at the Zvornik hospital.<sup>12879</sup> The following day, the witness heard that all of the wounded had survived the night and had

<sup>12871</sup> P2137 (Extract from a hospital patient logbook, 13 July 1995); P2138 (Patient files from the Sveti Nikola Hospital in Milići, 13-14 July 1995), pp. 1-2, 4-5, 7-10, 12-13, 15-18, 20-22, 24-25, 27-29, 31-38, 40-42.

<sup>12872</sup> P1512 (Letter from the Director of the Milići hospital, 20 July 1995). See also Witness RM-322, T. 11919-11922; P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7.

<sup>12873</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 2; P3340 (Jugoslav Gavrić, *Popović et al.* transcript, 21 March 2007), p. 9114; P3341 (Jugoslav Gavrić, *Tolimir* transcript, 2 December 2010), p. 8400.

<sup>12874</sup> P3338 (Jugoslav Gavrić, witness statement, 20 March 2007), p. 2; P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 2.

<sup>12875</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 2; P3340 (Jugoslav Gavrić, *Popović et al.* transcript, 21 March 2007) p. 9115.

<sup>12876</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 3.

<sup>12877</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 2; P3340 (Jugoslav Gavrić, *Popović et al.* transcript, 21 March 2007), p. 9115.

<sup>12878</sup> P2138 (Patient files from the Sveti Nikola Hospital in Milići, 13-14 July 1995), pp. 3, 7, 11, 15, 19, 23, 27, 31, 35, 39, 43.

<sup>12879</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 3; P3340 (Jugoslav Gavrić, *Popović et al.* transcript, 21 March 2007), pp. 9118-9119.



been evacuated to Tuzla in order to be exchanged.<sup>12880</sup> Although it was standard practice in the Zvornik Hospital that patients who were brought in overnight as an emergency case were registered by the emergency service, the witness confirmed that the 10 or 15 Muslim men were not recorded in the Zvornik Hospital medical logbook.<sup>12881</sup> According to the Zvornik Brigade Duty Officer logbook, one patient died on 16 July at Zvornik Hospital.<sup>12882</sup> A report dated 24 July 1995 sent from the director of the Milići Hospital to the DK Command, stated that 18 wounded 'enemy' soldiers had undergone surgery and been transferred to Zvornik Hospital on the orders of the Main Staff.<sup>12883</sup>

2929. **Witness RM-322** testified that sometime after 20 July 1995, Pandurević ordered Obrenović to go to the clinic at the Standard Barracks, where up to ten wounded detainees, who had arrived at the clinic upon written instructions from a colonel in the Medical Corps, were being treated.<sup>12884</sup> Because of the concerns related to Bosnian-Serb soldiers receiving medical treatment in the next room, Obrenović was to brief the clinic staff and ensure that there were no security problems in relation to the 'enemy wounded'.<sup>12885</sup> Obrenović told the staff not to let anyone in the room and that the detainees were to be individually transported to Batković camp once they had recovered.<sup>12886</sup> Pandurević referred repeatedly to these detainees at briefings and told the DK that they had to be taken away.<sup>12887</sup> In a 22 July 1995 combat report of the 1st Zvornik Infantry Brigade addressed to the DK Command Pandurević requested instructions as to what to do with the detainees, where to put them, and to whom they should be handed.<sup>12888</sup> On or around 23 July 1995 at about 8 a.m., Pandurević called the DK to resolve the issue of the detainees.<sup>12889</sup> Later, they received word that Colonel Popović would come to deal with the detainees.<sup>12890</sup> The witness knew at this time that

<sup>12880</sup> P3339 (ICTY Information Report regarding an Interview with Jugoslav Gavrić, 30 January 2003), p. 3; P3340 (Jugoslav Gavrić, *Popović et al.* transcript, 21 March 2007), p. 9116.

<sup>12881</sup> P3341 (Jugoslav Gavrić, *Tolimir* transcript, 2 December 2010), pp. 8411-8412; P3342 (Zvornik Hospital Medical Logbook July 1995).

<sup>12882</sup> P1501 (Zvornik Brigade Duty Officer logbook, 11-17 July 1995), p. 77. This patient was among the eleven patients admitted to Milići Hospital on 13 July 1995 and transferred to Zvornik Hospital on 14 July 1995.

<sup>12883</sup> P2136 (Milići War Hospital Report, 24 July 1995).

<sup>12884</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11906, 11910, 11913-11914.

<sup>12885</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11908, 11914.

<sup>12886</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11907-11909.

<sup>12887</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8.

<sup>12888</sup> P2130 (Combat Report of the 1st Zvornik Infantry Brigade to the DK Command, signed by Vinko Pandurević, 22 July 1995).

<sup>12889</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8.

<sup>12890</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8; Witness RM-322, T. 11910.

the detainees would probably not be taken to Bijeljina as previously stated.<sup>12891</sup> The witness learned, that military policemen from the Zvornik Brigade or DK took the detainees away from the clinic early one morning and shot them dead.<sup>12892</sup> When asked about the detainees on the day they disappeared, Pandurević said that Popović, acting as courier, had passed an order from Mladić to Drago Nikolić to execute these detainees.<sup>12893</sup>

2930. **Nebojša Jeremić** testified that he saw wounded Muslim detainees in the infirmary of the Standard Barracks at Zvornik Hospital and that he later saw VRS soldiers putting them on two trucks outside of the barracks and drive them away.<sup>12894</sup> The witness testified that he was unofficially told that the Muslim detainees were taken to Batković.<sup>12895</sup>

2931. According to a combat report of the 1st Zvornik Infantry Brigade addressed to the DK Command, on 22 July 1995, two companies from the 1st Zvornik Infantry Brigade and one from the MUP, ‘combed’ the terrain along the Planinci-Perunika-Brezik village line.<sup>12896</sup> During this combat activity, 10 enemy soldiers were liquidated and 23 Muslim soldiers were captured.<sup>12897</sup>

2932. The Trial Chamber also received in evidence transcripts of a number of intercepts that are relevant to this incident. On 23 July 1995 at 8 a.m., Vinko Pandurević told an unidentified person that they were still catching ‘Turks’, that he had wounded detainees and that he did not know what to do with them or where to send them.<sup>12898</sup> Pandurević asked if the person knew if there was any talk about an exchange for ‘these’ from Lisača and to whom he should transport ‘these’.<sup>12899</sup> The person replied that

<sup>12891</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8.

<sup>12892</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8; Witness RM-322, T. 11906-11907.

<sup>12893</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8; Witness RM-322, T. 11906-11907, 11910.

<sup>12894</sup> Nebojša Jeremić, T. 34335-34338.

<sup>12895</sup> Nebojša Jeremić, T. 34336-34337.

<sup>12896</sup> P2130 (Combat Report of the 1st Zvornik Infantry Brigade to the DK Command, signed by Vinko Pandurević, 22 July 1995).

<sup>12897</sup> P2130 (Combat Report of the 1st Zvornik Infantry Brigade to the DK Command, signed by Vinko Pandurević, 22 July 1995).

<sup>12898</sup> P2139 (Intercept of Pandurević and a person at 8 a.m.), p. 1; P4213 (Intercept of Pandurević and a person, 23 July 1995 at 8 a.m.), p. 1; P4214 (Intercept of Pandurević and a person, 23 July 1995 at 8:05 a.m.).

<sup>12899</sup> P2139 (Intercept of Pandurević and a person at 8 a.m.), p. 1; P4213 (Intercept of Pandurević and a person, 23 July 1995 at 8 a.m.), p. 1; P4214 (Intercept of Pandurević and a person, 23 July 1995 at 8:05 a.m.).

Begović had said he did not have ‘something’.<sup>12900</sup> Pandurević inquired about ‘Matković’ and confirmed there were some of ‘them’ in the camp.<sup>12901</sup> Pandurević referred to a memo that had arrived and stated that the wounded were to be sent to Zvornik Hospital, but stated that there was a problem with that and that a solution had to be found that day.<sup>12902</sup> At 8:05 a.m., the unidentified person who had called earlier asked for Vinko again, but Ljubo answered.<sup>12903</sup> The person told Ljubo to tell Vinko that ‘something’ that Vinko and that person had earlier discussed, was to arrive at Vinko’s place by 5 p.m.<sup>12904</sup> The ‘boss’, Lieutenant Colonel Popović was to arrive and would tell what had to be done with regard to ‘the work’ they had talked about.<sup>12905</sup>

2933. According to the 2009 Progress Report on the DNA-based Identification by ICMP the eleven former Milići Hospital patients have been missing since July 1995.<sup>12906</sup>

2934. In relation to the Defence’s submission regarding Witness RM-322, the Trial Chamber has considered the evidence of this witness relating to the incident and finds that his account of the sequence of events is generally credible and reliable, except for his unsourced hearsay evidence related to the killing of the detainees from the Standard Barracks on which the Trial Chamber will not rely.

2935. Based on the foregoing, the Trial Chamber finds that on or about 23 July 1995, ten injured Bosnian-Muslim male detainees were taken away in trucks by VRS soldiers from the Standard Barracks of the Zvornik Brigade and disappeared.<sup>12907</sup> The Trial Chamber received differing evidence as to their destination and fate: while Gavrić stated that he heard that the men were sent to Tuzla to be exchanged, Jeremić stated that they were sent to Batković. Given that both witnesses provided unsourced hearsay evidence,

<sup>12900</sup> P2139 (Intercept of Pandurević and a person at 8 a.m.), p. 1; P4213 (Intercept of Pandurević and a person, 23 July 1995 at 8 a.m.), p. 1; P4214 (Intercept of Pandurević and a person, 23 July 1995 at 8:05 a.m.).

<sup>12901</sup> P2139 (Intercept of Pandurević and a person at 8 a.m.), p. 1; P4213 (Intercept of Pandurević and a person, 23 July 1995 at 8 a.m.), p. 1; P4214 (Intercept of Pandurević and a person, 23 July 1995 at 8:05 a.m.).

<sup>12902</sup> P2139 (Intercept of Pandurević and a person at 8 a.m.), p. 1; P4213 (Intercept of Pandurević and a person, 23 July 1995 at 8 a.m.), p. 1; P4214 (Intercept of Pandurević and a person, 23 July 1995 at 8:05 a.m.).

<sup>12903</sup> P2140 (Intercept of Ljubo and a person, at 8:05a.m.).

<sup>12904</sup> P2140 (Intercept of Ljubo and a person, at 8:05a.m.).

<sup>12905</sup> P2140 (Intercept of Ljubo and a person, at 8:05a.m.).

<sup>12906</sup> P1901 (Srebrenica missing, The 2009 Progress Report on the DNA-based Identification by ICMP, 9 April 2009), pp. 29, 33, 66, 68, 92, 113, 115, 177, 182, 202.

the Trial Chamber will not rely on Gavrić's or Jeremić's evidence on this matter. The Trial Chamber finds, based on the reliable evidence of Witness RM-322 related to the detention of the ten Bosnian Muslims at the Standard Barracks and their subsequent disappearance, as well as exhibits P1901 and P2139, that on or about 23 July 1995 VRS soldiers of the Zvornik Brigade killed the ten detained men while they were in the Zvornik Brigade's custody. The Trial Chamber will further consider this incident in relation to Counts 2-6 of the Indictment in chapter 8, below.

<sup>12907</sup> The Trial Chamber received differing evidence on the number of disappeared Bosnian-Muslim patients. However, based on the most conservative calculation as well as P2137, P2138, P1901, and P1501 the Trial Chamber considers that the minimum number was ten.

### 7.16 Incidents of ill-treatment

2936. According to the Indictment, the Accused is responsible for the terror and abuse of Bosnian Muslims of Srebrenica in Potočari and the beating of men and boys of Srebrenica prior to their execution, between 11 July 1995 and 1 November 1995.<sup>12908</sup> In addition, in the same period, the Accused is allegedly responsible for causing serious bodily or mental harm to thousands of female and male Bosnian Muslims of Srebrenica, including but not limited to separating men and boys from their families and forcibly removing the women, young children, and some elderly men from the enclave.<sup>12909</sup> The Defence submitted that the population in Potočari was evacuated for humanitarian purposes and that no mistreatment took place during this evacuation.<sup>12910</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to these incidents.<sup>12911</sup> It further received evidence from **Šehra Ibišević, Witness RM-255, Witness RM-362, Witness RM-249, Witness RM-254, and Witness RM-204**, all Bosnian Muslims from Srebrenica Municipality;<sup>12912</sup> **Witness RM-274**, a member of the ABiH in July 1995;<sup>12913</sup> **Witness RM-253, and Witness RM-346**, both Bosnian Muslims from Srebrenica Municipality who served in the ABiH;<sup>12914</sup> **Slavko Perić**, the Assistant Commander for the Intelligence and Security Section of the 1st Battalion of

<sup>12908</sup> Indictment, paras 19, 21-22, 50-52, 57-58, 59(e). The Trial Chamber understands ‘Bosnian Muslims of Srebrenica’ and ‘men and boys of Srebrenica’ to refer to residents of the Srebrenica enclave. Moreover, it considers beatings of men and boys of Srebrenica ‘prior to their execution’ to include beatings of men and boys who survived mass executions.

<sup>12909</sup> Indictment, para. 46(b).

<sup>12910</sup> Defence Final Brief, paras 2912-2931, 3243-3244, 3256.

<sup>12911</sup> Adjudicated Facts 1558-1559 are reviewed in chapter 7.6. Adjudicated Facts 1570-1571 are reviewed in chapter 7.7. Adjudicated Facts 1579-1581 are reviewed in chapter 7.8.1. Adjudicated Facts 1597-1598 and 1600-1601 are reviewed in chapter 7.10. Adjudicated Facts 1503, 1505, 1507-1509, 1511-1515, and 1518 are reviewed in chapter 7.14.1. Adjudicated Facts 1484-1485 are reviewed in chapter 8.2.2.

<sup>12912</sup> **Šehra Ibišević**: P1021 (Šehra Ibišević, witness statement, 21 June 2000), pp. 1-2; P1022 (Šehra Ibišević, statement taken by the Cantonal Court in Sarajevo, 21 June 2000), p. 2. **Witness RM-255**: P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2. **Witness RM-362**: P3525 (Witness RM-362, *Popović et al.* transcript, 1 November 2007), pp. 17301-17302. **Witness RM-249**: P1990 (Witness RM-249, witness statement, 24 January 1996), pp. 1-2; Witness RM-249, T. 15410-15411. **Witness RM-254**: P1690 (Witness RM-254, witness statement, 18 August 1996), p. 1, para. 1. **Witness RM-204**: P3357 (Witness RM-204, witness statement, 13 August 1995), p. 2; P3358 (Witness RM-204, witness statement, 19 August 1996), p. 1. Šehra Ibišević’s evidence is also reviewed in chapter 7.1.5. Witness RM-255’s evidence is reviewed in chapters 7.10 and 7.14.1. Witness RM-362’s evidence is reviewed in chapter 7.7. Witness RM-249’s evidence is reviewed in chapters 7.1.4 and 7.6. Witness RM-254’s evidence is reviewed in chapter 7.4. Witness RM-204’s evidence is reviewed in chapter 7.8.1.

<sup>12913</sup> P3098 (Witness RM-274, *Popović et al.* transcript, 6 February 2007), p. 69.

<sup>12914</sup> P1547 (Witness RM-253, witness statement, 16 August 1995), p. 1, para. 1; Witness RM-253, T. 12485; P1546 (Witness RM-253, pseudonym sheet). P1118 (Witness RM-346, prior testimony), p. 3016; P1117 (Witness RM-346, pseudonym sheet); Witness RM-346, T. 9576. Witness RM-253’s evidence is reviewed in chapter 7.8.1. Witness RM-346’s evidence is reviewed in chapter 7.10.

the Zvornik Brigade;<sup>12915</sup> **Mevludin Orić**, a Bosnian Muslim from Srebrenica Municipality;<sup>12916</sup> **Jevto Bogdanović**, a Bosnian-Serb member of a work platoon of the Zvornik Brigade;<sup>12917</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>12918</sup> **Mile Petrović**, a member of Bratunac Brigade military police platoon in July 1995;<sup>12919</sup> **Witness RM-314**, a Bosnian-Muslim TO member who worked in Srebrenica during the war;<sup>12920</sup> **Marko Milošević**, Deputy Commander of the 6th Battalion of the Zvornik Brigade from the beginning of April 1995;<sup>12921</sup> and **Witness RM-280**, a Serb from Croatia.<sup>12922</sup>

*Terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari*

2937. With regard to the alleged terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari, the Trial Chamber recalls its finding in chapter 7.1.3 that on 11 July 1995, Bosnian Muslims from Srebrenica fled to Potočari seeking protection within the UNPROFOR compound. On 11 and 12 July 1995, the VRS shelled an area within the vicinity of the UNPROFOR compound, the area of the bus station, and an area near the roads in Potočari, wounding some of the Bosnian Muslims. In the early morning of 12 July 1995, VRS soldiers threw hand grenades into civilian houses in Potočari forcing the inhabitants to flee from their houses to the UNPROFOR compound. ‘Chetniks’ used dogs to move people around the compound, confiscating weapons and clothing from UNPROFOR soldiers, and taking men, boys, and girls away. Some people were raped. Screams, gunshots and other noises, including from women and children, were audible throughout the night between 12 and 13 July 1995 and no one could sleep. As a

<sup>12915</sup> P3508 (Slavko Perić, *Popović et al.* transcript, 11 May 2007), pp. 11367, 11369, 11371. Slavko Perić’s evidence is reviewed in chapter 7.10.

<sup>12916</sup> P1757 (Mevludin Orić, *Popović et al.* transcript, 28-29 August 2006), pp. 861, 869. Mevludin Orić’s evidence is reviewed in chapters 7.7 and 7.14.1.

<sup>12917</sup> P2940 (Jevto Bogdanović, *Popović et al.* transcript, 10 May 2007), pp. 11313-11314. Jevto Bogdanović’s evidence is reviewed in chapter 7.10.

<sup>12918</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297). Witness RM-297’s evidence is reviewed in chapter 7.7.

<sup>12919</sup> D894 (Mile Petrović, witness statement, 6 June 2014), para. 1. Mile Petrović’s evidence is reviewed in chapter 7.2.

<sup>12920</sup> P1435 (Witness RM-314, witness statement, 16 August 1995), pp. 1-2; P1436 (Witness RM-314, witness statement, 8 June 1999), p. 1; P1437 (Witness statement, 14 June 1999), p. 1; Witness RM-314, T. 10849-10850, 10869-10872, 10896, 10912; P1434 (Pseudonym sheet of Witness RM-314). Witness RM-314’s evidence is reviewed in chapter 7.2.

<sup>12921</sup> P3504 (Marko Milošević, *Popović et al.* transcript, 26 June 2007), p. 13299. Marko Milošević’s evidence is reviewed in chapter 7.8.1.

consequence of the threatening atmosphere, several Bosnian Muslims committed suicide, or attempted to do so.

2938. The Trial Chamber further recalls its findings from the same chapter that on 11 and 12 July 1995, various VRS units, including a unit of the Bratunac Brigade Military Police, and police units, members of the 1st Company of the Jahorina Detachment of the Special Police Brigade and a company from the Zvornik PJP were present in Potočari. On 12 July 1995, the combat unit of the MUP Special Police Brigade, composed of the 2nd Special Police Detachment, a MUP company of the Zvornik Special Police Unit, and a mixed company of the Janja MUP, was present in Potočari and sealed off the compound. The Trial Chamber therefore finds that members of these units created the threatening atmosphere at the compound.

2939. The Trial Chamber recalls its findings in chapter 7.1.5 that from 12 to 14 July 1995, the VRS, and more particularly the DK, including members of the Bratunac Brigade Military Police, and members of the MUP Special Police Brigade, including the Jahorina Detachment, transferred Bosnian Muslims in Potočari outside the enclave of Srebrenica. In particular, it recalls its finding that soldiers forced those who did not want to leave onto buses and, along with one member of the Jahorina Detachment of the Special Police Brigade, hit and abused the Bosnian Muslims and called them names as they boarded the buses. The Bosnian Muslims were restless, partly due to the separation of the mothers from their children. Many people became ill and the babies of ill mothers were abandoned. Moreover, on 12 July 1992, as the Bosnian Muslims began boarding the buses, Bosnian-Serb soldiers systematically separated out men of military age who were trying to get onboard. Assistant Commander for Security and Intelligence, Captain Momir Nikolić, and elements of the Bratunac Brigade, including members of the brigade's military police, participated in these separations. Members of the Bratunac Brigade Military Police also provided security for the other units engaged in the separations. The separations were frequently aggressive and caused fear among the families. Some of the males were beaten, stoned, insulted, spat on, and sometimes stabbed. The separated men were taken to the White House by members of the MUP Special Police units. Identification papers and personal belongings, including money, were taken away from the separated men detained at the White House; their papers and

<sup>12922</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 1-2, 6; Witness RM-280, T. 18687; P2576 (Pseudonym sheet for Witness RM-280). Witness RM-280's evidence is reviewed in

belongings were piled up and eventually burnt by the VRS. Furthermore, soldiers kicked and hit the men with rifle butts while loading them onto the buses to take them to detention centres in Bratunac. The Trial Chamber further recalls its finding in chapter 7.13.2 that Bosnian-Muslim men were held under unsatisfactory circumstances in the White House which was overcrowded and lacking water and sanitation.

2940. The Trial Chamber will further consider these incidents in relation to Counts 2 and 3 of the Indictment in chapter 8 below.

*Beating of Bosnian-Muslim men and boys of Srebrenica prior to their execution*

2941. With regard to the alleged beatings of Bosnian-Muslim men and boys of Srebrenica prior to their execution, the Trial Chamber recalls its findings in chapters 7.2, 7.5, 7.6, 7.8.1, 7.10, and 7.14.1 on the killings of Bosnian Muslims from Srebrenica.

2942. In relation to these killing incidents and based on the evidence reviewed in the same chapters, the Trial Chamber finds that from 12 to about 16 July 1995, several perpetrators beat Bosnian-Muslim men and boys of Srebrenica prior to their execution.<sup>12923</sup> The beatings on the road to Konjević Polje and near Konjević Polje intersection (Schedule E.1.1) were committed by Momir Nikolić and four members of either the police or the VRS military police;<sup>12924</sup> those at Sandići Meadow (Schedule E.4.1) by a VRS soldier;<sup>12925</sup> and those at Luke School (Schedule E.5.1) by 10 to 15

chapter 7.12.

<sup>12923</sup> These beatings are: On 13 July 1995, the beatings of a man dressed in civilian clothes on the road to Konjević Polje; and of 16 male Bosnian-Muslim detainees, including a 14-year-old boy, near Konjević Polje intersection, as outlined in chapter 7.2 With respect to the latter beating incident, four members of either the police or the VRS military police ordered the detainees to undress themselves, threw them on the floor and kicked them at their heads with their boots. On 13 July 1995, the beatings of a wounded Bosnian-Muslim man, who had attempted to flee, in his face, as outlined in chapter 7.5. On 13 July 1995, the beatings of 22 Bosnian-Muslim men detained at Luke School, who were also harassed and one of whom was beaten until he lost consciousness, as outlined in chapter 7.6. On 14 July 1995, the regular beatings of Bosnian-Muslim men detained at Petkovci School, including a Bosnian-Muslim ABiH soldier from Srebrenica Municipality, as outlined in chapter 7.8.1. From 14 to 16 July 1995, the regular beatings of male Bosnian-Muslim detainees in civilian clothing at Kula School, as outlined in chapter 7.10. From 12 to 14 July 1995, the regular beatings of Bosnian-Muslim civilians and soldiers in and around Vuk Karadžić elementary school, as outlined in chapter 7.14.1. In one instance a soldier wearing camouflage t-shirt kicked and beat a Bosnian-Muslim man with the wooden butt of his automatic rifle, in another instance a military policeman beat a Bosnian-Muslim man with a whip and a rifle, and in a third instance soldiers hit a man's head with an iron bar and his backbone with an axe.

<sup>12924</sup> See chapter 7.2.

<sup>12925</sup> See chapter 7.5.



men of a VRS special intervention platoon commanded by Spomenko Garić.<sup>12926</sup> With regard to Luke School, the Trial Chamber finds that the men of the special intervention platoon said in the presence of the detained Bosnian-Muslim men that the ‘*balijas*’ had been defeated and that they had cut off the head of one ‘*balija*’. With respect to the beatings at the school in Petkovci (Schedule E.7.), Kula School (Schedule E.9.1), and in and around Vuk Karadžić elementary school (Schedule E.15.1), the Trial Chamber finds that the perpetrators were the same as those who subsequently committed the killings at these locations, as further set out in chapters 7.8.1, 7.10, and 7.14.1.

2943. The Trial Chamber also recalls its findings in chapters 7.5 and 7.8.1 on the detainees at Sandići Meadow and at the school in Petkovci being subjected to derogatory remarks.

2944. Further, the Trial Chamber found in chapter 7.1.6 that on 13 July 1995, members of the civilian police beat up several captured Bosnian-Muslim men from the column at Sandići Meadow. During the night of 13 July, and the morning of 14 July, VRS soldiers selected some Bosnian-Muslim men detained in trucks at a supermarket in Kravica after asking whether they were from certain villages and threatened, beat, and shot them dead. On or about 18 July, VRS soldiers beat four captured Bosnian-Muslims, including a 15-year-old boy, and referred to one as ‘*Alinovac*’ (member of Alija’s army) and ‘*Balija*’. In addition, the Trial Chamber found in chapter 7.10 that on 16 July 1995, VRS soldiers from Bratunac beat detainees at Branjevo Military Farm before killing them. The same perpetrators also humiliated the detainees by forcing them to ‘pray in a Muslim manner’ and subjected them to derogatory remarks.

2945. The Trial Chamber will further consider these incidents in relation to Counts 2 and 3 of the Indictment in chapter 8 below.

*Other types of ill-treatment against Bosnian Muslims of Srebrenica*

2946. With regard to other types of alleged ill-treatment of Bosnian Muslims of Srebrenica, the Trial Chamber recalls the evidence reviewed in chapter 7.1.5 and 7.6 and finds that the ill-treatment against Bosnian Muslims of Srebrenica continued throughout their transportation from Potočari. In particular, the Trial Chamber finds that on 13 and 14 July 1995, Bosnian-Serb forces often stopped buses, searched, and

<sup>12926</sup> See chapter 7.6.

removed Bosnian-Muslim men and boys who were found on board.<sup>12927</sup> In one instance, they took two girls out of a bus heading to Tuzla. Both girls were not heard of again.

2947. Concerning the column, the Trial Chamber further recalls its findings in chapter 7.1.6 that on 13 July 1995, the military police cursed, insulted, and threatened some of those who had surrendered and told the captives to carry their wounded. On 12 July, VRS soldiers demanded money from some Bosnian Muslims who had surrendered, and threatened to kill them if they later found money on them. Serbs described as ‘chetniks’ told a group from the column that they should leave any weapons or money or they would be killed, and told them to line up on the asphalt road in five rows of approximately 100 meters, with wounded people lying on the road between those standing. Some of the soldiers pointed their weapons at them and said ‘Balijs put your arms up higher, now we are going to show you’. They were made to run along the road with their hands in the air and with three fingers raised. From 13 to 14 July, some Bosnian Muslim men detained in buses and trucks by a supermarket in Kravica were kept without water. Around 119 men were detained in one truck.

2948. With respect to Kravica Warehouse (Schedule E.3.1), the Trial Chamber finds based on the evidence reviewed in chapter 7.4 that on 13 July 1995, members of the 2nd Šehovići Detachment of the Special Police Brigade put Bosnian-Muslim men in an overcrowded section of Kravica Warehouse so that they almost suffocated. Moreover, the perpetrators of the killings at Kravica Warehouse<sup>12928</sup> and a Serb soldier wearing black uniform shot at least one Bosnian-Muslim man and a 15 or 16-year-old Bosnian-Muslim boy in the legs. One of the perpetrators of the killings at Kravica Warehouse shot and injured a Bosnian-Muslim man, who was trying to escape. Subsequently, this man pretended to be dead for hours while covered in blood and flies.

2949. Moreover, the Trial Chamber recalls its findings in chapter 7.4 that members of the 2nd Šehovići Detachment of the Special Police Brigade insulted and cursed the detainees, warned them that if they tried to escape they would be shot and, after having executed some detainees in front of the warehouse, told others ‘you’ll get the same as soon as it’s your turn, because we still have a full warehouse to kill’. The Trial Chamber in the same chapter found that detainees were forced to sing Serb songs.

<sup>12927</sup> See chapters 7.1.5 and 7.6..

<sup>12928</sup> See chapter 7.4.

2950. As regards Sandići Meadow (Schedule E.4.1), the Trial Chamber recalls its finding in chapter 7.5 that on 13 July 1995, a Serb soldier, wearing a black uniform, shot and killed a Bosnian-Muslim man, and further finds that this soldier then ordered Bosnian-Muslims to carry away and drop the body 20 to 30 metres from where he was killed.

2951. The Trial Chamber also found in chapter 7.5 that while the men were in the meadow after having surrendered, guarded by VRS soldiers, they were forced to lie on their stomach, make the Serb salute, sing Serbian songs; and that one of the soldiers present at the meadow insulted them using derogatory terms.

2952. In respect of Luke School near Tišća (Schedule E.5.1), the Trial Chamber finds based on the evidence reviewed in chapter 7.6 that on 13 July 1995, the perpetrators of the killings at Luke School<sup>12929</sup> also took away personal belongings, including money, and threatened the lives of the Bosnian-Muslim men detained there.

2953. With respect to the School in Orahovac (Schedule E.6.1), the Trial Chamber finds based on the evidence reviewed in chapter 7.7, that on 14 July 1995, members of the Zvornik Brigade, including members of the Zvornik Brigade Military Police and Drago Nikolić, the Chief of Security of the Zvornik Brigade put Bosnian-Muslim men in an overcrowded space in Grbavci School in Orahovac without providing them with sufficient water. The detainees suffered from thirst and heat exhaustion.

2954. Further, the Trial Chamber recalls its findings in chapter 7.7 that many of the detainees at Grbavci School fainted and members of the Zvornik Brigade made derogatory remarks and insults towards them.

2955. Regarding Petkovci School (Schedule E.7.1), the Trial Chamber finds based on the evidence reviewed in chapter 7.8.1 that on 14 July 1995, the perpetrators of the killings at Petkovci School<sup>12930</sup> forced Bosnian-Muslim men to run to Petkovci School while shouting something along the lines of, '[l]ong live Serbia, Srebrenica is Serbian'. At Petkovci School the same perpetrators put them in a crowded and extremely hot room without providing them with water, so that some detainees resorted to drinking their own urine. These perpetrators also threatened to kill detainees if they went near the windows or made noise, and injured some detainees, who tried to open the windows to

<sup>12929</sup> See chapter 7.6.

<sup>12930</sup> See chapter 7.8.1.

get some air, by shooting at them. One of the perpetrators told the detainees to hand their personal belongings, including money, jewellery and documents, and the perpetrators threatened them that if they would not collect more money, they would all be killed. Furthermore, the perpetrators fired a round of bullets at the legs of some detainees, who had been placed in a truck, wounding some of them.

2956. In addition, the Trial Chamber recalls its findings in chapter 7.8.1 that members of the VRS, including members of the military police, called the detainees '*Balijas*'.

2957. Concerning Kula School (Schedule E.9.1), and Branjevo Military Farm (Schedule E.9.2), the Trial Chamber finds based on the evidence reviewed in chapter 7.10 that from 14 to 16 July 1995, VRS soldiers held Bosnian-Muslim men in hot, overcrowded conditions at Kula School without providing them with water, or access to medical treatment, so that they suffered from dehydration and heat exhaustion. On 15 July, VRS soldiers at Kula School also took jewellery, watches and money from the detainees; and threatened to kill all if they did not have any money.

2958. Furthermore, the Trial Chamber recalls its finding in chapter 7.10 that the perpetrators of the killings at Branjevo Military Farm cursed the detainees.

2959. With respect to Trnovo (Schedule E.13.1), the Trial Chamber recalls its finding in chapter 7.12 that sometime between mid-July and mid-August 1995, members of the Skorpions Unit, commanded by Slobodan Medić, killed six detained Muslim men dressed in civilian clothing and further finds that the same perpetrators forced two of them, before being shot, to carry away the dead bodies of the other four. The Trial Chamber also found in the same chapter that a member of the Skorpions Unit said to the victims, 'Fuck you and your Alija who gave you thick socks to wage war in'.

2960. Finally, regarding in and around Vuk Karadžić elementary school (Schedule E.15.1), the Trial Chamber recalls its finding in chapter 7.14.1 that from 12 to 14 July 1995, members of the VRS Bratunac Brigade Military Police Platoon, members of the special police, members of the Bosnian-Serb MUP civilian police, members of the Drina Wolves and paramilitary formations held several thousand Bosnian-Muslim civilians and soldiers in and around Vuk Karadžić elementary school.

2961. Based on evidence in the same chapter, the Trial Chamber further finds that these perpetrators held the detainees in overcrowded conditions without sufficient air, forced them to stay in a sitting position and did not allow them to use the toilets so that they

had to urinate on themselves. When the detainees complained about the conditions, these perpetrators fired over their heads and threatened to kill them if they did not keep silent. Moreover, the same perpetrators continuously selected detainees and ordered them to go outside the hangar, stating that the selected detainees would not need anything anymore.

2962. Trial Chamber further recalls the Adjudicated Facts in chapter 8.2.2.<sup>12931</sup> and finds that some of the victims were severely handicapped.

2963. The Trial Chamber will further consider these incidents in relation to Count 2 of the Indictment in chapter 8 below.

<sup>12931</sup> Adjudicated Facts II, nos 1484-1485.

### 7.17 Forcible transfer and deportation

2964. According to the Indictment, the Accused is responsible for the forcible transfer and deportation of Bosnian Muslims from Srebrenica between the days immediately preceding 11 July 1995 and 1 November 1995.<sup>12932</sup> The Defence argued that the movement of Bosnian-Muslims from Srebrenica was a natural consequence of the ongoing armed conflict and of the instability and violence in the area.<sup>12933</sup> The Defence further argued that: (i) legitimate humanitarian objectives justified the evacuation from Potočari; (ii) the UN requested the evacuation for humanitarian purposes; (iii) the responsibility to protect civilians fell on police organs and UNPROFOR, and (iv) men and women were separated for a legitimate purpose.<sup>12934</sup> The Trial Chamber will address these arguments in chapter 8.

2965. The Trial Chamber took judicial notice of Adjudicated Facts and received evidence in relation to the alleged forcible transfer and deportation of Bosnian Muslims from Srebrenica Municipality between around 11 July 1995 and 1 November 1995. The Trial Chamber reviewed this evidence in various chapters and will recall in the following paragraphs its findings from previous chapters.

2966. In 1991, Srebrenica Municipality was composed of 37,000 people of whom 73 per cent were Muslims and 25 per cent were Serbs.. In February 1993, Bosnian-Muslim residents converged to Srebrenica Town because of the VRS offensive on the municipality, resulting in the population of Srebrenica Town reaching 50,000 to 60,000 people in early 1993.

2967. The VRS imposed difficult living conditions imposed on the population in Srebrenica Town during the siege in 1993 as well as restrictions on the humanitarian aid convoys to the enclave by early 1995.

2968. The VRS attack on the Srebrenica enclave, in which joint forces of the RSK MUP, of the Serbian MUP, and of the MUP also participated, began on 6 July 1995. During the attack on the enclave, the VRS destroyed mosques and religious buildings and shelled Bosnian-Muslim houses. After the fall of the enclave VRS soldiers with German shepherd dogs threw hand grenades into civilian houses in Potočari which forced inhabitants to flee their houses to the UNPROFOR compound.

<sup>12932</sup> Indictment, paras 19, 21-22, 50-52, 55-57, 59(f), 67-70, 72-74.

<sup>12933</sup> Defence Final Brief, para. 137.

2969. During the fall of the enclave the VRS, including members of the 10th Sabotage Detachment, called the inhabitants of the enclave to leave their houses and ordered them to go towards the football stadium in Srebrenica Town or to the UNPROFOR compound in Potočari. About 100 to 200 people, mostly elderly, responded to Pelemiš's call to leave and converged towards the. On 11 July 1995, the VRS fired shells at the UNPROFOR Bravo compound and on the road taken by the Bosnian Muslims fleeing towards Potočari.

2970. By 12 July 1995, 25,000 to 30,000 Bosnian-Muslim civilians from Srebrenica Municipality, mainly women, children, elderly men, and injured, had gathered in Potočari; five per cent of whom were able bodied men. On 11 and 12 July, the VRS shelled and fired at the area of the UNPROFOR compound in Potočari, wounding some of the Bosnian Muslims.

2971. After the fall of the enclave, living conditions in Potočari were poor and deteriorated. On 11 and 12 July 1995, members of the VRS displayed aggressiveness towards Bosnian Muslims, insulting and threatening them.

2972. On 12 July 1995, VRS officers, including Mladić; UNPROFOR members, and 'representatives' of the Bosnian-Muslim population 'agreed' on the evacuation of the Bosnian-Muslim civilians gathered in Potočari to Kladanj Municipality. According to the agreement, this evacuation was to be organised by the VRS and Bosnian-Serb police forces under the supervision and escort of UNPROFOR.

2973. On 12 and 13 July 1995, the VRS, and more particularly the DK, assisted by members of the Bratunac Brigade Military Police and of the MUP Special Police Brigade, including the Jahorina Detachment, transferred about 25,000 Bosnian-Muslim, mostly women, children, and elderly, out of the Srebrenica enclave to the territory under ABiH control in buses and trucks. The DK provided buses, vehicles, and fuel used to transport Bosnian Muslims out of the Potočari DutchBat compound on 12 and 13 July 1995. On 13 July 1995, Colonel Janković ordered members of the military police of the Bratunac Brigade to drive towards Srebrenica Town and inform the Bosnian Muslims they would encounter *en route* that they should go to Potočari and wait there until they would be driven away on the next day.

<sup>12934</sup> Defence Final Brief, paras 142, 2909-2941; T. 44607.

2974. Members of the Bratunac Brigade Military Police coordinated the boarding process of Bosnian Muslims onto the buses and trucks. Members of the Bosnian-Serb MUP Special Police Brigade, pursuant to Borovčanin's order, and members of the Jahorina Detachment, assisted with the boarding process. Command officers and units of the DK monitored the transportation process. On 12 July 1995, members of the 2nd Infantry Battalion, the military police of the 65th Motorised Protection Regiment from Nova Kasaba, a unit which carried out an attack from the area of Pribičevac, the Drina Wolves from the Zvornik Brigade, the 10th Sabotage Detachment as well as police units, including members of the Bratunac SJB, and a company of the PJP were also present in Potočari and assisted with the evacuation of Bosnian Muslims. Initially, the women, children, and elderly were allowed to board the buses themselves, but after a while those who did not want to leave were forced onto the buses. Soldiers, as well as one member of the Jahorina Detachment of the Special Police Brigade, hit and abused the Bosnian Muslims as they boarded the buses and called them names. The Bosnian Muslims were restless, partly due to the separation including those of mothers and children. Many people became ill and the babies of ill-mothers were abandoned. A Serbian camera crew was present at the Potočari compound and filmed the Bosnian Muslims. In the afternoon of 12 July 1995, the first convoy, which included men, left Potočari. The convoy was filmed and the footage was later broadcast by a press service of the DK Command.

2975. The Bosnian-Muslim women, children, and elderly were forced to continue the last leg of their journey from Tišća to Kladanj on foot and reached Bosnian-Muslim controlled territory around 14 July 1995.

2976. On 17 July 1995, Janković asked Mandžić, designated representative of the Bosnian-Muslim population, and Major Franken from DutchBat to sign a declaration stating that the transportation of the Bosnian Muslims out of Potočari had been performed in a proper and humanitarian way in accordance with international law. Franken added a clause stating that the transportation was carried out in accordance with the law only 'as far as convoys actually escorted by UN forces [were] concerned' because DutchBat was not able to confirm that this was the case for any of the other convoys.



*The Trial Chamber's findings*

*Actions of the VRS in Srebrenica Municipality prior to and during the fall of the enclave*

2977. Based on the above, the Trial Chamber finds that at the beginning of 1993, as a result of the VRS operation in Srebrenica Municipality, Bosnian Muslims left their villages and converged on Srebrenica Town, whose population reached 50,000 to 60,000 people. During the siege in 1993, living conditions in Srebrenica Town were difficult. By early 1995, the VRS imposed restrictions on humanitarian aid convoys to the enclave.

2978. The Trial Chamber further finds that during the VRS attack on the enclave, including Srebrenica Town, between 6 and 11 July 1995 as described in chapter 7.1.2, some Bosnian Muslims left the municipality while others, who had remained in their villages, converged on Srebrenica Town. The actions of VRS units operating in and around the enclave included shelling and threats as well as destruction of religious and private property belonging to Bosnian Muslims. In particular, on 11 July 1995 and in execution of Pelemiš's order, members of the 10th Sabotage Detachment who were approaching Srebrenica Town called the inhabitants to leave their houses and ordered them to go towards the football stadium in Srebrenica Town or to the UNPROFOR compound in Potočari. Similarly, when the VRS entered some villages of the municipality, it ordered the villagers to go to the UNPROFOR compound in Potočari. About 100 to 200 people, mostly elderly, responded to Pelemiš's call and converged towards the stadium. Thousands of residents crowded around the UNPROFOR Bravo Company in Srebrenica Town. On the same day, the ABiH told mothers and children who had gathered in town to head for the UNPROFOR compound in Potočari.

2979. On 11 July 1995, the VRS fired shells at the UNPROFOR Bravo compound in Srebrenica Town, wounding several people. Following the shelling of the compound and encouraged by the DutchBat troops, who themselves had been ordered by their command to withdraw from Srebrenica, Bosnian Muslims began to move towards Potočari. The VRS further fired mortars along the road taken by the Bosnian Muslims fleeing towards Potočari.

2980. By 12 July 1995, 25,000 to 30,000 Bosnian-Muslim civilians from the municipality, mainly women, children, elderly men, and injured, had gathered in Potočari in the UNPROFOR compound and its surroundings. On 11 and 12 July, the

VRS, advancing towards Potočari, shelled and fired at the surroundings of the compound, wounding some of the Bosnian Muslims. Screams, gunshots and other noises, including from women and children, were audible throughout the night between 12 and 13 July 1995 and no one could sleep.

2981. Living conditions in Potočari were dire: food and water were scarce and there was a shortage of medical supplies. People were afraid to go outside and used the factory hall both as a toilet and sleeping area. People were exhausted, lethargic, and frightened. Bosnian Muslims were intimidated by the presence of members of the Bratunac Brigade. Soldiers used dogs to move people around the compound, confiscated weapons and clothing from UNPROFOR soldiers, and took men, boys, and girls away. On 12 July 1995, the DutchBat created a buffer zone outside the compound to prevent contact between the Bosnian Muslims and the VRS as the soldiers approached the population aggressively. The DutchBat was unable to keep the groups separated.

*Agreement and logistics related to the transportation of Bosnian-Muslim civilians out of Potočari*

2982. The Trial Chamber finds that on 12 July 1995, VRS officers, including Krstić and Mladić; Miroslav Deronjić, a representative of the Serb civilian leadership in Srebrenica; UNPROFOR members, and ‘representatives’ of the Bosnian-Muslim population ‘agreed’ that the evacuation of the Bosnian-Muslim civilians to Kladanj Municipality be organised by the VRS and Bosnian-Serb police forces and take place under the supervision and escort of UNPROFOR.

2983. On 12 and 13 July 1995, the VRS transported by trucks and buses around 25,000 Bosnian Muslims, mostly women, children, and elderly, out of Potočari. On 13 July 1995, towards the end of the day, Colonel Janković ordered a member of the Military Police Platoon of the Bratunac Brigade to inform the Bosnian Muslims of Srebrenica Town they would encounter *en route* that they should go to Potočari and wait there until they would be driven away on the next day. The DK, with the assistance of the Bosnian-Serb MoD, provided buses, vehicles, and fuel. The Bratunac Brigade monitored fuel allocation, provided buses and fuel, and regulated traffic as the busses passed through Bratunac. Members of the Bratunac Brigade Military Police coordinated the boarding of

Bosnian Muslims onto trucks and buses. Members of the MUP Special Police Brigade, pursuant to Borovčanin's order, including members of the Jahorina Detachment, assisted with the boarding process. DK Command officers monitored the transportation process. Other VRS units, including units of the military police, and members of the civilian police were present in Potočari on 12 July 1995: members of the 2nd Infantry Battalion, the military police of the 65th Motorised Protection Regiment from Nova Kasaba, a unit which carried out an attack from the area of Pribičevac, the Drina Wolves from the Zvornik Brigade, the 10th Sabotage Detachment as well as police units, including members of the Bratunac SJB, and a company of the PJP. They also assisted with the transportation of Bosnian Muslims. More particularly, on 12 July 1995, the 1st Company of the Special Police Brigade was tasked with securing a road close to the UN compound and ensuring the safe evacuation of civilians and the military police of the 65th Motorised Protection Regiment was tasked with monitoring the movement of the buses from the DK area to the SRK area.

2984. Initially, the women, children, and elderly were allowed to board the buses themselves but after a while they were forced onto the buses. They were also told that the men would follow. Soldiers, as well as one member of the Jahorina Detachment of the Special Police Brigade, were hitting, abusing, and insulting the Bosnian Muslims as they boarded the buses. The Bosnian Muslims were restless, partly due to the separations, many people became ill, and the babies of ill- mothers were abandoned. UNPROFOR soldiers were also assisting in getting women and children on board the vehicles. DutchBat soldiers accompanied the first convoys on 12 July 1995, but were stopped at some point by the VRS, who stole DutchBat jeeps as well as weapons and equipment, rendering further DutchBat escorts impossible. The first convoy, which included men and departed on 12 July 1995, was filmed and the footage was later broadcast by a press service of the DK Command. The men on the first convoy were separated at checkpoints before reaching Kladanj and taken away by VRS soldiers.

2985. Most of the Bosnian-Muslim women, children, and elderly bussed out of Potočari arrived at Tišća. They were then forced to continue the last leg of their journey on foot through 'no-man's land' between the Bosnian-Serb and Bosnian-Muslim lines and reached Bosnian-Muslim controlled territory around 14 July 1995. As of the morning of 14 July 1995, 15,000 people had arrived in Tuzla and 3,000 were still on their way on VRS buses.

2986. The Trial Chamber further finds that on 17 July 1995, Janković asked Mandžić and Major Franken to sign a declaration stating that the transportation of the Bosnian Muslims out of Potočari had been performed in a proper and humanitarian way in accordance with international law. Franken added a clause stating that the transportation was carried out in accordance with the law only ‘as far as convoys actually escorted by UN forces [were] concerned’ because DutchBat was not able to confirm that this was the case for any of the other convoys.

2987. The Trial Chamber will address the evidence related to the alleged Srebrenica JCE and, in particular, the Accused’s alleged contribution to this JCE (some of which has been recalled above in this chapter) in chapter 9.

2988. The Trial Chamber will further consider these incidents in relation to Counts 3, 7, and 8 of the Indictment in chapter 8 below.

### 7.18 Burial operations

2989. According to the Prosecution, from approximately August to November 1995, VRS and MUP personnel, pursuant to orders from the VRS Main Staff, engaged in a covert operation to exhume, transport, and rebury the remains of victims of the incidents discussed above in chapters 7.2 through 7.15, in an attempt to conceal their murders.<sup>12935</sup> The Defence argued that reburials were either legitimate post-combat sanitation projects, or that it is reasonable to conclude that they were conducted by a ‘rogue security branch’ of the VRS to cover up its own crimes, and were neither ordered by the Accused nor known to him.<sup>12936</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts related to the reburials. It also received evidence from **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>12937</sup> **Witness RM-265**, a member of the Bratunac Brigade;<sup>12938</sup> **Dragoslav Trišić**, Assistant Commander of Logistics of the Bratunac Brigade as of November 1992;<sup>12939</sup> **Richard Butler**, an intelligence research specialist;<sup>12940</sup> and **Suzanna Maljaars**, a forensic specialist;<sup>12941</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>12942</sup> Additionally, it received evidence from **Witness RM-260**, a member of the Civilian Protection Staff in Bratunac Municipality in July 1995;<sup>12943</sup> **Damjan Lazarević**, a member of the Engineering Unit of the Zvornik Brigade in July 1995;<sup>12944</sup> and **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>12945</sup> as well as documentary evidence.

2990. There were two types of mass graves, ‘primary graves’, in which individuals were placed soon after their deaths and ‘secondary graves’, into which the same

<sup>12935</sup> Indictment, para. 45; Prosecution Final Brief, paras 1383-1409, 1595-1603.

<sup>12936</sup> Defence Final Brief, paras 3293-3304.

<sup>12937</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>12938</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800;

P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282.

<sup>12939</sup> D937 (Dragoslav Trišić, witness statement, 6 June 2014), paras 3-4.

<sup>12940</sup> Richard Butler, T. 16108.

<sup>12941</sup> Suzanna Maljaars, T. 14481-14483; P1770 (Curriculum vitae of Suzanna Maljaars).

<sup>12942</sup> **Momir Nikolić**: Momir Nikolić, T. 11964. **Witness RM-265**: P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3863-3865. **Dragoslav Trišić**: Dragoslav Trišić, T.33289-33301, 33311-33314, 33316. **Richard Butler**: Richard Butler, T. 16437-16438. **Suzanna Maljaars**: Suzanna Maljaars, T. 14482-14486, 14497, 14502; P1771 (Report of Suzanna Maljaars, 11 February 2000), pp. 2-24, Appendix VI.

<sup>12943</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7861-7862.

<sup>12944</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14431-14432.

<sup>12945</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

individuals were later reburied.<sup>12946</sup> During a period of several weeks in September and early October 1995 Bosnian-Serb forces dug up a number of the primary mass gravesites and reburied the bodies in still more remote locations.<sup>12947</sup> There was a concerted campaign to conceal the bodies of the men in the primary gravesites.<sup>12948</sup>

**Richard Butler** testified that according to his investigations, the primary mass graves from which bodies were exhumed in mid-September 1995, were those that the international community had identified in August of that year.<sup>12949</sup>

2991. The mass graves at the Dam near Petkovci, Kozluk, Glogova, Orahovac, and Branjevo Military Farm were disturbed and bodies were exhumed from those graves.<sup>12950</sup> The reburial operation was carried out on the ground by the Bratunac and Zvornik Brigades.<sup>12951</sup> Within the Bratunac Brigade, Captain Nikolić, the Chief of Security and Intelligence, was tasked with the organisation of the operation.<sup>12952</sup> During the reburial operation, which lasted a couple of nights, the members of the Civilian Protection unit used at least one loader and an excavator for the exhumations at the Glogova gravesite.<sup>12953</sup> Within the Zvornik Brigade the Assistant Commander for Security, 2nd Lieutenant Drago Nikolić, was responsible for the operation.<sup>12954</sup> **Butler** testified that between 7 September and 2 October 1995, the primary burial site known as Petkovci was disturbed and the remains reburied in a secondary site near Liplje. Between an undetermined start date prior to 27 September and 2 October 1995, the primary burial site known as Lažete 2 (Orahovac) was disturbed and the remains reburied in secondary sites near Hodžiči.<sup>12955</sup> Between an undetermined start date prior to 27 September and 2 October 1995, the primary burial site known as Kozluk was disturbed and the remains reburied in a secondary site near Čančari.<sup>12956</sup>

<sup>12946</sup> Adjudicated Facts II, no. 1643.

<sup>12947</sup> Adjudicated Facts II, no. 1636.

<sup>12948</sup> Adjudicated Facts II, no. 1641.

<sup>12949</sup> Richard Butler, T. 16437-16438.

<sup>12950</sup> Adjudicated Facts II, no. 1642.

<sup>12951</sup> Adjudicated Facts II, no. 1637.

<sup>12952</sup> Adjudicated Facts II, no. 1639.

<sup>12953</sup> Adjudicated Facts II, no. 1551.

<sup>12954</sup> Adjudicated Facts II, no. 1640.

<sup>12955</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.1.

<sup>12956</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.1.

2992. On 14 September 1995, the VRS Main Staff approved five tonnes of diesel fuel to be delivered to Captain Milorad Trbić<sup>12957</sup> at the Standard barracks in Zvornik, for carrying out engineering works.<sup>12958</sup> The order was addressed to the DK Command and to the Logistics Sector of the VRS Main Staff.<sup>12959</sup> A copy was forwarded to the Zvornik Brigade for information.<sup>12960</sup> The order specified that Trbić was to be responsible for the proper accounting of engineering-machine usage and fuel consumption.<sup>12961</sup> **Butler** testified that such machines would be backhoes and trucks and other equipment required for the reburial operation.<sup>12962</sup> Also on 14 September 1995, 5000 litres of fuel was immediately released to the DK Command pursuant to the VRS Main Staff order of the same day.<sup>12963</sup> The fuel was to be used for engineering works in the DK area of responsibility.<sup>12964</sup> The order was authorised by the Chief of the Main Staff's Logistics Sector and signed by Colonel Zarko Ljuboječić.<sup>12965</sup> According to Butler, any fuel required for regular engineering work would have been issued through the normal course of operations under the authority of someone like Major Jokić, the Engineering Company Commander.<sup>12966</sup> However, Mladić, who normally would not be involved in the details of fuel allocation, issued the order for the fuel and put a security officer in charge of its allocation as opposed to a technical services officer.<sup>12967</sup>

<sup>12957</sup> Butler, basing his evidence on the personnel roster of the Zvornik Brigade for September 1995, testified that there was no Captain Milorad Trpić assigned to the unit. However, a Captain Milorad Trbić was assigned to the Security and Intelligence Branch of the Zvornik Brigade. The Trial Chamber therefore finds that 'Trpić' in this order was a misspelling or typographical error and was meant to refer to 'Trbić.' See P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.3. See also, P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8; P4222 (Intercept of Popović and Mihalić at 6:44 p.m.); P4223 (Intercept of Popović and Mihalić, 22 September 1995 at 6:44 p.m.); and P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14488-14491, 14508.

<sup>12958</sup> P1500 (VRS Main Staff authorization, 14 September 1995). See also Witness RM-322, T. 11660-11661; P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.2.

<sup>12959</sup> P1500 (VRS Main Staff authorization, 14 September 1995). See also P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.2.

<sup>12960</sup> P1500 (VRS Main Staff authorization, 14 September 1995). See also P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.2.

<sup>12961</sup> P1500 (VRS Main Staff authorization, 14 September 1995). See also P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.2; Richard Butler, T. 16437-16438.

<sup>12962</sup> Richard Butler, T. 16437-16438.

<sup>12963</sup> P2131 (VRS Main Staff order, 14 September 1995). See also P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.2; Richard Butler, T. 16437-16438.

<sup>12964</sup> P2131 (VRS Main Staff order, 14 September 1995).

<sup>12965</sup> P2131 (VRS Main Staff order, 14 September 1995).

<sup>12966</sup> Richard Butler, T. 16438.

<sup>12967</sup> Richard Butler, T. 16439-16440.

2993. In relation to the fuel delivery, the Trial Chamber also considered the evidence of **Witness RM-322** and **Butler** which has been placed in the confidential annex in Appendix D.

2994. **Momir Nikolić** testified that the people who had been killed in Kravica, on the Bratunac-Konjević Polje road, and in the Bratunac and Srebrenica municipalities in July 1995 had been buried in mass graves in Glogova, in Bratunac Municipality.<sup>12968</sup> In September 1995, Lieutenant-Colonel Vujadin Popović, the Chief of Security of the DK, came to the Bratunac Brigade command.<sup>12969</sup> Popović told the witness's commander Colonel Vidoje Blagojević, and then the witness, that the VRS Main Staff had decided that the two mass graves near Glogova should be moved to the greater Srebrenica area.<sup>12970</sup> According to the witness, the initiative to relocate the graves had come from the representatives of the civilian authorities, namely Srbislav Davidović, President of the Bratunac Municipality Executive Board; Ljubisav Simić, President of the Bratunac Municipality; and Miroslav Deronjić, President of the Bratunac SDS.<sup>12971</sup> In this respect, **Witness RM-260** stated that in September or October 1995, Miroslav Deronjić ordered that workers be brought to the Bratunac Brigade command at 9 or 10 p.m. where they were to report to Momir Nikolić.<sup>12972</sup> The witness was told the work would take a few days and would be the same as former assignments.<sup>12973</sup> The witness later learned that the workers had worked until late in the morning and that the job took a few days to complete.<sup>12974</sup> **Nikolić** testified that the military police of the Bratunac Brigade, the civilian police of the Bratunac SJB, and the 5th Engineering Battalion of the DK participated in the operation to move the graves by exhuming, transferring, and reburying the bodies.<sup>12975</sup> The DK command logistical service provided fuel for the Bratunac Brigade during this operation on two occasions (first, five tons and then, two tons).<sup>12976</sup> **Witness RM-265** stated that this reburial operation was secured by the

<sup>12968</sup> Momir Nikolić, T. 11961-11963; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 13.

<sup>12969</sup> Momir Nikolić, T. 11961, 12168.

<sup>12970</sup> Momir Nikolić, T. 11778-11779, 11961, 11963, 11969-11970, 12167-12168; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 13.

<sup>12971</sup> Momir Nikolić, T. 11963, 12167-12169.

<sup>12972</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7886-7888.

<sup>12973</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7886-7887.

<sup>12974</sup> P3621 (Witness RM-260, *Blagojević and Jokić* transcript, 20 April 2004), pp. 7886-7887.

<sup>12975</sup> Momir Nikolić, T. 11963-11964; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 13.

<sup>12976</sup> Momir Nikolić, T. 11964-11965.



military police of the Bratunac Brigade.<sup>12977</sup> According to the witness' knowledge, the VRS Main Staff, more specifically Beara, was in charge of the operation which lasted several days.<sup>12978</sup>

2995. **Nikolić** testified that he briefed his commander Popović on a daily basis about the ongoing reburial operation.<sup>12979</sup> The executive authorities of Bratunac municipality planned and organized the move and provided equipment, such as earth-moving machines.<sup>12980</sup> The President of the Executive Council provided logistical support in the form of diggers and other machines from the Bratunac public utilities company.<sup>12981</sup> Companies from Srebrenica Municipality, including the Sase mine, the transport company, and the Radnik construction company, provided machines, trucks, and earth-moving machines.<sup>12982</sup> Although it was initially supposed to be a covert operation, given its length and the number of participants, it soon became public knowledge.<sup>12983</sup>

2996. On 22 September 1995, 'Niđo' Mihalić informed Popović that he was out of fuel.<sup>12984</sup> Popović inquired if Trbić knew about it and Mihalić told him that he was working on it but that he had said that not much work would be done that day.<sup>12985</sup> Popović instructed Mihalić to call the gas station and find out if the fuel had arrived.<sup>12986</sup>

2997. **Nikolić** testified that on 16 October 1995 he met with Colonel Blagojević, the Brigade command staff, and its battalion commanders.<sup>12987</sup> The witness reported that the Brigade was at that point engaged in hygiene and sanitation tasks issued by the VRS Main Staff.<sup>12988</sup> The witness explained that the reburial operation was being conducted

<sup>12977</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3863-3865.

<sup>12978</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3864-3868.

<sup>12979</sup> Momir Nikolić, T. 11965, 11779; D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 4.

<sup>12980</sup> Momir Nikolić, T. 11963-11964.

<sup>12981</sup> Momir Nikolić, T. 11964-11965.

<sup>12982</sup> Momir Nikolić, T. 11964.

<sup>12983</sup> Momir Nikolić, T. 11964.

<sup>12984</sup> P4222 (Intercept of Popović and Mihalić at 6:44 p.m.); P4223 (Intercept of Popović and Mihalić, 22 September 1995 at 6:44 p.m.).

<sup>12985</sup> P4222 (Intercept of Popović and Mihalić at 6:44 p.m.); P4223 (Intercept of Popović and Mihalić, 22 September 1995 at 6:44 p.m.).

<sup>12986</sup> P4222 (Intercept of Popović and Mihalić at 6:44 p.m.); P4223 (Intercept of Popović and Mihalić, 22 September 1995 at 6:44 p.m.).

<sup>12987</sup> Momir Nikolić, T. 11965-11966; P1516 (Minutes of the meeting of the 1st Bratunac Light Infantry Brigade, 16 October 1995). *See also* Dragoslav Trišić, T.33289-33301, 33311-33314, 33316.

<sup>12988</sup> Momir Nikolić, T. 11966-11967, 12168; P1516 (Minutes of the meeting of the 1st Bratunac Light Infantry Brigade, 16 October 1995). *See also* Dragoslav Trišić, T.33289-33301, 33311-33314, 33316.

under the name ‘*asanacija*’.<sup>12989</sup> The witness believed that the reason for the reburial operation was to conceal the large number of killings.<sup>12990</sup> A 16 October 1995 note attributed to Momir Nikolić in the Bratunac Brigade notebook states that on that day, ‘[w]e are engaged in tasks issued by the Army of the Republika Srpska Main Staff (hygiene and sanitation measures).’<sup>12991</sup> The BCS original of the meeting minutes reads ‘*asanacija*’.<sup>12992</sup> The subject of reburials was discussed in the command meeting which was attended by VRS members including key Assistant Commanders, the Chief of Operations, and the Battalion Commanders or their deputies.<sup>12993</sup> According to **Butler**, investigations of the alleged crimes in the zone of the Bratunac Brigade indicated that between an undetermined date and 18 October 1995, the primary site known as Glogova 2 was disturbed and the remains were reburied near Zeleni Jadar.<sup>12994</sup>

2998. **Damjan Lazarević** stated that sometime after the initial burial operations around Zvornik, he was urgently ordered by Slavko Bogičević, pursuant to Major Jokić’s order, to supervise exhumations together with three members of his unit, the Engineering Company of the Zvornik Brigade, and soldiers from other units of the Zvornik Brigade, the names of whom all appeared on a list that was shown to him.<sup>12995</sup> Similar to the previous burial operations, Lazarević was in charge of controlling his men during the digging, and as far as he knew neither members of his company, nor its equipment, were involved in the transportation or reburial of remains in secondary gravesites.<sup>12996</sup> Large, heavy-duty trucks from the Karakaj hauling company were used to transport the bodies after exhumation.<sup>12997</sup> The exhumations were conducted at first in Orahovac, then Kozluk, and finally at the Branjevo Military Farm.<sup>12998</sup> The excavators arrived at the

<sup>12989</sup> Momir Nikolić, T. 11966-11967; P1516 (Minutes of the meeting of the 1st Bratunac Light Infantry Brigade, 16 October 1995); D300 (Momir Nikolić, witness statement in the *Popović et al.* case, 16 April 2009), p. 4.

<sup>12990</sup> Momir Nikolić, T. 11969-11970.

<sup>12991</sup> P1516 (Minutes of the meeting of the 1st Bratunac Light Infantry Brigade, 16 October 1995). *See also*, P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.5.

<sup>12992</sup> P1516 (Minutes of the meeting of the 1st Bratunac Light Infantry Brigade, 16 October 1995).

<sup>12993</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), paras 11.6-11.7.

<sup>12994</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.4.

<sup>12995</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14467-14469, 14484, 14523.

<sup>12996</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14469, 14485-14486, 14507-14508.

<sup>12997</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14527-14528.

<sup>12998</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14529, 14532-14533; P3641 (Aerial image of Branjevo Military Farm, marked by Damjan Lazarević).

respective sites in the evenings and the exhumations started when it was already dark.<sup>12999</sup> The entire reburial operation in which his unit was involved lasted for about five to six days.<sup>13000</sup> Major Trbić from the Zvornik Brigade, whose superior was Drago Nikolić, was in command of the reburial operation around Zvornik, including the transfer of the bodies, and would summon the soldiers, including Lazarević, to inquire on their progress after each job.<sup>13001</sup> All of the fuel for the reburial operation came from the Zvornik Brigade.<sup>13002</sup>

2999. **Witness RM-322** testified that on 20 October 1995, he heard that Drago Nikolić, members of the Zvornik Brigade's Engineering unit, and some military police members participated in reburial of the detainees executed in July 1995. Popović also brought men with him for the operation, some of whom were members of the DK Military Police who secured the area and traffic where the reburials were taking place. The witness heard that some of the Zvornik Brigade earth moving equipment and personnel were used in the initial burials and exhumations, and that some Zvornik Brigade engineers were involved in loading the bodies from the primary graves. The witness also heard that Popović and Beara visited the burial sites in civilian clothing during the reburial operation, and that Popović and Drago Nikolić changed truck drivers at regular intervals during the reburial operation. The Trial Chamber considered additional evidence of Witness RM-322 which has been placed in the confidential annex in Appendix D.

3000. **Butler** testified that in contrast to the pattern of normal military accountability procedures followed by the DK and subordinate units during the alleged commission of crimes in July 1995, the attempt to conceal such crimes through the reburial operation was much more secretive. For this reason, there were few existing orders relating to the reburial operation.<sup>13003</sup> The vehicle logs and daily operating records of July 1995 showed that vehicle operators followed the normal procedures of recording the miles driven, hours that the vehicles were in operation, and how much fuel they used. For August and September 1995, however, those same engineering and vehicle logs did not have similar notations, and the fuel being consumed was not reported as usual. The

<sup>12999</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14485, 14510.

<sup>13000</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14486-14487.

<sup>13001</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), pp. 14488-14491, 14508.

<sup>13002</sup> P3636 (Damjan Lazarević, *Popović et al.* transcript, 29-30 August 2007), p. 14487.

<sup>13003</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 11.0.

locations of the work were not recorded and the hours in which the vehicles were stated to have been operative did not correspond with the level of activity that was occurring at the time.<sup>13004</sup>

3001. The Trial Chamber recalls its findings on the connections between primary and secondary gravesites discussed in chapters 7.4, 7.7, 7.8.2, 7.9, and 7.10.2.

3002. Based on the above, the Trial Chamber finds that during several weeks in September and early October 1995, members of the VRS and MUP including members of the VRS Main Staff; the DK; the Bratunac Brigade, including members of its military police; and members of the Zvornik Brigade, engaged in what was intended to be a covert operation to exhume human remains from several primary mass graves, and then rebury those remains in remote secondary graves in the Zvornik and Bratunac municipalities in an effort to hide them. These primary mass graves had been identified by the international community before the reburial operation started. Fuel to support the reburial operation was organized by the VRS Main Staff on 14 September 1995, which approved the delivery of fuel for carrying out engineering works in the DK area of responsibility, and ordered the Logistics Sector of the Main Staff to deliver the fuel. On the same day, the Main Staff Technical Service Division issued an order releasing the approved amount of fuel to the DK.

3003. During the reburial operation human remains were exhumed and reburied from Glogova to gravesites in the Srebrenica area including Zeleni Jadar; from Petkovci Dam to gravesites near Liplje; from Orahovac to gravesites along Hodžiči Road; and from Kozluk and Branjevo Military Farm to gravesites along Čančari Road.

3004. In relation to the reburial operation in the Bratunac area, the Trial Chamber finds that in September 1995, Popović came to the Bratunac Brigade Command where he told Beara and Momir Nikolić that the VRS Main Staff had decided that the two primary graves near Glogova, which included the remains of victims killed in Kravica Warehouse, should be moved to the greater Srebrenica area. Within the Bratunac Brigade, Captain Momir Nikolić, Chief of Security and Intelligence, was tasked with the organisation of the reburial operation. Civilian authorities, namely the Presidents of the Bratunac Municipality Executive Board (Srbislav Davidović), of Bratunac municipality (Ljubisav Simić), and of the Bratunac SDS (Miroslav Deronjić), planned,

<sup>13004</sup> Richard Butler, T. 16440.

organized, and provided logistical support and equipment from the Bratunac public utilities company for these reburials. Companies from Srebrenica Municipality provided trucks, earth-moving equipment, and other machines. The DK Command logistical service provided diesel fuel for the Bratunac Brigade during this operation on two occasions: first, five tons; and then, two tons. Members of the Bratunac Brigade Military Police, civilian police of the Bratunac SJB, and the 5th Engineering Battalion of the DK participated in the transferring and reburying the bodies. Those selected to participate worked mostly at night and the operation took a few days to complete. Momir Nikolić briefed Popović on a daily basis about the operation until it was complete. On 16 October 1995, Momir Nikolić met with Blagojević, the command staff, and battalion commanders or their deputies, and reported that members of the Brigade were engaged in a reburial operation conducted under the name '*asanacija*,' or hygiene and sanitation measures, which had been ordered by the VRS Main Staff. The VRS Main Staff, specifically Beara, were responsible for ordering and supervising these reburials.

3005. The Trial Chamber further finds that within the Zvornik area, 2nd Lieutenant Drago Nikolić, Assistant Commander for Security for the Zvornik Brigade, was responsible for, and participated in, the reburial operation. A copy of the 14 September 1995 Main Staff order for fuel, discussed above, was forwarded to the Zvornik Brigade for information. The order specified that the fuel required was to be delivered to the Standard Barracks in Zvornik to Captain Milorad Trbić, Deputy Chief of Security for the Zvornik Brigade and Drago Nikolić's subordinate, and that Trbić was to be responsible for the proper accounting of engineering-machine usage and fuel consumption. Sometime in mid-September 1995, Bogičević, pursuant to an order of Major Jokić, urgently ordered selected members of the Zvornik Brigade Engineering Unit to exhume remains at Orahovac, then Kozluk, and then Branjevo Military Farm. Those selected, including members of other units of the Brigade, worked at night and the operation lasted about five days. Large, heavy-duty trucks from the Karakaj hauling company were used to transport the remains after exhumation. Popović and Beara visited the burial sites in civilian clothing during the reburial operation. Popović also brought members of the DK Military Police to control traffic and secure the areas where reburials were taking place. Trbić was in command of the reburial operation around Zvornik, including the transfer of remains, and would summon the soldiers, including

members of the Zvornik Brigade Engineering Unit, to inform him of their progress after each job. All of the fuel for this reburial operation came from the Zvornik Brigade. On 14 September 1995, the DK Duty Officer called the Zvornik Brigade Duty Officer to report that five tonnes of fuel were to be given to Trbić for a task. An officer of the Zvornik Brigade, thinking that it was strange to have so much fuel sent to Trbić and the security organ, called the DK Duty Officer who then said that he did not know about the fuel. A few minutes later, Popović called the Zvornik Brigade officer back, asked how he knew about the fuel, and when he was told that the DK Duty Officer was the source of the information, Popović said that the Duty Officers were incompetent and must have made a mistake. After seeing the Main Staff order for fuel, Pandurević went to the DK Command to look into the matter the next day. When he returned to the Brigade, Pandurević stated that the fuel was intended for engineering equipment and trucks that would be used by Popović and his men who were in charge of reburying the bodies of executed Bosnian Muslim detainees. On 22 September 1995, Mihalić informed Popović that he was out of fuel. After asking if Trbić knew about it, Popović instructed Mihalić to call the gas station and find out if the fuel had been delivered.

3006. The Trial Chamber will further consider this finding in relation to the alleged Srebrenica JCE discussed in chapter 9.6 below.

3007. With regard to the number of victims, the Trial Chamber took judicial notice of Adjudicated Fact 1476 stating that between 7,000 and 8,000 Bosnian-Muslim men were systematically murdered. The Trial Chamber understands this Adjudicated Fact to refer to the killings of Bosnian-Muslim males separated from the Bosnian-Muslim women, children, and elderly in Potočari and captured from the column following the take-over of Srebrenica in July 1995. In chapters 7.2-7.14 and 8, for a considerable number of these men, the Trial Chamber established connections between bodily remains found in primary and secondary mass graves and the incidents specifically charged in the Indictment. Its findings in this respect are consistent with Adjudicated Fact 1476, also considering its approach on calculating the number of victims, set out in Appendix B.<sup>13005</sup>

<sup>13005</sup> For a detailed explanation of the Trial Chamber's approach in this respect, *see* the Trial Chamber's discussion of the evidence of Dušan Janc in Appendix B.

## 8. Legal findings on crimes

### 8.1 Violations of the laws or customs of war: general elements and jurisdictional requirements

#### *8.1.1 Applicable law*

3008. The Indictment charges the Accused with four counts of violations of the laws or customs of war under Article 3 of the Statute. Count 6 charges him with murder, based on Common Article 3 (1) (a) to the four Geneva Conventions of 1949. Count 9 charges him with acts of violence the primary purpose of which is to spread terror among the civilian population. Count 10 charges him with unlawful attacks on civilians. Count 11 charges him with taking of hostages, based on Common Article 3 (1) (b) to the four Geneva Conventions of 1949. Article 3 of the Statute states: ‘The International Tribunal shall have the power to prosecute persons violating the laws or customs of war’. The jurisdictional requirements and general elements are analyzed below.

3009. Article 3 of the Statute is a ‘residual clause’ which gives the Tribunal jurisdiction over any serious violation of international humanitarian law not covered by Articles 2, 4, or 5 of the Statute.<sup>13006</sup> Article 3 of the Statute provides a non-exhaustive list of specific violations of the laws or customs of war.<sup>13007</sup> To fall within this residual jurisdiction, the offence charged must meet four conditions: (i) it must violate a rule of international humanitarian law; (ii) the rule must bind the parties at the time of the alleged offence; (iii) the rule must protect important values and its violation must have grave consequences for the victim; and (iv) such a violation must entail the individual criminal responsibility of the perpetrator.<sup>13008</sup>

3010. It is well established in the jurisprudence of this Tribunal that violations of Common Article 3 to the four Geneva Conventions of 1949 fall within the ambit of Article 3 of the Statute.<sup>13009</sup> The charges of murder under Common Article 3 (1) (a) and taking of hostages under Common Article 3 (1) (b) meet the four jurisdictional requirements set out above. The rules contained in Common Article 3 are part of customary international law applicable in both international and non-international

<sup>13006</sup> *Tadić* Jurisdiction Decision, paras 89-93; *Čelebići* Appeal Judgment, paras 125, 131, 133.

<sup>13007</sup> *Tadić* Jurisdiction Decision, para 87.

<sup>13008</sup> *Tadić* Jurisdiction Decision, paras 94, 143.

<sup>13009</sup> *Tadić* Jurisdiction Decision, para. 89; *Čelebići* Appeal Judgment, paras 125, 133-136; *Kunarac et al.* Appeal Judgment, para. 68; *Mrkšić and Šljivančanin* Appeal Judgment, para. 70.

armed conflicts.<sup>13010</sup> The acts prohibited by Common Article 3 breach rules protecting important values and involve grave consequences for the victims. They also entail individual criminal responsibility.<sup>13011</sup> The Trial Chamber therefore has jurisdiction over such violations.

3011. The charges of terror and unlawful attacks on civilians fall within the ambit of Article 3 of the Statute. The prohibitions of these two acts are found in Article 51(2) of Additional Protocol I and Article 13(2) of Additional Protocol II.<sup>13012</sup> They are also part of customary international law in both international and non-international armed conflicts.<sup>13013</sup> The prohibitions breach rules protecting important values and involves grave consequences for the victims as well as entailing individual criminal responsibility.<sup>13014</sup> The Trial Chamber, therefore, has jurisdiction over such violations.

3012. Once jurisdiction is established, certain general conditions must be met for the applicability of Article 3 of the Statute: first, there must be an armed conflict; second, there must be a nexus between the alleged offence and the armed conflict;<sup>13015</sup> and third, for charges based on Common Article 3, the victim must not take active part in the hostilities at the time of the alleged offence.<sup>13016</sup>

3013. *Armed Conflict*. The test for determining the existence of an armed conflict was set out by the Appeals Chamber in the *Tadić* Jurisdiction Decision:

[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.<sup>13017</sup>

<sup>13010</sup> *Tadić* Jurisdiction Decision, paras 89, 98; *Čelebići* Appeal Judgment, paras 138-139, 143, 147; *Karadžić* Appeal Decision on Count 11 of the Indictment, paras 23, 25-26.

<sup>13011</sup> *Tadić* Jurisdiction Decision, para. 134; *Čelebići* Appeal Judgment, paras 167, 173-174.

<sup>13012</sup> See *Kordić and Čerkez* Appeal Judgment, para. 48; *Galić* Appeal Judgment, paras 16-19, 87; *Dragomir Milošević* Appeal Judgment, para. 53.

<sup>13013</sup> *Galić* Appeal Judgment, paras 87-98, 123; *Dragomir Milošević* Appeal Judgment, paras 31-33. See also *Galić* Trial Judgment, paras 16, 19 32.

<sup>13014</sup> *Kordić and Čerkez* Appeal Judgment, paras 55-68; *Galić* Appeal Judgment, paras 91-98; *Dragomir Milošević* Appeal Judgment, paras 31-33

<sup>13015</sup> *Tadić* Jurisdiction Decision, para. 70; *Kunarac et al.* Appeal Judgment, para. 55; *Stakić* Appeal Judgment, para. 342.

<sup>13016</sup> Geneva Conventions, Common Article 3 (1); *Čelebići* Appeal Judgment, para. 420; *Krajišnik* Trial Judgment, para. 847; *Haradinaj et al.* Trial Judgment, para. 62.

<sup>13017</sup> *Tadić* Jurisdiction Decision, para. 70. See also *Kunarac et al.* Appeal Judgment, para. 56; *Kordić and Čerkez* Appeal Judgment, para. 336.



3014. In its Judgment in *Tadić*, the Appeals Chamber observed that it is ‘indisputable that an armed conflict is international if it takes place between two or more States’.<sup>13018</sup>

The Appeals Chamber went on to find that an internal armed conflict,

may become international (or, depending on the circumstances, be international in character alongside an internal armed conflict) if (i) another State intervenes in that conflict through its troops, or alternatively if (ii) some of the participants in the internal armed conflict act on behalf of that other State.<sup>13019</sup>

The Appeals Chamber subsequently set out the standard of ‘overall control’ for determining when an organized armed group may be considered to be acting on behalf of another State, thereby making the conflict international in character.<sup>13020</sup> This test is satisfied where, *inter alia*, a State has a role in organizing, coordinating or planning the military actions of the organized armed group and that State finances, trains, equips or provides operational support to that group.<sup>13021</sup> The test calls for an assessment of all the elements of control taken as a whole, and thus contains no requirement, e.g., that the third-party State issue specific instructions or orders to the organized armed group.<sup>13022</sup>

3015. The armed conflict extends to the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.<sup>13023</sup> The armed conflict ends when there is a general conclusion of peace (for international armed conflicts) or when a peaceful settlement is achieved (for armed conflicts not of an international character).<sup>13024</sup>

3016. *Nexus*. The alleged crime need not have occurred at a time and place in which there was actual combat, so long as the acts of the perpetrator were ‘closely related’ to hostilities occurring in territories controlled by parties to the conflict.<sup>13025</sup> The existence of this close relationship between the crime and the armed conflict will be established where it can be shown that the conflict played a substantial part in the perpetrator’s

<sup>13018</sup> *Tadić* Appeal Judgment, para. 84.

<sup>13019</sup> *Tadić* Appeal Judgment, para. 84.

<sup>13020</sup> *Kordić and Čerkez* Appeal Judgment, para. 306.

<sup>13021</sup> *Kordić and Čerkez* Appeal Judgment, paras 306, 308.

<sup>13022</sup> *Aleksovski* Appeal Judgment, paras 143-146.

<sup>13023</sup> *Tadić* Jurisdiction Decision, para. 70.

<sup>13024</sup> *Tadić* Jurisdiction Decision, para. 70. *See also Kunarac et al.* Appeal Judgment, para. 57; *Kordić and Čerkez* Appeal Judgment, para. 319.

<sup>13025</sup> *Kunarac et al.* Appeal Judgment, para. 57; *Stakić* Appeal Judgment, para. 342.

ability to commit the crime, his or her decision to commit it, the manner in which it was committed, or the purpose for which it was committed.<sup>13026</sup>

3017. *Status of Victims*. The final requirement for the application of an Article 3 charge based on Common Article 3 is that the victim was not actively participating in the hostilities at the time the offence was committed.<sup>13027</sup> The Appeals Chamber has explained that active participation in hostilities means participating in acts of war intended by their nature or purpose to cause actual harm to the personnel or equipment of enemy armed forces.<sup>13028</sup> Protected victims include members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.<sup>13029</sup> The perpetrator must know or should have known the status of the victims as persons taking no active part in the hostilities.<sup>13030</sup>

### 8.1.2 Findings on armed conflict

3018. The Trial Chamber has considered a number of Agreed Facts and Adjudicated Facts regarding the outbreak, development, and conclusion of the armed conflict in Bosnia-Herzegovina.<sup>13031</sup> The Trial Chamber also received evidence from, among others, **Robert Donia**, a historian specializing in Modern Balkan History.<sup>13032</sup>

3019. The Trial Chamber considered, in particular, that on 6 March 1992, open conflict erupted in Bosnia-Herzegovina and the units of the JNA present in the territory were actively involved in the fighting that took place.<sup>13033</sup> Between March and May 1992, there were several attacks on and takeovers by the JNA of areas that either constituted main entry points into Bosnia-Herzegovina or were situated on major logistics or communications lines such as those in Bosanski Brod, Derventa, Bijeljina, Kupres,

<sup>13026</sup> *Kunarac et al.* Appeal Judgment, para. 58.

<sup>13027</sup> Geneva Conventions, Common Article 3 (1); *Čelebići* Appeal Judgment, paras 420, 424; *Strugar* Appeal Judgment, paras 172, 178; *Boškoski and Tarčulovski* Appeal Judgment, para. 66; *Karadžić* Appeal Decision on Count 11 of the Indictment, paras 22-26; *Karadžić* Appeal Decision concerning Judgment of Acquittal for Hostage-Taking, paras 8, 21.

<sup>13028</sup> *Strugar* Appeal Judgment, para. 178.

<sup>13029</sup> Geneva Conventions, Common Article 3 (1); *Strugar* Appeal Judgment, para. 175.

<sup>13030</sup> *Boškoski and Tarčulovski* Appeal Judgment, para. 66.

<sup>13031</sup> The relevant Agreed and Adjudicated Facts include: Agreed Facts, fact 24; Adjudicated Facts I, nos 36, 51, 81, 103, 249, 269, 286-287, 289-290, 293, 295, 297-301, 306, 312, 314-315, 318, 441, 489, 498-499, 504, 538, 541, 543, 738, 758, 761, 799, 800, 1141, 1211, 1223, 1247; Adjudicated Facts II, nos 1270, 1276-1277, 1281, 1302, 1305, 1314-1316, 1363, 1366, 1371, 1375, 1449; Adjudicated Facts III, nos 1695-1696, 1703-1706, 1709, 1758, 1767, 1922, 1964, 2020, 2024-2025, 2037, 2065, 2844.

<sup>13032</sup> P1998 (Robert Donia, *curriculum vitae*, undated), pp. 1-6; P1999 (Robert Donia, Expert Report entitled 'Background, Politics and Strategy of the Sarajevo Siege, 1991-1995', 2013), pp. 88, 90

Foča, Zvornik, Višegrad, Bosanski Šamac, Vlasenica, Brčko, and Prijedor.<sup>13034</sup> After Bosnia-Herzegovina's independence was recognised by the EC on 6 April 1992, these attacks increased and intensified.<sup>13035</sup> The Trial Chamber received extensive evidence about armed violence between the VRS and the ABiH as of 12 May 1992, much of which has been reviewed in chapters 4-7. The conflict in Bosnia-Herzegovina ended with the signing of the Dayton peace agreement on 14 December 1995.<sup>13036</sup>

3020. Based on the above, the Trial Chamber finds that there was an armed conflict in the territory of Bosnia-Herzegovina which included the period from 12 May 1992 to 30 November 1995.

<sup>13033</sup> Adjudicated Facts I, no. 287.

<sup>13034</sup> Adjudicated Facts I, no. 289.

<sup>13035</sup> Adjudicated Facts I, no. 287.

<sup>13036</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 220-222; P1493 (Witness RM-322, plea agreement, 28 May 2013), para. 6; P1504 (Momir Nikolić, annex to joint motion for consideration of plea agreement, 6 May 2003), p. 2; Petar Škrbić, T.13999.

## 8.2 Crimes against humanity: general elements and jurisdictional requirement

### *8.2.1 Applicable law*

3021. The Indictment charges the Accused with five counts of crimes against humanity under Article 5 of the Statute. Count 3 charges him with persecution under Article 5 (h). Count 4 charges him with extermination under Article 5 (b). Count 5 charges him with murder under Article 5 (a). Count 7 charges him with deportation under Article 5 (d). Count 8 charges him with inhumane acts (forcible transfer) under Article 5 (i). Article 5 states: ‘The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against a civilian population’. The jurisdictional requirement and general elements are analyzed below.

3022. *Committed in armed conflict.* The crimes must be committed in an armed conflict, whether international or internal in character. This requirement is not part of the customary law definition of crimes against humanity.<sup>13037</sup> It is a jurisdictional requirement,<sup>13038</sup> which translates into the need for proof that there was an armed conflict at the relevant time and place.<sup>13039</sup> The definition of armed conflict is found above, in chapter 8.1.1.

3023. *Widespread or systematic attack directed against a civilian population.* The general elements for the applicability of Article 5 of the Statute are:

- (i) there was an attack;
- (ii) the attack was widespread or systematic;
- (iii) the attack was directed against a civilian population;
- (iv) the acts of the perpetrator were part of the attack; and
- (v) the perpetrator knew that there was, at the time of his or her acts, a widespread or systematic attack directed against a civilian population and that his or her acts were part of that attack.<sup>13040</sup>

3024. *Attack.* An attack on a civilian population is a separate and distinct concept from that of an armed conflict.<sup>13041</sup> The attack is not limited to the use of force, but

<sup>13037</sup> *Tadić* Appeal Judgment, para. 249.

<sup>13038</sup> *Tadić* Appeal Judgment, para. 249; *Kunarac et al.* Appeal Judgment, para. 83.

<sup>13039</sup> *Tadić* Appeal Judgment, paras 249, 251; *Kunarac et al.* Appeal Judgment, para. 83.

encompasses any mistreatment of the civilian population, and can commence before, outlast, or continue during the armed conflict.<sup>13042</sup> An attack is composed of acts of violence, or the kind of mistreatment referred to in Article 5 (a) through (i) of the Statute.<sup>13043</sup>

3025. *Widespread or systematic*. ‘Widespread’ refers to the large-scale nature of the attack and the number of targeted persons.<sup>13044</sup> ‘Systematic’ refers to the ‘organized nature of the acts of violence’.<sup>13045</sup> The existence of a plan or policy can be indicative of the systematic character of the attack but it is not a distinct legal element.<sup>13046</sup>

3026. *Directed against a civilian population*. ‘Directed against’ indicates that it is the civilian population which is the primary object of the attack.<sup>13047</sup> The attack does not have to be directed against the civilian population of the entire area relevant to the indictment.<sup>13048</sup> It is sufficient to show that enough individuals were targeted in the course of the attack, or that they were targeted in such a way as to satisfy the Trial Chamber that the attack was in fact directed against a civilian ‘population’, rather than against a limited and randomly selected number of individuals.<sup>13049</sup>

3027. According to the Appeals Chamber, the definition of civilian for the purpose of Article 5 of the Statute corresponds with the definition of civilian contained in Article 50 of Additional Protocol I to the 1949 Geneva Conventions.<sup>13050</sup> Additional Protocol I defines a ‘civilian’ as an individual who is not a member of the armed forces or otherwise a combatant.<sup>13051</sup> The Appeals Chamber has emphasized that the fact that an attack for the purpose of crimes against humanity must be directed against a civilian population, does not mean that the criminal acts within that attack must be committed

<sup>13040</sup> *Kunarac et al.* Appeal Judgment, para. 85.

<sup>13041</sup> *Tadić* Appeal Judgment, para. 251.

<sup>13042</sup> *Tadić* Appeal Judgment, para. 251; *Kunarac et al.* Appeal Judgment, para. 86; *Kordić and Čerkez* Appeal Judgment, para. 666.

<sup>13043</sup> *Nahimana et al.* Appeal Judgment, para. 918.

<sup>13044</sup> *Kunarac et al.* Appeal Judgment, para. 94; *Blaškić* Appeal Judgment, para. 101; *Kordić and Čerkez* Appeal Judgment, paras 94, 666; *Nahimana et al.* Appeal Judgment, para. 920.

<sup>13045</sup> *Kunarac et al.* Appeal Judgment, para. 94; *Blaškić* Appeal Judgment, para. 101; *Kordić and Čerkez* Appeal Judgment, para. 666; *Nahimana et al.* Appeal Judgment, para. 920.

<sup>13046</sup> *Kunarac et al.* Appeal Judgment, paras 98, 101; *Blaškić* Appeal Judgment, para. 120; *Nahimana et al.* Appeal Judgment, para. 922.

<sup>13047</sup> *Kunarac et al.* Appeal Judgment, para. 91.

<sup>13048</sup> *Kunarac et al.* Appeal Judgment, para. 90.

<sup>13049</sup> *Kunarac et al.* Appeal Judgment, para. 90; *Blaškić* Appeal Judgment, para. 105; *Kordić and Čerkez* Appeal Judgment, para. 95; *Stakić* Appeal Judgment, para. 247.

<sup>13050</sup> *Blaškić* Appeal Judgment, para. 110; *Kordić and Čerkez* Appeal Judgment, para. 97; *Galić* Appeal Judgment, para. 144; *Martić* Appeal Judgment, para. 302.

against civilians only.<sup>13052</sup> A person placed *hors de combat*, for example by detention, may also be a victim of an act amounting to a crime against humanity, provided that all the other necessary conditions are met, in particular that the act in question is part of a widespread or systematic attack against a civilian population.<sup>13053</sup>

3028. *Acts of the perpetrator are part of the attack.* Acts which cannot reasonably be understood to be objectively part of the attack fail this requirement.<sup>13054</sup>

3029. *Perpetrator's knowledge.* The perpetrator must know that there is a widespread or systematic attack against a civilian population and that his or her acts are part of that attack.<sup>13055</sup> The perpetrator does not need to have detailed knowledge of the attack or share the purpose of it.<sup>13056</sup>

### 8.2.2 Legal findings

3030. As the Trial Chamber concluded in chapter 8.1.2, there was an armed conflict in the territory of Bosnia-Herzegovina, which extended throughout the period relevant to crimes charged in the Indictment. This jurisdictional requirement for crimes against humanity is therefore met. The Trial Chamber will now deal with the general elements of crimes against humanity.

3031. According to the Indictment, all acts and omissions charged as crimes against humanity that formed part of the sniping and shelling campaign in Sarajevo were part of a widespread or systematic attack directed against the civilian population of Sarajevo.<sup>13057</sup> All other acts and omissions charged as crimes against humanity were part of a widespread or systematic attack against the Bosnian-Muslim and Bosnian-Croat civilian population of Bosnia-Herzegovina.<sup>13058</sup>

<sup>13051</sup> Additional Protocol I, Art. 50 (1), compared with Geneva Convention III, Art. 4 (A) (1), (2), (3), and (6) and Additional Protocol I, Art. 43.

<sup>13052</sup> *Martić* Appeal Judgment, para. 305; *Mrkšić and Šljivančanin* Appeal Judgment, paras 27-29, 32; *Dragomir Milošević* Appeal Judgment, para. 58.

<sup>13053</sup> *Kordić and Čerkez* Appeal Judgment paras 421, 570-571, 580; *Martić* Appeal Judgment, para. 313.

<sup>13054</sup> *Kunarac et al.* Appeal Judgment, para. 100.

<sup>13055</sup> *Kunarac et al.* Appeal Judgment, para. 99; *Blaškić* Appeal Judgment, paras 124, 126; *Kordić and Čerkez* Appeal Judgment, paras 99-100.

<sup>13056</sup> *Tadić* Appeal Judgment, paras 248, 252; *Kunarac et al.* Appeal Judgment, paras 102-103; *Blaškić* Appeal Judgment, para. 124; *Kordić and Čerkez* Appeal Judgment, para. 99.

<sup>13057</sup> Indictment, para. 87.

<sup>13058</sup> Indictment, para. 87.

3032. When considering whether the general elements of crimes against humanity are fulfilled, the Trial Chamber has considered the extensive Adjudicated Facts describing the general situation in the Municipalities and Srebrenica during the Indictment period. It has also considered evidence which gives a broader picture of the events. As indicated further below, it has also recalled and considered its findings with regard to the individual counts in the Indictment.

3033. With regard to the ARK, the Trial Chamber took judicial notice of a number of Adjudicated Facts. They set out that the ARK Crisis Staff issued orders to dismiss non-Serbs from holding key posts in public enterprises and institutions.<sup>13059</sup> In a decision adopted on 22 June 1992 and directed to all the municipal Crisis Staffs, the ARK Crisis Staff held that all posts important for the functioning of the economy may only be held by personnel of Serb ethnicity.<sup>13060</sup> In addition, Bosnian-Serb personnel were expected to have 'confirmed their Serbian nationality' in the plebiscite and expressed their loyalty to the SDS.<sup>13061</sup> The ARK Crisis Staff's decision of 22 June 1992 was forwarded by the Chief of the Banja Luka CSB, Stojan Župljanin to all SJBs for its immediate implementation within the ARK.<sup>13062</sup> In accordance with the decision, numerous municipalities dismissed non-Serb personnel.<sup>13063</sup> Ultimately, by the end of 1992, almost the entire Bosnian-Muslim and Bosnian-Croat community had been dismissed from their jobs and were replaced by Bosnian-Serb personnel, thus guaranteeing an overall Bosnian-Serb control over public and private enterprises and institutions throughout the ARK.<sup>13064</sup> Bosnian Muslims and Bosnian Croats were subjected to movement restrictions; they were required to pledge their loyalty to the Bosnian-Serb authorities.<sup>13065</sup> Campaigns of intimidation specifically targeting Bosnian Muslims and Bosnian Croats were undertaken.<sup>13066</sup>

3034. Following attacks on towns and villages, Bosnian-Muslim and Bosnian-Croat men, women and children were rounded up and often separated.<sup>13067</sup> In the spring of 1992, camps and other detention facilities were established throughout the territory of

<sup>13059</sup> Adjudicated Facts I, no. 424.

<sup>13060</sup> Adjudicated Facts I, no. 425.

<sup>13061</sup> Adjudicated Facts I, no. 425.

<sup>13062</sup> Adjudicated Facts I, no. 426.

<sup>13063</sup> Adjudicated Facts I, no. 426.

<sup>13064</sup> Adjudicated Facts I, nos 426, 447.

<sup>13065</sup> Adjudicated Facts I, no. 447.

<sup>13066</sup> Adjudicated Facts I, no. 447.

<sup>13067</sup> Adjudicated Facts I, no. 443.

the Bosnian Krajina in army barracks and compounds, factories, schools, sport facilities, police stations and other public buildings.<sup>13068</sup> These camps and detention facilities were set up and controlled by the Bosnian-Serb army, civilian authorities or the Bosnian-Serb police.<sup>13069</sup> Non-Serb civilians were arrested *en masse* and detained in these camps and detention facilities.<sup>13070</sup> As the events in the Bosnian Krajina developed, from the spring of 1992 onwards, convoys of buses and trains were organized by the Bosnian-Serb authorities to drive tens of thousands of men, women, and children out of Bosnian-Serb claimed territory to either Bosnian-Muslim held territory within Bosnia-Herzegovina or to Croatia.<sup>13071</sup>

3035. The resettlement policy within the territory of the Bosnian Krajina was coordinated at the regional level by the ARK Crisis Staff.<sup>13072</sup> On 12 June 1992, the ARK Crisis Staff established in Banja Luka an Agency for the Movement of People and Exchange of Properties, aiding in the implementation of the resettlement policy, while at the municipal level other agencies were established.<sup>13073</sup> The municipal agencies throughout the ARK, along with other competent institutions, were charged with establishing the resettlement procedures.<sup>13074</sup> Departures of non-Serbs from the ARK had to be authorised by these competent institutions.<sup>13075</sup> In order to obtain permits to leave the territory of the ARK, Bosnian Muslims and Bosnian Croats usually had to 'deregister' from their places of residence and either relinquish their property to the Bosnian-Serb Republic without compensation or in a minority of cases exchange their property for property located outside the ARK.<sup>13076</sup> Moreover, in many instances the Bosnian-Serb authorities made the non-Serbs sign documents stating that they renounced claims to all the property that they left behind in favour of the Bosnian-Serb Republic.<sup>13077</sup> This measure was intended to dissuade the Bosnian Muslims and the Bosnian Croats leaving the territory from returning at a later stage.<sup>13078</sup> At the same time, some areas in northern Bosnia-Herzegovina had been emptied of Bosnian

<sup>13068</sup> Adjudicated Facts I, no. 445.

<sup>13069</sup> Adjudicated Facts I, no. 445.

<sup>13070</sup> Adjudicated Facts I, no. 445.

<sup>13071</sup> Adjudicated Facts I, no. 446.

<sup>13072</sup> Adjudicated Facts I, no. 433.

<sup>13073</sup> Adjudicated Facts I, no. 434.

<sup>13074</sup> Adjudicated Facts I, no. 435.

<sup>13075</sup> Adjudicated Facts I, no. 435.

<sup>13076</sup> Adjudicated Facts I, no. 436.

<sup>13077</sup> Adjudicated Facts I, no. 438.

<sup>13078</sup> Adjudicated Facts I, no. 438.



Muslims and Bosnian Croats and were re-populated by resettling Serbian refugees coming from Croatia.<sup>13079</sup>

3036. Specifically concerning Prijedor, one of the municipalities in the ARK, killings were perpetrated on a massive scale against the non-Serb population.<sup>13080</sup> More than 1,500 people were killed in the municipality between 30 April and 30 September 1992.<sup>13081</sup> Beginning 25 May 1992, Bosnian-Muslim and Bosnian-Croat civilians were detained by the police and the Bosnian-Serb military at Omarska camp, Keraterm camp, Trnopolje camp, the Miška Glava Community Centre, the Ljubija football stadium, and the Prijedor SUP and barracks, until sometime during September 1992.<sup>13082</sup> The non-Serb population was not permitted to return to Kozarac after the 24 May 1992 attack on the city, and, subject to some exceptions, the men were taken either to the Keraterm or Omarska detention camps and the women and elderly to the Trnopolje detention camp.<sup>13083</sup> The Crisis Staff, presided over by Milomir Stakić, was responsible for establishing the Omarska, Keraterm, and Trnopolje camps.<sup>13084</sup> There was coordinated cooperation between the Crisis Staff, later the War Presidency, and members of the police and army in operating the camps.<sup>13085</sup> The Crisis Staff participated through its oversight of security in the camps, took decisions on the continuing detention of Prijedor citizens, provided transport (and the necessary fuel) for the transfer of prisoners between the various camps and from the camps to territory not controlled by Serbs, and coordinated the provision of food for detainees.<sup>13086</sup> The Crisis Staff prohibited the release of detainees from the camps and prevented them from returning to Prijedor.<sup>13087</sup> In chapter 4.10, the Trial Chamber has reviewed in great detail the extensive evidence concerning crimes committed in Prijedor Municipality.

3037. On 22 August 1992 an unsigned report stamped 'Command of Doboj Operative Group 2' addressed to the Prijedor Operations Group command stated: 'all are now washing their hands regarding camps and reception centres, attempting to pass responsibility for issuing orders for mass execution of civilians in the camps and centres

<sup>13079</sup> Adjudicated Facts I, no. 438.

<sup>13080</sup> Adjudicated Facts I, no. 872.

<sup>13081</sup> Adjudicated Facts I, no. 873.

<sup>13082</sup> Adjudicated Facts I, no. 935.

<sup>13083</sup> Adjudicated Facts I, no. 936.

<sup>13084</sup> Adjudicated Facts I, no. 938.

<sup>13085</sup> Adjudicated Facts I, no. 939.

<sup>13086</sup> Adjudicated Facts I, no. 940.

<sup>13087</sup> Adjudicated Facts I, no. 941.

onto someone else. This has become particularly noticeable since the visit of foreign reporters to Prijedor, more precisely to Omarska and Trnopolje. Forged (antedated) documents about this are even appearing ... One thing is certain: we are already starting to feel the cost of the needless spilling of Muslim blood.’<sup>13088</sup> On 28 August 1992, Simo Drljača, in response to a request from the Ministry of Health, informed the CSB that there were no camps, prisons, or collection centres in Prijedor and that 1,335 ‘prisoners of war’ had been moved to Manjača.<sup>13089</sup> On or about 24 September 1992, Milomir Stakić answered complaints by local Serbs on the release of detainees from Keraterm, Omarska, and Trnopolje, stating that the Government in Pale had decided to release them for two reasons: ‘pressure from international public opinion and official policy and the steep cost of maintaining the prisons.’<sup>13090</sup>

3038. The non-Serbs in Prijedor Municipality who were not sent to detention camps were required to wear white armbands to distinguish themselves and were continuously subject to harassment, beatings and worse, with terror tactics being common.<sup>13091</sup> Propaganda was used to encourage Serbs who had not previously exhibited nationalistic tendencies to accept the policy of discrimination against non-Serbs, and those Serbs who refused to comply with the Serb policy of discrimination against non-Serbs were branded traitors.<sup>13092</sup> On 30 May 1992, **Nusret Sivac** heard radical ‘Chetnik’ songs on the radio calling for all Turks and other non-Serb people to be killed.<sup>13093</sup> All Serbs with assigned weapons were encouraged to defend the town and to destroy the group led by a person called Ećimović.<sup>13094</sup> During the day the witness heard radio announcements that the non-Serb population should put white flags outside their houses.<sup>13095</sup> The announcements also said that until further notice, non-Serbs would not be allowed to move freely around Prijedor Town.<sup>13096</sup>

3039. With regard to Sanski Most Municipality, another municipality in the ARK, in the period from the end of May to August 1992, in total, more than 88 Muslim civilians were killed by Serb forces.<sup>13097</sup> In this respect, the Trial Chamber also refers to its

<sup>13088</sup> Adjudicated Facts I, no. 942.

<sup>13089</sup> Adjudicated Facts I, no. 943.

<sup>13090</sup> Adjudicated Facts I, no. 944.

<sup>13091</sup> Adjudicated Facts I, no. 925.

<sup>13092</sup> Adjudicated Facts I, no. 927.

<sup>13093</sup> P480 (Nusret Sivac, transcripts from prior cases), *Stakić* transcript, 29-30 July 2002, p. 6573

<sup>13094</sup> P480 (Nusret Sivac, transcripts from prior cases), *Stakić* transcript, 29-30 July 2002, p. 6573.

<sup>13095</sup> P480 (Nusret Sivac, transcripts from prior cases), *Stakić* transcript, 29-30 July 2002, p. 6576.

<sup>13096</sup> P480 (Nusret Sivac, transcripts from prior cases), *Stakić* transcript, 29-30 July 2002, p. 6576.

<sup>13097</sup> Adjudicated Facts I, no. 1180.

findings concerning murders and other crimes in Sanski Most Municipality, in chapter 4.12. These forces attacked many majority-Muslim villages and settlements in the municipality and destroyed mosques and Muslim houses and business premises.<sup>13098</sup>

**Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>13099</sup> testified that after the attack on Mahala, Muslim and Croat civilians who were found there were taken to collection centres and registered.<sup>13100</sup> In late May 1992, Serb forces began to arrest Croat and Muslim leaders.<sup>13101</sup> Some, including the secretary of the SDA municipal board, a Muslim judge, and the municipal chief of police, were killed.<sup>13102</sup> Serb forces detained more than 1,500 mainly Muslim and Croat civilians in 18 detention facilities in Sanski Most Municipality, where they were mistreated on a regular basis.<sup>13103</sup>

3040. Turning to Ključ Municipality, **Atif Džafić**, the Bosnian-Muslim police commander of the Ključ SJB from 1991 to 21 or 22 May 1992,<sup>13104</sup> stated that the municipality had a number of collection centres, that is, detention facilities where people were gathered up to a few days before they were sent to a long-term detention facility.<sup>13105</sup> He estimated some 10,000 to 12,000 people were collected through these collection centres and then sent to detention camps.<sup>13106</sup> In Sanica, these collection centres included: the elementary school gym, the police office, the railway station, and the elementary school of upper Sanica.<sup>13107</sup> The following collection centres existed in the town of Ključ: Nikola Mačkić elementary school, the football ground, and the Šuma transport office.<sup>13108</sup> Smaller villages in the municipality also had collection centres.<sup>13109</sup> The collection centres were generally very crowded and there was no access to medical facilities.<sup>13110</sup> Most of the detainees were Muslims and some were Croats.<sup>13111</sup> After their stay in the collection centre most detainees were transferred to Manjača Camp.<sup>13112</sup>

<sup>13098</sup> Adjudicated Facts I, no. 1180.

<sup>13099</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398.

<sup>13100</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 67.

<sup>13101</sup> Adjudicated Facts I, no. 1163.

<sup>13102</sup> Adjudicated Facts I, no. 1163.

<sup>13103</sup> Adjudicated Facts I, no. 1206.

<sup>13104</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), p. 1, paras 1, 4, 6; P3395 (Atif Džafić, *Karadžić* transcript, 30 September 2011), p. 19657.

<sup>13105</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 145.

<sup>13106</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 145.

<sup>13107</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 146.

<sup>13108</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 151.

<sup>13109</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 157.

<sup>13110</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), paras 149-150, 154-155.

<sup>13111</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), paras 147-148, 152-153.

<sup>13112</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), paras 148, 153.

3041. With regard to other areas in Bosnia-Herzegovina, the Adjudicated Facts paint a similar picture. Between April and September 1992, at least 52 persons of mainly Muslim ethnicity were killed by Serb forces in Bijeljina municipality.<sup>13113</sup> The plan of the Bijeljina SDS was to kill a Muslim family on each side of town to create an atmosphere of fear.<sup>13114</sup> In September 1992, this plan was implemented by Duško Malović's special police unit, at the instigation of Drago Vuković, an employee of the local MUP and a member of the Bijeljina crisis staff.<sup>13115</sup> At the end of July and beginning of August 1992, villages such as Ljuta, Jelašca, Jezero, Mjehovina, and Daganj in Kalinovik Municipality were shelled, burnt, and taken by the VRS.<sup>13116</sup> Many villagers, including elderly and women, were killed during these attacks.<sup>13117</sup> With regard to Sokolac Municipality, **Milan Tupajić**, President of the Sokolac Municipal Assembly from 1991 and President of the Sokolac Crisis Staff from April 1992 until 1996,<sup>13118</sup> stated that members of the 2nd Motorized Romanija brigade arrested Muslims without grounds and held them without pressing charges in, among other places, the factory in Palez, near Knežina; a restaurant in Knežina; and the cellar of the building where the post office was.<sup>13119</sup> The Trial Chamber further recalls and refers to its findings regarding crimes in all the Municipalities in chapter 4.

3042. With regard to Srebrenica, the Trial Chamber took judicial notice of several Adjudicated Facts describing the overall situation in the enclave. Thousands of Bosnian-Muslim men from the Srebrenica enclave were executed and buried in different locations in the Srebrenica, Bratunac, and Zvornik municipalities.<sup>13120</sup> Between 7,000 and 8,000 Bosnian-Muslim men were systematically murdered.<sup>13121</sup> Except for some who were wounded, all the men, whether separated in Potočari or captured from the column, were executed, either in small groups or in carefully orchestrated mass executions.<sup>13122</sup> Some were killed by the soldiers who captured them and some were killed in the places where they were temporarily detained.<sup>13123</sup> Most of the Bosnian-

<sup>13113</sup> Adjudicated Facts I, no. 504.

<sup>13114</sup> Adjudicated Facts I, no. 521.

<sup>13115</sup> Adjudicated Facts I, no. 521.

<sup>13116</sup> Adjudicated Facts I, no. 739.

<sup>13117</sup> Adjudicated Facts I, no. 739.

<sup>13118</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15321, 15469, 15471; P3182 (Letter of resignation by Milan Tupajić, 9 October 1992).

<sup>13119</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15387-15388, 15409-15410.

<sup>13120</sup> Adjudicated Facts II, no. 1474.

<sup>13121</sup> Adjudicated Facts II, no. 1476.

<sup>13122</sup> Adjudicated Facts II, no. 1477.

<sup>13123</sup> Adjudicated Facts II, no. 1478.

Muslim men who were systematically murdered, however, were slaughtered in carefully orchestrated mass executions, commencing on 13 July 1995, in the region just north of Srebrenica.<sup>13124</sup> In executing the captured Bosnian-Muslim men, no effort was made to distinguish the soldiers from the civilians.<sup>13125</sup> All of the executions systematically targeted Bosnian-Muslim men of military age, regardless of whether they were civilians or soldiers.<sup>13126</sup> The groups of Bosnian Muslims killed by the VRS included boys and elderly men normally considered outside the range of military age.<sup>13127</sup> Some of the victims were severely handicapped and, for that reason, unlikely to have been combatants.<sup>13128</sup> Serious bodily or mental harm was done to the few individuals who survived the mass executions.<sup>13129</sup> The massacred men amounted to about one fifth of the overall Srebrenica community.<sup>13130</sup>

3043. The women of the Bosnian-Muslim community of Srebrenica have often been forced to live in collective and makeshift accommodations for many years, with a reduced standard of living.<sup>13131</sup> The vast majority of Bosnian-Muslim women refugees have been unable to find employment.<sup>13132</sup> Women who were forced to become the head of their households following the take-over of Srebrenica have had difficulties with the unfamiliar tasks of conducting official family business in the public sphere.<sup>13133</sup> Younger children who survived the take-over of Srebrenica have developed adjustment problems, such as low levels of concentration, nightmares, and flashbacks.<sup>13134</sup>

3044. As indicated above, when determining whether the general elements of crimes against humanity are met, the Trial Chamber also considered the evidence and its findings with regard to the individual counts in the Indictment. The review and analysis of this evidence is presented in chapters 4, 5, and 7. In summary, the Trial Chamber found that the SRK committed murder of civilians in Sarajevo over the course of several years. As detailed in chapters 4, 7, and 8, the Trial Chamber found that a number of perpetrators, including members of the VRS and MUP, committed murder of Bosnian

<sup>13124</sup> Adjudicated Facts II, no. 1479.

<sup>13125</sup> Adjudicated Facts II, no. 1481.

<sup>13126</sup> Adjudicated Facts II, no. 1482.

<sup>13127</sup> Adjudicated Facts II, no. 1483.

<sup>13128</sup> Adjudicated Facts II, no. 1484.

<sup>13129</sup> Adjudicated Facts II, no. 1485.

<sup>13130</sup> Adjudicated Facts II, no. 1480.

<sup>13131</sup> Adjudicated Facts II, no. 1653.

<sup>13132</sup> Adjudicated Facts II, no. 1654.

<sup>13133</sup> Adjudicated Facts II, no. 1654.

<sup>13134</sup> Adjudicated Facts II, no. 1656.

Muslims and Bosnian Croats in the Municipalities and Srebrenica as crimes against humanity. These incidents of murder were also found to be acts of persecution as a crime against humanity. Various incidents were found by the Trial Chamber to be extermination as a crime against humanity. The same perpetrators also committed a large number of incidents of unlawful detention, inhumane acts, destruction, and plunder as persecution. Moreover, as set out in detail in chapters 4, 7, and 8, the Trial Chamber finds that a number of perpetrators, including members of the VRS and MUP, committed the crimes of deportation and inhumane acts (forcible transfer) against a large number of Bosnian Muslims and Bosnian Croats from the Municipalities and from Srebrenica. The Trial Chamber finds that these crimes were committed throughout the geographical and temporal scope of the Indictment.

3045. As set out above, the acts of violence were committed against thousands of victims throughout the Bosnian-Serb Republic and over a period of many years. These acts required a certain degree of, or in some cases extensive, organisation. This is particularly evident with regard to the establishment and running of detention facilities in the Municipalities and of the operation in Srebrenica in July 1995. Therefore, based on the evidence described above, including the findings with regard to individual counts in the Indictment, the Trial Chamber finds beyond reasonable doubt that there was a widespread and systematic attack directed against the Bosnian-Muslim and Bosnian-Croat civilian population in Bosnia-Herzegovina, including the civilian population of Sarajevo.

3046. With regard to the requirement that the acts of the perpetrator need to be part of the attack, the Trial Chamber considered the circumstances of the acts, in particular the ethnicity of the victims, the nature of the acts (for example sniping, firing modified air bombs, rape, beatings), and the time and place of their commission, and finds beyond reasonable doubt that the acts found in chapters 4, 5, and 7 were part of the widespread and systematic attack directed against the civilian population.

3047. With regard to the requirement that the perpetrator knew that his or her acts are part of the attack, the Trial Chamber considers that the crimes were committed on a large scale and over a long period. In addition, the crimes were widely reported on by the international and national media as well as through communication and reporting within the VRS and the MUP and other internal channels in the Bosnian-Serb Republic. The widespread character and nature of the crimes inevitably created an awareness in

the principal perpetrators that an attack as described above existed and that their acts were part of it. Under these circumstances, the Trial Chamber finds beyond reasonable doubt that the perpetrators knew that their acts were part of this attack.

3048. Having determined the existence of an armed conflict and a widespread and systematic attack directed against a civilian population at the relevant time and place, the Trial Chamber will now assess the individual acts charged as crimes against humanity.

### 8.3 Murder

#### *8.3.1 Applicable law*

3049. Count 5 of the Indictment charges the Accused with murder as a crime against humanity, punishable under Article 5 (a) of the Statute. Count 6 of the Indictment charges the Accused with murder as a violation of the laws or customs of war under Article 3. The general elements and jurisdictional requirement for these crimes have been discussed in chapters 8.1 and 8.2, above.

3050. The crime of murder requires proof of the following elements:

- (a) the victim died;
- (b) an act or omission of the perpetrator caused the victim's death; and
- (c) the act or omission was committed with intent to kill the victim or to wilfully cause serious bodily harm which the perpetrator should reasonably have known might lead to death.<sup>13135</sup>

#### *8.3.2 Legal findings*

3051. In chapters 4.1.1, 4.2.1, 4.3.1, 4.5.1, 4.6.1, 4.7.1, 4.8.1, 4.10.1, 4.11.1, 4.12.1, 4.13.1, 4.14.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8.1, 7.8.2, 7.9, 7.10, 7.11, 7.12, 7.13.1, 7.13.2, 7.14.1, 7.14.2, 7.15, 5.2.2, 5.2.6, 5.2.7, 5.2.8, 5.2.11, 5.3.3, 5.3.4, 5.3.5, 5.3.6, 5.3.7, 5.3.10, 5.3.11, the Trial Chamber decided to further consider the following incidents of alleged murder against the applicable law:

#### *Schedule A*

(a) Scheduled Incident A.2.1 - in early July 1992, the killing of ten Bosnian Muslims of the village of Mješaja/Trošanj in Foča Municipality by local Serb soldiers, led by Gojko Janković, whose sub-unit was subordinated to Marko Kovač, Commander of the Foča Tactical Group, and including Radomir Kovač, Janko Janjić, Slavo Ivanović, Dragan Zelenović, and Visco Miletić, as further set out in chapter 4.3.1;

<sup>13135</sup> *Kvočka et al.* Appeal Judgment, para. 261.



- (b) Scheduled Incident A.3.3 - on 10 July 1992, the killing of at least 189 Bosnian-Muslim detainees in Biljani, Ključ Municipality by VRS soldiers including military police, and reserve police members, in the context of a mopping-up operation conducted pursuant to an order from Drago Samardžija, Commander of the VRS 17th Light Infantry Brigade, as further set out in chapter 4.6.1;
- (c) Scheduled Incident A.4.4 - on 4 November 1992, the killing of approximately 150 unarmed Bosnian-Muslim men at Grabovica School by the VRS 1st Kotor Varoš Brigade and the 2nd Battalion of the 22nd Brigade; and on 5 November 1992, the killing of a wounded Bosnian-Muslim detainee, who had survived the killings at Grabovica School, by Pero Zarić, as further set out in chapter 4.7.1;
- (d) Scheduled Incident A.6.1 - from 24 until around 27 May 1992, the killing by shelling of over 800 inhabitants of Kozarac, as well as the killing of at least 80 Bosnian-Muslim civilians and 10-14 surrendered Bosnian-Muslim policemen by VRS units of the Banja Luka Corps, Duško Tadić, the Serb police, and Andžić's paramilitaries upon their entry into the village, and the killing of 66 people around the Benkovac training grounds by armed Bosnian Serbs, as further set out in chapter 4.10.1;
- (e) Scheduled Incident A.6.2 - on 11 June 1992, the killing of an unarmed Bosnian-Muslim man by a Serb police officer named Jevo Maseldžija in Hambarine; and on 1 July 1992, the killing of a Bosnian-Muslim man by a group of four men including Mlado Jursić in Behlići, as further set out in chapter 4.10.1;
- (f) Scheduled Incident A.6.3 - around 26 May 1992, the killing of nine Bosnian Muslims by Bosnian-Serb soldiers in Kamičani, as further set out in chapter 4.10.1;
- (g) Scheduled Incident A.6.4 - on 14 June 1992, the killing of 19 Bosnian-Muslim men in Jaskići by uniformed soldiers who were with Duško Tadić, as further set out in chapter 4.10.1;
- (h) Scheduled Incident A.6.5 - between 1 and 23 July 1992, the killing of at least 21 unarmed Bosnian-Muslim and Bosnian-Croat civilians in Čarakovo by members of the Bosnian-Serb military and police, as well as Velimir Đurić, Zoran Babić, Dragomir Soldat, Goran Gruban, Mico Jursić, Vinko Panić, a man called Stakić and a man nicknamed 'Kojo', as further set out in chapter 4.10.1;
- (i) Scheduled Incident A.6.6 - on 20 July 1992, the killing of five unarmed Bosnian-Muslim men in the village of Biščani by Bosnian-Serb soldiers; on the same day, the

killing of ten Bosnian-Muslim men from the village of Bišćani who had been put on a bus, near Prijedor by a 'commander'; on the same day, the killing of at least ten Bosnian-Muslim men by the same 'commander' in an area called Kratalj; on the same day, the killing of a Bosnian-Muslim man in Čemernica by a soldier named Gligić; on the same day, the killing of 30 to 40 Bosnian-Muslim men and children in Mrkalji, by approximately 25 Bosnian-Serb soldiers; on the same day, the killing of two unarmed Bosnian-Muslim men by members of the former JNA, members of the police forces, or paramilitaries in Mrkalji; and on the same day, the killing of 12 Bosnian Muslims in Hegići by Bosnian-Serb soldiers, as further set out in chapter 4.10.1;

(j) Scheduled Incident A.6.7 - around 25 July 1992, the killing of all but two of the more than 50 predominantly Bosnian-Muslim or Bosnian-Croat detainees from Ljubija football stadium in an iron-ore mine called Kipe by Bosnian-Serb soldiers, as further set out in chapter 4.10.1;

(k) Scheduled Incident A.6.8 - around 25 July 1992, the killing of 15 of the predominantly Bosnian-Muslim or Bosnian-Croat men detained at the Ljubija football stadium by soldiers, including a VRS military police officer, and police, including a policeman called Stiven, as further set out in chapter 4.10.1;

(l) Scheduled Incident A.6.9 - on 24 and 25 July 1992, the killing by shelling of at least 68 people in Briševo by members of the VRS forces, first through shelling and then by shooting inhabitants upon entering the village, as further set out in chapter 4.10.1;

(m) Scheduled Incident A.7.1 - on or about 31 May 1992, the killing of at least 32 Bosnian Muslims on the way to and at the Vrhopolje bridge by uniformed men including Nenad Kaurin and Jadranko Palija, a member of the reserve police and a member of the VRS 6th Krajina Brigade respectively, as further set out in chapter 4.12.1;

(n) Scheduled Incident A.7.2 - on 31 May 1992, the killing of around 31 Bosnian Muslims in Jelečevići by either part of the VRS's 6th Krajina Brigade or a paramilitary formation, all under the command of Colonel Basara, commander of the VRS's 6th Krajina Brigade, as further set out in chapter 4.12.1;

(o) Scheduled Incident A.7.3 - around 27 June 1992, the killing of at least 17 Muslim men from Kenjari in Blaževići by Serbs subordinated to the 6th Krajina Brigade command, as further set out in chapter 4.12.1;

- (p) Scheduled Incident A.7.4 - on 1 August 1992, the killing of 14 Muslim men from Budim by Serb soldiers led by Mićo 'Kudra' Praštalo, commander of the paramilitary unit from Lušci Palanka, as further set out in chapter 4.12.1;
- (q) Scheduled Incident A.7.5 - on 2 November 1992, the killing of nine Bosnian Croats at the Glamošnica forest close to Škrļjevitā in Sanski Most Municipality by Daniluško Kajtez and Miloš Maksimović, both soldiers in the 6th Krajina Brigade, as well as Todo Vokić, and Goran Vukojević, as further set out in chapter 4.12.1;
- (r) Scheduled Incident A.8.1 - on 22 September 1992, the killing of 40-45 Bosnian-Muslim men and one Bosnian-Muslim woman in Novoseoci by members of the VRS 2nd Romanija Brigade, as further set out in chapter 4.13.1; and
- (s) Scheduled Incident A.9.1 - on 2 June 1992, the killing of at least 20 Bosnian-Muslim men in the village of Drum by members of Kraljević's unit, under TO command, or VRS members, as further set out in chapter 4.14.1.

#### *Schedule B*

- (a) Scheduled Incident B.1.1 - on 6 June 1992, the killing at Manjača camp, Banja Luka Municipality, of six Bosnian-Muslim detainees taken from Hasan Kikić Elementary School in Sanski Most by several policemen from Sanski Most, as further set out in chapter 4.1.1;
- (b) Scheduled Incident B.1.2 - on 7 July 1992, the killing of approximately 24 mostly Bosnian-Muslim detainees from Betonirka detention facility in Sanski Most suffocating to death *en route* to Manjača camp by policemen, as further set out in chapter 4.1.1;
- (c) Scheduled Incident B.1.4 - between 3 June and 18 December 1992, the killing of two Bosnian-Muslim detainees at Manjača camp by camp guards, VRS and SJB members, as further set out in chapter 4.1.1;
- (d) Scheduled Incident B.2.1 - between 30 June and 5 July 1992, the killing of a Bosnian-Croat detainee at Batković camp, Bijeljina Municipality, by policemen under Mirović, the Commander of the Police Force in Vlasenica, and guards, VRS members, under Velibor Stojanović; between July 1992 and July 1993, the killing of two elderly Bosnian-Croat detainees by two guards, VRS members, and soldiers from the front-line allowed into Batković camp by the former two, as further set out in chapter; and around

the end of 1992 or beginning of 1993, the killing of two detainees from Batković camp by soldiers from the Krajina Corps, as further set out in chapter 4.2.1.

(e) Scheduled Incident B.5.1 - in June and July 1992, the killing of 36 Bosnian-Muslim detainees at KP Dom, Foča Municipality, by camp guards, MoJ employees and VRS members, and members of the military coming from outside into KP Dom; in the second half of 1992, the killing of hundreds of the predominantly Bosnian-Muslim detainees at KP Dom by guards, MoJ employees and VRS members, and by others, including Dragan Zelenović a.k.a. Zelja, Gojko Janković, Predrag Trivun a.k.a. Pedo or Pedolino, Janko Janjić, Zoran Samardžić, Pero Elez, and a man from Brane Čosović's units, all of whom headed, or were members of, sub-units under Marko Kovač, Commander of the Foča Tactical Group; and in June 1993, the killing of a Muslim after being taken out of KP Dom by Predrag Trivun and Zoran Samardžić, both subordinated to Pero Elez, who headed his own sub-unit under Marko Kovač, Commander of the Foča Tactical Group, and by others, as further set out in chapter 4.3.1;

(f) Scheduled Incident B.7.1 - on 5 August 1992, the killing of 23 detainees taken from the ammunition warehouse in Jalašačko Polje in Kalinovik in Rantine, Foča Municipality, by five or six soldiers commanded by Pero Elez, who headed his own sub-unit under Marko Kovač, Commander of the Foča Tactical Group, as further set out in chapter 4.5.1;

(g) Scheduled Incident B.8.1 - on 1 June 1992, the killing of at least 77 detainees at Velagići School, Ključ Municipality, by members of the VRS, as further set out in chapter 4.6.1;

(h) Scheduled Incident B.10.1 - in early June 1992, the killing of two detainees from the oil cisterns near Rajlovac barracks, Novi Grad Municipality, by Žarko Krsman, known as 'Šok', and Nikola Stanišić, the commander of a special unit, as further set out in chapter 4.8.1;

(i) Scheduled Incident B.10.2 - on 14 June 1992, the killing of at least 47 detainees from the oil cisterns near Rajlovac barracks in Sokolina by members of the VRS military police, as further set out in chapter 4.8.1;

(j) Scheduled Incident B.13.1 - on or around 25 July 1992, the killing of between 190 and 220 detainees, all or almost all of whom were Bosnian Muslims or Bosnian Croats,

held in Room 3 at Keraterm camp, Prijedor Municipality, by members of the SJB and VRS, as further set out in chapter 4.10.1;

(k) Scheduled Incident B.13.2 - between 29 May and August 1992, the killing of at least 50 detainees, almost all of whom were Bosnian-Muslim or Bosnian-Croat, held at Omarska camp, Prijedor Municipality, by camp guards and the police, as further set out in chapter 4.10.1;

(l) Scheduled Incident B.13.3 - on 5 August 1992, the killing of at least 126 detainees, who were almost exclusively Bosnian Muslims or Bosnian Croats, from Omarska and Keraterm camps by unidentified Bosnian Serbs, as further set out in chapter 4.10.1;

(m) Scheduled Incident B.13.4 - in the second half of July 1992, the killing of between approximately 100 and 180 detainees, all or almost all of whom were Bosnian Muslims or Bosnian Croats, from Omarska camp by camp guards and the police, as further set out in chapter 4.10.1;

(n) Scheduled Incident B.13.5 – between 26 May 1992 and the end of September 1992, the killing of at least two Bosnian-Muslim or Bosnian-Croat detainees held at Trnopolje camp, Prijedor Municipality, by camp guards, members of the TO and VRS; between 26 May and mid-August 1992, the killing of two Bosnian-Muslim or Bosnian-Croat detainees held at Trnopolje camp by a camp guard; around mid-July 1992, the killing of six Bosnian-Muslim detainees held at Trnopolje camp by camp guards, members of the TO and VRS; and on or about 24 or 25 August 1992, the killing of eleven Bosnian-Muslim or Bosnian-Croat detainees held at Trnopolje camp by Serb soldiers, as further set out in chapter 4.10.1;

(o) Scheduled Incident B.14.1 - between on or around 19 July and the end of October 1992, the killing of a Bosnian Muslim detainee held at Veljko Vlahović School, Rogatica Municipality, by Macola, who was a member of a paramilitary unit belonging to Arkan's men, as further set out in chapter 4.11.1;

(p) Scheduled Incident B.14.2 - on 15 August 1992, the killing in Duljevac, Rogatica Municipality, of 24 detainees from detention facilities in Rasadnik by two soldiers and Dragoje Paunović, commander of the Kozići unit of the VRS Rogatica Brigade, as further set out in chapter 4.11.1;

(q) Scheduled Incident B.16.1 - in June and July 1992, the killing of nine detainees at Sušica camp, Vlasenica Municipality, by local policemen and Dragan Nikolić and

Goran Tešić, both members of the Bosnian-Serb MUP and Kraljević's unit as further set out in chapter 4.14.1; and

(r) Scheduled Incident B.16.2 - on 30 September 1992, the killing of 140 to 150 detainees from Sušica camp by Serb MUP officers from the SJB Vlasenica, as further set out in chapter 4.14.1.

### *Schedule C*

(a) Scheduled Incident C.9.1 - in August 1992, the killing of a detainee at Kalinovik Elementary School by Boško Govedarica, the Chief of Police at the Kalinovik SJB, as further set out in chapter 4.5.1;

(b) Scheduled Incident C.15.3 - during the night of 2 to 3 July 1992, the killing of a Bosnian-Croat detainee at Keraterm camp by camp guards, members of the SJB and VRS, as further set out in chapter 4.10.1;

(c) Scheduled Incident C.15.5 - in late July 1992, the killing of a Bosnian-Muslim detainee held at Miška Glava Dom, Prijedor Municipality, by a member of the Miška Glava TO, as further set out in chapter 4.10.1; and

(d) Scheduled Incident C.16.3 - between 5 August 1992 and April 1993, the killing of seven Bosnian-Muslim detainees held at Rasadnik camp, by camp guards, who were members of the SJB and the VRS; and, between December 1992 and April 1994, the killing of several Bosnian-Muslim detainees in and around Rasadnik camp, by Vinko Bojić, warden of Rasadnik camp at the time and member of the VRS Rogatica Brigade, as further set out in chapter 4.11.1.

### *Unscheduled Incidents*

(a) around early spring of 1993, the killing of three elderly Bosnian-Muslim women in Foča Municipality by soldiers, upon the order of Marko Kovač, Commander of the Foča Tactical Group, as further set out in chapter 4.3.1; and

(b) around 13 June 1992, the killing of five elderly Bosnian-Muslim inhabitants in Hrváčani Town, Kotor Varoš Municipality, by Serb military forces; on 2 July 1992, the killing of at least 30 Bosnian-Muslims, including 15 who were detained in the Alagić

café, in Vrbanjci, Kotor Varoš Municipality, by military forces under the command of Slobodan Župljanin and Saša Petrović, or members of the Banja Luka CSB Special Police Detachment, as further set out in chapter 4.7.1.

*Schedule E and other incidents*

(a) Scheduled Incident E.1.1 - on 13 July 1995, the killing of 15 Bosnian-Muslim male detainees, including a 14-year-old boy, one man wearing civilian clothing, and one man wearing a piece of military clothing, on the bank of the Jadar River by members of the police or the VRS military police, as further set out in chapter 7.2;

(b) Scheduled Incident E.2.1 - on or around 17 July 1995, the killing of approximately 150 non-Serb males, including minors, some as young as 14 years old, in the Cerska Valley by 'Chetniks' and members of the Special Police Detachment and Special Police Unit of the MUP, as further set out in chapter 7.3;

(c) Scheduled Incident E.3.1 - from 13 to 14 July 1995, the killing of approximately 1,000 Bosnian-Muslim males who were detained in Kravica Warehouse by members of the 2nd Šehovići Detachment of the Special Police Brigade, and the Bratunac Brigade, as further set out in chapter 7.4;

(d) Scheduled Incident E.4.1 - on 13 July 1995, the killing of 10-15 unarmed Bosnian-Muslim men, who had surrendered from the column near Sandići Meadow, by members of the 1st company of the Jahorina police training centre, and the killing of one wounded Bosnian-Muslim man on the same day, by a Serb soldier, as further set out in chapter 7.5;

(e) Scheduled Incident E.5.1 - on 14 July 1995, the killing of approximately 21 Bosnian-Muslim men dressed in civilian clothes, who were detained at the Luke school, in an isolated nearby pasture by members of the VRS, as further set out in chapter 7.6;

(f) Scheduled Incident E.6.1 - on 14 July 1995, the killing of two Bosnian-Muslim men detained at Grbavci School in Orahovac, by members of the Zvornik Brigade, as further set out in chapter 7.7;

(g) Scheduled Incident E.6.2 - on 14 July 1995, the killing of at least 819 Bosnian-Muslim men, previously detained at Grbavci School, on two meadows near Orahovac, by members of the Zvornik Brigade, as further set out in chapter 7.7;

- (h) Scheduled Incident E.7.1 - on 14 July 1995, the killing of about 20 Bosnian-Muslim men detained at Petkovci School by members of the VRS, as further set out in chapter 7.8.1;
- (i) Scheduled Incident E.7.2 - on 14 and 15 July 1995, the killing of about 401 Bosnian-Muslim males, including minors, previously detained at Petkovci School, by members of the 6th Infantry Battalion of the Zvornik Brigade at Petkovci Dam, as further set out in chapter 7.8.2;
- (j) Scheduled Incident E.8.1 - on 14 or 15 July 1995, the killing of at least 12 Bosnian Muslims detained at Roćević School by members of the Zvornik Brigade, as further set out in chapter 7.9;
- (k) Scheduled Incident E.8.2 - on 15 July 1995, the killing of at least 575 Bosnian-Muslim males who were previously detained at Roćević School by members of the Zvornik and Bratunac Brigades, as further set out in chapter 7.9;
- (l) Scheduled Incident E.9.1 - on or about 14 or 15 July 1995, the killing of at least eight Bosnian-Muslim men at the Kula School near Pilica by members of the VRS Zvornik Brigade's 1st Battalion, as further set out in chapter 7.10;
- (m) Scheduled Incident E.9.2 - on 16 July 1995, the killing of between 1,000 and 1,200 male Bosnian-Muslim detainees from Kula School in Pilica at the Branjevo Military Farm by VRS soldiers, as further set out in chapter 7.10;
- (n) Scheduled Incident E.10.1 - on 16 July 1995, the killing of approximately 500 Bosnian-Muslim men and two women inside the Pilica Cultural Centre by VRS members, as further set out in chapter 7.10;
- (o) Scheduled Incident E.12.1 - on 23 July 1995, the killing of 39 men and boys, almost all of whom were Bosnian Muslims, in Bišina by members of the VRS 10th Sabotage Detachment, as further set out in chapter 7.11;
- (p) Scheduled Incident E.13.1 - between mid-July and mid-August 1995, the killing of six Bosnian-Muslim men and boys from Srebrenica near the town of Trnovo by members of the Skorpions Unit, as further set out in chapter 7.12;
- (q) Scheduled Incident E.14.1 - on or about 12 July 1995, the killing of nine Bosnian-Muslim men near the UN Compound in Potočari on the Budak side of the main road by members of the VRS, as further set out in chapter 7.13.1;



- (r) Scheduled Incident E.14.2 - on 13 July 1995, the killing of a Bosnian-Muslim man near the White House by VRS soldiers, as further set out in chapter 7.13.2;
- (s) Scheduled Incident E.15.1 - from 12 to 14 July 1995, the killing of more than 50 Bosnian-Muslim men detained in and around Vuk Karadžić Elementary School by members of the VRS Bratunac Brigade Military Police Platoon, members of the special police, members of the Bosnian-Serb MUP civilian police, members of the Drina Wolves, and paramilitary formations, as further set out in chapter 7.14.1;
- (t) Scheduled Incident E.15.3 - on the evening of 13 July 1995, the killing of a man, who was taken off a bus parked in front of Vuk Karadžić Elementary School in Bratunac, by VRS military policemen, as further set out in chapter 7.14.2;
- (u) Unscheduled incident - during the night of 13 July 1995 and in the morning of 14 July 1995, the killing of 15 Bosnian-Muslim detainees outside of the supermarket at Kravica by VRS soldiers, as further set out in chapter 7.15;
- (v) Unscheduled incident - on or about 18 July 1995, the killing of four captured Bosnian Muslims by VRS soldiers, as further set out in chapter 7.15; and
- (w) Unscheduled incident - on or about 23 July 1995, the killing of ten injured Bosnian-Muslim detainees of the Zvornik Brigade barracks by VRS soldiers, as further set out in chapter 7.15.

*Schedule F and other sniping incidents*

- (a) Scheduled Incident F.3 - on 11 July 1993, the killing of Munira Zametica, a 48-year-old woman, while collecting water from the Dobrinja River by an SRK member, as further set out in chapter 5.2.2;
- (b) Scheduled Incident F.11 - on 8 October 1994, the killing of one person during a series of shootings, hitting two trams, by an SRK member, as further set out in chapter 5.2.6;
- (c) Scheduled Incident F.12 - on 18 November 1994, the killing of Nermin Divović, a seven-year-old boy, in Sarajevo by an SRK member, as further set out in chapter 5.2.7;
- (d) Scheduled Incident F.13 - on 23 November 1994, the killing of a man travelling on tram 238 in Sarajevo by an SRK member, as further set out in chapter 5.2.8;

- (e) Unscheduled sniping incident - on 31 March 1993, the killing of Džemo Parla while she was retrieving water from a fountain in the Sedrenik neighbourhood of Stari Grad by an SRK member, as further set out in chapter 5.2.11;
- (f) Unscheduled sniping incident - on 27 June 1993, the killing of Almasa Konjhodžić as she was walking near the intersection of Kranjčevića Street in Sarajevo by an SRK member, as further set out in chapter 5.2.11;
- (g) Unscheduled sniping incident - on 26 September 1993, the killing of Edina Trto on Ivana Krndelja Street in Sarajevo by a VRS member, as further set out in chapter 5.2.11;
- (h) Unscheduled sniping incident - on 11 January 1994, the killing of Hatema Mukanović, while she was in her apartment in Hrasno, by an SRK member, as further set out in chapter 5.2.11;
- (i) Unscheduled sniping incident - on 24 October 1994, the killing of Adnan Kasapović, a 14-year-old civilian boy in Vojničko Polje by an SRK member, as further set out in chapter 5.2.11; and
- (j) Unscheduled sniping incident - on 14 May 1995, the killing of Jasmina Tabaković in her apartment in Dobrinja by an SRK member, as further set out in chapter 5.2.11.

*Schedule G and other shelling incidents*

- (a) Scheduled Incident G.4 - on 1 June 1993, the killing of over ten people in Dobrinja at a make-shift football pitch through shelling by members of the SRK, as further set out in chapter 5.3.3;
- (b) Scheduled Incident G.6 - on 22 January 1994, the killing of six children in Sarajevo through shelling by a member or members of the SRK, as further set out in chapter 5.3.4;
- (c) Scheduled Incident G.7 - on 4 February 1994, the killing of at least eight people in Dobrinja who were queuing for humanitarian aid through shelling by an SRK member, as further set out in chapter 5.3.5;
- (d) Scheduled Incident G.8 - on 5 February 1994, the killing of over 60 people at the Markale Market in Sarajevo through shelling by members of the SRK, as further set out in chapter 5.3.6;

- (e) Scheduled Incident G.10 - on 7 April 1995, the killing of one civilian in Hrasnica by members of the SRK launching a modified air bomb, as further set out in chapter 5.3.7;
- (f) Scheduled Incident G.18 - on 28 August 1995, the killing of at least 43 people at the Markale Market in Sarajevo through shelling by members of the SRK, as further set out in chapter 5.3.10;
- (g) Unscheduled shelling incident – on 27 May 1992, the killing of at least ten civilians on Vase Miškina Street in Sarajevo through shelling by a member of the SRK, as further set out in chapter 5.3.11;
- (h) Unscheduled shelling incident - on 8 November 1994, the killing of at least four civilians in Sarajevo through shelling by members of the SRK, as further set out in chapter 5.3.11;
- (i) Unscheduled shelling incident - on 22 June 1995, the killing of two people in Alipašino Polje by a member or members of the SRK launching a modified air bomb, as further set out in chapter 5.3.11;
- (j) Unscheduled shelling incident - on 25 June 1995, the killing of three people in Stari Grad through shelling by a member or members of the SRK, as further set out in chapter 5.3.11;
- (k) Unscheduled shelling incident - on 28 June 1995, the killing of three civilians in Sarajevo by a member or members of the SRK launching a modified air bomb, as further set out in chapter 5.3.11;
- (l) Unscheduled shelling incident - on 30 June 1995, the killing of four people in Sarajevo through shelling by a member or members of the SRK, as further set out in chapter 5.3.11;
- (m) Unscheduled shelling incident - on 1 July 1995, the killing of four people in Sarajevo through shelling by a member or members of the SRK, as further set out in chapter 5.3.11;
- (n) Unscheduled shelling incident - on 23 July 1995, the killing of two civilians in Sokolovići by a member or members of the SRK launching a modified air bomb, as further set out in chapter 5.3.11; and

(o) *Unscheduled shelling incident* - on 22 August 1995, the killing of one civilian in Sarajevo by a member or members of the SRK launching a modified air bomb, as further set out in chapter 5.3.11.

3052. *Death and causality.* In light of its factual findings, the Trial Chamber finds that in all of the above-mentioned incidents the victims died and that their deaths were caused by acts of the perpetrators. The causes were mostly shooting, shelling, or beating. In one instance, death was caused by suffocation.

3053. *Intent.* With regard to most of the *Schedule A* incidents, the victims were targeted or detained prior to their killing. The Trial Chamber finds that the intent requirement is met in these incidents. In one of the remaining two incidents, Scheduled Incident A.6.1, over 800 inhabitants of Kozarac were killed during the shelling of the town. The shelling was followed by the advance of tanks and infantry, during which houses were set on fire and civilians and policemen were killed. When a doctor tried to negotiate safe passage of a severely injured boy to a hospital, the perpetrators responded that they would kill the Muslims anyway. In the other remaining incident (Scheduled Incident A.6.9), some of the victims died during a shelling attack. As in Kozarac, the advance of the attacking forces in Briševo following the shelling resulted in the killing of many inhabitants. The Trial Chamber finds that under these circumstances there is no reasonable doubt that the perpetrators shelled Kozarac and Briševo with the requisite intent for the crime of murder.

3054. In respect of each of the above *Schedule B, C, and unscheduled* incidents, given the circumstances of the killings, the Trial Chamber finds that the perpetrators acted with the requisite intent for the crime of murder.

3055. The scheduled and unscheduled Srebrenica (*Schedule E*) incidents relate to killings in the surroundings of Srebrenica. In some incidents, victims were lined up prior to the killings or shot in the back. In other incidents, the victims were killed in large numbers, insulted, beaten, or threatened prior to their killing, or killed upon a clear order. Under these circumstances, the Trial Chamber finds beyond reasonable doubt that the perpetrators in the Srebrenica incidents acted with the requisite intent for the crime of murder.

3056. The *Schedule F and other* incidents relate to sniping in Sarajevo. In many incidents, there was either a single shot or very few shots towards the victims or a series

of shots following the initial shot aimed at preventing rescuers from approaching. The Trial Chamber also considered its findings about the general conditions in Sarajevo as set out in chapter 5.1.1. Under these circumstances, the Trial Chamber finds that the only reasonable inference is that the perpetrators in the incidents at issue acted with the requisite intent for the crime of murder.

3057. The *Schedule G and other* incidents relate to shelling in Sarajevo. In all incidents, the shelling hit residential areas. The Trial Chamber recalls its findings in chapter 8.6 that the perpetrators in all incidents wilfully made civilians not taking direct part in hostilities the object of their shelling. The Trial Chamber finds that in all these incidents, the perpetrators acted with the requisite intent for the crime of murder.

3058. The Trial Chamber recalls its findings in chapters 8.1 and 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity and violations of the laws and customs of war.

3059. *Status of victims.* The Trial Chamber did not rely on Tabeau's determinations with regard to the status of victims, as further explained in Appendix B.

3060. In relation to the *Schedule A* incidents, the Trial Chamber finds that most of the victims were civilians. For some incidents (Scheduled Incident A.6.1 (the day after the attack at the Benkovac training grounds), Scheduled Incident A.6.2 (Aziz Behlić), Scheduled Incident A.6.6 (Hegići), and Scheduled Incident A.7.3), it remained unclear whether the victims were civilians or combatants. However, those people were at least detained at the time of killing, thus *hors de combat*. Accordingly, they did not actively participate in the hostilities at the time of the killings. In relation to Scheduled Incident A.2.1, Izet Ćolo was returning fire when he was killed. The Trial Chamber therefore finds that this victim was a combatant who actively participated in hostilities at the time of the killings. Accordingly, the killing of this man will not be further considered in relation to Counts 5 and 6 of the Indictment.

3061. In relation to the *Schedule B, C, and unscheduled* incidents, the Trial Chamber recalls that almost all victims were civilians. Where it remained unclear whether they were civilians, they were at least detained at the time of killing, thus *hors de combat*.

3062. In relation to the Srebrenica (*Schedule E*) incidents, the Trial Chamber finds that a number of the victims were civilians. For many incidents, for example Scheduled Incident E.1.1 (majority of the 15 victims), Scheduled Incident E.2.1 (three victims

without information on clothing), Scheduled Incident E.4.1, Scheduled Incident E.6.1, Scheduled Incident E.6.2 (some in military clothing), Scheduled Incident E.7.1, Scheduled Incident E.7.2, Scheduled Incident E.8.1 (some of the victims), Scheduled Incident E.8.2 (some of the victims), Scheduled Incident E.9.2, Scheduled Incidents E.10.1 (some victims), E.12.1, and E.13.1, and Scheduled Incident E.15.1, it remained unclear whether the victims were civilians or combatants. However, those people were at least detained at the time of killing, thus *hors de combat*. The Trial Chamber therefore finds that in all Srebrenica incidents, the victims were not actively participating in the hostilities at the time of the killings.

3063. In relation to the incidents related to *Schedules F and G*, the Trial Chamber finds that most of the victims, who included many children, were civilians who did not actively participate in the hostilities at the time of the shootings. People were shot when shopping, playing, when on trams, or lining up for humanitarian aid. Others were shot on their way to get water or even in their apartments. Victims were hit in residential areas, sometimes with modified air bombs. In relation to the remaining victims, in Scheduled Incident G.4, the Trial Chamber found that the shells were fired at a football tournament in a residential community. The victims were civilians, who did not actively participate in the hostilities at the time of the shelling, as well as combatants. Even though the combatants were carrying out a civilian activity, they were not *hors de combat*. Accordingly, the killings of any combatants in Scheduled Incident G.4 will not be further considered in relation to Counts 5 and 6 of the Indictment. Similarly, there was a small number of victims in Scheduled Incidents G.8 and G.18 who were combatants. These victims will also not be further considered in relation to Counts 5 and 6 of the Indictment.

3064. *Nexus*. The Trial Chamber recalls that all of the above-mentioned incidents occurred during the period in which an armed conflict took place in the territory of Bosnia-Herzegovina. Further, the Trial Chamber finds, based on the manner in which the acts took place, that there was a close relationship between the acts and the armed conflict. Therefore, the Trial Chamber finds that the nexus requirement has been met.

3065. *Conclusion*. The Trial Chamber finds that the following incidents constituted murder as charged in Counts 5 and 6 of the Indictment: Scheduled Incidents A.2.1 (except for the killing of Izet Ćolo), A.3.3, A.4.4, A.6.1 – A.6.9, A.7.1 – A.7.5, A.8.1, A.9.1, B.1.1, B.1.2, B.1.4, B.2.1, B.5.1, B.7.1, B.8.1, B.10.1, B.10.2, B.13.1 – B.13.5,

B.14.1, B.14.2, B.16.1, B.16.2, C.9.1, C.15.3, C.15.5, C.16.3, E.1.1, E.2.1, E.3.1, E.4.1, E.5.1, E.6.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, E.12.1, E.13.1, E.14.1, E.14.2, E.15.1, E.15.3, F.3, F.11, F.12, F.13, G.4 (except for the killing of any combatants), G.6, G.7, G.8 (except for the killing of the small number of combatants), G.10, G.18 (except for the killing of the small number of possible combatants), as well as the following unscheduled incidents: Foča Municipality, Kotor Varoš Municipality, Srebrenica unscheduled incidents of 13 July 1995, 18 July 1995 and 23 July 1995, Sarajevo sniping incidents of 31 March 1993, 27 June 1993, 26 September 1993, 11 January 1994, 24 October 1994, and 14 May 1995, and Sarajevo shelling incidents of 27 May 1992, 8 November 1994, 22 June 1995, 25 June 1995, 28 June 1995, 30 June 1995, 1 July 1995, 23 July 1995, and 22 August 1995.

## 8.4 Extermination

### *8.4.1 Applicable law*

3066. Count 4 of the Indictment charges the Accused with extermination as a crime against humanity, punishable under Article 5 (b) of the Statute. The general elements and jurisdictional requirements for this crime have been discussed in chapter 8.2, above.

3067. The crime of extermination subsumes the elements of murder under Article 5 of the Statute.<sup>13136</sup> The *actus reus* of extermination requires that the killings constituting murder occur on a mass scale.<sup>13137</sup> Although ‘mass scale’ refers primarily to the number of killings, it does not suggest a numerical minimum.<sup>13138</sup> Relevant factors to consider when assessing whether the killings occurred on a mass scale include the time and place of the killings, the selection of the victims, and the manner in which they were targeted, and whether the killings were aimed at the collective group rather than victims in their individual capacity.<sup>13139</sup> The *actus reus* of extermination may be established through an aggregation of separate incidents where they form part of the same murder operation.<sup>13140</sup> In determining whether separate incidents may be aggregated, regard must be had to the circumstances in which the incidents occurred including the time and place of the killings, the manner of the killings and the identity of the perpetrators.<sup>13141</sup> The *mens rea* required for extermination is the intention to either (a) kill the victim, or

<sup>13136</sup> *Krajišnik* Trial Judgment, para. 716; *Ntakirutimana and Ntakirutimana* Appeal Judgment, para. 516; *Stakić* Appeal Judgment, para. 260; *Lukić and Lukić* Appeal Judgment, para. 536; *Tolimir* Appeal Judgment, para. 146; *Stanišić and Župljanin* Appeal Judgment, para. 1021.

<sup>13137</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgment, paras 522, 542; *Stakić* Appeal Judgment, paras 259-260; *Bagosora and Nsengiyumva* Appeal Judgment, para. 394; *Stanišić and Župljanin* Appeal Judgment, para. 1021.

<sup>13138</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgment, para. 516; *Stakić* Appeal Judgment, para. 260; *Lukić and Lukić* Appeal Judgment, para. 537; *Stanišić and Župljanin* Appeal Judgment, para. 1021. In the *Lukić and Lukić* case, the Appeals Chamber found that the killing of 59 persons was sufficiently large so as to constitute extermination (*Lukić and Lukić* Appeal Judgment, para. 543). In the *Akayesu* case, the ICTR Appeals Chamber upheld the finding that the killing of 16 persons constituted extermination (see *Akayesu* Appeal Judgment, paras 423-424; *Akayesu* Trial Judgment, paras 737-744).

<sup>13139</sup> *Stakić* Trial Judgment, para. 640; *Blagojević and Jokić* Trial Judgment, para. 573; *Nahimana et al.* Trial Judgment, para. 1061; *Lukić and Lukić* Appeal Judgment, para. 538; *Stanišić and Župljanin* Appeal Judgment, para. 1022.

<sup>13140</sup> *Karemera* Appeal Judgment, paras 661–662; *Tolimir* Appeal Judgment, para. 147; *Stanišić and Župljanin* Appeal Judgment, para. 1022.

<sup>13141</sup> *Bagosora and Nsengiyumva* Appeal Judgment, para. 396; *Tolimir* Appeal Judgment, paras 149-150; *Stanišić and Župljanin* Appeal Judgment, paras 1022, 1027.



(b) wilfully cause serious bodily harm which the perpetrator should reasonably have known might lead to death, with the additional intention to do so on a mass scale.<sup>13142</sup>

#### 8.4.2 Legal findings

3068. In chapters 4.1.1, 4.2.1, 4.3.1, 4.4.1, 4.5.1, 4.6.1, 4.7.1, 4.8.1, 4.10.1, 4.11.1, 4.12.1, 4.13.1, 4.14.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8.1, 7.8.2, 7.9, 7.10, 7.11, 7.12, 7.13.1, 7.13.2, 7.14.1, 7.14.2, 7.15 the Trial Chamber decided to further consider the incidents of alleged extermination against the applicable law.

3069. *Actus reus*. The Trial Chamber recalls that the crime of extermination subsumes the elements of murder under Article 5 of the Statute as noted in chapter 8.4.1 above. The Trial Chamber also recalls that in chapter 8.3.2 it found that certain incidents of killing constitute murder as a crime against humanity.<sup>13143</sup> In assessing whether the element of mass scale was established for these incidents of murder, the Trial Chamber considered the number of deaths in each incident and the circumstances surrounding the deaths, including the selection of the victims, the time and place of the killings, and the manner in which the killings were carried out.

3070. In relation to *Schedule A*, in respect of the mass scale requirement for extermination, the Trial Chamber had regard to the specific considerations which follow in the paragraphs below.

3071. In relation to Scheduled Incident A.3.3, the killing of at least 189 Bosnian Muslims including women, older men, and one baby in Biljani by VRS soldiers military police and reserve police members occurred in a single day on 10 July 1992 in the context of a ‘mopping-up operation’ conducted pursuant to an order from Drago Samardžija, Commander of the VRS 17th Ključ Light Infantry Brigade. The killings were methodical with the perpetrators reading names from lists and selecting groups of people to be killed in succession. Constant derogatory remarks were made about the group of victims’ Bosnian-Muslim ethnicity. The killings also took place in close

<sup>13142</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgment, paras 522, 542; *Stakić* Appeal Judgment, paras 259-260; *Bagosora and Nsengiyumva* Appeal Judgment, para. 394; *Lukić and Lukić* Appeal Judgment, para. 536; *Stanišić and Župljanin* Appeal Judgment, para. 1036.

<sup>13143</sup> In relation to *Schedule A*, the Trial Chamber recalls that in chapter 8.3.2 it was found that in Scheduled Incident A.2.1, Izet Ćolo was a combatant and that the killing of this man would not be further considered in relation to Counts 5 and 6 of the Indictment. The Trial Chamber will not consider this killing further in relation to Count 4 of the Indictment.

geographical proximity, in and around Biljani School, although some detainees were transported away from the school in buses and then killed.

3072. In relation to Scheduled Incident A.4.4, there was organised selection, transport, and subsequent killing of approximately 150 unarmed Bosnian-Muslim men by the same set of perpetrators, namely the 1st Kotor Varoš Light Infantry Brigade, in a single day on 4 November 1992. The killings were at proximate locations (in Duboka, Maljava and the Grabovica School sports hall) and occurred after the victims were detained together at the Grabovica School.

3073. In relation to Scheduled Incident A.6.1, from 24 until around 26 May 1992, the killing by shelling of over 800 inhabitants in Kozarac during an attack on the predominantly Bosnian-Muslim town of Kozarac and its surrounding Bosnian-Muslim villages, as well as the killing of at least 80 Bosnian-Muslim civilians and 10-14 surrendered Bosnian-Muslim policemen after the attack by VRS units of the Banja Luka Corps, Duško Tadić, the Serb police, and Andžić's paramilitaries upon their entry into the village. In respect of the other incident in Schedule A.6.1 on the day after the attack, which concerned the killing of 66 Bosnian Muslims and Bosnian Croats by Bosnian Serbs, wearing different kinds of uniforms, the killings occurred in the context of 100 Bosnian Muslims and Bosnian Croats being arrested and then transferred to the Benkovac training grounds. The 66 people were taken out in groups and killed during the course of the day, except one man who had a Croatian passport, who was killed before the transfers to Benkovac.

3074. In relation to Scheduled Incident A.6.4, all 19 killings occurred on 14 June 1992 and the victims were resident in the village of Jaskići. Of the 19 men, 14 were taken by the soldiers from Jaskići and were buried together in the same mass grave in Jakarina Kosa, Prijedor Municipality, and five were found in Kevljani-Sivci and Kevljani-Jaskići, Prijedor Municipality, mass graves. These killing incidents, therefore, demonstrably formed part of the same murder operation.

3075. In relation to Scheduled Incident A.6.5, the killing of at least 21 unarmed Bosnian-Muslim and Bosnian-Croat civilians occurred during an attack on the village of Čarakovo between 1 and 23 July 1992, as part of a wider military operation in the Brdo area, by members of the Bosnian-Serb military and police some of whom directed derogatory remarks at the group as a whole as they were killing them. At least 16 of the

21 civilians were killed in the raid on 23 July and were shot in front of their houses and the rest were shot after having been forced to jump off a bridge.

3076. In relation to Scheduled Incident A.6.6, the killing of various people comprising at least 60 Bosnian-Muslim males including children by Bosnian-Serb soldiers, including a man called Zolka; a 'commander'; a soldier named Gličić; and members of the former JNA, members of the police forces or paramilitaries occurred in the village of Biščani and the surrounding hamlets of Krataj, Čemernica, Mrkalji, and Hegići in a single day on 20 July 1992 in the context of an attack on the Brdo area by Bosnian-Serb forces consisting of military and police. Members of the Bosnian-Serb forces had told some victims to gather at various collection points and along with the 'commander' held them in custody. Given the geographical proximity of the killings, the attack on the Brdo area by forces consisting of military and the police (which included all the killings sites), and that the attacks occurred in a single day the killings demonstrably formed part of the same murder operation.

3077. In relation to Scheduled Incident A.6.7 and Scheduled Incident A.6.8, the killings, around 25 July 1992, of all but two of 50 predominantly Bosnian-Muslim and Bosnian-Croat detainees at the 'Kipe' iron-ore mine after their detention at the Ljubija football stadium and of 15 predominantly Bosnian-Muslim men detained at the Ljubija football stadium occurred in closely related circumstances; both incidents occurred in close geographical proximity near the stadium, at the same time, and targeted victims who were detained together as Bosnian Muslims or Bosnian Croats. Accordingly, both incidents formed part of a single murder operation.

3078. In relation to Scheduled Incident A.6.9, the killing of at least 68 people, in the mainly Bosnian-Croat village of Briševo, occurred in a single evening on 25 July 1992 and was in the context of an attack by the VRS on the village. The VRS killed the inhabitants, despite them being unarmed, first through shelling and then by shooting upon entering the village.

3079. In relation to Scheduled Incident A.7.1, VRS soldiers and paramilitaries rounded up, transported, and subsequently killed 32 Bosnian-Muslim men on the way to and at Vrhopolje Bridge in a single day on 31 May 1992. Some of the the victims were shot and killed after the perpetrators had lined them up, and others were shot and killed after being forced to jump off the bridge one-by-one into the water.

3080. In relation to Scheduled Incident A.7.2, the killing of around 31 Bosnian-Muslim men from households of Jelečevići, a Bosnian-Muslim hamlet in the area of Hrustovo, occurred in a single instance on 31 May 1992 after they had all taken refuge in a garage.

3081. In relation to Scheduled Incident A.7.3, the killing of at least 17 Bosnian-Muslim men around 27 June 1992 occurred after they were taken by the perpetrators from Kenjari to a house in the Blaževići hamlet. The men were killed as a group using explosives and gunfire in and around the house in which they were detained; the bodies of those who were killed outside were brought back into the house which was subsequently set on fire.

3082. In relation to Scheduled Incident A.8.1, the killing of 40-45 Bosnian-Muslim men and one Bosnian-Muslim woman occurred on a single day on 22 September 1992, as the perpetrators attacked the village of Novoseoci where the victims were present. The killings occurred in the context of the village population showing no resistance; the perpetrators entirely surrounded the village and carried out the killings contemporaneously as a single murder operation.

3083. In relation to Scheduled Incident A.9.1, the killing of at least 20 Bosnian-Muslim men in the Bosnian-Muslim village of Drum, around 2 June 1992, occurred in the context of a large military operation in Vlasenica by members of Kraljević's unit which was part of the TO or VRS members who were instructed to cleanse the territory of Muslims. The victims were dragged out of their houses and were each shot with a gunshot to the head with automatic weapons by the same set of perpetrators at the same time. The killings were, therefore, demonstrably part of a single murder operation.

3084. Based on the foregoing, the Trial Chamber finds that, in the above incidents, killings on a mass scale have been proven.

3085. The Trial Chamber finds that Scheduled Incidents A.2.1, A.6.3, A.7.4, and A.7.5 did not satisfy the requirement of mass scale given the significantly low numbers of people killed in each incident and the absence of any other circumstances indicating that the killings were on a mass scale.<sup>13144</sup> The Trial Chamber also considered that the incidents above were not sufficiently connected to other incidents with regard to time, geographical proximity or through affiliation of the perpetrators so as to aggregate them

<sup>13144</sup> In Scheduled Incident A.2.1 ten people were killed; in Scheduled Incident A.6.3 nine people were killed; in Scheduled Incident A.7.4 14 people were killed, in Scheduled Incident A.7.5 nine people were killed.

for the purposes of assessing the mass scale requirement. Accordingly, the Trial Chamber will not further consider these killing incidents in respect of the charge of extermination under Count 4 of the Indictment.

3086. In relation to Scheduled Incident A.6.2, the Trial Chamber finds that the killing of the two men occurred after the main attack on Hambarine and that there was insufficient evidence tying the killing of the two men either to the main attack or to each other as they occurred on different dates, at different locations and by different perpetrators; one man was killed on 11 June 1992 by Serb police in Hambarine and the other on 1 July 1992 by men who were described as ‘Chetniks’ in Behlići. The victims were targeted in their individual capacity rather than as a collective group as demonstrated by the single and isolated deaths. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

3087. In relation to *Schedule B, Schedule C, and unscheduled incidents*, in respect of the mass scale requirement for extermination, the Trial Chamber had regard to the specific considerations which follow in the paragraphs below.

3088. In relation to Scheduled Incident B.1.2, approximately 24 Bosnian-Muslim detainees, among a larger group, were suffocated to death *en route* to Manjača camp after having been transported in conditions which inevitably led to extreme dehydration, oxygen deprivation, and subsequent death, as demonstrated by the remarks of the perpetrators, which included ‘we will see how many will arrive in Manjača’.

3089. In relation to Scheduled Incident B.5.1, the killing of 36 Bosnian-Muslim detainees in June and July 1992 and the killing of hundreds in the second half of 1992 at KP Dom were proximate in time and location, constituted a large number of detainees, and the perpetrators were camp guards sharing the same affiliation. These killing incidents, therefore, demonstrably formed part of a single murder operation.

3090. In relation to Scheduled Incident B.7.1, the killing of 23 Bosnian-Muslim detainees in Rantine occurred after they were transported together with their hands tied and brought to a stable where they were summarily shot and their bodies set on fire.

3091. In relation to Scheduled Incident B.8.1, the killing of at least 77 Bosnian-Muslim detainees held at Velagići School occurred after they were lined up and summarily shot. In relation to Scheduled Incident B.10.2, the killing of at least 47 Bosnian-Muslim

detainees from the oil cisterns near Rajlovac Barracks occurred by concentrated gun-fire and fire-bombing that targeted the buses in which they were all being transported to the village of Sokolina.

3092. In relation to Scheduled Incident B.13.1, the killing of between 190 and 220 detainees, all or almost all of whom were Bosnian-Muslim and/or Bosnian-Croat, held in Room 3 at Keraterm camp occurred by corralling them into a single room, using some form of chemical gas to cause the detainees to panic, and then using a machine-gun aimed at the entrance of the room to shoot the detainees as they exited. In relation to Scheduled Incident B.13.3, the killing of at least 126 detainees, who were almost exclusively Bosnian-Muslim and/or Bosnian-Croat, from Omarska and Keraterm camps occurred after they were transported together towards Kozarac and Sanski Most. In relation to Scheduled Incident B.13.4, the killing of approximately between 100 and 180 detainees, all or almost all of whom were Bosnian-Muslim or Bosnian-Croat, in Omarska camp, who had been brought from the Brdo region occurred in a single day and after the detainees were selectively and severely beaten upon their arrival at the camp.

3093. In relation to Scheduled Incident B.14.2, the killing of 24 Bosnian-Muslim detainees at Duljevac was in the context of some of them having been used as human shields. They also had their hands tied behind their backs, were lined up and then summarily shot. The perpetrators returned to the incident site to kill two detainees who survived the initial shooting. In relation to Scheduled Incident B.16.2, the killing of between 140 and 150 Bosnian-Muslim detainees occurred in a single evening on 30 September 1992. The detainees were systematically removed from Sušica camp by MUP officers and then killed.

3094. In relation to the unscheduled incident on 2 July 1992 in Kotor Varoš Municipality, the killing of at least 30 Bosnian Muslims, including 15 who were detained in the Alagić café, was by members of military forces under the command of Slobodan Župljanin, the 2nd Infantry Battalion Commander of the VRS 22nd Brigade, and Saša Petrović, or members of the Banja Luka CSB Special Police Detachment, during their attack on Vrbanjci and occurred in retaliation for an ambush of VRS forces by armed Muslims, indicating that those killed were targeted as a group.

3095. Based on the foregoing, the Trial Chamber finds that in the above incidents, killings on a mass scale have been proven.

3096. The Trial Chamber finds that Scheduled Incidents B.1.1, B.1.4, B.2.1, B.5.1 in respect of the killing in June 1993, B.10.1, B.13.5, B.14.1, B.16.1, C.9.1, C.15.3, C.15.5 and C.16.3, the unscheduled incident in Foča Municipality, and the unscheduled incident in Kotor Varoš Municipality in respect of the killings on 13 June 1992, do not satisfy the requirement of mass scale given the significantly low numbers of people killed in each incident and the lack of any other circumstances indicating that the killings were on a large scale.<sup>13145</sup> The Trial Chamber also considers that the incidents above were not sufficiently connected to other incidents with regard to time, geographical proximity or through affiliation of the perpetrators so as to aggregate them for the purposes of assessing the mass scale requirement. Accordingly, the Trial Chamber will not further consider these killing incidents in respect of the charge of extermination under Count 4 of the Indictment.

3097. In relation to Scheduled Incident B.13.2, the Trial Chamber considered that the killings were too disparate to have been aimed at a collective group although they occurred in the same place, at Omarska camp, and mainly by perpetrators who were camp guards. The killings occurred on separate occasions over a relatively prolonged period of time between 29 May and August 1992. Although the killings were cruel and brutal there was no pattern to the killings and the perpetrators targeted individuals or small groups within the population detained at the camp. The Trial Chamber finds that the killings were orchestrated to kill individual victims and, therefore, the mass scale requirement is not satisfied. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

3098. In relation to *Schedule E*, the Trial Chamber had regard to the specific considerations, which follow in the paragraphs below, in respect of the mass scale requirement for extermination.

3099. In relation to Scheduled Incident E.1.1, on 13 July 1995, 15 Bosnian-Muslim males were killed in a single instance after being taken out from the Kravica warehouse where they were detained, lined-up and then shot. A 14-year-old boy was among those killed. In relation to Scheduled Incident E.2.1, approximately 150 Bosnian-Muslim males including minors were transported in a convoy, between 13 and 17 July 1995,

<sup>13145</sup> In these incidents, the largest number of people killed in a single incident was eleven (in Scheduled Incident B.13.5).

shot and buried afterwards in a mass grave. In relation to Scheduled Incident E.3.1, from 13 to 14 July 1995, approximately 1,000 Bosnian-Muslim males who were detained in Kravica Warehouse were killed by perpetrators who discharged hand grenades, anti-tank rockets and bullets into the warehouse once it was full; the perpetrators killed those who survived the initial round of fire or those who were attempting to escape. In relation to Scheduled Incident E.5.1, on 14 July 1995, approximately 21 Bosnian-Muslim males, who were detained at Luke School, were transported together from the school to a nearby pasture and shot.

3100. In relation to Scheduled Incident E.6.2, at least 819 Bosnian-Muslim males, who were detained at Grbavci School, were transported in an organised manner to two meadows near Orahovac, having been directed to the school gym first, then loaded onto trucks in groups and brought to the meadows in turns until the gym was empty. The victims were lined up in the meadows and killed in one single day on 14 July 1995.

3101. In relation to Scheduled Incidents E.7.1 and E.7.2, about 20 Bosnian-Muslim men, detained at Petkovci School, were killed on 14 July 1995. About 401 Bosnian-Muslim males, including minors, who had been detained at Petkovci School were transported to Petkovci Dam and subsequently killed there on 14 and 15 July 1995. The fact that the victims were detained together in the same school prior to the killings, the killings were committed on or around 14 July 1995 and the perpetrators targeted Bosnian Muslims demonstrates that the killings formed part of a single murder operation. Accordingly, Scheduled Incident E.7.1 is aggregated to Scheduled Incident E.7.2 for the purpose of assessing the mass scale requirement.

3102. In relation to Scheduled Incidents E.8.1 and E.8.2, on 14 or 15 July 1995 at least 12 Bosnian Muslims were killed behind the Ročević School after being detained there; and on 15 July 1995 at least 575 Bosnian-Muslim males, who were previously detained at Ročević School, were killed after being transported to a site where they were summarily shot. The fact that the victims were detained together in the same school prior to the killings, the killings were committed on or around 15 July 1995 by the same perpetrators, namely members of the Zvornik or Bratunac Brigades, and the perpetrators targeted Bosnian Muslims demonstrates that the killings formed part of a single murder operation. Accordingly, Scheduled Incident E.8.1 is aggregated to Scheduled Incident E.8.2 for the purpose of assessing the mass scale requirement.



3103. In relation to Scheduled Incidents E.9.1 and E.9.2, on 14 or 15 July 1995 at least eight Bosnian-Muslim men were killed at the Kula School near Pilica by members of the VRS Zvornik Brigade after being detained there by the same perpetrators; and on 16 July 1995 between 1,000 and 1,200 male Bosnian-Muslim detainees from Kula School in Pilica were summarily executed at the Branjevo Military Farm by VRS soldiers, including members of the 10th Sabotage Detachment and a group of soldiers from Bratunac. The fact that the victims were detained together in the same school prior to the killings, the killings were committed on or around 15 and 16 July 1995 by the VRS, and the perpetrators targeted Bosnian Muslims demonstrates that the killings formed part of a single murder operation. The Trial Chamber also considered that the killing of the men at Kula School was linked to the subsequent killings at the Branjevo Military Farm given the remarks of the Zvornik Brigade Command when informed of the situation of the detainees at Kula. The members of the Zvornik Brigade Command remarked ‘why aren’t you killing them off?’ and informed the VRS guards at Kula School prior to the killings at the Branjevo Military Farm that the detainees were to be ‘taken away’. Accordingly, Scheduled Incident E.9.1 is aggregated to Scheduled Incident E.9.2 for the purpose of assessing the mass scale requirement.

3104. In relation to Scheduled Incident E.10.1, approximately 500 Bosnian-Muslim men and women were grouped together in the Pilica Cultural Centre and killed at the same time in a single day on 16 July 1995. In relation to Scheduled Incident E.12.1, 39 men and boys almost all of whom were Bosnian Muslims, who were being transported together, were summarily shot, killed and buried together at a site in Bišina on 23 July 1995.

3105. Based on the foregoing, the Trial Chamber finds that, in the above incidents killings on a mass scale have been proven.

3106. The Trial Chamber finds that Scheduled Incidents E.4.1, E.14.1 and E.14.2, the unscheduled incidents of 13 July 1995, 18 July 1995 and 23 July 1995, do not independently satisfy the requirement of mass scale given the significantly low number of people killed in each incident and the lack of any other circumstances indicating that the killings were on a large scale.<sup>13146</sup> The Trial Chamber also finds that the incidents

<sup>13146</sup> In Scheduled Incident E.4.1 16 people were killed, in Scheduled Incident E.14.1 nine people, in Scheduled Incident E.14.2 one person, in the unscheduled incident of 13 July 1995 15 people were killed, in the unscheduled incident of 18 July 1995 four people were killed, in the unscheduled incident of 23 July 1995 ten people were killed.

above were not sufficiently connected to other incidents with regard to geographical proximity, the manner in which the victims were killed or through affiliation of the perpetrators so as to aggregate them for the purposes of assessing the mass scale requirement.<sup>13147</sup> Accordingly, the Trial Chamber will not further consider these killing incidents in respect of the charge of extermination under Count 4 of the Indictment.

3107. In relation to Scheduled Incident E.6.1 the Trial Chamber finds that the killing of two detainees at Grbavci School in Orahovac on 14 July 1995 does not satisfy the requirement of mass scale given the number. Although the Trial Chamber is satisfied that the two victims in Scheduled Incident E.6.1 were detained in the same detention facility and killed on the same day as the killings in Scheduled Incident E.6.2 and that the victims were all of Bosnian-Muslim ethnicity, it notes that the manner of the killings in Scheduled Incident E.6.1 differed significantly from the killings in Scheduled Incident E.6.2, as the two victims were taken out of the sports hall in response to specific individual circumstances, namely because one victim spoke up to the guards in the sports hall and the other complained about the conditions in the hall, and shot outside. Therefore, the Chamber finds that the two men were targeted in their individual capacity rather than as part of the collective group. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

3108. In relation to Scheduled Incident E.13.1, the Trial Chamber finds that the killing of six Bosnian-Muslim males in Trnovo, sometime between mid-July and mid-August 1995, does not satisfy the mass scale requirement given the low number of people killed. The perpetrators of the killings were not temporally or geographically proximate to other incidents which took place on or about 13 July 1995. The Trial Chamber also finds that the circumstances of Scheduled Incident E.13.1 were not sufficiently connected to other incidents in Schedule E such that it could not aggregate the killings with other killing incidents in Schedule E. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

<sup>13147</sup> In relation to the unscheduled incident of 23 July 1995, the perpetrators were VRS soldiers of the Zvornik Brigade. The Zvornik Brigade had carried out other killings in Srebrenica but the location, and time of this incident was relatively removed from other killing incidents.

3109. In relation to Scheduled Incident E.15.1, the Trial Chamber notes that more than 50 Bosnian-Muslim men were killed in and around Vuk Karadžić Elementary School over a short duration of time, from 12 to 14 July 1995, which are relevant factors assisting in establishing mass scale. The killings, however, should be seen in the context of the several thousand Bosnian-Muslim civilians and soldiers held in and around Vuk Karadžić Elementary School and the fact that there was a broad mix of perpetrators killing in a sporadic fashion which indicates that the killings were not grouped together either in numerical terms or that there was patterned killings targeting the wider group held at Vuk Karadžić Elementary School. Therefore, the Trial Chamber finds that the killings were isolated incidents which, although related in a broad fashion, do not meet the mass scale requirement. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

3110. In relation to Scheduled Incident E.15.3, the Trial Chamber is satisfied that the killing of one ‘mentally unstable’ Bosnian-Muslim man who was taken off a bus parked in front of Vuk Karadžić Elementary School and summarily executed on the evening of 13 July 1995 was committed by perpetrators affiliated with those of other incidents in Schedule E and took place at the same time as other incidents, namely, on or about 13 July 1995. The Trial Chamber, however, finds that the killing was not aimed at the collective group of Bosnian-Muslim men or part of a wider murder operation. The victim was targeted in his individual capacity. He had fallen asleep in the bus despite an order from a military policeman to not sleep at night, was hit by a policeman on the shoulder and, in turn, he hit the policeman back. The man was subsequently taken out of the bus and then shot. Therefore, the Trial Chamber finds that this incident was an isolated and not directly related to the mass scale requirement. Accordingly, the Trial Chamber will not further consider this killing incident in respect of the charge of extermination under Count 4 of the Indictment.

3111. *Mens rea*. The Trial Chamber recalls from chapter 8.4.1 that relevant factors to consider when assessing whether the killings occurred on a mass scale include the time and place of the killings, the selection of the victims, and the manner in which they were targeted, and whether the killings were aimed at the collective group rather than victims in their individual capacity. In relation to *Schedule A*, the Trial Chamber had regard to the following considerations in respect of the intent requirement for extermination. In

respect of Scheduled Incidents A.4.4, A.6.1, A.6.6, A.6.7, and A.6.8, the Trial Chamber considered the large number of victims of the killings, the organisation that preceded the killings in order to group the victims together, and the wholesale manner in which the grouped victims were killed. In respect of Scheduled Incident A.6.4, the Trial Chamber considered the derogatory remarks that the perpetrators directed towards part of the group and the way the bodies of the victims were disposed of together in mass graves. In respect of Scheduled Incident A.6.5, the Trial Chamber considered the derogatory remarks that the perpetrators directed towards the group as they were killed and that they were killed by being shot at in an indiscriminate fashion. In respect of Scheduled Incident A.7.1, the Trial Chamber considered the fact that the victims were systematically led on to the bridge, forced to jump into the river prior to being killed, and the perpetrators were told to kill 70 Muslims on that day because seven Serb soldiers had been killed in that area. In respect of Scheduled Incident A.7.2, the Trial Chamber considered the fact that the victims were all taking refuge in a garage from a wider military operation by the same brigade in the area, that one of the victims tried to mediate but was killed and that the rest of the killings followed immediately after. In respect of Scheduled Incident A.7.3, the Trial Chamber considered the fact that the victims were detained together and were told that they were being taken for exchange prior to being taken to a house and killed. In respect of Scheduled Incidents A.8.1 and A.9.1, the Trial Chamber considered the wider military operations in the villages of Novoseoci and Drum respectively in which the perpetrators selected, in an organised fashion, the two large groups of men, one of which included one woman, whom they then summarily shot. In relation to Scheduled Incident A.6.9, the Trial Chamber considered the wider military operation in the village of Briševo, where the perpetrators first shelled the village where there was no combat activity and then selected, in an organised fashion the unarmed villagers, to shoot them in a wholesale manner. The Trial Chamber, accordingly, finds that all the victims in Scheduled Incidents A.4.4, A.6.1, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, A.6.9, A.7.1, A.7.2, A.7.3, A.8.1, and A.9.1 died as a result of acts of the perpetrators who intended to kill on a mass scale.

3112. In relation to *Schedule B* and *unscheduled incidents*, the Trial Chamber had regard to the following considerations in respect of the intent requirement for extermination. In respect of Scheduled Incident B.1.2, the Trial Chamber recalls its finding in chapter 4.1.1 that the victims suffocated during transport in trucks which

were hot, cramped and covered in tarpaulins. The perpetrators confiscated the victims' water bottles and forced some to consume salt prior to transport and remarked about 'how many will arrive' at the intended destination. The Trial Chamber, accordingly, considered the fact that the perpetrators created conditions in the vehicle transporting the detainees such that the only reasonable inference is that those conditions would inevitably lead to death. In respect of Scheduled Incidents B.5.1 in relation to the killings in June, July, and the second half of 1992, B.8.1, B.10.2, B.13.1, B.13.3, B.13.4, B.14.2, and B.16.2, the Trial Chamber considered the large number of victims of the killings, the organisation that preceded the killings including selection of detainees, and the co-ordinated or collective manner in which they were killed in each respective incident. Furthermore, in respect of Scheduled Incidents B.10.2 and B.14.2, the perpetrators returned to kill survivors. In relation to Scheduled Incident B.7.1, the perpetrators corralled the group of detainees together, killed them in a collective manner and set the bodies of the victims on fire. In respect of Scheduled Incident B.13.1, the perpetrators sang songs both during and after the killings. In relation to the unscheduled incident on 2 July 1992 in Kotor Varoš Municipality, the Trial Chamber considered that the killings occurred in retaliation for an ambush of VRS forces by armed Muslims and targeted Muslims in the context of the attack on Vrbanjci. The Trial Chamber, therefore, finds that all the victims in Scheduled Incidents B.1.2, B.5.1 in respect of the killings in June, July, and the second half of 1992, B.7.1, B.8.1, B.10.2, B.13.1, B.13.3, B.13.4, B.14.2, B.16.2 and the unscheduled incident on 2 July 1992 in Kotor Varoš Municipality, died as a result of acts of the perpetrators who intended to kill on a mass scale.

3113. In relation to *Schedule E*, the Trial Chamber had regard to the following considerations in respect of the intent requirement for extermination. In respect of Scheduled Incidents E.1.1, E.2.1, E.3.1, E.5.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, and E.10.1, the Trial Chamber considered the organisation that preceded the killings in order to group the victims together, and the wholesale manner in which the grouped victims were killed. In respect of Scheduled Incidents E.2.1, E.3.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, and E.10.1, the Trial Chamber considered in particular the significantly high number of victims killed in one single murder

operation.<sup>13148</sup> In respect of Scheduled Incidents E.3.1, E.6.2, E.7.1, and E.7.2 the Trial Chamber considered additionally the derogatory remarks that the perpetrators directed at the whole group while they killed the victims and the indiscriminate manner in which the perpetrators shot them. In respect of Scheduled Incident E.7.2, the Trial Chamber additionally considered the fact that one perpetrator ordered other perpetrators to examine the rows of bodies and kill every detainee who was still alive with a bullet in the head. The Trial Chamber further considered the fact that in respect of Scheduled Incident E.10.1, the perpetrators threw, *inter alia*, hand-grenades at the group of victims and in respect of Scheduled Incident E.7.1 that the perpetrators killed the victims, *inter alia*, by indiscriminate gunfire. In relation to Scheduled Incident E.12.1, the Trial Chamber considered the fact that the detainees were transported, all summarily killed and subsequently buried in a hole - several of the bodies exhumed from the gravesite in Bišina had ligatures on their hands and a few had blindfolds on. The Trial Chamber, therefore, finds that all of the victims in Scheduled Incidents E.1.1, E.2.1, E.3.1, E.5.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, and E.12.1 died as a result of the acts of the perpetrators who intended to kill on a mass scale.

3114. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3115. *Status of victims.* In relation to *Schedule A, Schedule B, unscheduled incidents, and Schedule E* the Trial Chamber recalls its finding in chapter 8.3.2 with regard to the status of the victims.

3116. *Conclusion.* In conclusion, the Trial Chamber finds that the killings constituting murder in Scheduled Incidents A.3.3, A.4.4, A.6.1, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, A.6.9, A.7.1, A.7.2, A.7.3, A.8.1, A.9.1, B.1.2, B.5.1 in respect of the killings in June, July, and the second half of 1992, B.7.1, B.8.1, B.10.2, B.13.1, B.13.3, B.13.4, B.14.2, B.16.2, the unscheduled incident of 2 July 1992 in Kotor Varoš Municipality, E.1.1, E.2.1, E.3.1, E.5.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1 and E.12.1 constitute extermination as a crime against humanity punishable under Article 5 of the Statute.

<sup>13148</sup> In Scheduled Incident E.2.1 approximately 150 people were killed, in Scheduled Incident E.6.2 at least 819 people, in Scheduled Incident E.7.1 and Scheduled Incident E.7.2 about 643 people in total, in Scheduled Incident E.10.1 approximately 500 people, in Scheduled Incident E.8.1 and Scheduled Incident E.8.2 at least 575 in total, in Scheduled Incident E.9.1 and Scheduled Incident E.9.2 between 1,000-1,200 in total.

## 8.5 Deportation and forcible transfer

### *8.5.1 Applicable law*

3117. Counts 7 and 8 of the Indictment charge the Accused with deportation and forcible transfer as crimes against humanity. According to the Indictment, ‘restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, and destruction of houses and cultural monuments and sacred sites, all targeting Bosnian Muslims and Bosnian Croats in the Municipalities, as well as the threat of further such acts, caused Bosnian Muslims and Bosnian Croats to flee in fear’.<sup>13149</sup> The crime of deportation (Count 7) is listed in Article 5 (d) of the Statute, whereas forcible transfer (Count 8) is a charge under ‘other inhumane acts’ in Article 5 (i). The general elements and jurisdictional requirements for these crimes have been discussed in chapters 8.2, above.

3118. Deportation and forcible transfer both entail the forcible displacement of persons from the area in which they are lawfully present, without grounds permitted under international law.<sup>13150</sup> The crime of deportation requires that the victims be displaced across a *de jure* state border, or, in certain circumstances, a *de facto* border.<sup>13151</sup> Forcible transfer involves displacement of persons within national boundaries.<sup>13152</sup>

3119. Forcible displacement means that people are moved against their will or without a genuine choice.<sup>13153</sup> Fear of violence, duress, detention, psychological oppression, and other such circumstances may create an environment where there is no choice but to leave, thus amounting to the forcible displacement of people.<sup>13154</sup> Displacement of persons carried out pursuant to an agreement among political or military leaders, or under the auspices of the ICRC or another neutral organization, does not necessarily make it voluntary.<sup>13155</sup>

3120. International humanitarian law recognizes limited circumstances under which the displacement of civilians during armed conflict is allowed, namely if it is carried out for

<sup>13149</sup> Indictment, para. 70.

<sup>13150</sup> *Stakić* Appeal Judgement, paras 278, 317; *Krajišnik* Appeal Judgement, paras 304, 308.

<sup>13151</sup> *Stakić* Appeal Judgement, paras 278, 300; *Krajišnik* Appeal Judgement, para. 304.

<sup>13152</sup> *Stakić* Appeal Judgement, para. 317.

<sup>13153</sup> *Krnjelac* Appeal Judgement, paras 229, 233; *Stakić* Appeal Judgement, para. 279.

<sup>13154</sup> *Stakić* Appeal Judgement, para. 281.

<sup>13155</sup> *Stakić* Appeal Judgement, para. 286; *Naletilić and Martinović* Trial Judgement, para. 523; *Simić et al.* Trial Judgement, para. 127; *Krajišnik* Trial Judgement, para. 724.

the security of the persons involved, or for imperative military reasons.<sup>13156</sup> In such cases the displacement is temporary and must be carried out in such a manner as to ensure that displaced persons are returned to their homes as soon as the situation allows.<sup>13157</sup> Whether a forcible displacement of people is lawful is, however, more appropriately dealt with when considering the general elements of crimes against humanity.<sup>13158</sup>

3121. The perpetrator of deportation or forcible transfer must intend to forcibly displace the persons, however, the intent need not be to displace on a permanent basis.<sup>13159</sup>

### 8.5.2 *Legal findings*

3122. In chapters 4.1.7, 4.2.7, 4.3.7, 4.4.7, 4.5.7, 4.6.7, 4.7.7, 4.8.7, 4.9.7, 4.10.7, 4.11.7, 4.12.7, 4.13.7, 4.14.7, and 7.17, the Trial Chamber decided to further consider the following incidents of alleged forcible transfers and deportations of Bosnian Muslims and Bosnian Croats, against the applicable law:

(a) Banja Luka Municipality - (i) the departure between May 1992 and May 1993, and in particular to Croatia during July and August 1992 of many Bosnian-Muslim and Bosnian-Croat civilians from Banja Luka Municipality out of fear; exacerbated in 1992 by the conduct of the civilian authorities, including members of the ARK Crisis Staff and its President, Radoslav Brđanin, and a civilian agency named after Brđanin; (ii) the departure on 26 August 1994 of 480 Bosnian Muslims from Banja Luka Municipality to Tesanj and Tuzla organised by Bosnian Serbs; and (iii) the departure on 3 September 1994 of almost 500 Bosnian Muslims and Bosnian Croats, from Banja Luka Municipality to Turbe organised by Bosnian Serbs. These incidents are further set out in chapter 4.1.7

(b) Bijeljina Municipality - (i) the transfer starting in the summer of 1992 and until 1995 of thousands of Muslim civilians from Bijeljina to ‘no-man’s land’ between the

<sup>13156</sup> Geneva Convention III, Art. 19; Geneva Convention IV, Art. 49; Additional Protocol II, Art. 17; *Stakić* Appeal Judgement, paras 284-285; *Blagojević and Jokić* Trial Judgement, paras 597-598; *Krajišnik* Trial Judgement, para. 725; *Krajišnik* Appeal Judgement, para. 308.

<sup>13157</sup> Geneva Convention IV, Art. 49; *Krstić* Trial Judgement, para. 524; *Blagojević and Jokić* Trial Judgement, para. 599; *Krajišnik* Trial Judgement, para. 725.

<sup>13158</sup> See *Brđanin* Appeal Judgement, para. 167.



frontlines by Vojkan Đurković of the SDS, aided by Mauzer's men, while other Muslims also fled Bijeljina on their own; and (ii) the transportation in 1992 and 1993 of Bosnian Muslims via Serbia to the Hungarian border by Europa, a private agency staffed by MUP personnel. These incidents are further set out in chapter 4.2.7

(c) Foča Municipality - (i) the departure from July until 13 August 1992 of Bosnian-Muslim civilians described as 'loyal' facilitated and organized by the Serb civilian and military authorities, as tasked by the Foča War Commission, to other countries; (ii) the transfer on 26 June 1992 of a Bosnian-Muslim woman who had been detained at the Bukovica Motel to Novi Pazar in Serbia by bus and in police cars with 'Chetniks', a day after Gojko Janković and Pedro Gašević had said they would send them out of Foča due to the impossibility to control the 'gangs'; (iii) the transfer on 10 November 1992 of a Bosnian Muslim from KP Dom to Dobro Polje. In Dobro Polje, he was ordered to walk towards Rogaj in ABiH-controlled territory by three policemen; (iv) the transfer on 8 December 1992 of a Bosnian-Muslim KP Dom detainee by men wearing SMB uniforms and identified as 'Chetniks' to Kalinovik, from where he was exchanged on 12 December 1992; (v) the exchange on 24 March 1993 of a Bosnian-Muslim detainee at the Sarajevo airport. He was transferred from KP Dom to the Kalinovik police station on 18 September 1992, where on 21 March 1993 Serb soldiers, including Zoran Samardžić or Pedrag a.k.a. Pedo Trifković/Trivun, both of whom headed, or were members of, sub-units under Marko Kovač, Commander of Foča Tactical Group, threatened him with a knife and a rifle and told him that he had 15 minutes left to live before letting him go; (vi) the transfer from Foča to Goražde by bus on 23 October 1992 of a group of Bosnian-Muslim women and children who had been detained for a month at the Partizan Sports Hall ; and (vii) the exchange on 15 June 1994 of a Bosnian Muslim from Foča Municipality who was detained at KP Dom until July 1993 and then Kula prison. These incidents are further set out in chapter 4.3.7;

(d) Ilidža Municipality - the departure of a Bosnian-Muslim family from the municipality to Sarajevo on 25 May 1992, after a member of the White Eagles threatened to cut the throats of the family members in case of non-compliance with the ultimatum to leave the municipality or to take up arms and become loyal to the Serb authorities, as further set out in chapter 4.4.7;

<sup>13159</sup> *Stakić* Appeal Judgement, paras 278, 304-307, 317; *Brđanin* Appeal Judgement, para. 206; *Krajišnik* Appeal Judgement, para. 304.

(e) Kalinovik Municipality - the departure of a Bosnian-Muslim man, after having survived a killing incident in Ratine on 5 August 1992, for Zenica in Muslim-controlled territory, where he arrived on 20 September 1992, as further set out in chapter 4.5.7;

(f) Ključ Municipality - the departure of at least 14,000 to 15,000 Muslims, 200 Croats, and 1,000 Serbs from Ključ Municipality between 27 May 1992 and May 1993 in convoys organized by both the Civilian Protection Department of the Ključ Municipal Assembly and the police, and generally escorted by the police to territory under the control of Muslims and Croats, with most of those leaving because of fear and unbearable circumstances, including (i) at least four convoys totalling well over 2,500 Bosnian-Muslim and Bosnian-Croat civilians who went to Travnik between July and September 1992, including a convoy of 1,000 composed of mainly Bosnian-Muslim women and children; and (ii) a convoy of approximately 2,500 Bosnian Muslims and Bosnian Croats, of whom the majority were women, children, and elderly, which departed for Travnik on 1 October 1992 and was escorted by Bosnian Serbs while the Bosnian-Serb local police and the VRS checked a list of who had paid and had signed over their property at the departure point of the convoy, as further set out in chapter 4.6.7;

(g) Kotor Varoš Municipality - large parts of the Bosnian-Muslim and Bosnian-Croat population, including women and children, from Kotor Varoš Municipality moved out of the municipality between June and November 1992. They were transferred in convoys by the forces who had attacked the municipality, including VRS units, the police, and the special police unit of CSB Banja Luka. Several convoys were initially organized by the War Presidency and from 29 June 1992 by an agency established by the Kotor Varoš Crisis Staff to oversee the resettlement of persons that arranged buses for the transfer. Those leaving did so because they were either made to leave or left because of the living conditions. Some of the convoys left for Travnik, as further set out in chapter 4.7.7;

(h) Novi Grad Municipality - the expulsion of all Muslims who had survived the attack on Ahatovići, together with Serbs and Croats married to Muslims on or about 27 May 1992 by forces, including the White Eagles and others in JNA uniforms, as further set out in chapter 4.8.7;

(i) Pale Municipality - the transfer of over 2,000 Bosnian Muslims and Bosnian Croats from Pale to Sarajevo between late June and early July 1992 in convoys escorted by the Pale SJB, as further set out in chapter 4.9.7;

(j) Prijedor Municipality - (i) the transfer between late May 1992 and November 1992 of Bosnian Muslims and Bosnian Croats from Prijedor to Travnik, Turbe, Doboj, Banja Luka, Tuzla, and Gračania in convoys escorted by Simo Drljača, the Commander of the SJB, as well as by the Bosnian Serb police and military; (ii) the transfer in early October 1992 of Bosnian Muslims and Bosnian Croats detained in Trnopolje to Croatia or to the Croatian border by Simo Drljača, the Commander of the SJB, as well as by the Bosnian Serb police and military, as further set out in chapter 4.10.7;

(k) Rogatica Municipality - (i) the departure in May 1992, due to intensified shelling, of between 1,500 to 2,000 Bosnian Muslims from Rogatica Town for Vragolovi, where there were already approximately 5,000 to 6,000 Bosnian Muslims present, and the departure of almost all Bosnian Muslims present in Vragolovi to Goražde by August 1992 as a result of shelling by Serb forces on Vragolovi and a warning about another Serb attack; (ii) the departure of Bosnian Muslims from Rogatica Town and villages of the Municipality to Pokrivenik, Kopljevići, and Rudine Forest between May and August 1992, due to shooting, the shelling of Rogatica Town on 19 June 1992, and growing insecurity stemming in part from Serb attacks on several Muslim villages – Mader, Kozići, and Kopljevići – as well as on other villages – Borovsko, Kozadre, Kramer Selo, and Dobrašina; (iii) the transfer from late May to July 1992 of Bosnian Muslims, including some from Rogatica Town, to Olovo under escort of members of the Sokolac police station. In particular the departure on 27 June 1992 of approximately 280 Muslims, with the exception of able-bodied men, held at Veljko Vlahović Secondary School to Olovo escorted by guards in military vehicles. The camp guards were local Serbs under Rajko Kušić, civilian police, Serb TO, and paramilitary unit members; (iv) the departure of one Bosnian Muslim from Rogatica Municipality after he escaped from Rasadnik camp in August 1992 to Kopači, where he stayed for two months and eventually reached Sarajevo on 7 January 1993 to join his family; (v) the departure in August or September 1993 of one Bosnian-Muslim family from Rogatica Town to Montenegro on their own means, following attacks on the town and their detention at the Veljko Vlahović Secondary School; (vi) the exchange of Bosnian-Muslims detainees from Rasadnik Camp between March 1993 and April 1994 in Sarajevo,

following the approval of Rajko Kušić. Other detainees from Rasadnik Camp were transported to Zvornik, including some in one bus escorted by the Rasadnik camp warden. These exchanges were carried out by the VRS members in charge of Rasadnik camp during that time period; (vii) the exchange on 21 July 1993 by the VRS in charge of Batković camp of one Bosnian-Muslim from Rogatica Municipality who had been detained in Batković camp. After the exchange, he was taken to Croatia with the assistance of the Red Cross; and (viii) the transfer of Muslim women and children from Žepa to Sarajevo at the end of July 1995 by busses that were facilitated by the VRS, upon request from Muslim representatives and following an agreement reached during talks with the VRS and UNPROFOR. These incidents are further set out in chapter 4.11.7;

(1) Sanski Most Municipality - the departure of almost all Bosnian Muslims and Bosnian Croats from Sanski Most Municipality between 27 May 1992 and 13 October 1995, with the vast majority having left by the end of 1992, in particular: (i) the evacuation of women, children, the elderly and able-bodied men living in the Bosnian-Muslim Mahala neighbourhood in Sanski Most Town by the 6th Krajina Brigade, first to Pobrjeđe on 29 May 1992, after which they were rounded up and transferred in buses to Velika Kladuša around 2 June 1992; (ii) the departure of the surviving inhabitants of the Bosnian-Muslim village of Hrustovo after they were forced out by the perpetrators of the attack on Hrustovo village along with approximately 200 inhabitants of the neighbouring villages to Doboj. In Doboj they were ordered by Serb soldiers to find their way to Muslim-held territory, where they arrived later; (iii) the departure of one Bosnian Croat from Sanski Most on 21 September 1992, after the imposition of discriminatory measures, who had obtained permission to leave the municipality. He then went to Croatia in December 1992; (iv) the transportation of a group of Bosnian Muslims from Sanski Most Municipality to Bihać Municipality at the end of May 1992 under escort by Serb soldiers, after arrangements for their departure had been made by Boško Banjac, a member of the Sanski Most Crisis Staff earlier that month; (v) the departure in May 1992 of one convoy, comprised of approximately 1,200 women, children, and elderly Bosnian Muslims and Bosnian Croats from Mahala to Velika Kladuša. They left against their will and were escorted by the Bosnian-Serb police; (vi) the departure on 11 June 1992 from Sanski Most Municipality to Velika Kladuša of one convoy comprising 850 Bosnian Muslims who were threatened at gunpoint and forced

into buses by guards under the direction of Davidović, the Commander of the Serb Crisis Committee of Banja Luka; (vii) the departure between August and September 1992 of at least 6,100 Bosnian Muslims from Sanski Most Municipality to Travnik in at least three convoys organized by the Sanski Most Crisis Staff and the SDS. One of the convoys left on 17 August 1992 and composed of at least 1,600 people from Sanski Most Town who had been ordered to leave town that morning; (viii) the transfer of one Bosnian-Muslim woman along with her children from Hrustovo to Tomina in July 1992. They left after the attack on Hrustovo by 'Mitra' and another soldier, who instructed them to walk to Muslim-held territory two weeks later; (ix) the exchange in Turbe every year from the end of 1992 until March 1995 of four to five convoys, consisting of five to ten buses each, from Sanski Most Municipality organized by the Sanski Most Crisis Staff and the SDS. One convoy left on 3 September 1994 and comprised almost 500 Bosnian Muslims and Bosnian Croats; (x) the exchange on 31 October 1992 in Travnik of a Bosnian Muslim from Sanski Most Municipality by the authorities of Manjača camp. He had been previously detained in Manjača camp; (xi) the exchange in November and December 1992 of three Bosnian Muslims from Sanski Most Municipality, who had been detained in Manjača camp, by the authorities of Manjača camp. They left to Karlovac in Croatia; and (xii) the exchange on 20 July 1993, by the authorities of Batković camp in Čelebići of one Bosnian Croat from Sanski Most Municipality. He had been previously detained in Batković camp. These incidents are further set out in chapter 4.12.7;

(m) Sokolac Municipality - (i) the departure of the Muslim population of Sokolac Town from 12 May 1992, most of them leaving for Olovo because of the threat of violence perceived by the Muslim population against them in the town of Sokolac and the village of Knežina and a lack of protection from the municipal authorities, including the Crisis Staff and its President, Milan Tupajić; (ii) the transportation on 22 September 1992 by bus of the women and children from the Muslim village of Novoseoci to Sarajevo by members of the VRS 2nd Romanija Brigade, including Momčilo Pajić; and (iii) the exchange at the Sarajevo airport on 20 August 1993 of a Bosnian-Muslim man, detained in various detention centres in 1992 and 1993. These incidents are further set out in chapter 4.13.7;

(n) Vlasenica Municipality - (i) the transfer on 17 May 1992 of a group comprised of women, children, and one elderly man from Zaklopač, a Bosnian-Muslim village in

Vlasenica Municipality. The transfer was carried out by Serbs by bus from the municipality building in Vlasenica Town to approximately ten kilometres outside Kladanj. Then the group had to walk to Kladanj. The transfer took place following an attack on Zaklopač on 16 May, during which approximately 60 to 80 people were killed; (ii) the transfer of women and children from Gradina, Sušica, and other Bosnian-Muslim hamlets to Vlasenica Town in May and June 1992 by the Vlasenica SJB special police platoon, led by Kraljević under the command of the Vlasenica Crisis Staff, and supported by a VRS unit; (iii) the capture and subsequent transfer on 2 June 1992 of 500 Muslims from Drum village in Gradina to different locations – Sušica camp, the Vlasenica bus station, or the football field – by Kraljević's unit, accompanied by VRS forces, after which they were taken to Kladanj; (iv) the transportation on 6 June 1992 to Luke in buses and trucks of approximately 800 Bosnian-Muslim women, following the separation of men from women and children at Sušica camp. Once in Luke, some women continued to Kladanj on foot while others were taken to Cerska in Vlasenica Municipality; (v) the release as part of an exchange of Witness RM-004 and Witness RM-030 between December 1992 and July 1993, both Bosnian-Muslim men from Vlasenica, from Batković camp where they had been detained after their transfer from Sušica camp; Witness RM-030 was exchanged in Tuzla; and (vi) the transfer in July or August 1992 from Sušica camp to either Kladanj or Cerska, of a large number of Bosnian-Muslim women, children, and elderly men, in three buses by Serb police or military. These incidents are further set out in chapter 4.14.7;

(o) Srebrenica – the transportation organised by VRS and the MUP, following the takeover of Srebrenica by VRS forces, of around 25,000 Bosnian Muslims, mostly women, children, and elderly out of Potočari on 12 and 13 July 1995 to Bosnian-Muslim controlled territory. This incident is further set out in chapter 7.17.

*First element of the actus reus – displacement*

3123. First the Trial Chamber finds that the only reasonable inference is that the Bosnian Muslims and Bosnian Croats were lawfully present in the areas they left.

3124. *Displacement across a de jure state border.* With regard to the displacement of Bosnian Muslims and/or Bosnian Croats to foreign countries: Croatia as described in incidents (a)(i), (k)(vii), (j)(ii), (l)(iii), (l)(xi); Hungary via Serbia as described in

incident (b)(ii); Montenegro, Sweden and other countries as described in incident (c)(i); Serbia as described in incident (c)(ii); and Montenegro as described in incident (k)(v), the Trial Chamber finds that these were instances of displacements across a *de jure* border and that therefore the first element of the *actus reus* for the crime of deportation is met for these incidents.

3125. *Displacement within national boundaries.* With regard to the displacement of Bosnian Muslims and/or Bosnian Croats to: Tesanj and Tuzla as described in incident (a)(ii); Travnik, Turbe, Doboj, Banja Luka, Tuzla and Gračania as described in incident (j)(i); Tuzla as described in incident (n)(v); Turbe as described in incidents (a)(iii) and (l)(ix); Rogaj as described in incident (c)(iii); Goražde as described in incident (c)(vi) and (k)(i); Sarajevo as described in incidents (d), (i), (k)(iv), (k)(viii) and (m)(ii); Zenica as described in incident (e); Pokrivenik, Kopljevići and Rudine Forest as described in incident (k)(ii); Olovo as described in incidents (k)(iii) and (m)(i); Zvornik as described in incident (k)(vi); Velika Kladuša as described in incidents (l)(i), (l)(v), and (l)(vi); Muslim-held territory as described in incidents (l)(ii), (l)(viii), (o); Bihać as described in incident (l)(iv); Travnik as described in incidents (f)(i), (f)(ii), (l)(vii), (l)(x); Travnik and outside of Kotor Varoš municipality as described in incident (g)<sup>13160</sup>; Čelebići as described in incident (l)(xii); Kladanj as described in incidents (n)(i) and (n)(iii); Kladanj and Cerska and described in incidents (n)(iv) and (n)(vi); and Vlasenica town as described in incident (n)(ii), the Trial Chamber notes that they involved displacements within national boundaries and, as such, it finds that the first element of the *actus reus* for the crime of inhumane acts (forcible transfer) is met for these incidents.

3126. The Trial Chamber also made findings regarding the exchanges of detainees in Sarajevo and at the Sarajevo airport in incidents (c)(v), (m)(iii) and (k)(vi) and finds that these victims were displaced within national boundaries. With regard to incident (c)(iv), the Trial Chamber found that a Bosnian-Muslim detainee at KP Dom was taken to Kalinovik where he was exchanged, and therefore finds that he was displaced within national boundaries. Thus, the Trial Chamber is satisfied that the first element of the *actus reus* for the crime of inhumane acts (forcible transfer) is met for these incidents.

<sup>13160</sup> Regarding incident (g), the Trial Chamber understands that the Bosnian Muslims and Bosnian Croats who were transferred to other places outside Kotor Varoš Municipality were also displaced within national boundaries.

3127. In relation to incident (b)(i), the Trial Chamber was unable to determine where the Muslims went after being transferred to no-man's land and where the other Muslims who fled Bijeljina went. With regard to incident (c)(vii) which involves the exchange of a Bosnian-Muslim detainee at Kula prison, the Trial Chamber notes the absence of information as to where this exchange took place and where this person ultimately arrived. In incident (h), the Trial Chamber was unable to determine where the Muslims, as well as Serbs and Croats married to Muslims, were expelled to. The Trial Chamber can therefore not establish that these people were moved across a *de jure* or *de facto* border but it is satisfied that the first element of the *actus reus* for the crime of inhumane acts (forcible transfer) is met.

*Second element of the actus reus – forced*

3128. *Incidents of displacement following detention.* In incident (c)(ii), the Trial Chamber found that the women were transported from the Bukovica Motel where they were detained to Serbia by bus and police cars. Having considered their detention and the fact that they were transported by bus and police cars, the Trial Chamber is satisfied that they did not have a genuine choice but to leave.

3129. In relation to the exchange of a KP Dom detainee taken to Kalinovik as described in incident (c)(iv), the Trial Chamber considered the conditions of detention and the ill-treatment in KP Dom as described in chapter 4.3.2 *Schedule C.6.1*. Under these circumstances, the Trial Chamber is satisfied that he did not have a genuine choice but to leave. In incident (c)(v), the detainee was first transferred from KP Dom to Kalinovik police station where he was detained for months before being exchanged. Having considered the conditions of detention and the ill-treatment in KP Dom as described in chapter 4.3.2 *Schedule C.6.1*, as well as the forced labour he had to perform while detained in Kalinovik police station (*see* chapter 4.5.5) and the threats he received from Serb soldiers just after being taken out of the police station (*see* chapter 4.5.2 *Unscheduled incidents – Kalinovik police station*), the Trial Chamber finds that he did not have a genuine choice but to leave.

3130. With regard to incident (c)(iii), the Trial Chamber notes that the Bosnian-Muslim man was detained at KP Dom where the conditions of detention were very harsh and where many detainees were regularly beaten as described in chapter 4.3.2 *Schedule*



*C.6.1.* From KP Dom, he was taken to Kalinovik and then to Dobro Polje by policemen where he was ordered to walk toward Rogaj in ABiH-controlled territory. In light of these circumstances, the Trial Chamber is satisfied that he did not have a genuine choice but to leave.

3131. In relation to incident (c)(vi), the Trial Chamber considered that the group of displaced persons consisted of women and children, who were detained at Partizan Hall for a month prior to their transfer by bus to Goražde and finds that in light of their detention and the fact that they were transferred by bus that they did not have a genuine choice but to leave.

3132. Turning to incident (k)(iii), insofar as it relates to the departure of 280 Bosnian Muslims held at Veljko Vlahović Secondary School escorted by guards in military vehicles to Olovo, the Trial Chamber considered its findings on the unlawful detention and cruel or inhumane treatment at Veljko Vlahović Secondary School (*see* chapter 4.11.2 *Schedule C.16.1*) and the fact that they were transferred under military escort, and finds that they did not have a genuine choice but to leave. Regarding incident (k)(iii) insofar as it relates to the transfer of the Bosnian-Muslims from Rogatica Town to Olovo under escort of members of the Sokolac police station, the Trial Chamber considered its finding that around 26 May 1992, a Serb announcement stated that the Serbs intended to ‘cleanse’ Rogatica of Muslim extremists and so-called Green Berets, and that once Rogatica Town was taken over by the Serbs, Živojin Novaković said that the town would be cleansed and that anyone found in the town would be killed. Based on the above, and on the fact that they were under escort of members of the Sokolac police station, the Trial Chamber is satisfied that they did not have a genuine choice but to leave.

3133. In incident (j)(ii), the Trial Chamber notes that the Bosnian Muslims and Bosnian Croats were detained at Trnopolje prior to their transfer in early October 1992. The Trial Chamber recalls its findings in chapter 4.10.2 *Schedule C.15.4* on the conditions of detention and ill-treatments in this camp until the end of September 1992, and on the killings in Trnopolje in chapter 4.10.1 *Schedule B.13.5*. Having considered the above, and that the transfer was organised by Simo Drljača, the Commander of the SJB as well as by the police and the military in October 1992, the Trial Chamber finds that they did not have a genuine choice but to leave.

3134. Incident (n)(iv) relates to the transportation by buses and trucks of women and children who were separated from the men at Sušica camp and required to sign statements by the camp authorities stating that they left of their own volition. The Trial Chamber recalls its finding about murders, destructions, appropriation and plunder and discriminatory measures in Vlasenica Municipality in early June 1992 as set out in chapters 4.14.1 *Schedule A.9.1*, 4.14.3, 4.14.4, and 4.14.6, and finds that, in light of these circumstances they did not have a genuine choice but to leave.

3135. With regard to incident (n)(vi), relating to the transfer of a large number of women, children and elderly men, from Sušica camp in July or August 1992 the Trial Chamber recalls its findings about the killings, unlawful detention, ill-treatment, and forced labour committed in Sušica Camp at the time of their detention in chapters 4.14.1 *Schedule B.16.1*, 4.14.2 *Schedule C.19.3*, and 4.14.5. Having considered the above-mentioned findings together with the fact that they were transported by Serb police or military in buses, the Trial Chamber finds that they did not have a genuine choice but to leave.

3136. *Exchanges following detention.* Turning to incident (k)(vi), which relates to the exchange of Rasadnik camp detainees, the Trial Chamber recalls its findings on the killings that occurred in this camp in chapter 4.11.1 *Rasadnik camp (Schedule C.16.3)* as well as on the conditions of detention and the ill-treatment the detainees were subjected to in chapter 4.11.2 *Schedule C.16.3*. Further, the Trial Chamber notes that these exchanges were carried out by the VRS members in charge of the camp at the time. Based on the above, the Trial Chamber finds that these detainees did not have a genuine choice but to leave.

3137. Incident (k)(vii) relates to the exchange of a Batković camp detainee by the authorities in charge of the camp. The Trial Chamber considered its findings on the conditions of detention and the ill-treatment at Batković camp (*see* chapter 4.2.2 *Schedule C.2.1*) as well as the fact that this detainee was exchanged by the VRS members who were in charge of his detention, and is satisfied that he did not have a genuine choice but to leave.

3138. With regard to incident (m)(iii), the Trial Chamber recalls its finding that the man had been detained since 1992 and transferred to various detention centres until he was finally transferred to Kula in June 1993 to be exchanged (*see* chapter 4.13.7). The Trial Chamber notes that during their transfer to Kula, the detainees were told that they

had been brought for exchange. Considering the above, as well as the length of time spent in detention, the conditions of detention, murders and ill-treatment in the various detention centres where he was held (*see* chapters 4.1.2 *Schedule B.2.1*, 4.2.2 *Schedule C.2.1*, and 4.4.2 *Schedule C.8.1*), the Trial Chamber finds that he did not have a genuine choice but to leave. Regarding incident (c)(vii), the Trial Chamber notes that Witness RM-046 was first held at KP Dom Foča and then detained at Kula, before being exchanged on 15 June 1994, and considered its findings on unlawful detention and ill-treatment in both camps as well as its finding on the killings that occurred in KP Dom Foča during his detention (*see* chapters 4.3.2 *Schedule C.6.1*, 4.3.1 *Schedule B.5.1*, and 4.4.2 *Schedule C.8.1*). Under these circumstances, the Trial Chamber finds that Witness RM-046 did not have a genuine choice but to leave.

3139. Incidents (l)(x) and (l)(xi) pertain to the exchange of Manjača camp detainees. Having considered its findings on murders (*see* chapters 4.1.1 *Schedule B.1.1* and 4.1.1 *Schedule B.1.4*), unlawful detention and cruel or inhumane treatments (*see* chapter 4.1.2 *Schedule C.1.2*) in Manjača Camp and the fact that the VRS was in charge of the camp and organised these exchanges, the Trial Chamber is satisfied that they did not have a genuine choice but to leave.

3140. In incident (l)(xii), a Bosnian Croat detained in Batković camp was exchanged. Having considered its findings on the conditions of detention and the ill-treatment in Batković camp in chapter 4.2.2 *Schedule C.2.1* as well as the fact that this detainee was exchanged by the authorities in charge of the camp, the Trial Chamber is satisfied that he did not have a genuine choice but to leave.

3141. In incident (n)(v), two Bosnian Muslims were first detained at Sušica camp, then transferred to Batković camp from where they were exchanged between December 1992 and July 1993. Considering the conditions of detention, the ill-treatment, the killings in both Sušica camp and then in Batković as set out in chapters 4.14.2 *Schedule C.19.3*, 4.14.1 *Schedule B.16.1*, 4.14.1 *Schedule B.16.2*, 4.2.2 *Schedule C.2.1*, and 4.2.2 *Schedule B.2.1*, the Trial Chamber is satisfied that they did not have a genuine choice but to leave.

3142. *Incidents of displacement due to the circumstances in the municipalities.* In relation to Banja Luka Municipality, the Defence argued that both Serbs and Muslims

left the municipality voluntarily due to the war.<sup>13161</sup> With regard to incident (a)(i), the Trial Chamber recalls that the Bosnian Muslims and Bosnian Croats left out of fear and that the departures were exacerbated by the conduct of the civilian authorities, including members of the ARK Crisis Staff, who facilitated the departure of Bosnian Muslims and Bosnian Croats from Banja Luka Municipality in 1992; in 1992 Brđanin called upon Bosnian Muslims to leave the Krajina; on 29 May 1992, the ARK Crisis Staff decided that it would permit Muslims and Croats to leave ARK territory on the condition that Serbs were allowed to move into the ARK and the Bosnian-Serb Republic; it also decided to oppose and prevent all attempts to pressure or force the population to move. Further, it recalls its findings on the circumstances surrounding these departures, such as the discriminatory measures in chapter 4.1.6 that from 12 May 1992, the ARK Crisis Staff issued decisions to remove Bosnian Muslims and Bosnian Croats from their positions in publicly-owned enterprises in Krajina and that those who had lost their jobs were also evicted from employer-owned apartments. Considering all the above, the Trial Chamber finds that the Bosnian Muslims and Bosnian Croats who left Banja Luka Municipality did not have a genuine choice but to leave and dismisses the Defence's arguments in this regard because they were dismissed from their jobs and evicted from their apartment while the Bosnian Serbs were not. The Trial Chamber finds that the perpetrators of these displacements were civilian authorities, including members of the ARK Crisis Staff.

3143. Turning to Foča Municipality, the Defence argued that Bosnian Muslims and Bosnian Serbs left voluntarily and some stayed in the region despite the conflict.<sup>13162</sup> In relation to incident (c)(i), the Trial Chamber considered the circumstances surrounding the departure of Bosnian Muslims from the municipality as set out in its factual findings in chapter 4.3.7, namely the restrictions of movement that were placed on Bosnian Muslims while Serbs could move freely, the ransacking and burning of Muslim houses and apartments, the rounding up of Muslim villagers, or the capture and sometimes beating or killing of villagers. It thus finds that the Bosnian Muslims left Foča Municipality because they had no choice but to leave and dismisses the Defence's argument in this regard. The Trial Chamber finds that the perpetrators of these displacements were members of the VRS, police, and paramilitaries, as well as MoJ employees.

<sup>13161</sup> Defence Final Brief, para. 832.

3144. With regard to Ilidža Municipality, the Defence argued that no one was ever forcibly removed or transferred from the municipality, and that people left voluntarily without restrictions.<sup>13163</sup> The Trial Chamber notes that in incident (d) a Bosnian-Muslim family left Ilidža Municipality on 25 May 1992, after one of the family members was given ‘the choice to either leave Ilidža or take up arms and become loyal to the Serb authorities’ by a member of the White Eagles and being threatened that he and his family would have their throats cut if he did not decide quickly. The Trial Chamber finds that this family left out of fear for their lives. Therefore, the Trial Chamber finds that they did not have a genuine choice but to leave and dismisses the Defence’s argument in this regard. The Trial Chamber finds that the perpetrator of this displacement was a member of the White Eagles.

3145. In relation to Kalinovik Municipality, the Defence argued that its residents wanted to leave due to an escalation of paramilitary activity.<sup>13164</sup> The Trial Chamber recalls its finding on the killing incident in Ratine, where 24 detainees were severely beaten, shot and killed by Serb soldiers in chapter 4.5.1 *Schedule B.7.1*. Further it recalls that incident (e) relates to the departure of the only surviving Bosnian-Muslim man after these killings. He was shot in the leg. The Trial Chamber is satisfied that this man left the municipality out of fear for his life. Therefore, the Trial Chamber finds that he did not have a genuine choice but to leave and dismisses the Defence’s argument in this regard. The Trial Chamber finds that the perpetrators of this displacement were members of a unit subordinated to the Foča TG.

3146. With regard to Ključ Municipality, the Defence argued that the ARK Crisis Staff only facilitated the movement of civilians leaving the zones of conflict where they felt unsafe, and that individuals of all ethnicities fled the conflict areas.<sup>13165</sup> The Trial Chamber recalls its finding in chapter 4.6.7 that most of the Bosnian Muslims and Bosnian Croats leaving Ključ Municipality did so out of fear and because of unbearable circumstances. It further recalls its findings in chapter 4.6.6 that in late May 1992, Serb authorities dismissed Bosnian Muslims and Bosnian Croats who had failed to sign a pledge of loyalty to the Bosnian-Serb Republic from posts in companies and public bodies, including the police. The War Presidency of Ključ Municipality also issued a

<sup>13162</sup> Defence Final Brief, paras 1512-1514.

<sup>13163</sup> Defence Final Brief, paras 1308-1309.

<sup>13164</sup> Defence Final Brief, para. 1583.

<sup>13165</sup> Defence Final Brief, paras 1283, 1289.

decision on 21 July 1992, stating that all central positions in public institutions and companies were to be filled only by Serbs loyal to the Bosnian-Serb Republic. Several Bosnian Muslims were subsequently dismissed from municipal positions. Finally, the Trial Chamber recalls its finding in the same chapter that in May 1992, the Ključ Crisis Staff and Serb police severely restricted the freedom of movement for Bosnian Muslims in the municipality. In light of the above, the Trial Chamber finds that Bosnian Muslims and Bosnian Croats who left Ključ Municipality as described in incidents (f)(i) and (f)(ii) did not have a genuine choice but to leave and dismisses the Defence's arguments in this regard. The Trial Chamber finds that the perpetrators of these displacements were the civilian authorities and the police.

3147. In relation to Kotor Varoš Municipality, the Defence argued that people voluntarily made the decision to leave because of the unstable and dangerous environment created by the conflict.<sup>13166</sup> The Trial Chamber recalls its finding in chapter 4.7.7 that parts of the Bosnian-Muslim and Bosnian-Croat population, including women and children, were made to leave the municipality, and that others registered to leave because of the living conditions between June and November 1992. It also recalls its findings in chapter 4.7.6 that from 12 May 1992 onwards, local authorities in Kotor Varoš Municipality, including the Kotor Varoš MUP and the Kotor Varoš Crisis Staff, imposed restrictions on Bosnian Muslims' and Bosnian Croats' freedom of movement, which were implemented by the VRS, and imposed restrictions on access to medical care. From June 1992, the civilian authorities, including the Kotor Varoš Crisis Staff, dismissed Bosnian Muslims and Bosnian Croats from employment. Further, the Trial Chamber recalls its findings about killing incidents in Kotor Varoš Municipality in June and in July 1992 as set out in chapter 4.7.1 *Schedule C and unscheduled murder incidents*. Finally, the Trial Chamber recalls its finding about unlawful detention and inhumane or cruel treatment in chapter 4.7.2 *Unscheduled detention incidents – Grabovica School* that during the night of 2 November 1992, around 50 women and a number of children surrendered to the VRS when attempting to escape Večići towards Travnik, after which they were detained at Grabovica School. The next morning, they were put on a bus. The busses stopped at Vbanjci in the afternoon, where a convoy of approximately 25 buses or more left for Travnik. Taking all of this into consideration, the Trial Chamber finds that Bosnian Muslims and Bosnian Croats who left Kotor

<sup>13166</sup> Defence Final Brief, paras 1144, 1147.

Varoš Municipality as described in incident (g) did not have a genuine choice but to leave. The Trial Chamber therefore dismisses the Defence's argument in this regard. The Trial Chamber finds that the perpetrators of these displacements were members of the MUP, Crisis Staff, and VRS.

3148. In Novi Grad Municipality, incident (h), the Defence argued that many Bosnian-Muslims and Bosnian-Croats decided to leave the municipality because of unrest in the area and despite the fact that no injury or harm had been done to them.<sup>13167</sup> The Defence further argued that a number of Bosnian-Muslim and Bosnian-Croat families chose to stay in the municipality throughout the conflict.<sup>13168</sup> The Trial Chamber recalls its finding in chapter 4.8.3 that almost all houses belonging to Muslims in the village of Ahatovići were damaged or destroyed during the attack on the village by Serb forces stationed at the JNA barracks in surrounding villages on or about 27 May 1992. Further, having considered the circumstances surrounding the departure of the population from Novi Grad as found in chapter 4.8.7, namely that on or about 27 May 1992, tanks took up positions in the hills around the predominately Muslim village of Ahatovići in Novi Grad Municipality; using megaphones, the villagers were threatened: 'Balijas, surrender, or we kill your children'; when the villagers did not surrender, forces led by Jovan Tintor consisting of White Eagles and others in JNA uniforms attacked and entered the village, and following the attacks on Ahatovići and Dobroševići, all the surviving Muslims in Ahatovići were either arrested or expelled together with some Serbs and Croats who were married to Muslims, the Trial Chamber finds that they did not have a genuine choice but to leave and dismisses the Defence's arguments.

3149. Turning to Pale Municipality, the Defence argued that at the beginning of the war, Bosnian Muslims demanded to leave due to fear of retribution following attacks on local Serbs and JNA, and that there was no forceful expulsion of Bosnian Muslims and Bosnian Croats.<sup>13169</sup> The Trial Chamber found that in incident (i), Bosnian Muslims and Bosnian Croats left the municipality in convoys escorted by members of the Pale SJB and that some members of the SJB also exercised pressure on the Bosnian Muslims to leave the municipality. Further, the Trial Chamber recalls that when the Muslim delegation met with the SJB in May, they were told that Serbs did not want to continue living with Muslims and that they could not guarantee their safety. The Trial Chamber

<sup>13167</sup> Defence Final Brief, para. 1362.

<sup>13168</sup> Defence Final Brief, para. 1362. *See also* Defence Final Brief, paras 1352-1361, 1363.

further considered Crnčalo's evidence that neither he nor other Bosnian Muslims left Pale voluntarily, but that they were forced to do so in order to protect their families. The Trial Chamber is satisfied that the Bosnian-Muslim and Bosnian-Croats residents of Pale did not have a genuine choice but to leave, and dismisses the Defence's arguments in this regard.

3150. Turning to Prijedor Municipality, the Defence argued that the departures were due to armed conflict and interethnic tensions and that the relocations were aided by international actors such as the ICRC and UNICEF.<sup>13170</sup> First, the Trial Chamber recalls that the displacement of persons carried out pursuant to an agreement among political or military leaders or under the auspices of an international organisation does not necessarily make it voluntary. Regarding incident (j)(i), the Trial Chamber recalls its findings that many Bosnian Muslims and Bosnian Croats fled the villages in Prijedor Municipality following the attacks on their villages and feared for their lives, *see* chapter 4.10.7. The Trial Chamber further recalls its findings on the killings, destructions, and appropriation of property and plunder in several villages in Prijedor Municipality from May 1992 onwards as set out in chapters 4.10.1 *Schedules A.6.1-A.6.6*, 4.10.1 *Schedule A.6.9*, 4.10.3, and 4.10.4 and recalls that the convoys were escorted by the police and the army. Based in the foregoing, the Trial Chamber finds that the Bosnian Muslims and Bosnian Croats who fled from Prijedor between May and November 1992 did not have a genuine choice but to leave.

3151. In relation to Rogatica Municipality, the Defence argued that the evidence does not support a finding that the population was moved against their will but rather that those who moved did so voluntarily.<sup>13171</sup> Regarding incidents (k)(i) and (k)(ii), the Trial Chamber recalls its findings in chapter 4.11.7 that Bosnian Muslims left Rogatica Town for Vragolovi and then Goražde and other villages due to shelling, shooting, and growing insecurity. Further, the Trial Chamber considered that around 26 May 1992, a Serb announcement stated that the Serbs intended to 'cleanse' Rogatica of Muslim extremists and so-called Green Berets, and that once Rogatica Town was taken over by the Serbs, Živojin Novaković, of the VRS,<sup>13172</sup> said that the town would be cleansed and that anyone found in the town would be killed. Based on the above, the Trial Chamber

<sup>13169</sup> Defence Final Brief, para. 1386.

<sup>13170</sup> Defence Final Brief, paras 1010, 1012.

<sup>13171</sup> Defence Final Brief, para. 1431. *See also* Defence Final Brief, paras 1426-1430.

<sup>13172</sup> *See* P309 (Witness RM-081, witness statement, 17 September 2011), paras 43, 46.



is satisfied that the Bosnian Muslims left Rogatica between May and August 1992 because of the fear generated by threats and the violence in the municipality. As such, the Trial Chamber finds that they did not have a genuine choice but to leave and dismisses the Defence's arguments in this regard. The Trial Chamber finds that the perpetrators of these displacements were members of the VRS.

3152. With regard to incident (k)(viii), the Trial Chamber notes that it received evidence from Milovan Milutinović set out in chapter 4.11.7 that sometime in July 1995 talks were held with Mladić, Muslim representatives of Žepa and UNPROFOR and, upon request from the Muslim representatives, it was agreed to organise the transport and departure from Žepa of the entire population. The Trial Chamber recalls that the displacement of persons carried out pursuant to an agreement among political or military leaders or under the auspices of an international organisation does not necessarily make it voluntary. In addition, considering the surrounding circumstances of this displacement and the fear expressed by the Muslim representatives by requesting guarantees from the VRS that civilians not be killed during their transportation out of Žepa, the Trial Chamber finds they did not have a genuine choice but to leave.

3153. With regard to Sokolac Municipality, the Defence argued that civilians were moved to ensure their safety and at their own request because of the conflict.<sup>13173</sup> The Trial Chamber recalls its finding that in incident (m)(i), the Muslim population left because of the threat of violence against Muslims and the lack of protection from the municipal authorities including the Crisis Staff and its President, therefore the Trial Chamber is satisfied that the Muslim population did not have a genuine choice but to leave and dismisses the Defence's argument in this regard. The Trial Chamber finds that the perpetrators of these displacements were members of the Crisis Staff. In relation to incident (m)(ii), the Muslim women and children were placed on buses, after their village had been surrounded by members of the VRS 2nd Romajina Brigade, destroyed, and 40 to 45 Muslim civilians were killed. In light of the above, the Trial Chamber is satisfied that these women and children left out of fear for their lives and did not have a genuine choice but to leave and dismisses the Defence's argument in this regard.

3154. Turning to Bijeljina Municipality, the Defence submitted that various factors caused movement of population in this municipality, including interethnic mistrust, fear of war, inflow of Serb refugees, devastated economy, and that a significant part of the

population had left before July 1992 for these reasons.<sup>13174</sup> Regarding the first incident (b)(i), the Trial Chamber recalls its findings in chapter 4.2.7 that starting in the summer of 1992 and until 1995, Vojkan Đurković of the SDS, aided by Mauzer's men, transferred thousands of Muslim civilians to 'no-man's land' between the front lines; some asked Đurković to transport them away out of fear of violent crimes being committed against them; during this time, other Muslims also fled Bijeljina on their own; in some instances, the transfers were preceded by Đurković breaking into houses in the middle of the night and placing Muslims in vans while beating and cursing them and the perpetrators stated that 'the minorities had no right to exist on "Serb territory"'. With regard to incident (b)(ii) specifically, the Trial Chamber recalls its findings in chapter 4.2.4 that those who left Bijeljina through the Europa agency were required to sign statements leaving all of their property to the agency that would then place Serb refugees into the non-Serb houses. The Trial Chamber further recalls its finding that from 1992 onwards, Vojkan Đurković of the Bijeljina SDS, aided by Mauzer's men, extorted property from Bosnian Muslims and stripped them of their valuables before they were forced out of the municipality. Đurković and Mauzer's men looted the Bosnian-Muslim houses. Based on the foregoing, the Trial Chamber finds that the Bosnian Muslims and/or Bosnian Croats in incidents (b)(i) and (b)(ii) did not have a genuine choice but to leave and dismisses the Defence's arguments in this regard.

3155. With regard to Sanski Most Municipality, the Defence argued, *inter alia*, that people of all ethnicities exercised a genuine choice to temporarily leave the municipality.<sup>13175</sup> In relation to the events that occurred in Sanski Most Municipality, the Trial Chamber recalls its findings about murders in chapters 4.12.1 *Schedules A.7.1-A.7.5*, destructions in chapter 4.12.3, appropriation or plunder of property in chapter 4.12.4, forced labour and human shields in chapter 4.12.5, and imposition and maintenance of restrictive and discriminatory measures in chapter 4.12.6. Further, the Trial Chamber notes that in incident (l)(i) the population was evacuated by the 6th Krajina Brigade, rounded up and transferred in buses; in incident (l)(ii) the inhabitants were ordered by Serb soldiers to find their way to Muslim-held territory, and were forced out by the perpetrators of the attack on Hrustovo village; in incident (l)(iv) the group of Bosnian Muslims were transported under escort by Serb soldiers after their

<sup>13173</sup> Defence Final Brief, para. 1487.

<sup>13174</sup> Defence Final Brief, paras 1622-1628.

<sup>13175</sup> Defence Final Brief, paras 1232 (i), (j), (k), (l).

departure had been arranged by a member of the Sanski Most Crisis Staff; in incident (l)(v) the group of Bosnian Muslims and Bosnian Croats were escorted by the Bosnian-Serb police; in incident (l)(vi) the convoy comprised 850 Bosnian Muslims who were threatened at gunpoint and forced into buses; in incident (l)(vii) Bosnian Muslims left in three convoys organised by the Sanski Most Crisis Staff and the SDS, and some Bosnian Muslims were specifically ordered to leave town; in incident (l)(ix), the convoys were organised by the Sanski Most Crisis Staff and the SDS. Based on the foregoing, the Trial Chamber is satisfied that in incidents (l)(i), (l)(ii), (l)(iv), (l)(v), (l)(vi), (l)(vii) and (l)(ix) they did not have a genuine choice but to leave and dismisses the Defence's arguments in this regard.

3156. Incident (l)(iii) relates to one Bosnian Croat who obtained permission to leave the municipality, following the imposition of discriminatory measures and the broadcasting of announcement informing Bosnian Muslims and/or Bosnian Croats of the procedure to follow in order to leave the municipality. He left for Croatia in December 1992. While that person was not physically forced to leave the municipality, the Trial Chamber finds that the overall circumstances surrounding his displacement and the situation in the municipality as recalled in the previous paragraph, establish that he did not have a genuine choice but to leave.

3157. For incident (l)(viii), the Trial Chamber recalls its finding that a Bosnian-Muslim woman was taken from her village of Hrustovo together with her children by 'Mitra' and another soldier to Tomina where she was detained. Two weeks later, she was instructed by Serb soldiers to walk to Muslim-held territory. Considering its findings on the murders committed in Hrustovo on 31 May 1992 in chapter 4.12.1 *Schedule A.7.2*, the destruction in chapter 4.12.3, the plunder in chapter 4.12.4, and the fact that this woman was detained with her children before being instructed to walk to Muslim-held territory, the Trial Chamber finds that she did not have a genuine choice but to leave.

3158. In relation to Vlasenica Municipality, the Defence argued that the movement of civilians there was voluntary and due to fear, panic, and tensions.<sup>13176</sup> The Trial Chamber recalls its findings on killings (chapter 4.14.1 *Schedule A.9.1*), destructions (chapter 4.14.3), appropriation or plunder of property (chapter 4.14.4), and discriminatory measures (4.14.6) in Vlasenica Municipality. In incident (n)(i), a group composed of women and one elderly man was transferred by Serbs in a bus; in incident

(n)(ii), the group of women and children were transferred by the Vlasenica special police platoon supported by a VRS unit. Based on the above, the Trial Chamber finds that both groups did not have a genuine choice but to leave. With regard to incident (n)(iii), *i.e.* the capture and subsequent transfer of Muslims by the Vlasenica SJB special police platoon, accompanied by other VRS forces, the Trial Chamber is also satisfied that they did not have a genuine choice but to leave.

3159. Regarding Srebrenica, the Defence argued that the relocations were a natural consequence of the ongoing armed conflict and the instability and violence in the region.<sup>13177</sup> The Trial Chamber recalls that the evacuation of the Bosnian-Muslim civilians gathered in Potočari was organised by the VRS and the MUP and took place, for the first convoy only, under the supervision and escort of UNPROFOR. However, the Trial Chamber recalls that the displacement of persons carried out pursuant to an agreement among political or military leaders or under the auspices of an organisation does not necessarily make it voluntary. The Trial Chamber also recalls: (i) the circumstances surrounding the movement of population from Srebrenica to Potočari, including the orders by the 10th Sabotage Detachment to Srebrenica Town inhabitant to leave, the shells fired by the VRS at the UNPROFOR Bravo compound in Srebrenica, the mortars fired along the road taken by the Bosnian Muslims fleeing towards Potočari; (ii) the situation in the UNPROFOR compound in Potočari and its surroundings, where the population sought refuge, namely the shots and shelled fired around the compound, the dire living conditions, the fear and exhaustion of the Bosnian Muslims who had sought refuge there; and (iii) that the VRS, assisted by MUP units, coordinated the boarding of buses, ultimately forcing women children and elderly onto the buses while some were hit by members of the MUP, and escorted the buses towards Bosnian-Muslim controlled territory. Based on the above, the Trial Chamber finds that the approximately 25,000 Bosnian Muslims, mostly women, children, and elderly who left Potočari to go to Bosnian-Muslim controlled territory in incident (o) did not have a genuine choice but to leave.

3160. *Negative findings.* In relation to incidents (a)(ii) and (a)(iii), the Trial Chamber notes that they occurred in August and September 1994, and that it did not receive any

<sup>13176</sup> Defence Final Brief, paras 1678-1679.

<sup>13177</sup> Defence Final Brief, para. 137.

evidence regarding the circumstances surrounding these displacements at that time and therefore is unable to determine that they had no genuine choice but to leave.

3161. With regard to incident (k)(iv), the Trial Chamber notes that it concerns the escape of a Bosnian-Muslim detainee from Rasadnik camp/detention facility, who reached Sarajevo two months later. Considering the elapsed time between his escape from the camp and his arrival in Sarajevo, the Trial Chamber does not find that the VRS in charge of the camp coerced him to leave the municipality and will therefore not further consider it.

3162. Incident (k)(v) relates to the departure in August or September 1993 of a Bosnian-Muslim family previously detained at Veljko Vlahović Secondary School following the attacks on Rogatica Town. The Trial Chamber considered its findings on the unlawful detention and cruel or inhumane treatment in Veljko Vlahović Secondary School (chapter 4.11.2 *Schedule C.16.1*). However, the Trial Chamber also considered that this family was detained from July 1992 in Veljko Vlahović Secondary School for approximately three and a half months and then left the school and only left the municipality in August or September 1993 by their own means. Considering the time elapsed between the attacks on the town, their detention and their arrival in Montenegro, the Trial Chamber is not satisfied that the authorities in charge of the school, *i.e.* Rajko Kušić, the camp commander, and the local Serbs under his authority, civilian police, Serb TO, and paramilitary unit members who were guarding the camp between June and August 1992 coerced them to leave the municipality and will therefore not further consider this incident.

3163. In light of the above, the Trial Chamber will not further consider incidents (a)(ii), (a)(iii), (k)(iv) and (k)(v).

*Circumstances under which displacement would be allowed*

3164. As set out in the applicable law, the displacement of civilians is allowed in limited circumstances. The Trial Chamber notes that the evidence received did not indicate any imperative military reasons that would have justified the displacement of civilians from the municipalities considered. Furthermore, as also discussed above, the transfer of Bosnian Muslims and/or Bosnian Croats was not carried out for the security of the persons involved, but rather to transfer them out of certain municipalities and, in

other cases, to other countries. This is also supported by the fact that the perpetrators of the displacements did not take measures to ensure that the transfers happened in a humane manner, and, in some cases, subjected the displaced to ill-treatment. In addition, no measures were taken to ensure that families were kept together, and in certain instances, families were purposely separated. Finally, the Trial Chamber finds that no steps were taken to secure the return of those displaced. Some victims did return to the area they were transferred out of, but did so on their own volition and not with the assistance of those involved in displacing them. Therefore, the Trial Chamber finds that there were no circumstances that justified the displacement of the persons involved in the incidents set out above as recognized by international law.

*Mens rea*

3165. Regarding the Defence's argument that the transfer or deportation of persons was not intended to be permanent,<sup>13178</sup> the Trial Chamber refers to the jurisprudence of the Appeals Chamber, as set out in chapter 8.5.1, that the perpetrators of the crimes of forcible transfer or deportation do not need to have the intent to displace the persons on a permanent basis.

3166. *Forcible transfer: organized or secured by the perpetrators.* With regard to the acts described in incidents (b)(i), (f)(i), (f)(ii), (g), (h), (i), j(i), (k)(viii), (l)(i), (l)(ii), (l)(iv), (l)(v), (l)(vi), (l)(vii), (l)(ix), (m)(ii), (o), the Trial Chamber recalls that the victims were forcibly displaced. The Trial Chamber further notes that the perpetrators of these acts organized, or assisted with the security of, the transportation of Bosnian Muslims and/or Bosnian Croats to other municipalities in Bosnia-Herzegovina.<sup>13179</sup> The Trial Chamber further recalls below excerpts of factual findings related to some of these incidents, relevant to establish the *mens rea* of the perpetrators of these incidents. In the case of incident f(i), in early May 1992, the SNO President, told the President of the Ključ Municipality's executive board, that Serbs, Muslims and Croats that constituted a minority in any territory would need to move, so that minorities would amount to no more than five or six per cent. Although the Trial Chamber received evidence that on 20 May 1992, the ARK Crisis Staff decided that there was no reason for anyone to move

<sup>13178</sup> Defence Final Brief, para. 1232 (h).

<sup>13179</sup> The Trial Chamber has previously addressed the Defence's submission that non-Serbs were displaced for security reasons.

out of the ARK territory, and broadcast this conclusion on the radio over the following days, it also received evidence that the ARK Crisis Staff kept control over the modalities of the departure of Muslims and Croats from the ARK territory, including on the amount of money that those leaving could take. It further received evidence that the ARK Crisis Staff allowed Muslims and Croats to move out of the ARK territory on the condition that Serbs living outside of the territory would move into the ARK territory. Further, on 30 July 1992, the Ključ Crisis Staff decided that those leaving were required to declare that they were leaving permanently and voluntarily and had to exchange their property or surrender it to the municipality. In the case of incident (f)(ii), Bosnian Muslims and/or Bosnian Croats were required, prior to their departure, to sign statements leaving all their property. Concerning incident (i), the Defence argued that Bosnian Serbs did everything in their power to convince Bosnian Muslims to stay but that ultimately the Pale SDS Main Board decided that they could leave in accordance with their constitutional right to freedom of movement.<sup>13180</sup> In this regard, the Trial Chamber recalls its analysis on the coercive nature of these departures. With regard to incident (j)(i), the perpetrators, on one occasion, told people, transported from Trnopolje camp, to get off a bus and go towards barricades nearby; '[d]own there are your folk, Alija, Tudjman, are awaiting you'. In the case of incident (l)(i), the perpetrators of the acts of forcible transfer participated in the rounding up of Mahala inhabitants and their transfer to Velika Kladuša. They told inhabitants of Mahala that those who did not wish to fight had three hours to evacuate Mahala before the attack on the neighbourhood. In the case of incident (l)(ii), the perpetrators of the attack on Hrustovo made the Bosnian-Muslims inhabitants, who survived the attack on Hrustovo and the neighbouring villages, go to Doboj, where Serb soldiers told them to find their way to Muslim-held territory. With respect to incident (l)(vi), the Trial Chamber notes that on 11 May 1992 guards under the direction of Davidović, the Commander of the Serb Crisis Committee of Banja Luka, threatened at gunpoint and forced into buses Bosnian Muslims. Concerning incident (l)(vii), Bosnian Muslims who left in one of the convoys on 17 August 1992 had been ordered to leave Sanski Most Town the same morning. Concerning incident (o) and during the fall of the Srebrenica enclave on 11 July 1995, some of the perpetrators of the attack against the enclave ordered the Bosnian Muslims from Srebrenica Town and its surrounding villages to go to the UNPROFOR compound

<sup>13180</sup> Defence Final Brief, para. 1387.

in Potočari. Although the Trial Chamber found that the ABiH as well as DutchBat troops similarly told Bosnian-Muslim women and children who had gathered in Srebrenica Town to head for the UNPROFOR compound in Potočari, the Trial Chamber recalls its finding on the coercive context in which Bosnian-Muslim civilians left Srebrenica. Further, the perpetrators organized and supervised the evacuation of Bosnian-Muslim civilians to Kladanj Municipality, including the supply of fuel and buses, the boarding of the Bosnian Muslims onto trucks and buses, and the escorting of Bosnian Muslims to a non-man's land between the Bosnian-Serb and Bosnian-Muslim lines from which they were forced to continue the last leg of their journey on foot. Therefore, for all the incidents mentioned in this paragraph, the Trial Chamber finds that the perpetrators had the intent to forcibly displace the victims.

3167. *Deportation: organized or secured by the perpetrators.* With regard to the acts of deportation described in incidents (b)(ii), (c)(i), and (j)(ii), the Trial Chamber notes that the perpetrators of these acts organized or assisted with the security of the transportation of Bosnian Muslims and/or Bosnian Croats to other countries. In the case of incident (b)(ii), Bosnian Muslims and/or Bosnian Croats were required to sign statements leaving all their property prior to their departure to the perpetrators organizing their transport. Further, for a year and a half, the perpetrators used one route to bus people out of the area via Serbia and took them to the Hungarian border. In the case of incident (c)(i) and following a discussion with a representative of the Bosnian-Serb Republic in mid-June 1991, the Foča War Commission tasked the civilian and military authorities to arrange transportation and provide security to individuals leaving the municipality. The Trial Chamber further found that these people were taken to Sweden and Montenegro. Under these circumstances, the Trial Chamber finds that the perpetrators had the intent to forcibly displace Bosnian Muslims and/or Bosnian Croats across a *de jure* border.

3168. *Forcible transfer of detainees: organized and secured by the perpetrators.* With regard to the acts of forcible transfer described in incidents (c)(iii), (c)(iv), (c)(v), (c)(vi), (c)(vii), (k)(iii), (k)(vi), (l)(x), (l)(xii), (m)(iii), (n)(i), (n)(ii), (n)(iii), (n)(iv), (n)(v), and (n)(vi) the Trial Chamber notes that the perpetrators of these acts organized the transfer of Bosnian Muslims detained in various places to other municipalities within Bosnia-Herzegovina. The Trial Chamber further recalls specific evidence it received relevant to establish the *mens rea* of the perpetrators of these incidents. In the case of incident (c)(iii), the perpetrators of these acts ordered a Bosnian Muslim



transported to Dobro Polje, to walk towards ABiH-controlled territory. Regarding incident (k)(iii), on 22 June 1992, one of the perpetrators announced, prior to the displacements, that the Muslims held at Veljko Vlahović Secondary School with relatives in the 'free zone' would be transported there. In the case of incident (k)(vi), one of the perpetrators of these acts had approved the exchange in Sarajevo of some of the Bosnian Muslims detained in Rasadnik camp. In the case of incident (n)(i), the perpetrators of the attack on Zaklopač organized and escorted the departure of Bosnian Muslims to Kladanj. Further, prior to their departure, Bosnian-Muslim women had to sign statements giving away their houses and properties to the Serbs. In the case of incident (n)(iv), the authorities of the detention centres where Bosnian-Muslim women were detained ordered that they sign statements stating they left of their own volition. In the case of incidents (c)(iv), (c)(v), the perpetrators of the detention exchanged Bosnian Muslims transported from Foča to Kalinovik and Sarajevo. In the case of incident (m)(iii), the perpetrators of the detention exchanged a Bosnian Muslim detained in various centres in 1992 and 1993 at the Sarajevo airport. In the case of incident (n)(vi), the perpetrators of the detention exchanged the Bosnian Muslim following his detention. Under these circumstances, the Trial Chamber finds that the perpetrators had the intent to forcibly displace the victims.

3169. *Deportation: organized and secured by the perpetrators.* With regard to the acts of deportation described in incidents (c)(ii), (k)(vii), and (l)(xi), the Trial Chamber notes that the perpetrators of these acts organized the transfer of Bosnian Muslims detained in various places to other countries. In incident (c)(ii), the perpetrators of the detention had said a day prior to the departure of the Bosnian-Muslim women that they would send them out of Foča. The Trial Chamber found that the perpetrators transported the women by bus and police cars to Novi Pazar in Serbia. Regarding incident (k)(vii), a Bosnian Muslim detained in Batković camp was exchanged in Croatia. Concerning incident (l)(xi), three Bosnian Muslims detained in Manjača camp were transferred to Karlovac, Croatia, as part of an exchange. Under these circumstances, the Trial Chamber finds that the perpetrators had the intent to forcibly displace these Bosnian Muslims across a *de jure* border.

3170. *Other incidents of forcible transfer or deportation.* With respect to the acts of deportation described in incidents (a)(i), the Trial Chamber notes that in May 1992, the perpetrators of these acts broadcasted announcements indicating that there was no

reason for anyone to move out of the ARK and decided to oppose and prevent all attempts to pressure or force the population to move. However, the Trial Chamber also received a large amount of reliable evidence establishing that in May 1992, the perpetrators of these acts also issued orders and decisions establishing that they exercised control over the departures of Bosnian Muslims and Bosnian Croats from the municipality. Further, the Trial Chamber recalls that in 1992, one of the perpetrators, Radoslav Brđanin, called upon Bosnian Muslims to leave the Krajina. The Trial Chamber also recalls that between 1 April 1992 and 31 December 1992, non Serbs were forced to sign over or exchange their property for property in Croatia. Moreover, 'Brđanin's agency' managed all aspects of relocation of the population and people left the municipality by bus for Croatia on a daily basis. Therefore, the Trial Chamber finds that in this incident the perpetrators acted with the intent to forcibly displace these Bosnian Muslims and Bosnian Croats across a *de jure* border.

3171. With respect to the acts of forcible transfer described in incident (d), the Trial Chamber notes that the Bosnian-Muslim family left Ilidža Municipality to Sarajevo after a member of the White Eagles threatened the family's lives if they were to refuse to comply with the ultimatum to leave the municipality or to take up arms and become loyal to the Serb authorities. Under these circumstances, the Trial Chamber finds that the perpetrator of this act acted with the intent to forcibly displace the victims.

3172. With respect to the acts of forcible transfer described in incident (l)(viii), the Trial Chamber notes that two weeks after the attack on Hrustovo in July 1992, 'Mitra' and another soldier specifically instructed a Bosnian-Muslim woman and her children whom they had taken to Tomina, to walk to Muslim-held territory. Under these circumstances, the Trial Chamber finds that the perpetrators of these acts had the intent to forcibly displace the victims.

3173. With respect to the acts of forcible transfer described in incident (k)(i), the Trial Chamber notes that by August 1992, almost all of the Bosnian Muslims who had gathered in Vragolovi had left for Goražde due to shelling by Serb forces and a warning about another Serb attack. Regarding the acts of forcible transfer described in incident (k)(ii), the Trial Chamber notes that between May and August 1992, other Bosnian Muslims from Rogatica Municipality left due to the shelling of Rogatica Town and Serb attacks on several other Muslim villages. The Trial Chamber recalls its finding that there were no circumstances justifying the displacement of the persons involved in these

incidents and that the shelling of Muslim villages and, in the case of incident (k)(i), the warning about another Serb attack, establishes that the perpetrators of these acts had the intent to forcibly displace the victims.

3174. With respect to the acts of forcible transfer described in incident (m)(i), the Trial Chamber recalls that the municipal authorities did not protect the Muslim population of Sokolac Municipality from May 1992, and that on one occasion, when told that Muslims were scared and leaving the municipality, the President of Sokolac Municipality said ‘Let leave to wherever they want to. If you ever try anything against us, we will destroy you.’ Under these circumstances, the Trial Chamber finds that the perpetrators of these acts had the intent to forcibly displace the victims.

3175. With respect to the acts of forcible transfer described in incident (e), the Trial Chamber notes that this incident concerns the flight and arrival in Muslim-held territory of a Bosnian-Muslim survivor of a killing incident in Kalinovik Municipality.<sup>13181</sup> Under these circumstances, the Trial Chamber is unable to establish that the perpetrators of the killing incident intended to forcibly displace this Bosnian Muslim and will not consider incident (e) any further.

3176. With respect to the acts of deportation described in incident (l)(iii), the Trial Chamber notes that the circumstances surrounding the departure of a Bosnian Croat from Sanski Most Municipality in September 1992 establishes that Dragan Paštalo was in charge of delivering special permissions authorizing Bosnian Muslims to leave the municipality. However, the Trial Chamber did not receive any evidence establishing that Dragan Paštalo intended to deport this Bosnian Croat across a *de jure* border and will not consider incident (l)(iii) further.

3177. With the exception of incidents (e) and (l)(iii), the perpetrators of the displacements possessed the requisite intent.

3178. The Trial Chamber recalls its findings in chapters 8.1 and 8.2 with regard to the general elements and jurisdictional requirement of crimes against humanity.

<sup>13181</sup> See chapter 4.5.1 *Schedule B.7.1*.

*Status of victims*

3179. With regard to the acts of forcible transfer or deportation described in incidents (a)(i), (b)(i), (c)(i), (f)(i), (k)(viii), (l)(vi), (o), the Trial Chamber finds that these acts were carried out against civilians.

3180. With respect to the acts of forcible transfer or deportation described in incidents (b)(ii), (d), (f)(ii), (g), (h), (i), j(i), (j)(ii), (k)(i), (k)(ii), (l)(i), (l)(ii), (l)(iv), (l)(v), (l)(vii), (l)(viii), (l)(ix), (m)(i), (m)(ii), (n)(i), (n)(ii), (n)(iii), the Trial Chamber finds that these were committed against individuals in residential areas and, in some cases they were committed after attacks on civilians and against people having been forced out of their homes; some of the victims included women, children and elderly. Concerning incidents j(i) and (j)(ii), the Trial Chamber notes that some of the victims of these incidents were also the victims of unlawful detention (*see* chapter 4.10.2 *Schedule C.15.4*). Given that context, the Trial Chamber finds that the only reasonable inference is that the victims of these acts were predominantly civilians.

3181. In relation to the acts of forcible transfer or deportation described in incidents (c)(iii), (c)(iv), (c)(v), (c)(vii), (k)(iii), (k)(vi), (k)(vii), (l)(x), (l)(xi), (l)(xii), (m)(iii), (n)(iv), (n)(v), (n)(vi), the Trial Chamber notes that the victims of these incidents were also the victims of unlawful detention (*see* chapters 4.3.2 *Schedule C.6.1*, 4.4.2 *Schedule C.8.1*, 4.11.2 *Schedule C.16.1*, 4.11.2 *Schedule C.16.3*, 4.2.2 *Schedule C.2.1*, 4.12.2 *Schedule C.19.3*, and 4.1.2 *Schedule C.1.2*). The Trial Chamber recalls its findings on the status of the persons detained in these detention centres in chapter 8.9.2 (d). At KP Dom Foča, Manjača camp, Batković camp, Kula prison, and Sušica camp the detainees were mostly civilians. At Veljko Vlahović Secondary School and at Rasadnik camp, the detainees were civilians. In addition, the Trial Chamber found that those detainees found not to be civilians were placed *hors de combat* as a result of their detention. Accordingly, the acts of forcible transfer or deportation listed in this paragraph were carried out against the same categories of victims and were therefore committed against civilians but including also persons placed *hors de combat* at the time of their displacement.

3182. With regard to incident (c)(vi), the Trial Chamber recalls its findings in chapter 4.3.2 *Schedule C.6.4* that at Partizan Hall, the detainees were civilians. With regard to incident (c)(ii), the Trial Chamber recalls its finding in chapter 4.3.2 *Schedule C.6.3* that

women were detained in Bukovica Motel. For this incident the Trial Chamber also considered that the detainees included women and children, and that some detainees were taken from their homes and some from Partizan Hall, where they were previously detained. In this regard and considering the finding on the status of the detainees in Partizan Hall, the Trial Chamber finds that the only reasonable inference is that the detainees at Bukovica Motel were civilians.

*Conclusion*

3183. The Trial Chamber finds that the following incidents constituted deportation as charged in Count 7 of the Indictment: (a)(i); (b)(ii); (c)(i); (c)(ii); (j)(ii); (k)(vii); and (l)(xi). The Trial Chamber further finds that the following incidents constituted forcible transfer as charged in Count 8 of the Indictment: (b)(i); (c)(iii); (c)(iv); (c)(v); (c)(vi); (c)(vii); (d); (f)(i); (f)(ii); (g); (h); (i); (j)(i); (k)(i); (k)(ii); (k)(iii); (k)(vi); (k)(viii); (l)(i); (l)(ii); (l)(iv); (l)(v); (l)(vi); (l)(vii); (l)(viii); (l)(ix); (l)(x); (l)(xii); (m)(i); (m)(ii); (m)(iii); (n)(i); (n)(ii); (n)(iii); (n)(iv); (n)(v), (n)(vi), and (o).

8.6 Acts of violence the primary purpose of which is to spread terror among the civilian population

*8.6.1 Applicable law*

3184. Count 9 of the Indictment charges the Accused with acts of violence the primary purpose of which were to spread terror among the civilian population ('the crime of terror'), as a violation of the laws or customs of war, punishable under Article 3 of the Statute. The general elements and jurisdictional requirements for this crime have been discussed in chapter 8.1, above.

3185. The Defence argued that the Tribunal does not have jurisdiction over the crime of terror and therefore any conviction for this crime would violate the principle of *nullum crimen sine lege*.<sup>13182</sup> The Appeals Chamber has confirmed that the Tribunal has jurisdiction over this crime,<sup>13183</sup> and the Trial Chamber finds nothing in the Defence's submissions which would lead it to deviate from the established case law.

3186. The crime of terror requires proof of the following elements:

- a) acts or threats of violence directed against the civilian population or individual civilians not taking direct part in hostilities causing the victims to suffer grave consequences;
- b) the offender wilfully made the civilian population or individual civilians not taking direct part in hostilities the object of those acts or threats of violence; and
- c) the above acts or threats of violence were committed with the primary purpose of spreading terror among the civilian population.<sup>13184</sup>

3187. The acts or threats of violence directed against civilians are not limited to direct acts or threats of violence against civilians, but may include indiscriminate or disproportionate acts or threats of violence.<sup>13185</sup> The meaning of 'civilian population' is given in chapter 8.2.1, above.<sup>13186</sup> Grave consequences include, but are not limited to, death or serious injury to body or health.<sup>13187</sup>

<sup>13182</sup> Defence Final Brief, paras 146-151.

<sup>13183</sup> *Galić* Appeal Judgment, paras 87-90; *Dragomir Milošević* Appeal Judgment para. 30.

<sup>13184</sup> *Galić* Appeal Judgement, paras 100-102; *Dragomir Milošević* Appeal Judgement, paras 31-33, 57.

<sup>13185</sup> *Galić* Appeal Judgment, para. 102.

<sup>13186</sup> See *Dragomir Milošević* Appeal Judgment, paras 50-51.

<sup>13187</sup> *Dragomir Milošević* Appeal Judgment, para. 33.

3188. The *mens rea* for the crime of terror consists of the intent to make the civilian population or individual civilians not taking direct part in hostilities the object of the acts of violence or threats thereof, and of the specific intent to spread terror among the civilian population.<sup>13188</sup> Such intent may be inferred from the circumstances of the acts or threats, i.e. from their nature, manner, timing and duration.<sup>13189</sup> While spreading terror must be the primary purpose of the acts or threats of violence, it need not be the only purpose.<sup>13190</sup> The Appeals Chamber has suggested that terror could be defined as ‘extreme fear’.<sup>13191</sup>

### 8.6.2 *Legal findings*

3189. In chapters 5.2 and 5.3, the Trial Chamber decided to further consider a number of incidents of alleged sniping and shelling attacks in Sarajevo in light of the applicable law. An overview of sniping and shelling incidents in which some of the victims were alleged to have been murdered, has been provided in chapter 8.3.2. The others are set out below:

3190. Sniping Incidents:

- (a) Scheduled Incident F.1 - on 13 December 1992, a member of the SRK targeted and injured Anisa Pita, a three-year-old girl, as further set out in chapter 5.2.1;
- (b) Scheduled Incident F.4 - on 3 September 1993, a member of the SRK targeted and injured Nafa Tarić and her eight-year-old daughter, as further set out in chapter 5.2.3;
- (c) Scheduled Incident F.5 - on 2 November 1993, a member of the SRK targeted and injured Ramiza Kundo, a Bosnian-Muslim woman, as further set out in chapter 5.2.4;
- (d) Scheduled Incident F.9 - on 26 June 1994, a member of the SRK targeted and injured 16-year-old Sanela Muratović, as further set out in chapter 5.2.5;
- (e) Scheduled Incident F.15 - on 3 March 1995, a member of the SRK shot and injured Azem Agović and Alen Gičević, who were travelling on a crowded tram, as further set out in chapter 5.2.9;

<sup>13188</sup> *Galić* Appeal Judgment, para. 104; *Dragomir Milošević* Appeal Judgment, para. 37.

<sup>13189</sup> *Galić* Appeal Judgment, para. 104; *Dragomir Milošević* Appeal Judgment, para. 37.

<sup>13190</sup> *Galić* Appeal Judgment, para. 104; *Dragomir Milošević* Appeal Judgment, para. 37.

<sup>13191</sup> *Galić* Appeal Judgment, fn. 320.

- (f) Scheduled Incident F.16 - on 6 March 1995, a member of the 7th Infantry Battalion of the SRK's 1st Romanija Infantry Brigade shot and seriously injured Tarik Žunić, a 14-year-old Muslim civilian, as further set out in chapter 5.2.10;
- (g) Unscheduled sniping incident – on 25 June 1993, a member of the SRK shot and injured a man picking lettuce in his farm in Kobilja Glava, as further set out in chapter 5.2.11;
- (h) Unscheduled sniping incident – on 24 July 1993, a member of the SRK shot and injured Mejra Jusović, as further set out in chapter 5.2.11;
- (i) Unscheduled sniping incident – on 5 August 1993, a member of the SRK targeted and shot at three young females walking along Stara Cesta, injuring one of them, as further set out in chapter 5.2.11;
- (j) Unscheduled sniping incident – on 2 November 1993, a member of the SRK targeted and injured Ramiz Velić, an employee of the Public Utilities Company in Sarajevo, while he was collecting rubbish on Braće Ribara Street, as further set out in chapter 5.2.11;
- (k) Unscheduled sniping incident – on or around 9 November 1993, a member of the SRK targeted and injured Fatima Osmanović, a 44-year old woman, on Briješko Brdo Street on her way back from a well, as further set out in chapter 5.2.11;
- (l) Unscheduled sniping incident – on 13 June 1994, a member of the SRK targeted and shot Fatima Salčin in the hand while she was on the road from Alipašino Polje to Dobrinja, as further set out in chapter 5.2.11;
- (m) Unscheduled sniping incident – on 9 November 1994, a VRS member shot and wounded five people, three of whom were soldiers, on Zmaja od Bosne Street near the technical school, as further set out in chapter 5.2.11;
- (n) Unscheduled sniping incident – on 22 November 1994, a member of the SRK shot and seriously wounded Sanela Dedović, as further set out in chapter 5.2.11; and
- (o) Unscheduled sniping incident – on 10 December 1994, a member of the SRK shot and wounded Derviša Selmanović, who was fetching wood in the backyard of a house in Sedrenik, as further set out in chapter 5.2.11.

### 3191. Shelling Incidents:



- (a) Scheduled Incident G.1 – on 28 and 29 May 1992, members of the VRS fired artillery, rockets, and mortars against Sarajevo, injuring Witness RM-115 and 16-year-old Fadila Tarčin and causing extensive damage to buildings, as further set out in chapter 5.3.1;
- (b) Scheduled Incident G.13 - on 26 May 1995, members of the SRK fired a modified air bomb and ten projectiles at Safeta Hadžića Street, destroying the top floors of one of the apartment buildings and injuring at least 16 civilians, two of whom seriously, as further set out in chapter 5.3.8; and
- (c) Scheduled Incident G.15 - on 16 June 1995, a member of the SRK fired a modified air bomb in a residential area in Alipašino Polje, injuring seven people and severely damaging several buildings, one of which contained a civil defence/local community centre office, as further set out in chapter 5.3.9;
- (d) Unscheduled shelling incident – on or about 14 May 1992, members of the SRK shelled Sarajevo causing material damage and wounding three people, as further set out in chapter 5.3.11;
- (e) Unscheduled shelling incident – on 6 and 7 September 1994, a member or members of the SRK fired at civilians crossing the Butmir bridge as well as at other civilians and two UNPROFOR vehicles travelling along Igman road, as further set out in chapter 5.3.11;
- (f) Unscheduled shelling incident – on 21 November 1994, a member of the SRK fired a M80 hand-held rocket at a tram in Grbavica, seriously injuring Hajrudin Hamidić, the civilian driver of the tram, as further set out in chapter 5.3.11;
- (g) Unscheduled shelling incident – on 16 June 1995, member of the SRK launched a modified air bomb which exploded on Čobanija Street 7, injuring at least three civilians, two of whom seriously, as further set out in chapter 5.3.11;
- (h) Unscheduled shelling incident – on 1 July 1995, members of the SRK launched two modified air bombs, which fell on Bunički Potok Street and Alekse Šantića Street, injuring thirteen civilians, two of whom were seriously injured, as further set out in chapter 5.3.11;

(i) Unscheduled shelling incident – on 1 July 1995, a member or members of the SRK launched a modified air bomb which landed in the garden of a house in a residential area, just east of the PTT building, as further set out in chapter 5.3.11; and

(j) Unscheduled shelling incident – on 19 July 1995, a member or members of the SRK fired a 120-millimetre shell at the Sokolovići settlement, injuring three people, as further set out in chapter 5.3.11.

*Acts of violence directed against the civilian population or individual civilians not taking direct part in hostilities, causing the victims to suffer grave consequences.*

3192. *Acts of violence.* All the incidents concern sniping and shelling. The Trial Chamber therefore finds that they constitute acts of violence.

3193. *Status of victims.* The Trial Chamber recalls its finding in chapter 8.3.2 that most of those killed as a result of the sniping and shelling incidents were civilians who were not taking direct part in the hostilities at the time they were killed. With regard to Scheduled Incidents G.4, G.8, and G.18, the Trial Chamber recalls that a number of victims killed in these incidents were not civilians, and has therefore not considered these victims further in relation to Counts 9 and 10 of the Indictment (*see* chapter 8.3.2). With regard to Scheduled Incident G.4, there were also combatants among the wounded. Similarly, the Trial Chamber finds that even though these combatants were carrying out a civilian activity, they were not *hors de combat* and, as such, are excluded from the protection of Common Article 3. Thus, it will not further consider non-civilians wounded as a result of Scheduled Incident G.4.

3194. For the remainder of the victims, namely those wounded as a result of the shelling and sniping incidents listed above, and with the exception of the victims of incident G.4, the Trial Chamber considered factors such as their age, gender, appearance at the time of the incidents, and the circumstances in which the incidents took place, in order to determine whether the victims were civilians not taking part in hostilities. Most victims of the above listed incidents were wearing civilian clothing and were engaged in acts of everyday civilian life when the incidents took place, such as fetching water or collecting firewood, walking with civilian friends, travelling by tram, returning from school, playing in or watching a football tournament, queuing for humanitarian aid, or were simply present in residential areas of Sarajevo which were not in the vicinity of

any legitimate military targets. At least ten of the victims were under the age of 16.<sup>13192</sup> In addition, none of these victims had taken up arms or were participating in any sort of military activity. The Trial Chamber therefore finds that all the victims were civilians not taking direct part in hostilities.

3195. *Grave consequences.* The Trial Chamber recalls that, with the exception of the unscheduled incident of 1 July 1995 in which a modified air bomb landed in a residential garden east of the PTT building, the victims of the above-mentioned sniping and shelling incidents either suffered serious bodily injury,<sup>13193</sup> or were killed,<sup>13194</sup> while others' houses or apartments were destroyed or severely damaged.<sup>13195</sup> With regard to the 1 July 1995 incident in which a modified air bomb landed in a residential garden, the Chamber notes that it did not receive evidence demonstrating that this attack resulted in grave consequences. The Trial Chamber finds, therefore, that with the exception of the 1 July 1995 garden bombing, the victims of the shelling and sniping incidents suffered grave consequences as a result of acts of violence.<sup>13196</sup>

3196. *The perpetrator wilfully made the civilian population or individual civilians not taking direct part in hostilities the object of those acts or threats of violence.* The Trial Chamber recalls its findings for Scheduled Sniping Incidents F.1, F.4, F.5, F.9, F.12, F.16; as well as Unscheduled Sniping incidents of 27 June 1993, 5 August 1993, 2 November 1993, 9 November 1993, and 13 June 1994, that the victims were targeted by members of the SRK. For the remaining sniping and shelling incidents, the Trial

<sup>13192</sup> **Sniping incidents:** F.1: Anisa Pita; F.4: Elma Tarić; F.9: Sanela Muratović; F.16: Tarik Žunić. **Unscheduled incidents:** Sanela Dedović (22 November 1994). **Shelling incidents:** G.6: five children were wounded. In chapter 8.3.2, the Trial Chamber already determined that the six children that died were civilians.

<sup>13193</sup> **Sniping Incidents:** F.1: Anisa Pita; F.4: Nafa and Elma Tarić; F.5: Ramiza Kundo; F.9: Sanela Muratović; F.11: Alma Čutuna; F.12: Dženana Sokolović; F.13: Afeza Karačić and Sabina Šabanić; F.15: Azem Agović and Alen Gičević; F.16: Tarki Žunić; **Unscheduled incidents:** Witness RM-126 (20 March 1993); Mirsada Parla (31 March 1993); a man picking lettuce (25 June 1993); Mejra Jusović (24 July 1993); three young females dressed in civilian clothes (5 August 1993); Ramiz Velić (2 November 1993); Fatima Osmanović (9 November 1993); Fatima Salčin (13 June 1994); Sanela Dedović (22 November 1994); and Derviša Selmanović (10 December 1994). **Shelling Incidents:** G.4: approximately 100 people; G.6: six people, five of whom were children; G.7: at least 18 persons; G.10: four civilians; G.13: 16 civilians; G.15: seven people.

<sup>13194</sup> **Sniping Incidents:** F.3: Munira Zametica; F.12: Nermin Divović; F.15 (unscheduled addition) Elderly man on tram 238; **Unscheduled:** Džemo Parla (31 March 1993); Almasa Konjhodžić (27 June 1993); Edina Trto (26 September 1993); Hatema Mukanović (11 January 1994); Adnan Kasapović (24 October 1994); Jasmina Tabaković (14 May 1995). **Shelling Incidents:** G.4: over ten people; G.6: six children under the age of twelve; G.7: at least eight civilians; G.10: one civilian.

<sup>13195</sup> **Shelling Incidents:** G.10, G.13, and G.15: several buildings severely damaged, one of which housed an office of the civil defence.

<sup>13196</sup> The Trial Chamber will deal with the intention of these acts of violence below.

Chamber considered a number of factors in determining whether civilians or the civilian population were targeted.

3197. The Trial Chamber also considered the Defence arguments that the victim of Scheduled Incident F.3 was not targeted by a member of the SRK, and that the victim of Scheduled Incident F.16, if targeted by the SRK, was reasonably mistaken for a combatant.<sup>13197</sup> With regard to Scheduled Incident F.3, the Defence argues that armed ABiH soldiers were in close proximity to the victim and that she was most probably killed as the result of combat, by either a ricochet or burst of fire from a shorter distance than alleged. The Trial Chamber recalls, however, that before the victim, Munira Zametica, was killed, she had joined a group of civilians taking shelter from sniping below a bridge on the Dobrinja River. After some time had passed without any sniping, members of this group decided to collect water one by one. While collecting water, Zametica was first hit by a bullet in the right side of her chest and when she turned around she was hit by another bullet on the right side of her neck. After she had fallen near the river bank, the perpetrator repeatedly shot towards her, preventing rescuers from approaching. The Trial Chamber considered (i) that the victim was hit by two bullets within several seconds of each other; (ii) that sniping had been ongoing at that location not long before she was shot; and (iii) that the shooting continued in her direction after she had fallen, as factors showing that she was targeted and shot by sniper fire rather than being mistakenly hit by a ricochet or burst of fire. The Trial Chamber therefore rejects the Defence's suggestion that Zametica might have been killed unintentionally as a result of combat.

3198. With regard to Scheduled Incident F.16, the Defence argues that the victim might have been misidentified as a combatant because he was wearing jeans and a green jacket, and because some members of the ABiH dressed like civilians. The Trial Chamber recalls, however, that the victim, Tarik Žunić, was only 14 years old, was carrying a blue rucksack, and wearing what he described as a 'Benetton green' jacket when he was shot, which the Trial Chamber understands to mean a bright green jacket as opposed to the olive-drab green associated with ABiH uniforms. The Trial Chamber also recalls that there were no barracks, trenches, or other military installations close to the place where he was shot. The Trial Chamber considered the Defence suggestion that

<sup>13197</sup> The Trial Chamber recalls its findings on the identity of the perpetrators in chapters 5.2.2 *Schedule F.3* and 5.2.10 *Schedule F.16*.

a civilian could be reasonably mistaken for a combatant because some members of the ABiH wore civilian clothing, to completely disregard the fundamental and well-established principle of distinction in international humanitarian law which obliges warring parties to distinguish at all times between the civilian population and combatants.<sup>13198</sup> For all of these reasons, the Trial Chamber rejects the Defence's argument that the shooter might have reasonably mistaken Žunić for a combatant.

3199. With regard to the 9 November 1994 sniping incident, the Trial Chamber notes that of the five victims, three were ABiH soldiers and two were civilians in close proximity to those soldiers when they were shot. For this reason the Trial Chamber cannot determine beyond a reasonable doubt that the sniping was directed at the two civilians rather than at the ABiH soldiers and has, therefore, not considered this incident further. With regard to Scheduled Incident G.4, the Trial Chamber recalls that although some ABiH soldiers were present at the incident site, the large majority of persons present were civilians not taking direct part in hostilities and that the mortars were not fired at the nuclear shelter located 100 metres from the parking lot or the nearby trenches. While the Trial Chamber cannot determine whether the perpetrators intended to specifically target civilians or soldiers, it considers that the football pitch was in a residential area, that the football match in progress was a civilian activity, and that only approximately 20 to 30 per cent of the participants were soldiers. The Trial Chamber therefore finds that the shelling described in incident G.4 was both indiscriminate and disproportionate and, therefore, falls within the definition of an attack directed at a civilian population. With regard to Scheduled Incident G.8, the Trial Chamber recalls that although not all of the victims were civilians, most were and these included women, children, and elderly who were present at the explosion site, a market, engaging in a typically civilian activity. Furthermore the Trial Chamber recalls that there was no ABiH presence in the vicinity of the explosion site. With regard to Scheduled Incident G.18, the Trial Chamber recalls that there was one ABiH soldier killed in the attack while the large majority of the people killed were civilians. The Trial Chamber further recalls its finding above that the victims were civilians and that they were in residential areas when they were targeted. The Trial Chamber also considers that for most incidents it found that there were no military targets in the vicinity and that for the remaining

<sup>13198</sup> See *Galić* Appeal Judgment, paras 190-191, referring to the *Galić* Trial Judgment paras 44-45; *Dragomir Milošević* Appeal Judgment, paras 53-54.

incidents there is no evidence showing that the victims were near legitimate military targets.<sup>13199</sup>

3200. The Trial Chamber also considered the inherent inaccuracy of modified air bombs as discussed in chapter 5.1.2, and that their use in residential or civilian areas constitutes indiscriminate attacks on either individual civilians or the civilian population as a whole. The Trial Chamber finds that the use of such an indiscriminate weapon when fired at predominantly residential areas supports the conclusion that civilians were targeted, irrespective of whether the perpetrator also intended to strike a military target. With regard to the sniping incidents, the Trial Chamber considered the role of snipers and the nature of sniping. It also considered the number, timing, and sequence of the shots fired, as well as the frequency with which certain areas were targeted by sniper fire. For all of these reasons, the Trial Chamber finds that the only reasonable conclusion is that the perpetrators of the above listed sniping and shelling incidents, with the exception of the 9 November 1994 sniping incident, wilfully made civilians not taking direct part in hostilities the object of their sniping and shelling.

3201. *The acts or threats of violence were committed with the primary purpose of spreading terror among the civilian population.* The Trial Chamber considered the nature, manner, timing, location, and duration of the sniping and shelling attacks set out above. The Trial Chamber further considered that many civilians were targeted while carrying out daily activities of a civilian nature or when present at sites that were known as locations where civilians gathered. Civilians were targeted while at the market, standing in line for food or while collecting water or firewood, while in or around their own homes or in parks and hospitals.<sup>13200</sup> Civilians were frequently targeted when travelling by tram.<sup>13201</sup> Children were also targeted while in school or playing or walking outside their house or on the street.<sup>13202</sup> Further, the Trial Chamber considered that civilians were more prone to being targeted when circumstances suggested the shooting or shelling had stopped and it was safe for civilians to continue their daily

<sup>13199</sup> With regard to Scheduled Incident G.6 and Mile Sladoje's suggestion that a police station was nearby the impact site, the Trial Chamber considers this evidence, without further specifics, too vague to be relied upon.

<sup>13200</sup> See for example Scheduled Incidents F.1, F.3, F.5, G.7, and Unscheduled Sniping Incidents of 31 March 1993, 24 July 1993, 5 August 1993, 9 November 1993, and 10 December 1994.

<sup>13201</sup> See Scheduled Incidents F.11, F.13, F.15.

<sup>13202</sup> See Scheduled Incidents F.1, F.11, F.12, F.16, G.6, G.7, and Unscheduled Sniping Incidents of 5 August 1993 and 24 October 1994.

activities.<sup>13203</sup> Several of the sniping and shelling attacks were carried out during cease-fires or quiet periods.<sup>13204</sup> Numerous civilians were targeted while they were at home or in neighbourhoods where there was no military activity or military personnel and equipment present in the immediate vicinity.<sup>13205</sup> The Trial Chamber recalls its finding in chapter 5.1.1 that civilians in Sarajevo were living in constant fear of being hit by sniper or artillery fire and that this inevitably took its toll on their psychological well-being. The Trial Chamber finds that this, in combination with the challenging living conditions civilians were subjected to as set out in chapter 5.1.1, demonstrates the existence of the intent to spread terror. Moreover, the length of the period of sniping and shelling attacks, from late May 1992 until November 1995, also supports the finding that the perpetrators intended to spread terror. The Trial Chamber also considered the indiscriminate nature of some of the shelling attacks when determining if such attacks were committed with the intent to spread terror. The Trial Chamber recalls its finding in chapter 5.1.2 in which it found that modified air bombs are highly inaccurate weapons. Such bombs were used by the VRS in Scheduled Incidents G.10, G.13, and G.15; as well as *Unscheduled Shelling Incidents* of 16, and 22 June 1995; the incidents of 1 and 23 July 1995; and the incident 22 August 1995. The Trial Chamber also considered that the fear experienced by civilians in Sarajevo was extreme, going beyond the fear generally felt by civilians in an armed conflict, particularly considering that civilians felt that they or their loved ones could be targeted at any moment and were not safe anywhere in the city. For all of the above reasons, the Chamber finds that the perpetrators intended to spread terror among the civilian population of Sarajevo, and that the only reasonable conclusion is that the infliction of terror was the primary purpose of the sniping and shelling incidents.

3202. Considering the above, the Trial Chamber finds that the sniping and shelling incidents, with the exception of the incident of 9 November 1994, constitute the crime of terror.

3203. The Trial Chamber recalls its findings in chapter 8.1 with regard to the general elements of violations of the laws or customs of war.

<sup>13203</sup> See Scheduled Incidents F.11, F.13, F.15, and G.6.

<sup>13204</sup> See Scheduled Incidents F.11, F.13, and F.15.

<sup>13205</sup> See Scheduled Incidents F.1, F.4, F.5, F.11, F.12, F.15, F.16, G. 6, G.7, G.10, and the Incidents of 27 June 1993, 26 September 1993, and 11 January 1994.

3204. *Status of victims.* The Trial Chamber has addressed this element in relation to the first element of the crime of terror, above.

3205. *Nexus.* The Trial Chamber finds that all of the above-mentioned incidents occurred when an armed conflict was taking place in the territory of Bosnia-Herzegovina. The Trial Chamber further finds, based on the affiliation of the perpetrators and the manner in which the acts took place such as firing on ABiH-controlled or Muslim sections of the city, that there was a close relationship between the acts of sniping and shelling, and the armed conflict. Therefore, the Trial Chamber finds that the nexus requirement has been met.

3206. *Conclusion.* In conclusion, the Trial Chamber finds that all the acts referred to and listed above, with the exception of the 9 November 1994 sniping incident, and the non-civilian victims of G.4, G.8, and G.18, constituted the crime of terror as a violation of the laws or customs of war.



## 8.7 Unlawful attacks on civilians

### *8.7.1 Applicable law*

3207. Count 10 of the Indictment charges the Accused with unlawful attacks on civilians as a violation of the laws or customs of war, punishable under Article 3 of the Statute. The general elements and jurisdictional requirements for this crime have been discussed in chapter 8.1, above.

3208. The crime of unlawful attack on civilians requires proof of the following elements:

- (i) an act of violence directed against civilians not taking direct part in hostilities;<sup>13206</sup>
- (ii) the act caused death, serious injury to body or health, or any other consequence of the same gravity;<sup>13207</sup>
- (iii) the act was committed wilfully, that is with intent or recklessness.<sup>13208</sup>

3209. When determining whether an act of violence can be seen as being ‘directed’ against civilians not taking direct part in hostilities, a trial chamber can consider, *inter alia*, the means and methods used in the course of the attack (e.g. the type of weapon), the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in its course, the resistance to the assailants at the time, and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war.<sup>13209</sup>

### *8.7.2 Legal findings*

3210. In chapters 5.2 and 5.3, the Trial Chamber decided to further consider a number of incidents of alleged sniping and shelling attacks in Sarajevo, in light of the applicable law. They have been discussed in chapters 8.3.2 and 8.6.2.

<sup>13206</sup> *Galić* Appeal Judgement, paras 132-134; *Strugar* Appeal Judgement, para. 270; *Dragomir Milošević* Appeal Judgement, para. 57.

<sup>13207</sup> *Kordić and Čerkez* Appeal Judgement, paras 55-57, 67.

<sup>13208</sup> *Galić* Appeal Judgement, para. 140; *Strugar* Appeal Judgement, para. 270; *Dragomir Milošević* Appeal Judgement, para. 60.

<sup>13209</sup> *Kunarac et al.* Appeal Judgment, para. 91; *Galić* Appeal Judgment, para. 132.

3211. The Trial Chamber recalls its findings that, with the exception of the sniping incident of 9 November 1994 in which two civilians were in close proximity to ABiH soldiers when they were shot, the alleged shelling and sniping incidents were wilful acts of violence directed against civilians not taking part in hostilities.<sup>13210</sup> Furthermore, the Trial Chamber recalls its finding that these incidents resulted in grave consequences.<sup>13211</sup> The Trial Chamber notes that such consequences included death, serious injury to body or health, or consequences of the same gravity. The Trial Chamber further recalls its finding that the nexus between the armed conflict and these attacks has been met for the shelling and sniping incidents.

3212. In conclusion, the Trial Chamber finds that all the acts referred to in chapter 8.6.2, with the exception of the 9 November 1994 sniping incident, and the non-civilian victims of G.4, G.8, and G.18, constituted unlawful attacks on civilians.

<sup>13210</sup> See chapter 8.6.2.

<sup>13211</sup> See chapter 8.6.2.

## 8.8 Taking of hostages

### *8.8.1 Applicable law*

3213. Count 11 of the Indictment charges the Accused with taking of hostages as a violation of the laws or customs of war, punishable under article 3 of the Statute. The general elements and jurisdictional requirements of the crime of violations of the laws or customs of war have been discussed in chapter 8.1 above.

3214. The Appeals Chamber has clarified that the crime of hostage-taking is prohibited by Common Article 3 of the Geneva Conventions of 1949 and thus prohibits hostage-taking of any persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed 'hors de combat' by detention.<sup>13212</sup>

3215. The crime of taking hostages requires proof of the following elements:

- a) the unlawful confinement or deprivation of liberty of another person;
- b) the issuance of a threat to kill, injure or continue to detain another person; and
- c) the threat is intended to obtain a concession or gain an advantage.<sup>13213</sup>

3216. With regard to the first requirement of the offence, the Trial Chamber in the *Karadžić* case, relying on findings in the *Blaškić* Trial Judgment, clarified that the lawfulness of the confinement or deprivation of liberty 'does not depend on the circumstances in which any individual comes into the hands of the enemy but rather depends upon the whole circumstances relating to the manner in which and the reasons they are held. Thus, the unlawfulness of the detention relates to the idea that civilians or those taking no active part in hostilities are taken or held hostage not to ensure their safety or to protect them, but rather to gain an advantage or obtain a concession'.<sup>13214</sup> The *Karadžić* Trial Chamber further held that the existence of threats or use of violence against the individuals taken hostage are other factors to take into account to assess the lawfulness of their detention.<sup>13215</sup>

<sup>13212</sup> *Blaškić* Appeal Judgment, para. 113; *Karadžić* Appeal Decision on Count 11 of the Indictment, paras 21-26.

<sup>13213</sup> *Blaškić* Appeal Judgment, para. 639.

<sup>13214</sup> *Karadžić* Trial Chamber Decision on Six Preliminary Motions Challenging Jurisdiction, 28 April 2009, para. 65. See also *Blaškić* Trial Judgment, para. 708.

<sup>13215</sup> *Karadžić* Trial Chamber Decision on Six Preliminary Motions Challenging Jurisdiction, 28 April 2009, para. 65. See also *Blaškić* Trial Judgment, para. 708.

### 8.8.2 *Legal findings*

3217. In chapter 6, the Trial Chamber decided to further consider the incidents described in that chapter, and recalled below, against the applicable law.

3218. The Trial Chamber recalls its finding in chapter 6.7 in which it established that between 25 May 1995 and 24 June 1995, the VRS, including members of the military police, police officers wearing violet uniforms, regular police forces, and in some cases in the presence of militias, arrested and detained several UNMO and UNPROFOR personnel stationed in Pale and Banja Luka, and in and around Sarajevo and Goražde. Some of them were detained in their OPs. Others were taken to and detained in strategic military locations in Bosnia-Herzegovina, which the VRS considered to be potential NATO targets or which had previously been targeted during NATO air strikes. The Trial Chamber further recalls its finding in chapter 6.7 that UNPROFOR personnel were disarmed during their arrest and that the VRS, including members of the military police, informed some of the detained UNPROFOR personnel that they were held as 'POWs'.

3219. The Trial Chamber further recalls its finding in chapter 6.7 that the VRS, including members of the military police, threatened to kill or to continue to detain the UNMO and UNPROFOR personnel.

3220. Finally, the Trial Chamber recalls its finding in chapter 6.7 that the above-mentioned threats were issued to exert leverage over NATO to end its air strikes, to recover Serb weapons under UNPROFOR control, or to secure the compliance of UNPROFOR personnel with an order to surrender to their captors. On one occasion, the threats were made to obtain the withdrawal of UNPROFOR soldiers from certain positions and secure an exchange with Serb prisoners.

3221. Based on the above and having considered the circumstances and the way in which the UNPROFOR and UNMO personnel were captured, detained, and subjected to threats, as well as the reasons behind their detention, the Trial Chamber finds that the UN personnel were unlawfully detained for the purpose of gaining advantages and in some cases obtaining a concession. Therefore, the Trial Chamber is satisfied that the three elements of the crime of hostage-taking.

3222. The Trial Chamber recalls its findings in 8.1 with regard to the general elements of violations of the laws or customs of war.

3223. *Nexus*. The Trial Chamber finds, based on the affiliation of the perpetrators and the manner and context in which the acts took place, that there was a close relationship between the taking of the hostages and the armed conflict.

3224. *Status of victims*. The Defence argued that UN personnel were combatants at the time of the conflict and not entitled to the protection of Common Article 3.<sup>13216</sup> With regard to the status of the UN personnel, the Trial Chamber recalls the applicable law on Common Article 3 in chapter 8.1.1 and finds that the determination of their status as combatants or civilians is irrelevant. The law clearly establishes that the protection of Common Article 3 applies to any person taking no active part in the hostilities including combatants placed *hors de combat*, at the time the offence was committed. Irrespective of their status prior to their detention, to the extent UN personnel were in possession of weapons prior to their arrest, they were disarmed at the time of their arrest and rendered *hors de combat* by their detention. Therefore, the captured UNMO and UNPROFOR personnel fell within the protection guaranteed by Common Article 3 of the Geneva Conventions.

3225. The Trial Chamber will now turn to its analysis of the requirement that the perpetrator must know or should have known the status of the victims. The Trial Chamber, recalling its factual findings in chapter 6.7, in particular the circumstances of the deprivation of liberty and the communication between the perpetrators and the VRS Main Staff, finds that the perpetrators knew that the UNMO and UNPROFOR personnel were taking no active part in the hostilities at the time of the offence.

3226. *Conclusion*. Based on the foregoing, the Trial Chamber finds that the acts described in chapter 6.7, and recalled above, constitute the crime of hostage-taking, as a violation of the laws or customs of war punishable under Article 3 of the Statute.

<sup>13216</sup> Defence Final Brief, paras 172, 175-177, 3308, 3310-3371.

## 8.9 Persecution

### *8.9.1 Applicable law*

#### *Common elements of persecution as a crime against humanity*

3227. Count 3 of the Indictment charges the Accused with persecution as a crime against humanity, punishable under Article 5 (h) of the Statute, committed against Bosnian Muslims and/or Bosnian Croats in certain municipalities, including Srebrenica. The general elements and jurisdictional requirements for this crime have been discussed in chapter 8.2, above.

3228. The crime of persecution consists of an act or omission which:

- (a) discriminates in fact and denies a fundamental human right laid down in international law; and
- (b) is carried out with the intention to discriminate on political, racial or religious grounds.<sup>13217</sup>

3229. Acts listed under the other sub-headings of Article 5 of the Statute or provided for elsewhere in the Statute, as well as acts not explicitly mentioned in the Statute, may qualify as underlying acts of persecution.<sup>13218</sup> The underlying act itself need not constitute a crime in international law.<sup>13219</sup> However, not every denial of a fundamental human right will be serious enough to constitute a crime against humanity.<sup>13220</sup> The underlying act committed on discriminatory grounds, considered in isolation or in conjunction with other acts, must be of the same gravity as other crimes listed under Article 5 of the Statute.<sup>13221</sup>

<sup>13217</sup> *Krnjelac* Appeal Judgment, para. 185; *Vasiljević* Appeal Judgment, para. 113; *Blaškić* Appeal Judgment, para. 131; *Kordić and Čerkez* Appeal Judgment, paras 101, 671, 674; *Kvočka et al.* Appeal Judgment, para. 320; *Stakić* Appeal Judgment, para. 327; *Simić et al.* Appeal Judgment, para. 177.

According to this case law, the definition also includes discrimination on grounds of ethnicity.  
<sup>13218</sup> *Krnjelac* Appeal Judgment, para. 219; *Brđanin* Appeal Judgment, para. 296; *Tadić* Trial Judgment, paras 700, 702-703; *Kupreškić et al.* Trial Judgment, paras 605, 614.

<sup>13219</sup> *Kvočka et al.* Appeal Judgment, para. 323; *Brđanin* Appeal Judgment, para. 296.

<sup>13220</sup> *Kupreškić et al.* Trial Judgment, para. 621; *Krnjelac* Trial Judgment, para. 434; *Krajišnik* Trial Judgment, para. 735.

<sup>13221</sup> *Krnjelac* Appeal Judgment, paras 199, 221; *Blaškić* Appeal Judgment, para. 135; *Kordić and Čerkez* Appeal Judgment, paras 102, 671; *Kvočka et al.* Appeal Judgment, para. 321; *Naletilić and Martinović* Appeal Judgment, para. 574; *Simić et al.* Appeal Judgment, para. 177; *Brđanin* Appeal Judgment, para. 296.

*Underlying acts of persecution*

*(a) Murder*

3230. Count 3 of the Indictment charges the Accused with persecution through murder. These acts are also charged elsewhere in the Indictment as murders as crimes against humanity under Article 5 of the Statute and murders as violations of the laws or customs of war under Article 3 of the Statute. The elements of the crime of murder have been discussed in chapter 8.3.1, above.

3231. An act of murder, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13222</sup>

*(b) Cruel and inhumane treatment*

3232. Count 3 of the Indictment charges the Accused with persecution through cruel and inhumane treatment. The Indictment specifies these acts of cruel and inhumane treatment as: (i) torture, beatings, and physical and psychological abuse during and after the takeovers in Municipalities and in detention facilities in the Municipalities; (ii) rape and other acts of sexual violence during and after the takeovers in the Municipalities and in detention facilities in the Municipalities; (iii) the establishment and perpetuation of inhumane living conditions, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, in detention facilities in the Municipalities; (iv) terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari; and (v) beating of Bosnian-Muslim men and boys of Srebrenica prior to their execution.<sup>13223</sup>

3233. Cruel and inhumane treatment require proof of the following elements:<sup>13224</sup>

(a) an act or omission caused serious mental or physical suffering or injury or constituted a serious attack on human dignity,<sup>13225</sup> and

<sup>13222</sup> *Vasiljević* Appeal Judgment, para. 143; *Blaškić* Appeal Judgment, para. 143; *Kordić and Čerkez* Appeal Judgment, para. 106.

<sup>13223</sup> Indictment, para. 59.

<sup>13224</sup> *Krnjelac* Trial Judgment, para. 130.

<sup>13225</sup> *Čelebići* Appeal Judgment, para. 424; *Blaškić* Appeal Judgment, para. 595; *Haradinaj et al.* Appeal Judgment, para. 94.

(b) the act or omission was committed with intent, or alternatively with knowledge that the act or omission was likely to cause serious mental or physical suffering or a serious attack on human dignity and the perpetrator was reckless as to whether such consequences would result from his act or omission.<sup>13226</sup>

3234. An act of cruel or inhumane treatment, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13227</sup>

*(c) Deportation and forcible transfer*

3235. Count 3 of the Indictment charges the Accused with persecution through ‘deportation and forcible transfer’. These acts are also charged elsewhere in the Indictment as deportation and forcible transfer as crimes against humanity punishable under Article 5(d) and (i) of the Statute. The elements of deportation and forcible transfer have been discussed in chapter 8.5.1, above.

3236. An act of forcible transfer or deportation, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13228</sup>

*(d) Unlawful detentions*

3237. Count 3 of the Indictment charges the Accused with persecution through ‘unlawful detentions’. Unlawful detention is not specifically listed as a crime in the Statute although Article 5(e) of the Statute provides for the act of imprisonment as a crime against humanity. The Trial Chamber interprets the charge in paragraph 59 of the Indictment as relating to imprisonment.

3238. The term imprisonment in Article 5(e) of the Statute is understood as arbitrary imprisonment, that is deprivation of liberty of an individual without due process of law.<sup>13229</sup> The crime of imprisonment consists of the following elements:

<sup>13226</sup> *Krnjelac* Trial Judgment, para. 132; *Vasiljević* Trial Judgment, para. 236; *Simić et al.* Trial Judgment, para. 76.

<sup>13227</sup> *Krnjelac* Appeal Judgment, para. 188; *Vasiljević* Appeal Judgment, para. 143; *Blaškić* Appeal Judgment, paras 143, 155; *Kordić and Čerkez* Appeal Judgment, paras 106-107.

<sup>13228</sup> *Krnjelac* Appeal Judgment, para. 222; *Blaškić* Appeal Judgment, para. 153; *Naletilić and Martinović* Appeal Judgment, paras 153-154; *Simić et al.* Appeal Judgment, paras 172, 174.



- (1) an individual is deprived of his or her liberty;
- (2) the deprivation of liberty is carried out arbitrarily, that is, there is no legal basis for it; and
- (3) the perpetrator acted with the intent to arbitrarily deprive the individual of his or her liberty.<sup>13230</sup>

3239. If there is a legal basis for the deprivation of liberty, it must apply throughout the period of imprisonment, for the deprivation of liberty will be rendered arbitrary as soon as its legal basis ceases to exist.<sup>13231</sup> When a national law is relied upon to justify a deprivation of liberty, that law must not violate international law.<sup>13232</sup> The Trial Chamber recalls that the question of legal basis is appropriately dealt with when considering the general elements of crimes against humanity and when considering whether an act is carried out on discriminatory grounds.<sup>13233</sup>

3240. Unlawful detention, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13234</sup>

*(e) Forced labour and the use of human shields*

3241. Count 3 of the Indictment charges the Accused with persecutions through, *inter alia*, ‘forced labour including digging graves and trenches and other forms of forced labour at front lines and the use of Bosnian Muslims and Bosnian Croats as human shields’.<sup>13235</sup> The Trial Chamber considered the scope of this charge in 8.2.1.

3242. *Forced labour*. When determining whether the labour was forced, a Trial Chamber may consider whether the objective circumstances surrounding the performance of work were so coercive as to negate any possibility of consent.<sup>13236</sup> The

<sup>13229</sup> *Kordić and Čerkez* Appeal Judgment, para. 116; *Krajišnik* Trial Judgment, para. 752; *Martić* Trial Judgment, para. 87.

<sup>13230</sup> *Krnojelac* Trial Judgment, para. 115; *Simić et al.* Trial Judgment, paras 64-65; *Krajišnik* Trial Judgment, para. 752.

<sup>13231</sup> *Krnojelac* Trial Judgment, para. 114; *Krajišnik* Trial Judgment, para. 753.

<sup>13232</sup> *Krnojelac* Trial Judgment, para. 114; *Krajišnik* Trial Judgment, para. 753.

<sup>13233</sup> See *Brđanin* Appeal Judgment, para. 167.

<sup>13234</sup> *Blaškić* Appeal Judgment, para. 155; *Tadić* Trial Judgment, paras 714, 717; *Kupreškić et al.* Trial Judgment, para. 629; *Krnojelac* Trial Judgment, para. 438; *Naletilić and Martinović* Trial Judgment, paras 641-642; *Krajišnik* Trial Judgment, para. 754.

<sup>13235</sup> Indictment, para. 59(h).

<sup>13236</sup> *Krnojelac* Appeal Judgment, paras 194-195.

Trial Chamber considers that forced labour as an underlying act of persecutions as a crime against humanity requires a perpetrator to have intended for a victim to perform prohibited work.<sup>13237</sup>

3243. Under international humanitarian law not all forms of labour are prohibited, provided that the labour is performed under certain protective conditions.<sup>13238</sup> These conditions include that detainees must be granted suitable working conditions, especially as regards accommodation, food, clothing, equipment, and safety.<sup>13239</sup> In relation to digging graves and trenches and other forced labour performed at front lines, the Trial Chamber considers that acts at the front lines, by its nature, cannot ever be performed in suitable working conditions. Therefore, such acts cannot fall within any lawful exceptions to the prohibition of forced labour.

3244. Forced labour at front lines, carried out on discriminatory grounds, and for which the common elements of the crime of persecution as well as the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13240</sup> Other forced labour, considered in conjunction with ‘a series of acts comprising unlawful detention and beatings’, not at the front lines, carried out on discriminatory grounds, and for which the common elements of the crime of persecutions as well as the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13241</sup>

3245. *Human shields*. The Trial Chamber understands human shields to mean the placement or detention of persons in areas where they may be exposed to combat operations, for the purpose of rendering certain areas or activities immune from military operations or armed attack.<sup>13242</sup>

3246. The use of persons as human shields, carried out on discriminatory grounds, and for which the common elements of the crime of persecution as well as the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13243</sup>

<sup>13237</sup> *Naletilić and Martinović* Trial Judgment, para. 260.

<sup>13238</sup> Geneva Convention III, arts 50-52; Geneva Convention IV, art. 51; *Kunarac et al.* Trial Judgment, para. 542; *Krnjelac* Appeal Judgment, para. 200; *Naletilić and Martinović* Trial Judgment, para. 253.

<sup>13239</sup> Geneva Convention III, arts 51-52; Geneva Convention IV, art. 51.

<sup>13240</sup> *Blaškić* Appeal Judgment, paras 154-155; *Kordić and Čerkez* Appeal Judgment, para. 107 (referring to trench-digging ‘in hostile, hazardous, and combat conditions’).

<sup>13241</sup> *Krnjelac* Appeal Judgment, para. 199.

<sup>13242</sup> *Blaškić* Appeal Judgment, paras 652-654.

<sup>13243</sup> *Blaškić* Appeal Judgment, paras 155, 653.

*(f) Appropriation or plunder of property*

3247. Count 3 of the Indictment charges the Accused with persecution through the ‘appropriation or plunder of property’.

3248. The crime of plunder requires proof of the following elements:

- (a) an act of appropriation of public or private property;
- (b) the appropriation was unlawful; and
- (c) the act was committed with intent.<sup>13244</sup>

3249. As to the first element of the *actus reus*, all forms of seizure of public or private property constitute acts of appropriation, including isolated acts committed by individual soldiers for their private gain and acts committed as part of a systematic campaign to economically exploit a targeted area.<sup>13245</sup>

3250. The second element of the *actus reus* requires that the appropriation must have been unlawful. In certain circumstances appropriation of property may not be regarded as unlawful where it can be justified under international humanitarian law.<sup>13246</sup> Under international humanitarian law there is a general exception to the prohibition of appropriation of property when the appropriation is justified by military necessity.<sup>13247</sup> In the context of an international armed conflict, treaty law and international customary law justify battlefield seizures of military equipment of the adverse party as war booty.<sup>13248</sup>

3251. The third element concerns the *mens rea* requirement which is satisfied when the perpetrator acts knowingly with the intent to appropriate public or private property unlawfully.<sup>13249</sup>

<sup>13244</sup> Statute, Art. 3 (e); *Kordić and Čerkez* Appeal Judgment, paras 79, 84.

<sup>13245</sup> *Kordić and Čerkez* Appeal Judgment, para. 79; *Čelebići* Trial Judgment, para. 590; *Jelisić* Trial Judgment, para. 48; *Blaškić* Trial Judgment, para. 184; *Naletilić and Martinović* Trial Judgment, para. 612; *Hadžihasanović and Kubura* Trial Judgment, para. 49; *Martić* Trial Judgment, para. 101, note 188.

<sup>13246</sup> *Krajišnik* Trial Judgment, para. 769; *Martić* Trial Judgment, para. 102.

<sup>13247</sup> Geneva Convention IV, Art. 147; J.-M. Henckaerts, L. Doswald-Beck (eds), *Customary International Humanitarian Law*, Cambridge 2005, Rule 50, pp. 175-177. See also *Krajišnik* Trial Judgment, para. 769.

<sup>13248</sup> *Hadžihasanović and Kubura* Trial Judgment, paras 51, 56; *Martić* Trial Judgment, para. 102.

<sup>13249</sup> *Prlić et al.* Trial Judgment, para. 131. The Trial Chamber notes that the trial chamber’s finding in the *Prlić et al.* case concerned plunder charged as a war crime under Article 2 (d) of the Statute. The Trial Chamber considers that the same must be satisfied when dealing with plunder charged as an underlying crime of persecution as a crime against humanity under Article 5(h) of the Statute.

3252. With regard to whether acts of appropriation or plunder of property are to be considered of the same gravity as other crimes listed under Article 5 of the Statute, the Trial Chamber notes that in the *Flick* case, the American Military Tribunal held that the scale of the appropriation was not the critical issue when the act is considered as a crime against humanity. Rather, it was the impact of the appropriation on the victim.<sup>13250</sup> Based on the foregoing, the Trial Chamber considers that plunder of public and private property as an underlying act of persecution is to be understood as any intentional and unlawful appropriation of public or private property that has a serious impact on the owner or user of the property.<sup>13251</sup>

3253. In light of the above, the Trial Chamber finds that an act of plunder that has a serious impact on the victim, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13252</sup>

3254. The Appeals Chamber confirmed in the *Kordić and Čerkez* case that plunder, in conjunction with ‘killings, beatings, unlawful attacks on civilians and civilian objects, the unlawful imprisonment of civilians, [and] destruction of civilian objects’, constitutes persecution.<sup>13253</sup> Accordingly, the Trial Chamber considers that an act of plunder which in itself does not have a serious impact on the victim, may still, when carried out on discriminatory grounds, and when the general elements of crimes against humanity are fulfilled, constitute the crime of persecution, when considered in conjunction with other acts.<sup>13254</sup>

<sup>13250</sup> *United States v. Friedrich Flick et al.*, American Military Tribunal (22 December 1947), in 6 TWC 1187, 1214-1215. ‘A distinction could be made between industrial property and the dwellings, household furnishings, and food supplies of a persecuted people. In this case, however, we are only concerned with industrial property ... The ‘atrocities and offenses’ listed [in Article 6(c) of the Charter] ‘murder, extermination,’ etc., are all offenses against the person. Property is not mentioned. Under the doctrine of *ejusdem generis* the catch-all words ‘other persecutions’ must be deemed to include only such as affect the life and liberty of the oppressed peoples’. This reasoning was adopted by the American Military Tribunal in the *I.G. Farben* case when considering various instances of plunder and spoliation of industrial property in German occupied territory (*United States v. Carl Krauch et al. (I.G. Farben case)*, American Military Tribunal (30 July 1948), in 8 TWC 1081, 1129-1130).

<sup>13251</sup> See *Krajišnik* Trial Judgment, paras 766-768.

<sup>13252</sup> *Krajišnik* Trial Judgment, para. 771.

<sup>13253</sup> *Kordić and Čerkez* Appeal Judgment, paras 109, 672-673. See also *Blaškić* Appeal Judgment, para. 148.

<sup>13254</sup> *Krajišnik* Trial Judgment, para. 772.

*(g) Wanton destruction of private property*

3255. Count 3 of the Indictment charges the Accused with persecution through the ‘wanton destruction of public and private property, including cultural monuments and sacred sites’.

3256. The crime of wanton destruction of cities, towns or villages requires proof of the same elements as devastation not justified by military necessity.<sup>13255</sup> These elements are:

- (a) an act or omission caused destruction of property on a large scale;
- (b) the destruction was not justified by military necessity;
- (c) the act or omission was committed with intent or in reckless disregard of the likelihood of the destruction.<sup>13256</sup>

3257. The prohibition on wanton destruction covers property located in any territory involved in the armed conflict.<sup>13257</sup> The requirement of destruction ‘on a large scale’ may be met either if many objects are damaged or destroyed, or if the value of one or a few destroyed objects is very high.<sup>13258</sup> Military necessity may never justify the targeting of civilian objects.<sup>13259</sup> Civilian objects are defined by opposition to military objectives, which are limited to those objects which by their nature, location, purpose, or use make an effective contribution to military action and whose total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage.<sup>13260</sup> As a rule, destruction carried out before fighting begins or after fighting has ceased cannot be justified by military necessity.<sup>13261</sup>

3258. The Appeals Chamber has clarified that acts of destruction of property, ‘depending on the nature and extent of the destruction’, may constitute persecution.<sup>13262</sup>

<sup>13255</sup> *Brdanin* Trial Judgment, paras 591-593; *Strugar* Trial Judgment, paras 290-297; *Orić* Trial Judgment, para. 580 (note 1561); *Martić* Trial Judgment, para. 91; *Boškoski and Tarčulovski* Trial Judgment, para. 350.

<sup>13256</sup> *Kordić and Čerkez* Appeal Judgment, para. 74.

<sup>13257</sup> *Kordić and Čerkez* Appeal Judgment, para. 74; *Naletilić and Martinović* Trial Judgment, para. 580; *Brdanin* Trial Judgment, para. 592; *Orić* Trial Judgment, para. 582.

<sup>13258</sup> *Hadžihasanović and Kubura* Trial Judgment, para. 43; *Boškoski and Tarčulovski* Trial Judgment, para. 352.

<sup>13259</sup> *Kordić and Čerkez* Appeal Judgment, para. 54, with corrigendum of 26 January 2005; *Galić* Appeal Judgment, para. 130.

<sup>13260</sup> Additional Protocol I, Arts 52 (1) and (2).

<sup>13261</sup> *Naletilić and Martinović* Trial Judgment, para. 589; *Orić* Trial Judgment, para. 588; *Martić* Trial Judgment, para. 93.

<sup>13262</sup> *Blaškić* Appeal Judgment, para. 149.

As with appropriation of property, it is the impact on the victims that is the determining factor.<sup>13263</sup> The Appeals Chamber has held that there are ‘certain types of property whose destruction may not have a severe enough impact on the victim as to constitute a crime against humanity, even if such a destruction is perpetrated on discriminatory grounds: an example is the burning of someone’s car (unless the car constitutes an indispensable and vital asset to the owner)’.<sup>13264</sup>

3259. The Trial Chamber considers that destruction of private property as an underlying act of persecution is to be understood as any intentional destruction of private property that has a serious impact on the victim and that was not justified by military necessity.<sup>13265</sup> The Trial Chamber considers that the question of whether the destruction was justified by military necessity is appropriately dealt with when considering the general elements of crimes against humanity and when considering whether an act is carried out on discriminatory grounds.<sup>13266</sup>

3260. The Appeals Chamber has confirmed that ‘destruction of civilian objects’, in conjunction with ‘killings, beatings, unlawful attacks on civilians and civilian objects, the unlawful imprisonment of civilians, [...] and looting’, constitutes persecution.<sup>13267</sup>

3261. Based on the above, the Trial Chamber finds that an act of destruction of property that has a severe impact on the victim, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>13268</sup>

3262. An act of destruction of property which in itself does not have a severe impact on the victim, may still, when carried out on discriminatory grounds, and when the general elements of crimes against humanity are fulfilled, constitute the crime of persecution, when considered in conjunction with other acts.<sup>13269</sup>

<sup>13263</sup> *Blaškić* Appeal Judgment, paras 146, 149.

<sup>13264</sup> *Blaškić* Appeal Judgment, para. 146 (quoting *Kupreškić et al.* Trial Judgment, para. 631).

<sup>13265</sup> See *Krajišnik* Trial Judgment, paras 774-776.

<sup>13266</sup> See *Brđanin* Appeal Judgment, para. 167.

<sup>13267</sup> *Kordić and Čerkez* Appeal Judgment, paras 108, 672.

<sup>13268</sup> *Blaškić* Appeal Judgment, para. 149.

<sup>13269</sup> *Krajišnik* Trial Judgment, para. 779.

(h) *Imposition and maintenance of restrictive and discriminatory measures*

3263. Count 3 of the Indictment charges the Accused with persecution through the ‘imposition and maintenance of restrictive and discriminatory measures’.<sup>13270</sup> According to the Indictment, the alleged imposition and maintenance of restrictive and discriminatory measures includes the (i) denial of freedom of movement; (ii) removal from positions of authority in local government institutions and the police, and the general dismissal from employment; (iii) invasion of privacy through arbitrary searches of homes; (iv) unlawful arrest and/or the denial of the right to judicial process; and/or (v) denial of equal access to public services.<sup>13271</sup>

3264. The Tribunal’s jurisprudence provides that the imposition of various restrictive and discriminatory measures can constitute persecution. For example, the *Brđanin* Trial Chamber considered the denial of freedom of movement, the denial of employment, and the denial of the right to judicial process, concluding that in light of the circumstances in that case, these acts amounted to persecution because when taken in conjunction with one another, they were denials of fundamental rights and of the same gravity as the crimes listed in Article 5 of the Statute.<sup>13272</sup> This was confirmed and upheld by the Appeals Chamber.<sup>13273</sup>

3265. The Trial Chambers in *Krajišnik, Stanišić and Župljanin* and *Karadžić* found that in addition to the three restrictive and discriminatory measures considered in *Brđanin*, the invasion of privacy through arbitrary searches of homes, unlawful arrests, and the denial of equal access to public services also constituted persecution when considered in conjunction with other acts.<sup>13274</sup> The Trial Chamber in *Krajišnik* reviewed the *Brđanin* Trial Judgment and the jurisprudence pursuant to the Nuremberg Charter and Control Council Law No. 10, including *inter alia* the *Justice* case.<sup>13275</sup> Having regard to this jurisprudence, the *Krajišnik* Trial Chamber held that the denial of freedom of movement, the denial of employment, and the denial of the right to judicial process, the denial of equal access to public services and the invasion of privacy through arbitrary searches of homes could only constitute persecution when considered in conjunction

<sup>13270</sup> Indictment, paras 49, 59(k).

<sup>13271</sup> Indictment, para. 59(k).

<sup>13272</sup> *Brđanin* Trial Judgment, para. 1049.

<sup>13273</sup> *Brđanin* Appeal Judgment, paras 292-297.

<sup>13274</sup> *Krajišnik* Trial Judgment, paras 736, 738–741; *Stanišić and Župljanin* Trial Judgment, Vol. I, paras 91–92; *Karadžić* Trial Judgment, paras 535-536.

<sup>13275</sup> *Krajišnik* Trial Judgment, paras 738-739.

with other acts.<sup>13276</sup> Ultimately, the *Krajišnik* Trial Chamber found that these restrictive and discriminatory measures constituted persecution when considered in conjunction with the other acts of killings, arbitrary arrests, detention, destruction of property, rape, and plunder.<sup>13277</sup> Similarly, the *Stanišić and Župljanin* Trial Chamber found that the above-mentioned restrictive and discriminatory measures constituted persecution when considered in conjunction with the other acts, such as unlawful detentions, the plunder of property, and so forth.<sup>13278</sup> Although the *Karadžić* Trial Chamber also considered that these restrictive and discriminatory measures could constitute persecution when considered in isolation, it declined to follow that approach.<sup>13279</sup> Instead it found that these restrictive and discriminatory measures constituted persecution when considered in conjunction with other underlying acts of persecution which were perpetrated against the same category of victims contemporaneously in the municipalities, namely 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.<sup>13280</sup>

3266. The Trial Chamber therefore considers that the denial of freedom of movement, the denial of employment, the invasion of privacy through arbitrary searches of homes, unlawful arrests, the denial of the right to judicial process, and the denial of equal access to public services, when carried out on discriminatory grounds, and when the general elements of crimes against humanity are fulfilled, constitute the crime of persecution when considered in conjunction with other relevant acts, especially in conjunction with those acts that qualify as an underlying act of persecution. These restrictive and discriminatory measures may also constitute the crime of persecution when considered in isolation.

<sup>13276</sup> *Krajišnik* Trial Judgment, paras 738-741; *See Brđanin* Trial Judgment, para. 1049; *United States v. Josef Altstötter et al. (Justice case)*, American Military Tribunal (4 December 1947), in 3 Trials for War Criminals Before the Nuremberg Military Tribunals under Control Council Law No. 10, Nuremberg, October 1946 – April 1949 (TWC), pp. 954, 1063-4.

<sup>13277</sup> *Krajišnik* Trial Judgment, para. 789.

<sup>13278</sup> *See, e.g., Stanišić and Župljanin* Trial Judgment, Vol. I, paras 283, 348, 492, 701, 815.

<sup>13279</sup> *Karadžić* Trial Judgment, paras 536, 2567.

<sup>13280</sup> *Karadžić* Trial Judgment, para. 2567.



## 8.9.2 Legal findings

### (a) Murder

3267. In chapters 4.1.1, 4.2.1, 4.3.1, 4.4.1, 4.5.1, 4.6.1, 4.7.1, 4.8.1, 4.10.1, 4.11.1, 4.12.1, 4.13.1 and 4.14.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8.1, 7.8.2, 7.9, 7.10, 7.11, 7.12, 7.13.1, 7.13.2, 7.14.1, 7.14.2, 7.15, the Trial Chamber decided to further consider a number of killing incidents as alleged persecution against the applicable law. The Trial Chamber recalls its findings in chapter 8.3.2 that some of these incidents constituted murder as a crime against humanity.<sup>13281</sup>

3268. *Discrimination.* The Trial Chamber recalls that all the killings constituting murder in *Schedule A, Schedule B, Schedule C, unscheduled incidents, and Schedule E*, were committed against Bosnian Muslims or Bosnian Croats.

3269. In relation to *Schedule A*, the Trial Chamber had regard to the specific considerations as follows when assessing whether there were discriminatory grounds for the killings constituting murder.

3270. In relation to Scheduled Incidents A.2.1, A.3.3, A.6.5, A.6.7, and A.6.8 the perpetrators made derogatory remarks when referring to victims such as calling them *ustašas* or *balijas* or forcing them to sing Serb songs immediately prior to carrying out the killings. The perpetrators, in some instances, also alluded to the victims' apparent political or religious views at the time they killed them.<sup>13282</sup> In respect of Scheduled Incident A.4.4, the Trial Chamber recalls its finding in chapter 4.7.2 *Unscheduled detention incidents – Grabovica School* that the perpetrators ordered the group of Bosnian Muslims to surrender and threatened to kill the *balijas* if they did not comply. Upon their surrender, the group of Bosnian Muslims were detained at Grabovica School and subsequently killed. In relation to Scheduled Incident A.6.4, the perpetrators separated eight Bosnian-Muslim men from others in a house and killed them. The perpetrators had earlier threatened, while searching the house, that the owner and her family 'were to be off to Turkey'. The same perpetrators later killed eleven other Bosnian-Muslim men from the same village.

<sup>13281</sup> In relation to *Schedule A*, the Trial Chamber recalls that in chapter 8.3.2 it was found that in Scheduled Incident A.2.1 Izet Ćolo was a combatant and that his killing would not be further considered in relation to Counts 5 and 6 of the Indictment. The Trial Chamber will not consider this killing further in relation to Count 3 of the Indictment.

<sup>13282</sup> See Scheduled Incident A.6.7, and Scheduled Incident A.6.8.

3271. In relation to Scheduled Incidents A.6.3, A.6.9, A.7.2, A.7.3, A.8.1, and A.9.1 the perpetrators attacked either predominantly or exclusively Bosnian-Croat or Bosnian-Muslim villages or hamlets and targeted unarmed Bosnian-Muslim or Bosnian-Croat inhabitants who remained in the areas taken. In respect of Scheduled Incident A.6.1, the perpetrators attacked the predominantly Bosnian-Muslim town of Kozarac, threatened to kill all *balijas* in response to a request for evacuation from Kozarac of a severely injured boy, and in Benkovac targeted 'Croats'. In relation to Scheduled Incident A.6.6, the perpetrators ordered the Bosnian-Muslim population of Bišćani to gather at various collection points throughout the village prior to their killing and one perpetrator used the term *pejgamber* in a derogatory sense in respect of one victim. In relation to Scheduled Incident A.7.1, the perpetrators were ordered to kill 70 Bosnian Muslims in Kljevići as revenge for seven Serbs soldiers who had been killed in that area prior to the killing of at least 32 Bosnian-Muslim males. In relation to A.7.4 and A.7.5 the Trial Chamber recalls its findings from chapter 4 that the physical perpetrators were: part of a unit led by Mićo 'Kudra' Praštalo who had attacked a predominantly Bosnian-Muslim village and killed Bosnian Muslims in May 1992; or members of the 6th Krajina Brigade who had targeted and committed crimes against Bosnian Muslims or Bosnian Croats in a discriminatory manner from May 1992 onwards.

3272. The Trial Chamber, therefore, finds with respect to Scheduled Incidents A.2.1, A.3.3, A.4.4, A.6.1, A.6.3, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, A.6.9, A.7.1, A.7.2, A.7.3, A.7.4, A.7.5, A.8.1, and A.9.1 that the perpetrators committed the murder on political, racial or religious grounds.

3273. In relation to Scheduled Incidents A.6.2 the Trial Chamber did not receive any evidence indicating that the victims were targeted in a discriminatory manner or that the perpetrators had the requisite discriminatory intent. There was no evidence indicating why these Bosnian Muslims or Bosnian Croats were identified and targeted, as opposed to others from the same locality, and later killed. The Trial Chamber, from the evidence received, was also unable to infer that the only reasonable inference was that the perpetrators carried out these killings on political, racial or religious grounds, as these incidents were too remote from other discriminatory incidents. Accordingly, these murder incidents will not be further considered in relation to the charge of persecution under Count 3 of the Indictment.

3274. In relation to *Schedule B*, *Schedule C*, and *Unscheduled Incidents* the Trial Chamber had regard to the specific considerations as follows when assessing whether there were discriminatory grounds for the killings constituting murder.

3275. The Trial Chamber recalls its findings in chapter 8.9.2(d) that in relation to Scheduled Incidents B.1.1, B.1.2, B.1.4, B.2.1, B.5.1, B.7.1, B.8.1, B.13.1, B.13.2, B.13.4, B.13.5, B.14.1, B.14.2, B.16.1, B.16.2, C.9.1, C.15.3, C.15.5, and C.16.3 the victims were taken from groups that were either exclusively or predominantly Bosnian-Muslim or Bosnian-Croat, detained in discriminatory circumstances, and subsequently killed by the same set of perpetrators who had detained them. The Trial Chamber also had regard to the following specific circumstances in certain detention contexts. In respect of Scheduled Incidents B.1.1, B.1.2, B.2.1, B.7.1, B.8.1, and B.14.2 the perpetrators referred to the victims as *balijas* or *ustaša* or made other derogatory remarks directed towards the victims as a group.<sup>13283</sup> The perpetrators also sometimes referenced the victims' apparent political or religious views at the time of killing them.<sup>13284</sup> In respect of Scheduled Incident B.14.2, one of the perpetrators remarked that he had killed *balijas* after the killings and the remark is seen in light of the circumstances in which the detainees were kept prior to the killings as set out in chapter 4.11.5. In respect of Scheduled Incident B.5.1, the perpetrators specifically targeted the Bosnian-Muslim detainees at KP Dom as opposed to Serb detainees who were also present at the camp. Similarly, the hundreds of Bosnian-Muslim detainees killed in this incident in the second half of 1992 at KP Dom were systematically processed and were killed under the pretext of being taken for exchange. In relation to the unscheduled incident in Foča Municipality, two of the perpetrators of the killings at KP Dom brought three elderly Bosnian-Muslim women to Marko Kovač, who was the Commander of the Foča Tactical Group, also known as the 11th Herzegovina Light Infantry Brigade, who referred to the victims as 'scum' prior to giving the order to kill them. The Trial Chamber understands the word 'scum' to have a discriminatory connotation given the manner in which the three Bosnian-Muslim women were detained and then brought to the Commander of the Foča Tactical Group by two of the perpetrators of the discriminatory killings at KP Dom. In respect of Scheduled Incident B.16.2, the perpetrators specifically went to Sušica camp to take away and kill all of the remaining detainees who were exclusively Bosnian Muslims.

<sup>13283</sup> In Scheduled Incident B.7.1, the victims were also sometimes made to sing Serbian songs.

3276. In relation to Scheduled Incident B.10.2, the victims were taken from a cistern where only Bosnian Muslims or non-Serbs were brought and detained; derogatory remarks were made at the time of their capture and all of those detained were taken out to be killed. In relation to Scheduled Incident B.10.1, a Bosnian-Muslim detainee was killed while being held in the same cistern as in Scheduled Incident B.10.2.

3277. In relation to the unscheduled incident in Kotor Varoš Municipality of 13 June 1992 the perpetrators of the killing in Hrváčani attacked and shelled a predominantly Bosnian-Muslim village and targeted the five elderly Bosnian-Muslim inhabitants who had remained after the attack. The perpetrators of the killing in Vrbanjci of 2 July 1992 committed the killings in retaliation for the apparent killing of VRS soldiers by armed Muslims.

3278. The Trial Chamber, therefore, finds with respect to Scheduled Incidents B.1.1, B.1.2, B.1.4, B.2.1, B.5.1, B.7.1, B.8.1, B.10.1, B.10.2, B.13.1, B.13.2, B.13.4, B.13.5, B.14.1, B.14.2, B.16.1, B.16.2, C.9.1, C.15.3, C.15.5, C.16.3, and unscheduled incidents in Foča Municipality and Kotor Varoš Municipality that the perpetrators committed the murders on political, racial or religious grounds.

3279. In relation to Scheduled Incident B.13.3, the Trial Chamber received insufficient evidence indicating whether the perpetrators intended to kill these men on political, racial or religious grounds. While the Trial Chamber found in chapter 8.9.2(d) that the victims had been detained under discriminatory circumstances, it could not establish that the perpetrators of the killings shared an affiliation with the perpetrators of the detention. The Trial Chamber, from the evidence received, was also unable to infer that the only reasonable inference was that the perpetrators carried out this killing on political, racial or religious grounds, as this incident was too remote from other discriminatory incidents. Accordingly, this killing incident will not be further considered in respect of the charge of persecution under Count 3 of the Indictment.

3280. In relation to *Schedule E*, the Trial Chamber had regard to the specific considerations as follows when assessing whether there were discriminatory grounds for the killings constituting murder.

3281. In relation to Scheduled Incidents E.3.1, E.4.1, E.6.1, E.6.2, E.7.1, E.7.2, E.9.2, E.13.1 and the unscheduled incidents of 18 July 1995 and 23 July 1995, the perpetrators

<sup>13284</sup> See Scheduled Incident B.1.2 and Scheduled Incident B.8.1.

referred to the victims as *balijas* or *ustaša*, or treated them in other disparaging ways based on the victims' religious, racial, or political identity immediately prior to killing them.<sup>13285</sup> The perpetrators also sometimes referenced the victims' apparent political or religious views at the time of killing them.<sup>13286</sup> In respect of Scheduled Incident E.9.1, the victims were taken from the Kula School near Pilica where only Bosnian Muslims were brought and detained. At least eight of the victims were killed prior to the hundreds of other Bosnian-Muslim males at the Kula School by the same perpetrators, as set out in Scheduled Incident E.9.2. The Trial Chamber recalls its finding in chapter 8.4.2 that the killings were part of one single murder operation. The Trial Chamber finds that the only reasonable inference from these facts is that the killings were specifically directed against victims of Bosnian-Muslim origin. In respect of Scheduled Incident E.5.1, one perpetrator identified as a 'commander' stated, prior to the killing, that it was time for the victims to make up for what happened to him while detained by the ABiH. The Trial Chamber considers that the commander was associating Bosnian Muslims with the ABiH and, therefore, finds that the only reasonable inference is that the killing was specifically directed against Bosnian Muslims.

3282. With regard to other Srebrenica killing incidents, in Scheduled Incidents E.1.1, E.2.1, E.8.1, E.8.2, E.10.1, E.14.1, E.14.2, E.15.1, and E.15.3, the Trial Chamber considered the close geographical proximity of the incidents, the fact that the killing incidents occurred between 13 July 1995 and 17 July 1995 and that the perpetrators carried out killings of Bosnian Muslims in the context of the wider attack following the fall of Srebrenica on 11 July 1995. In respect of Scheduled Incidents E.1.1, E.8.1, and E.8.2, the killing incident of 13 July 1995, the perpetrators had detained and killed only Bosnian-Muslim males. Although 12 of the victims in Scheduled Incident E.8.1 were killed prior to the hundreds of others in Scheduled Incident E.8.2, the Trial Chamber recalls its finding in chapter 8.4.2 that the killings were part of one single murder operation. The Trial Chamber also recalls that in the unscheduled incident of 13 July 1995, Mladić told the detainees that they had no state 'here' and had to look for their state. In respect of Scheduled Incident E.10.1, the killings occurred on 16 July 1995, the same day that Bosnian-Muslim men were being executed at the Branjevo Military Farm

<sup>13285</sup> In Scheduled Incident E.4.1, the victims were also sometimes made to sing Serbian songs.

<sup>13286</sup> See Scheduled Incident E.7.2, Scheduled Incident E.9.2, and Scheduled Incident E.5.1. With respect to Scheduled Incidents E.7.1 and E.7.2, the Trial Chamber recalls its finding in chapter 8.4.2 that the killings formed part of a single murder operation.

in Scheduled Incident E.9.2, and where a VRS lieutenant-colonel informed members of the 10th Sabotage Detachment at the farm that there were some 500 Bosnian-Muslims in the Pilica Cultural Centre who were also to be executed. Soldiers from Bratunac left the farm with the lieutenant-colonel and were involved in the killings at the Pilica Cultural Centre. In respect of Scheduled Incident E.2.1, the killings, which occurred on 17 July 1995, were committed against a high number of Bosnian-Muslim males who were captured by the perpetrators and occurred in close proximity to other Srebrenica killings. In respect of Scheduled Incident E.14.1 and Scheduled Incident E.14.2, Bosnian-Muslim men were separated from others in the UN compound in Potočari by the VRS and subsequently killed by members of the VRS near the compound. In respect of Scheduled Incidents E.15.1 and E.15.3, more than 50 Bosnian-Muslim men were killed in and around Vuk Karadžić Elementary School over a short duration of time, between 12 and 14 July 1995 in the context of the detention of several thousand Bosnian-Muslim civilians and soldiers held in and around Vuk Karadžić Elementary School. In relation to Scheduled Incident E.12.1, the victims were killed in Bišina by the 10th Sabotage Detachment on 23 July 1995, only days after the discriminatory killings the same perpetrators committed elsewhere. The Trial Chamber finds that the only reasonable inference from these facts relating to the incidents above is that the killings were specifically directed against Bosnian Muslims.

3283. The Trial Chamber, therefore, finds with respect to Scheduled Incidents E.1.1, E.2.1, E.3.1, E.4.1, E.5.1, E.6.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, E.12.1, E.13.1, E.14.1, E.14.2, E.15.1, E.15.3 and the unscheduled incidents of 13 July 1995, 18 July 1995 and 23 July 1995 that the perpetrators committed the murders on political, racial or religious grounds.

3284. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3285. *Status of victims.* In relation to *Schedule A, Schedule B, Schedule C, unscheduled incidents, and Schedule E* the Trial Chamber recalls its finding in chapter 8.3.2 with regard to the status of the victims.

3286. *Conclusion.* In conclusion, the Trial Chamber finds that Scheduled Incidents A.2.1, A.3.3, A.4.4, A.6.1, A.6.3, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, A.6.9, A.7.1, A.7.2, A.8.1, A.9.1, B.1.1, B.1.2, B.1.4, B.2.1, B.5.1, B.7.1, B.8.1, B.10.1, B.10.2, B.13.1, B.13.2, B.13.4, B.13.5, B.14.1, B.14.2, B.16.1, B.16.2, C.9.1, C.15.3, C.15.5, C.16.3,

the unscheduled incident in Foča, the unscheduled incidents in Kotor Varoš, E.1.1, E.2.1, E.3.1, E.4.1, E.5.1, E.6.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, E.12.1, E.13.1, E.14.1, E.14.2, E.15.1, E.15.3 and the unscheduled incidents in Srebrenica constitute persecution as a crime against humanity.

*(b) Cruel and inhumane treatment*

3287. In chapters 4.1.2, 4.2.2, 4.3.2, 4.4.2, 4.5.2, 4.6.2, 4.7.2, 4.10.2, 4.11.2, 4.15.2, and 7.16, the Trial Chamber decided to further consider the following incidents of alleged cruel and/or inhumane treatment to the extent that they concern Bosnian Croats and Bosnian Muslims:

*Municipalities*

(a) in Banja Luka Municipality, between 3 June and 18 December 1992, members of the VRS, including the VRS 1KK, as well as camp guards comprised of members of the VRS Military Police and members of the Banja Luka, Ključ, Prijedor, and Sanski Most SJBs, under the command of the VRS 1KK, ill-treated detainees at Manjača camp, as further set out in chapter 4.1.2 *Schedule C.1.2*;

(b) in Bijeljina Municipality, between June 1992 and 21 July 1993, the VRS and, on one occasion, policemen from Sremski Karlovci, ill-treated detainees at Batković camp, as further set out in chapter 4.2.2 *Schedule C.2.1*;<sup>13287</sup>

(c) in Foča Municipality: (i) from 12 May 1992 until October 1994, civilian and military police from outside KP Dom and KP Dom guards, Pero Elez, Janko ‘Tuta’ Janjić, Dragomir Kunarac a.k.a. Žaga, Zoran Vuković, Dragan ‘Zelja’ Zelenović, all of whom headed, or were members of, sub-units under Marko Kovač, Commander of the Foča Tactical Group, and Jovo Savić, a member of the IBK, ill-treated detainees at KP Dom Foča as further set out in chapter 4.3.2 *Schedule C.6.1*; (ii) from early August 1992, Radovan Stanković, Nikola Brcić, a.k.a. Rodzo, Radomir Kovač, Milan Todović, and other ‘Serb soldiers, as well as Pero Elez and his soldiers, Nedžo Samardžić, and Zoran Samardžić, Dragan Zelenović, Dragoljub Kunarac, Gojko Janković, Dragan Džurević, all of whom headed, or were members of, sub-units under Marko Kovač, Commander of

<sup>13287</sup> In chapter chapter 4.2.2 *Schedule C.2.1*, the Trial Chamber found that Batković camp held detainees from 27 June 1992 to the end of November 1995, and that those detainees suffered ill-treatment between 1 June 1992 and 21 July 1993.

Foča Tactical Group, ill-treated detainees at 'Karaman's house', as further set out in chapter 4.3.2 *Schedule C.6.2*; (iii) from August 1992 until July 1993 a Serb soldier<sup>13288</sup> ill-treated a detainee at his apartment in Foča, as further set out in chapter 4.3.2 *Schedule C.6.2*; (iv) from the evening of 24 June 1992, a woman was detained by local Serbs from Tijentište at the Bukovica Motel, as further set out in chapter 4.3.2 *Schedule C.6.3*; (v) in early July 1992, Gojko Janković, Dragan Zelenović, both of whom headed, or were members of, sub-units under Marko Kovač, Commander of Foča Tactical Group, and other soldiers, ill-treated detainees at the Worker's Huts in Buk Bijela, as further set out in chapter 4.3.2 *Schedule C.6.3*; (vi) in July and August 1992, Serb soldiers including Dragoljub Kunarac a.k.a. 'Žaga', Montenegrin soldiers under his command, and Janko Janjić (a.k.a. 'Tuta'), both of whom headed sub-units subordinated to Marko Kovač, Commander of Foča Tactical Group, as well as Dragan Gagović, a.k.a. 'Gaga', the head of Foča police, ill-treated detainees at Partizan Hall and various places, as further set out in chapter 4.3.2 *Schedule C.6.4*; (vii) in June and July 1992, Dragoljub Kunarac, Janko Janjić a.k.a. Tuta, Dragan Zelenović a.k.a. Zeljo, all of whom headed, or were members of, sub-units headed by Marko Kovač, Commander of Foča Tactical Group, Slavo Ivanović, Kovač a.k.a. Micko, Miki Zivanović, a man called Sasha, Dragan Gagović (the head of the Foča police), and others, ill-treated detainees at Foča high school and elsewhere in Foča, as further set out in chapter 4.3.2 *Schedule C.6.5*;

(d) in Ilidža Municipality: (i) from 12 May until October 1992, and from 22 or 23 June 1993 until October 1994, guards who were MUP or MoJ employees, ill-treated detainees at Kula Prison, as further set out in chapter 4.4.2 *Schedule C.8.1*; and (ii) on 21 July 1992, Vojo Ninković ill-treated two Bosnian-Muslim men at the Ilidža Police Station, with one of the men being transferred out of the police station on 23 October 1992, as further set out in chapter 4.4.2 *Unscheduled detention incidents – MUP Police Station*;

(e) in Kalinovik Municipality: (i) from 25 June 1992, members of the Kalinovik SJB and persons coming to the school, including Pero Elez, Dragan Kunarac a.k.a. Žaga, Dragan Gagović a.k.a. Gaga (the head of the Foča police), and Zoran and Nedžo Samardžić, all of whom headed, or were members of, sub-units under Marko Kovač, Commander of Foča Tactical Group, as well as Boško Govedarica, the Chief of Police

<sup>13288</sup> The Trial Chamber refers to the confidential annex in Appendix D in chapter 4.3.2 *Schedule C.6.2* for the identity of the 'Serb soldier'.



at Kalinovik SJB, a female soldier that accompanied Žaga and Gaga called Jadranka a.k.a. Jaca/Jasna, and Marinko Bjelica, ill-treated detainees at Kalinovik Elementary School and other locations, as further set out in chapter 4.5.2 *Schedule C.9.1*; (ii) between 6 July 1992 and the beginning of August 1992, guards subordinated to the VRS ill-treated detainees at an ammunition warehouse in Jelašačko Polje, as further set out in 4.5.2 *Schedule C.9.2*; and (iii) from at least 18 September 1992 until 21 March 1993, Serb soldiers, referred to as ‘Gardisti’, and either Zoran Samardžić or Predrag a.k.a. Pedo Trifković/Trivun, both of whom headed, or were members of, sub-units under Marko Kovač, Commander of Foča Tactical Group, ill-treated detainees at Kalinovik Police Station, as further set out in chapter 4.5.2 *Unscheduled detention incidents – Kalinovik police station*;

(f) in Ključ Municipality: (i) on 1 June 1992, members of the VRS ill-treated detainees at Velegići Elementary School, as further set out in chapter 4.6.2 *Schedule C.10.3*; (ii) on 1 and 2 June 1992, reserve police officers and the commander of the Sanica police, Milan Tomić, ill-treated detainees at Sanica School, as further set out in chapter 4.6.2 *Sanica school and Sitnica school*; (iii) from 3 June and about 7 June 1992, policemen from Ključ, including Duško Pavlović ill-treated detainees at Sitnica School, as further set out in chapter chapter 4.6.2 *Sanica school and Sitnica school*;

(g) in Kotor Varoš Municipality, during the night of 2 November 1992, the VRS 1st Kotor Varoš Brigade, under the command of Dušan Novaković, ill-treated detainees at Grabovica School, as further set out in chapter 4.7.2, *Unscheduled detention incidents – Grabovica School*;

(h) in Prijedor Municipality: (i) between 27 May and 16 August 1992, the Prijedor Crisis Staff, VRS, Omarska TO, SJB, camp guards comprised of the police including police from the Omarska police station; interrogators comprised of a mixed group of national, public and military security services, as well as outsiders including Bosnian-Serb soldiers from the front, paramilitary units, and a special MUP detachment placed under the command of the Banja Luka CSB, ill-treated detainees at Omarska camp, as further set out in chapter 4.10.2 *Schedule C.15.2*; (ii) from 25 May until at least 5 August 1992, the Prijedor Crisis Staff, the Military Police of the Banja Luka Corps/1KK, and the Prijedor SJB, the Banja Luka CSB, teams comprising members of the SJB, the SNB, and the VRS military security, and paramilitary units and civilians permitted to enter the camp, ill-treated detainees at Keraterm camp, as further set out in

chapter 4.10.2 *Schedule C.15.3*; (iii) from at least 26 May 1992 until the end of September 1992, members of the Prijedor TO, VRS soldiers from both inside and outside the camp, and camp guards ill-treated detainees at Trnopolje camp, as further set out in chapter 4.10.2 *Schedule C.15.4*; (iv) from around 21 July 1992, the Miška Glava TO ill-treated detainees at Miška Glava Dom, as further set out in chapter 4.10.2 *Schedule C.15.5*;

(i) in Rogatica Municipality: (i) between June and August 1992, camp guards comprised of local Serbs under the authority of Rajko Kušić, Commander of the VRS Rogatica Brigade, as well as civilian police, Rogatica Serb TO, and paramilitary unit members, ill-treated detainees at Veljko Vlahović Secondary School, as further set out in chapter 4.11.2 *Schedule C.16.1*; (ii) between August 1992 and April 1994, the SJB and the VRS, and guards ill-treated detainees at Rasadnik detention facility, as further set out in chapter 4.11.2 *Schedule C.16.3*; and (iii) on 2 September 1992, several policemen, including Željko Bogdanović, and a former policeman, named Anđelko, ill treated a Bosnian-Muslim detainee from Rasadnik detention facility, as further set out in chapter 4.11.2 *Unscheduled incidents – Rogatica police station*;

(j) in Vlasenica Municipality: (i) between 31 May 1992 and 30 September 1992, the Vlasenica crisis staff and guards, consisting of members of the VRS and the MUP, as well as Dragan Nikolić and camp guards, including Goran Tešić, a.k.a. Goce, a member of the Bosnian-Serb MUP and Kraljević's unit (*see* Trial Chamber's finding in chapter 4.14.1 *Schedule B.16.1*), other police officers, and Goran a.k.a. Vjetar and Đuro ill-treated detainees at Sušica camp as further set out in chapter 4.15.2 *Schedule C.19.3*; and (ii) between 31 May 1992 and 8 June 1992, guards including Vojin Grabovica, a person called Zoran, Milorad Petrović, Dragan Lukić, and Veljko Basić, who was a member of the SJB Vlasenica, ill-treated detainees at Vlasenica Secondary School, as further set out in chapter 4.14.2 *Other detention incidents – Vlasenica Secondary School*;

### *Srebrenica*

(k) (i) between 11 and 12 July 1995, VRS units ill-treated Bosnian Muslims who had gathered in Potočari following the fall of Srebrenica on 11 July 1995, as further set out in chapter 7.16; (ii) from 12 to 14 July 1995, VRS units ill-treated Bosnian Muslims who had been separated from the rest of the population in Srebrenica, as further set out in chapter 7.16; (iii) from 12 to 18 July 1995, Bosnian-Muslim men and boys of

Srebrenica were ill-treated prior to their execution by several perpetrators: on the road to Konjević Polje and near Konjević Polje intersection (Schedule E.1.1), by Momir Nikolić and four members of either the police or the VRS military police; at Sandići Meadow (Schedule E.4.1), by a VRS soldier; at Luke School (Schedule E.5.1), by 10 to 15 men of a VRS special intervention platoon commanded by Spomenko Garić; at the school in Petkovci (Schedule E.7.1), by members of the VRS; at Kula School (Schedule E.9.1), by members of the VRS Zvornik Brigade's 1st Battalion; at Branjevo Military Farm (Schedule E.9.2), by VRS soldiers; in and around Vuk Karadžić elementary school (Schedule E.15.1), by members of the VRS Bratunac Brigade Military Police Platoon, special police, civilian police, Drina Wolves and paramilitary formations; and in the column, by members of the VRS and the civilian police, as further set out in chapter 7.16.

3288. The Trial Chamber will now proceed to consider the aforementioned alleged incidents of cruel and/or inhumane treatment pursuant to the applicable law.

3289. *Serious mental or physical suffering or injury, or a serious attack on human dignity.* The Indictment specifies that the alleged acts or omissions of cruel and/or inhumane treatment consist of: (i) torture, beatings, and physical and psychological abuse during and after the takeovers in Municipalities and in detention facilities in the Municipalities; (ii) rape and other acts of sexual violence during and after the takeovers in the Municipalities and in detention facilities in the Municipalities; (iii) the establishment and perpetuation of inhumane living conditions, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, in detention facilities in the Municipalities; (iv) terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari; and (v) beating of Bosnian-Muslim men and boys of Srebrenica prior to their execution.<sup>13289</sup> The Trial Chamber recalls incidents (a) to (j) set out above. These incidents took place in detention facilities against the same victims of detention during their detention. The Trial Chamber considered the character and the seriousness of the incidents, including, where available, the following factors: the duration and/or repetition of the incidents, physical and mental effects on the victims, and the personal circumstances of the victims, including age, gender and health.

<sup>13289</sup> Indictment, para. 59; *see* chapter 8.2.

3290. For some incidents, the Trial Chamber found that detainees were injured, fell ill, and some died as a result of their treatment and the conditions of detention. In this respect, the Trial Chamber recalls its findings in chapters 4.1.2 *Schedule C.1.2*; 4.2.2 *Schedule C.2.1*; 4.3.2 *Schedule C.6.1*; 4.10.2 *Schedules C.15.2, C.15.3, C.15.4*; and 4.11.2 *Schedule C.16.1* in relation to incidents (a); (b); (c)(i); (h)(i), (ii), and (iii); and (i)(ii). Detainees at Manjača camp, Batković camp, KP Dom Foča and Omarska camp lost significant body weight. Insufficient food led to death by malnutrition at Batković camp, to malnutrition and starvation at Keraterm camp, to fainting from hunger at Manjača camp, and to other health problems at KP Dom Foča. The insufficient food, unsanitary and crowded conditions at Trnopolje camp caused rampant lice and scabies, as well as dysentery and a wide range of other ailments like hepatitis, chronic diarrhoea and high fevers. Even though some detainees at Trnopolje camp had maggots in their wounds, medical care was denied. An epileptic man, who was refused treatment, was found dead the next morning. There was also dysentery at Omarska camp and Keraterm camp, as well as diarrhoea, skin diseases and intestinal problems at Omarska camp. At Manjača camp and Keraterm camp, there were infestations of lice. The detainees at Rasadnik detention facility also had insufficient food, as well as no access to running water, or toilets. In each of these detention facilities, detainees were also beaten; regularly at Manjača camp and KP Dom Foča, daily at Keraterm camp, in some cases with implements such as brass knuckles and iron bars, and severely at Batković camp, Omarska camp and Rasadnik detention facility. As a result, detainees at Manjača camp were sometimes seriously injured and, through further beatings, the perpetrators prevented these detainees from seeking any medical care for their injuries. Some detainees at Batković camp and Rasadnik detention facility suffered permanent damage, such as Witness Mirsad Kuralić who suffered fractures to his skull, nose, jaw and arm at Batković camp. Detainees at Omarska camp had broken bones and teeth. Some detainees were thrown into burning tyres. Another detainee was shot in the knee. At Trnopolje camp, some detainees were beaten to death. Although some detainees at Keraterm camp were taken to hospital to treat injuries sustained during the beatings, this does not diminish the gravity of those injuries.

3291. The Trial Chamber also found that, amongst other forms of abuse, detainees were raped and subjected to other forms of sexual violence at Batković camp, KP Dom Foča, Omarska camp, Keraterm camp, Trnopolje camp, and Rasadnik detention facility.

In particular, at Omarska camp, Batković camp and Rasadnik detention facility, detainees were forced to rape and engage in other degrading sexual acts with each other. Further, the Trial Chamber recalls its findings in chapters 4.3.2 *Schedules* C.6.2, C.6.3, C.6.4, C.6.5; 4.5.2 *Schedule* C.9.1; 4.11.2 *Schedule* C.16.1; 4.14.2 *Schedule* C.19.3 in relation to incidents (c)(ii), (iii), (v), (vi) and (vii); (e)(i); (i)(i); and (j)(i). Women and girls detained at Karaman's house were raped every night. The youngest girl was 12 years old. One woman was detained, alone, at the apartment of a Serb soldier and regularly raped by him. At Veljko Vlahović Secondary School, detainees were also raped, including girls as young as 13 years old. At Partizan Hall, some women were raped numerous times on the same day, by many soldiers simultaneously and consecutively. At the Worker's Huts at Buk Bijela and Foča High School, women were repeatedly raped. Approximately 80 women were raped at Kalinovik Elementary School. At Sušica camp, detainees were raped or forced to engage in sexual acts. Detainees were also beaten at Kalinovik Elementary School and Veljko Vlahović Secondary School, and severely beaten and burnt with cigarettes at Foča High School. In addition, at Partizan Hall, Foča High School, Kalinovik Elementary School, and Veljko Vlahović Secondary School, the conditions were unhygienic and there was insufficient food. There was also no medical care at Partizan Hall or Foča High School.

3292. In relation to incidents (d)(i); (e)(ii); (f)(i) and (h)(iv), the Trial Chamber recalls its findings in chapters 4.4.2 *Schedule* C.8.1; 4.5.2 *Schedule* C.9.2; 4.10.2 *Schedule* C.15.5 that detainees were beaten, threatened and harassed at Velagići Elementary School, beaten regularly at Kula prison and Miška Glava Dom, and severely at the ammunition warehouse in Jelašačko Polje. Detainees were also held in poor conditions: a cramped, small room held 100 detainees for one week at Kula prison, a small, hot café held 114 detainees for several days at Miška Glava Dom, and the 100 detainees at the ammunition warehouse in Jelašačko Polje had no sanitary facilities and insufficient water. The detainees at Velagići Elementary School were beaten in a room without windows while insulted with ethnic slurs. At the ammunition warehouse in Jelašačko Polje and Miška Glava Dom, there was also limited food. Specifically, at Miška Glava Dom, detainees only had a single loaf of bread and a packet of sweets to share between 114 detainees for three days.

3293. Based on the foregoing, the Trial Chamber finds that the treatment of detainees and the conditions of detention in incidents (a); (b); (c)(i), (ii), (iii), (v), (vi) and (vii);

(d)(i); (e)(i) and (ii); (h)(i), (ii), (iii), and (iv); (f)(i); (i)(i) and (ii); and (j)(i) caused serious mental and physical suffering and injury and will consider these incidents further.

3294. Turning to the unscheduled incidents (d)(ii); (f)(ii) and (iii); (i)(iii); and (j)(ii), the Trial Chamber recalls its findings in chapters 4.6.2 *Sanica school and Sitnica school*; 4.11.2 *Unscheduled incidents*; and 4.14.2 *Other detention incidents* on the conditions of detention and the treatment of detainees. In particular, detainees at the Ilidža Police Station were kept in a windowless cell which was of such a size that conditions were crowded given the number of detainees. At Kalinovik Police Station and Rogatica Police Station, detainees were severely beaten. After the beating, one detainee at Kalinovik Police Station was kept in solitary confinement for ten days without medical aid. The detainee at Rogatica Police Station was beaten so severely that he could not move for 15 days. Detainees at Sanica School and Sitnica School were not fed, and the detainees at Sitnica School only received a small sandwich on their fourth day of detention. At Sanica School, they were also escorted at gunpoint to the bathroom. At Sitnica School, they were beaten. Detainees at Vlasenica Secondary School were only fed a small slice of bread and a small portion of egg daily. There was insufficient water, and the guards severely beat the detainees. Based on the foregoing, the Trial Chamber finds that the treatment of detainees and the conditions of detention in incidents (d)(ii); (f)(ii) and (iii); (i)(iii); and (j)(ii) caused serious mental and physical suffering and injury and will consider these incidents further.

3295. For incident (g), the Trial Chamber recalls its findings in chapter 4.7.2 *Unscheduled incidents* that the detainees were soaking wet from the rain and very cold, and the women and children slept overnight on the floor. The men were ordered to line up and walk slowly with their heads down and hands tied behind their backs. The Trial Chamber was unable to determine the nature of the assault, apart from the spilt tea. Based on the foregoing, the Trial Chamber does not find that such treatment caused serious mental or physical suffering or injury, or a serious attack on human dignity.

3296. In relation to incident (c)(iv), the Trial Chamber recalls its finding in chapter 4.3.2 *Schedule C.6.3* that it received no evidence on the conditions of detention or the treatment of the detainee. Accordingly, the Trial Chamber cannot determine whether there was any serious suffering or injury, or any serious attack on human dignity and will not consider incident (c)(iv) further.

3297. With regard to incidents (k)(i) and (k)(ii), the Trial Chamber recalls its finding in chapter 7.1.6 concerning the conditions endured by Bosnian Muslims who gathered in Potočari following the fall of Srebrenica on 11 July 1995. Ongoing shelling and shooting, combined with the deliberate removal of men, boys, and girls, and episodes of sexual assaults, created a fearful and intimidating atmosphere in Potočari. The Trial Chamber found that while being transferred out of the enclave, mothers and children were separated from one another, and babies of ill mothers were abandoned. Those who did not want to leave, were forced to board buses and were hit, abused and insulted. Bosnian-Muslim men of military age were separated from the rest of the population and were beaten, stoned, insulted, and sometimes stabbed. The men were then taken to the White House, where they were held in overcrowded and poor conditions, and were forced to surrender their papers and belongings. They were later beaten while being loaded onto buses destined to detention centres in Bratunac. The Trial Chamber further found that the acts and threats of violence set out above, specifically the shelling, the physical and sexual violence, the separation of family members and the detention of men and boys, triggered panic and fear among the Bosnian Muslims in Potočari, to the extent that some of them committed suicide or attempted to do so. For these reasons, the Trial Chamber finds that the treatment of Bosnian Muslims in Potočari in incidents (k)(i) and (k)(ii) caused serious mental or physical suffering or injury, or a serious attack on human dignity and will consider these incidents further.

3298. Turning to the incidents listed in (k)(iii), the Trial Chamber found in chapter 7.1.6 that Bosnian-Muslim men and boys from the column were subjected to beatings prior to their killings. These beating incidents took place at various execution sites in Srebrenica and neighbouring municipalities, where Bosnian-Muslim men and boys were detained after surrendering or being captured from the column. In some incidents, detainees were beaten with rifle butts, iron bars, axes, and whips. In one incident at a building near the Konjević Polje intersection (Schedule E.1.1.), detainees were ordered to take off their clothes, thrown on the floor and then punched, beaten and kicked in the heads. At the school in Petkovci (Schedule E.7.1) and at Kula School (Schedule E.9.1) detainees were regularly beaten, and at Luke School (Schedule E.5.1) they were severely harassed and assaulted. At Vuk Karadžić elementary school (Schedule E.15.1) and at Branjevo Military Farm (Schedule E.9.2), detainees were also beaten and humiliated. In light of the foregoing, the Trial Chamber finds that Bosnian-Muslims

men and boys of Srebrenica were subjected to appalling abuse prior to their execution, and therefore considers that the incidents listed in (k)(iii) caused serious mental or physical suffering or injury, or a serious attack on human dignity, and will consider these incidents further.

3299. *Mens rea.* For the incidents listed in (a) to (k), apart from incidents (c)(iv) and (g), the Trial Chamber is satisfied that, having considered the factual circumstances, the only reasonable inference is that the perpetrators intended to cause serious mental or physical suffering or a serious attack on human dignity.

3300. *Discrimination.* The Trial Chamber recalls its finding in chapter 8.9.2(d) that in relation to incidents (d)(ii) and (j)(ii), it did not find that the detentions were carried out on political, racial, or religious grounds. In reaching this conclusion, the Trial Chamber was unable to determine that detainees were treated differently based on their ethnicity. For the remaining incidents listed in (a) to (j), apart from incident (i)(iii) which concerns Rogatica Police Station, the Trial Chamber found that the detentions were carried out on political, racial, and religious grounds. Noting that the alleged cruel and/or inhumane treatment took place in conjunction with these detentions, the Trial Chamber finds for the same reasons as those stated in chapter 8.9.2(d), that apart from incidents (d)(ii) and (j)(ii), the alleged cruel and/or inhumane treatments were carried out on political, racial, or religious grounds.

3301. In relation to incident (j)(ii), the Trial Chamber recalls its finding in 4.14.2 – *Other detention incidents – Vlasenica secondary school*, that detainees were beaten when they refused to sing songs identified by one witness as ‘chetnik’ songs. Given the subject of the songs and the consequences for failing to sing them, the Trial Chamber finds that incident (j)(ii) was carried out on political, racial, or religious grounds.

3302. In respect of incident (i)(iii), the alleged cruel or inhumane treatment was inflicted against one Bosnian Muslim. The Trial Chamber also considered that this incident occurred in the context of a wider discriminatory attack against Bosnian Muslims and Bosnian Croats and in conjunction with other underlying acts of persecution perpetrated at the same time, as described in chapter 8.2.1. Based on the foregoing, the Trial Chamber finds that incident (i)(iii) was carried out on political, racial, or religious grounds.



3303. In relation to incidents (k)(i) and (k)(ii) the Trial Chamber had regard to the specific considerations when assessing whether the alleged cruel and/or inhumane treatment was carried out on political, racial, or religious grounds. The Trial Chamber found in chapter 7.16 that the shelling targeted the vicinity of the UNPROFOR compound and nearby areas, where the Bosnian-Muslim population had sought shelter after the fall of the Srebrenica enclave. Hand grenades were thrown into civilian houses in Potočari. While Bosnian Muslims were being transported out of the enclave, Bosnian-Muslim men of military age were systematically singled out from the rest of the population and later detained and mistreated. The Trial Chamber also considered that these incidents occurred in the context of a wider discriminatory attack against the Bosnian-Muslim community of Srebrenica and in conjunction with other underlying acts of persecution perpetrated at the same time, as described in chapter 8.9.2(a) and (c). Based on the foregoing, the Trial Chamber finds that the alleged cruel and/or inhumane treatment in incidents (k)(i) and (k)(ii) was carried out on political, racial, or religious grounds.

3304. With regard to the beating incidents listed in (k)(iii) at the school in Petkovci (Schedule E.7.1), at Kula School (Schedule E.9.1), at Branjevo Military Farm (Schedule E.9.2), and in and around Vuk Karadžić elementary school (Schedule E.15.1), the Trial Chamber found in chapter 7.16 that the perpetrators of the alleged cruel and/or inhumane treatment in these locations were the same perpetrators of the subsequent killings. Noting that the Trial Chamber found in chapter 8.9.2 (a) above, that the Scheduled Incidents E.7.1, E.9.1, E.9.2, and E.15.1 were carried out on political, racial, or religious grounds, the Trial Chamber finds, for the same reasons as those stated in the aforementioned chapter, that the alleged cruel and/or inhumane treatment was also carried out on political, racial, or religious grounds.

3305. For the remaining beating incidents listed in (k)(iii), the Trial Chamber considered specific circumstances to assess whether the alleged cruel and/or inhumane treatment was carried out on political, racial, or religious grounds. In respect of the beatings at Sandići Meadow (Schedule E.4.1) and at Luke School (Schedule E.5.1), the perpetrators made derogatory remarks when referring to the detainees, calling them *balijas*, and alluding to their apparent political or religious views prior and after carrying out the beatings. In relation to the beatings at the column and at Sandići Meadow (Schedule E.4.1), the perpetrators forced the detainees to make the Serb salute

and sing Serbian songs. With regard to the incident on the road to Konjević Polje and near Konjević Polje intersection (Schedule E.1.1), the Trial Chamber considered that the perpetrators carried out the cruel and/or inhumane treatment of Bosnian-Muslim men and boys in the context of a wider discriminatory attack against Bosnian Muslims following the fall of Srebrenica on 11 July 1995. This beating incident occurred on 13 July 1995 and was committed against Bosnian-Muslim males, including a 14-year-old boy. The Trial Chamber therefore finds that all the incidents listed in (k)(iii) were carried out on political, racial, or religious grounds.

3306. In light of the foregoing, the Trial Chamber finds that all of the incidents listed in (a) to (k), apart from incidents (c)(iv); (d)(ii) and (g), amount to cruel and/or inhumane treatment.

3307. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirement of crimes against humanity.

3308. *Status of victims.* The Trial Chamber recalls its findings in chapter 8.9.2(d), noting that the victims of detention were also the victims of cruel and/or inhumane treatment in the same detention facilities. In relation to those detainees found not to be civilians in 8.9.2(d), the Trial Chamber finds that they were placed *hors de combat* as a result of their detention.

3309. In relation to incident (j)(i), the Trial Chamber recalls its finding in 4.14.2 – *Other detention incidents – Vlasenica secondary school* that the detainees at Vlasenica Secondary School were transferred to Sušica camp. Since the Trial Chamber found that Sušica camp mostly held civilians, it finds that the only reasonable inference is that the detainees at Vlasenica Secondary School were also mostly civilians.

3310. For incident (i)(iii), the Trial Chamber recalls its finding in chapter 4.11.2 *Unscheduled incidents* that the sole victim was a detainee from Rasadnik and the detainees at Rasadnik were civilians. In light of this, the Trial Chamber finds that the victim in incident (i)(iii) was civilian.

3311. With respect to the cruel and/or inhumane treatment described in incident (k)(i), the Trial Chamber finds that the victims, mainly women, children, elderly, the injured, with a small percentage of able-bodied men, were civilians. In relation to incident (k)(ii), the victims were males between the age of 12 and over 60 years old, some were unarmed and some were wearing military clothing. Although it remained unclear

whether the victims were civilians or combatants, the Trial Chamber finds that they were *hors de combat* at the time of their separation from the rest of the population in Potočari. Regarding the acts outlined in incident (k)(iii), the Trial Chamber notes that some of the victims of the beatings were also victims of murder. Accordingly, the Trial Chamber recalls its finding in chapter 8.3.2, that in all Srebrenica murder incidents the victims were detained at the time of their killing, thus *hors de combat*. With respect to those who survived the executions, the Trial Chamber finds that they were also placed *hors de combat* as a result of their detention.

3312. *Conclusion.* In conclusion, the Trial Chamber finds that the incidents listed in (a) to (k), with the exception of incidents (c)(iv); (d)(ii); and (g) constitute cruel and/or inhumane treatment as an underlying act of persecution as a crime against humanity.

*(c) Deportation and forcible transfer*

3313. In chapters 4 and 7, the Trial Chamber decided to further consider a number of incidents as alleged persecution against the applicable law. The Trial Chamber recalls its findings in chapter 8.5.2 that some of these incidents constituted deportation or inhumane acts (forcible transfer) as crimes against humanity.

3314. *Discrimination.* The Trial Chamber recalls that all the incidents constituting deportation or forcible transfer were committed against Bosnian Muslims or Bosnian Croats.

*Forcible transfer or deportation committed in connection with other discriminatory acts*

3315. The Trial Chamber recalls that it found that the acts of forcible transfer and deportation described in incidents (b)(i), (b)(ii), (f)(i), (f)(ii), (g), (h), (j)(i), (j)(ii), (k)(i), (k)(ii), (k)(iii), (k)(vi), (k)(vii), (k)(viii), (m)(i), (m)(ii), (n)(i), (n)(ii), (n)(iii), and (n)(iv) were committed in connection with acts of murders, unlawful detention, destruction, plunder or appropriation of property, forced labour or use of human shields, and discriminatory measures in Bijeljina, Ključ, Kotor Varoš, Novi Grad, Prijedor, Rogatica, Sokolac, and Vlasenica Municipalities. The acts of forcible transfer described in incident (o) were committed in connection with acts of cruel or inhumane treatment as underlying act to the offence of persecution. Further, they were committed during and following the take-over of the Srebrenica enclave by the VRS, during which Bosnian-Muslim public and private properties were destroyed. The Trial Chamber

recalls that it found that these acts were discriminatory and that the perpetrators acted with discriminatory intent.<sup>13290</sup> The Trial Chamber will now recall specific excerpts of its findings relevant to establish the discriminatory intent of the perpetrators of some of these incidents. More specifically in the case of incident (k)(ii), around 26 May 1992, a Serb announcement stated that the Serbs intended to ‘cleanse’ Rogatica of Muslim extremists and so-called Green Berets. Once the Serb forces took over Rogatica Town, Živojin Novaković said the town would be cleansed and that anyone found in the town would be killed. Regarding incident (k)(iii), prior to the transfer of Bosnian Muslims detained at Veljko Vlahović Secondary School, one of the perpetrators of the acts of forcible transfer, Rajko Kušić, had announced that the Muslim detainees with relatives in the ‘free zone’ would be transported there. Concerning incident (m)(i), the Trial Chamber notes that when told by a Bosnian Muslim that Muslims were scared and leaving the municipality, Milan said, ‘Let [them] leave to wherever they want to. If you ever try anything against us, we will destroy you.’ In the case of incident (n)(i), prior to their departure, Bosnian-Muslim women from Zaklopača had to sign statements giving away their houses and properties to the Serbs. In the case of incident (n)(ii), one of the perpetrators of these acts of forcible transfer ordered another one to torch all Muslim houses in order to prevent owners from returning. The Trial Chamber found that the acts of murder, unlawful detention, destruction, plunder or appropriation of property, forced labour or use of human shields, and discriminatory measures in these municipalities were carried out on political, racial or religious grounds against Bosnian Muslims and Bosnian Croats. Concerning incident (o), the Trial Chamber notes the cleansing of the area of the Bosnian-Muslim population was one of the goals of the *Krivaja 95* operation from its beginning. Since most of the people found to have been victims of forcible transfer or deportation in the incidents listed above were Bosnian Muslims and Bosnian Croats, and given the circumstances of their transfer, the Trial Chamber finds that Bosnian Muslims and Bosnian Croats were specifically targeted, and that the acts of forcible transfer or deportation were carried out on political, racial, or religious grounds.

*Forcible transfer or deportation of detainees: organized or secured by the perpetrators*

3316. With regard to the acts of forcible transfer or deportation described in incidents (c)(ii), (c)(iii), (c)(iv), (c)(v), (c)(vi), (c)(vii), (m)(iii), (n)(v), and (n)(vi), the Trial

<sup>13290</sup> The Trial Chamber notes that this does not include the destruction aforementioned as it is not charged as such as an underlying act to the offence of persecution for the Srebrenica component of the

Chamber notes that these displacements were committed following the detention of these Bosnian Muslims and, in the case of incident (c)(vi), were committed by the perpetrators of their detention which the Trial Chamber found to be discriminatory. Further, these acts were committed in a context where Bosnian Muslims were beaten, raped, and killed in these detention centres. Under these circumstances, the Trial Chamber finds that the reasonable inference is that the acts of forcible transfer or deportation were carried out on political, racial, or religious grounds.

*Other incidents of forcible transfer or deportation*

3317. With respect to incident (a)(i), the Trial Chamber recalls that in 1992, one of the perpetrators specifically called upon Bosnian Muslims to leave the Krajina. Further, during July and August 1992, Bosnian Muslims and/or Bosnian Croats who wished to remain in Banja Luka Municipality were threatened if they did not sign a statement of loyalty. The Trial Chamber is satisfied that with respect to incident (a)(i), the act of deportation was carried out on political, racial, or religious grounds.

3318. With regard to the acts of deportation described in incidents (c)(i), the Trial Chamber notes that the perpetrators allowed ‘loyal’ citizens, *i.e.* Serbs and Muslims, who had not violated the laws of the Bosnian-Serb Republic or endanger the safety of the Serb people in the area, to leave. Although this measure suggests that the departures did not solely concern Bosnian Muslims and/or Bosnian Croats, the Trial Chamber notes that this incident happened at the time when murders, unlawful detention, and destruction were committed and discriminatory measures implemented against Bosnian Croats and Bosnian Muslims in Foča Municipality. Under these circumstances, the Trial Chamber finds that the only reasonable inference is that these acts of deportation were carried out on political, racial, or religious grounds.

3319. With regard to the acts of forcible transfer described in incident (d), the Trial Chamber notes that the Bosnian-Muslim family left Ilidža Municipality to Sarajevo after a member of the White Eagles threatened the family’s lives if they were to refuse to comply with the ultimatum to leave the municipality or to take up arms and become loyal to the Serb authorities. The Trial Chamber further notes that the departure of this family in May 1992 took place at the time when unlawful detention was committed against Bosnian Muslims in Ilidža Municipality. Under these circumstances, the Trial

case.

Chamber finds that the act of forcible transfer was carried out on political, racial, or religious grounds.

3320. With regard to the acts of forcible transfer described in incident (i), the Trial Chamber notes that the displacements out of Pale Municipality only concerned Bosnian Muslims and Bosnian Croats and therefore finds that the acts of forcible transfer were carried out on political, racial, or religious grounds.

3321. With regard to the acts of forcible transfer or deportation described in incidents (l)(i) to (l)(ii) and (l)(iv) to (l)(ix), and (l)(x) to (l)(xii), the displacements of Bosnian Muslims and Bosnian Croats from Sanski Most Municipality were committed at the time when murders, unlawful detention, destruction, appropriation or plunder of property were committed and discriminatory measures were implemented against them in the municipality. The Trial Chamber recalls that it found that these acts were discriminatory and that the perpetrators acted with discriminatory intent. In the case of incident (f)(ii), Bosnian Muslims and/or Bosnian Croats were required to sign statements leaving all their property prior to their departure, called for the departure of Bosnian Muslims and Bosnian Croats. Therefore, the Trial Chamber finds that the acts of forcible transfer or deportation were carried out on political, racial, or religious grounds.

3322. The Trial Chamber recalls its findings in chapters 8.1 and 8.2 with regard to the general elements and jurisdictional requirement of crimes against humanity.

3323. *Status of victims.* The Trial Chamber recalls its finding in chapter 8.5.2 with regard to the status of the victims.

3324. *Conclusion.* The Trial Chamber finds that incidents: (a)(i); (b)(i); (b)(ii); (c)(i); (c)(ii); (c)(iii); (c)(iv); (c)(v); (c)(vi); (c)(vii); (d); (f)(i); (f)(ii); (g); (h); (i); (j)(i); (j)(ii); (k)(i); (k)(ii); (k)(iii); (k)(vi); (k)(vii); (k)(viii); (l)(i); (l)(ii); (l)(iv); (l)(v); (l)(vi); (l)(vii); (l)(viii); (l)(ix); (l)(x); (l)(xi); (l)(xii); (m)(i); (m)(ii); (m)(iii); (n)(i); (n)(ii); (n)(iii); (n)(iv); (n)(v); (n)(vi), and (o) constitute persecution as a crime against humanity.

*(d) Unlawful detentions*

3325. In chapters 4.1.2, 4.2.2, 4.3.2, 4.4.2, 4.5.2, 4.6.5, 4.7.2, 4.10.2, 4.11.2, and 4.14.2 Vlasenica, the Trial Chamber decided to further consider the following incidents of alleged unlawful detention to the extent that they concern Bosnian Croats and Bosnian Muslims:

(a) in Banja Luka Municipality, between 3 June and 18 December 1992, the VRS 1KK, pursuant to instructions from the VRS Main Staff, detained predominantly civilians, primarily of Bosnian-Muslim ethnicity at Manjača camp, along with some Bosnian Croats, a few Bosnian Serbs, and at least one Roma. This incident is further set out in chapter 4.1.2 *Schedule C.1.2*;

(b) in Bijeljina Municipality, between 27 June 1992 and the end of November 1995, the VRS held detainees, who were mostly civilians and predominantly Bosnian-Muslim and Bosnian-Croat, at Batković camp. This incident is further set out in chapter 4.2.2 *Schedule C.2.1*;

(c) in Foča Municipality: (i) between 10 April 1992 and October 1994, the Military Command under Commander Marko Kovač, Commander of the Foča Tactical Group, detained non-Serb civilian men, mostly of Bosnian-Muslim ethnicity, at KP Dom Foča. Muslim soldiers were detained separately from the civilian detainees, and a few Serbs were detained for military offences or convictions prior to the outbreak of the conflict. This incident is further set out in chapter 4.3.2 *Schedule C.6.1*; (ii) from early August 1992, Radovan Stanković held several groups of Bosnian-Muslim women and girls in ‘Karaman’s house’, as further set out in chapter 4.3.2 *Schedule C.6.2*; (iii) from August 1992 until July 1993 a Serb soldier<sup>13291</sup> detained a Bosnian-Muslim woman taken by a member of Dragoljub Kunarac’s unit from ‘Karaman’s house’ and brought to the apartment of the Serb soldier, as further set out in chapter 4.3.2 *Schedule C.6.2*; (iv) from the evening of 24 June 1992, local Serbs from Tijentište detained a Bosnian-Muslim woman at Bukovica Motel for two days, as further set out in chapter 4.3.2 *Schedule C.6.3*; (v) in early July 1992, Bosnian-Muslim women were detained at the Worker’s Huts in Buk Bijela, where Gojko Janković was in charge, as further set out in chapter 4.3.2 *Schedule C.6.3*; (vi) in July and August 1992, Bosnian-Muslim civilian

<sup>13291</sup> The Trial Chamber refers to the confidential annex in Appendix D in chapter 4.3.2 *Schedule C.6.2* for the identity of the ‘Serb soldier’.

detainees were kept at Partizan Hall and guarded by policemen, as further set out in chapter 4.3.2 *Schedule C.6.4*; (vii) in June and July 1992, Bosnian-Muslim civilian detainees were kept at Foča High School and guarded by policemen. Mitar Sipčić, member of the Serb Crisis Staff in Foča, was in charge of the policemen in June 1992. This incident is further set out in chapter 4.3.2 *Schedule C.6.5*;

(d) in Ilidža Municipality: (i) from 12 May until October 1992, Bosnian-Muslim civilians of all ages, and from 22 or 23 June 1993 until October 1994, Bosnian-Muslim civilians and some Bosnian Croats, were detained at Kula prison. There were also Croat POWs who were held separately. Kula prison was under the jurisdiction of the Serb MUP from 12 May until the beginning of August 1992, followed by the Bosnian-Serb MoJ until October 1992, and then again under the jurisdiction of the Bosnian-Serb MoJ in 1993 and 1994. This incident is further set out in chapter 4.4.2 *Schedule C.8.1*; and (ii) on 21 July 1992, Vojo Ninković detained two Bosnian-Muslim men, and six others, at the Ilidža Police Station. The six other detainees were transferred by mid-August 1992. One of the Bosnian-Muslim men was transferred out of the police station on or around 23 October 1992. This incident is further set out in chapter 4.4.2 *Unscheduled incidents – MUP Police Station*;

(e) in Kalinovik Municipality: (i) on 25 June 1992, around 60 Bosnian-Muslim civilian men were detained at Kalinovik Elementary School, and later, between 1 and 5 August 1992, almost all of the remaining Bosnian-Muslim civilian men and women from Kalinovik, and approximately 190 civilian women, children, and elderly people from Gačko, were detained at the Kalinovik Elementary School, where they were guarded by the local police, as further set out in chapter 4.5.2 *Schedule C.9.1*; (ii) between 6 July and the beginning of August 1992, Đorđislav Aškraba, who was at the time seconded to the VRS and ran the detention facility at Jelašačko Polje, and guards in the detention facility who were subordinated to the VRS, detained around 100 Bosnian-Muslim men at an ammunition warehouse in Jelašačko Polje, as further set out in chapter 4.5.2 *Schedule C.9.2*; and (iii) from at least 18 September 1992 until 21 March 1993, several people, including at least two Bosnian-Muslim men, were detained at Kalinovik Police Station, which was under the control of the Chief of Police at Kalinovik SJB, Boško Govedarica, and the Police Commander at Kalinovik SJB, Nedelko Zeljaja, as further set out in chapter 4.5.2 *Unscheduled Incidents – Kalinovik police station*;



(f) in Ključ Municipality: (i) on 1 June 1992, members of the VRS detained about 100 Bosnian-Muslim men at Velegići Elementary School, as further set out in chapter 4.6.2 *Schedule C.10.3*; (ii) between 1 and 2 June 1992, reserve police officers and Milan Tomić, who was the commander of the Sanica police, detained 400 non-Serbs at Sanica School. Almost all of the detainees were Bosnian Muslims and Bosnian Croats. This incident is further set out in 4.6.2 *Sanica school and Sitnica school*; (iii) between 3 June and about 7 June 1992, police forces from Ključ and Jajce detained between 200 and 250 civilian men at Sitnica School, who were previously detained in the Sanica school gym. The group included non-Serbs, almost all of whom were Bosnian Muslims and Bosnian Croats, as well as villagers from Sanica, and about five Bosnian-Muslim former policemen. This incident is further set out in chapter 4.6.2 *Sanica school and Sitnica school*;

(g) in Kotor Varoš Municipality, during the night of 2 November 1992, the VRS 1st Kotor Varoš Brigade, under the command of Dušan Novaković detained a group of about 150 Bosnian Muslims at Grabovica School. The group were mostly men, some of whom were disarmed upon capture, as well as women and children. They were secured by the Military Police Platoon of the same brigade, under the command of Slobodan Jošić. This incident is further set out in chapter 4.7.2 *Unscheduled incidents – Grabovica School*;

(h) in Prijedor Municipality: (i) between 27 May and 16 August 1992, the Prijedor Crisis Staff, the VRS, the Omarska TO, and the SJB detained approximately 3,300 Bosnian Muslims and Bosnian Croats at Omarska camp. The detainees included elderly people, women, and children, mentally impaired and sick people, politicians, and religious leaders. These detainees were unofficially grouped into three categories: intellectuals and political leaders from the Bosnian-Muslim and Bosnian-Croat communities, who were earmarked for elimination; persons who associated themselves with those from the first category; and detainees who were, in the view of the Bosnian-Serb authorities, the least ‘guilty’, and eventually were to be released. In addition, there were a few Bosnian-Serb detainees, who were there because they were said to be on the side of the Muslims. This incident is further set out in chapter 4.10.2 *Schedule C.15.2*; (ii) from 25 May until at least 5 August 1992, the Prijedor Crisis Staff, the Military Police of the Banja Luka Corps/1KK, and the Prijedor SJB detained approximately 4,000 male and female detainees, including civilians. The detainees at Keraterm camp

were primarily Bosnian-Muslim and Bosnian-Croat men, along with a small number of Albanians, and at least one Bosnian Serb accused of not being a loyal Serb. This incident is further set out in chapter 4.10.2 *Schedule C.15.3*; (iii) from at least 26 May 1992 until the end of September 1992, the Prijedor Crisis Staff, members of the Prijedor TO, VRS, as well as Slobodan Kuruzović, who was the camp commander, and his deputy Slavko Puhalić, detained Bosnian-Muslim and Bosnian-Croat civilians, including women and children, at Trnopolje camp. This incident is further set out in chapter 4.10.2 *Schedule C.15.4*; (iv) from around 21 July 1992, the Miška Glava TO detained 114 men, who were predominantly Bosnian-Muslim and Bosnian-Croat, at a small café at Miška Glava Dom, as further set out in chapter 4.10.2 *Schedule C.15.5*;

(i) in Rogatica Municipality: (i) between June and August 1992, local Serbs under the authority of Rajko Kušić, Commander of the VRS Rogatica Brigade, as well as members of the civilian police, the Serb TO, and paramilitary unit members detained several hundred civilians including elderly men, women, and children at Veljko Vlahović Secondary School. Almost all of the detainees were Bosnian-Muslim, except for one Serb family and two Serb women married to Bosnian-Muslim men. This incident is further set out in chapter 4.11.2 *Schedule C.16.1*; (ii) at least between August 1992 and October 1992, the VRS and the SJB, and after October 1992 until April 1994 the VRS, detained Bosnian-Muslim males and females of all ages at Rasadnik detention facility. Serb soldiers were held separately at the facility. This incident is further set out in chapter 4.11.2 *Schedule C.16.3*; (iii) sometime after 23 June 1992, Mehmed Agić, the commander of the Muslim Rogatica TO during the war, was detained at the Sladara factory in Rogatica, under the authority of Rajko Kušić, the Commander of the VRS Rogatica Brigade (with regard to this brigade, see chapter 3.1.2). On at least one occasion, Agić was blindfolded and had his hands tied; (iv) from 28 July 1995 onward, 44 Muslims, including, referred to as ‘POWs’ by the VRS 1st Mountain Brigade, were held at the Rogatica military reception centre under the authority of the VRS 1st Mountain Brigade. The detainees included an imam and former president of the Žepa War Presidency, an electrical engineer and former president of the municipal executive committee, and a forestry engineer and former commander of civilian protection staff. The detainees were fed three times a day, had access to medical care, could use a field toilet, were registered by the ICRC, and the imam was allowed to pray;

(j) in Vlasenica Municipality: (i) between 31 May 1992 and 30 September 1992, the Vlasenica Crisis Staff and guards who were members of the VRS and the MUP detained between 2,000 and 2,500 Bosnian Muslims of both genders and all ages, including civilians, at Sušica camp. In June and July 1992, approximately half of the detainees were women. This incident is further set out in chapter 4.15.2 *Schedule C.19.3*; and (ii) between 31 May 1992 and 8 June 1992, approximately 160 men, including Bosnian-Muslim men aged between 13 and 87, from Papraća, Bosnian Muslims from Kusonje, a Roma couple, and Bosnian Serbs from Osmaci and Borogovo, were detained at Vlasenica Secondary School. The School was under the command of Veljko Bašić and guarded by Vojin Grabovica, a person called Zoran, Milorad Petrović, and Dragan Lukić. This incident is further set out in chapter 4.14.2 *Other detention incidents – Vlasenica secondary school*.

3326. The Trial Chamber will now proceed to consider the aforementioned alleged incidents of unlawful detention pursuant to the applicable law.

3327. *Deprivation of liberty.* Considering the factual circumstances of each of the acts of detention listed in (a) to (j), the Trial Chamber finds that individuals were held against their will and were therefore deprived of their liberty.

3328. *Legal basis.* Any detention carried out on discriminatory grounds, including political, racial, or religious grounds, constitutes arbitrary detention, that is without a legal basis. Accordingly, the Trial Chamber will discuss the legality of detention in light of discriminatory grounds below. For this reason, the Trial Chamber's analysis of whether the perpetrator acted with the intent to deprive the individual arbitrarily of his or her liberty is bifurcated: first, the Trial Chamber considers whether the perpetrator intended to deprive an individual of his or her liberty; second, the Trial Chamber considers whether any intention to deprive was also an intention to deprive arbitrarily which is considered in relation to discriminatory grounds.

3329. *Intent.* The Trial Chamber is satisfied that, having considered the factual circumstances of each incident listed in (a) to (j), the only reasonable inference is that the perpetrators acted knowingly with the intent to deprive those detained of their liberty.

3330. *Discrimination.* The Trial Chamber considers that the presence of detainees of different ethnicities alongside Bosnian Muslims and Bosnian Croats, such as Bosnian

Serbs, Albanians, and Roma, does not in and of itself indicate that the detention of Bosnian Muslims and Bosnian Croats was not carried out on political, racial or religious grounds. When considering whether an incident constitutes persecution as a crime against humanity, that incident should be considered as a whole. Accordingly, there are various *indicia* that may indicate discrimination. These *indicia* include the circumstances of the detention, the reasons certain ethnicities were detained, and the ratio of detainees of certain ethnicities in comparison with others, as well as any difference in the treatment of detainees of different ethnicities.

3331. For incidents (c)(iv) and (d)(ii), the Trial Chamber recalls its findings in chapters 4.3.2 *Schedule C.6.3*; 4.4.2 *Unscheduled detention incidents – MUP police station* that there were detainees of unknown ethnicity detained alongside Bosnian Muslims and, therefore, the Trial Chamber decided to only consider these incidents further with regard to the Bosnian-Muslim detainees. In incident (c)(iv), a Bosnian Muslim was detained at Bukovica Motel, but the majority of detainees alongside her were women of unknown ethnicity. In incident (d)(ii), two Bosnian Muslims were detained at Ilidža Police Station, but six others of unknown ethnicity were detained in the same room as them. For each of these incidents, the Trial Chamber was unable to infer the ethnicity of the other detainees. Furthermore, the Trial Chamber was unable to determine why the detainees of unknown ethnicity were detained and, for incident (c)(iv), whether the treatment of the detainees of unknown ethnicity differed from the treatment of the Bosnian-Muslim detainees. For incident (d)(ii), the detainees of unknown ethnicity were transferred out of Ilidža Police Station to an unknown destination by mid-August, whereas the Bosnian Muslims were detained for a longer period. The Trial Chamber does not consider the earlier transfer of the detainees of unknown ethnicity to an unknown destination to indicate a sufficient difference in treatment, such that the Trial Chamber could infer that the only reasonable inference is that the Bosnian-Muslim detainees were detained on political, racial or religious grounds.

3332. For incident (j)(ii), the Trial Chamber recalls its finding in chapter 4.14.2 *Other detention incidents – Vlasenica Secondary School* that although some of the detainees were Bosnian Muslims, those detained also included a Roma couple and Bosnian Serbs from the villages of Borogovo and Osmaci. The Trial Chamber was unable to determine why Bosnian Serbs from these villages were detained alongside non-Serbs. It was also

unable to determine the ratio of Bosnian Serbs to Bosnian Muslims detained, or whether Bosnian-Serb detainees were treated any differently to Bosnian-Muslim detainees.

3333. Under these circumstances, the Trial Chamber is not satisfied that incidents (c)(iv); (d)(ii); and (j)(ii) were carried out on political, racial, or religious grounds and will not consider these incidents further.

3334. For incident (e)(iii), the Trial Chamber recalls its findings in chapter 4.5.2 *Unscheduled detention incidents – Kalinovik police station* that two Bosnian Muslims were detained alongside several people of unknown ethnicity at Kalinovik Police Station. Although the Bosnian Muslims were the minority, the Trial Chamber found that one Bosnian Muslim was kept in solitary confinement for about ten days without medical aid despite his sustained injuries after a severe beating, and the other Bosnian Muslim was threatened with a knife put to his throat and a rifle to his temple, and was forced to curse ‘Alija’ and his daughter.

3335. In relation to incidents (a); (h)(i) and (ii); (i)(i) and (i)(ii), the Trial Chamber recalls its findings in chapters 4.1.2 *Schedule C.1.2*; 4.10.2 *Schedules C.15.2 and C.15.3*; and 4.11.2 *Schedules C.16.1 and C.16.3* that Bosnian Serbs, and detainees of other ethnicities, were detained with Bosnian Muslims in the same detention facility. In incident (a), a few Serbs and at least one Rom were detained, but the detainees were predominantly Bosnian Muslims and some were Bosnian Croats. In incident (h)(i), the detainees at Omarska camp were almost exclusively Bosnian Muslims and Bosnian Croats. The few Bosnian-Serb detainees were detained because they were said to be on the Bosnian-Muslim side. In incident (h)(ii), the male detainees at Keraterm camp were primarily Bosnian Muslims and Bosnian Croats, with a small number of Albanians, and at least one Bosnian Serb accused of not being a loyal Serb. In incident (i)(i), the detainees at Veljko Vlahović Secondary School were Bosnian Muslims, except for a Serb family and two Serb women married to Bosnian Muslims. In incident (i)(ii), the detainees at Rasadnik detention facility were Bosnian Muslims. There were also Serb soldiers held because of discipline violations. They were held separately at the facility. Given that those detained in these detention facilities were largely Bosnian Muslims or Bosnian Croats, the Trial Chamber considers the number of Albanians, Roma, and Bosnian Serbs insignificant in light of the very large number of Bosnian-Muslim and Bosnian-Croat detainees. It is also significant that the few Bosnian-Serbs in incidents (h)(i) and (ii) and (i)(i) were detained because of their connection to Bosnian Muslims

or for being disloyal, and the Serbs detained in incident (i)(ii) included soldiers detained for discipline violations and were held separately from the Bosnian-Muslim detainees. Moreover, ethnic slurs and insults were directed against Bosnian-Muslim and Bosnian-Croat detainees in all of these incidents.

3336. In relation to incident (c)(i), which concerns detainees at KP Dom Foča, the Trial Chamber recalls its findings in chapter 4.3.2 *Schedule C.6.1* that the detainees were mostly Bosnian Muslims, including Muslim soldiers. In light of its finding that the Muslim soldiers were held separately from the civilian detainees, there may have been legitimate military reasons for their detention. Therefore, the Trial Chamber is not convinced beyond reasonable doubt that the Muslim soldiers at KP Dom Foča were detained on political, racial, or religious grounds. The Trial Chamber also recalls that there were few Serb detainees at KP Dom Foča. In contrast to the Bosnian-Muslim detainees, the Trial Chamber has not received evidence that Serb detainees were also subject to ill-treatment or ethnic slurs. Serb detainees were also subject to due process, having committed military offences or having been convicted by courts of law prior to the conflict. In light of this, the Trial Chamber does not find that the few Serb detainees in incident (c)(i) were detained on political, racial, or religious grounds. The Trial Chamber will consider this incident in relation to the Bosnian-Muslim civilian detainees further below.

3337. In incident (d)(i), the detainees at Kula prison were mostly Bosnian Muslim with some Bosnian Croats, including Bosnian-Croat POWs. The Bosnian-Croat POWs were held separately from the other detainees and were considered POWs, so there may have been legitimate military reasons for their detention. Therefore, the Trial Chamber does not find that the Bosnian-Croat POWs were detained on political, racial, or religious grounds. Furthermore, in assessing whether this detention was carried out on political, racial or religious grounds, the Trial Chamber considered the number of detainees of unknown ethnicity. Having regard to the incident as a whole, the Trial Chamber found that number insignificant compared to the number of Bosnian-Muslim and Bosnian-Croat detainees. The Trial Chamber will consider the Bosnian-Muslim and Bosnian-Croat detainees, who were not POWs, below.

3338. In incident (i)(iii), the person detained at the Sladara factory was Mehmed Agić, the commander of the Muslim Rogatica TO during the war. The Trial Chamber has not received any evidence that other individuals were detained with him and considers that

there may have been legitimate military reasons for his detention. Therefore, the Trial Chamber does not find that this Bosnian-Muslim POW was detained on political, racial, or religious grounds.

3339. Similarly, in incidents (b) and (h)(iv), the detainees were predominantly Bosnian Muslims and Bosnian Croats. Also for incident (h)(iv), the detainees were forced to sing songs about Greater Serbia, and a detainee who said that his mother was a Serb was separated from the group. With respect to incidents (f)(ii) and (iii), the detainees at Sanica and Sitnica Schools were almost all Bosnian Muslims and Bosnian Croats. Having regard to these incidents as a whole, the Trial Chamber considers the number of detainees of unknown ethnicity insignificant compared to the very large number of Bosnian-Muslim and Bosnian-Croat detainees.

3340. With respect to incidents (c)(ii), (iii), (v), (vi) and (vii); (e)(i) and (ii); (f)(i); (g); (i)(iv) and (j)(i), these acts of deprivation of liberty were carried out against only Bosnian Muslims. With respect to incident (h)(iii), these acts of deprivation of liberty were carried out only against Bosnian Muslims and Bosnian Croats. In incident (e)(i); (f)(i); (g); (h)(iii); and (j)(i) ethnic slurs and insults were also directed against Bosnian-Muslim and Bosnian-Croat detainees.

3341. For the foregoing reasons, the Trial Chamber finds that all of the incidents listed in (a) to (j), insofar as they concern Bosnian-Muslim and Bosnian-Croat detainees, and except for incidents (c)(iv), (d)(ii), (j)(ii), as well as (c)(i), (d)(i), and (i)(iii) insofar as they refer to Muslim soldiers and Croat POWs respectively, were carried on political, racial, and religious grounds.

3342. In relation to whether these acts of detention had any legal basis, the Trial Chamber concludes that because these acts of detention were committed with discriminatory intent, these acts were arbitrary in nature. In light of the foregoing, the Trial Chamber finds that all of the incidents listed in (a) to (j) insofar as they concern Bosnian-Muslim and Bosnian-Croat detainees, and except for incidents (c)(iv), (d)(ii), (j)(ii), as well as (c)(i), (d)(i), and (i)(iii) as far as they refer to Muslim soldiers and Croat POWs respectively, constitute unlawful detention as an underlying act of persecution.

3343. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3344. *Status of victims.* For incidents (c)(vi) and (vii); (e)(i); (h)(iii) and (i)(i), the Trial Chamber finds, in light of the findings in chapters 4.3.2 *Schedules C.6.4, C.6.5; 4.5.2 Schedule C.9.1; 4.11.2 Schedule C.16.1*, that the detainees at Partizan Hall, Foča High School, Kalinovik Elementary School, Trnopolje camp and Veljko Vlahović Secondary School were civilians. For incident (a), the Trial Chamber finds, in light of the finding in chapter 4.1.2 *Schedule C.1.2* that the detainees were almost exclusively civilians. Regarding incidents (b) and (c)(i), the Trial Chamber finds, in light of the findings in chapters 4.2.2 *Schedule C.2.1* and 4.3.2 *Schedule C.6.1*, that at Batković camp, the detainees were mostly civilians and at KP Dom Foča, the non-Serb detainees were civilians apart from the small number of Muslim soldiers segregated from the other detainees.

3345. Turning to incident (e)(ii) detention at an ammunition warehouse in Jelašaćko Polje, the Trial Chamber recalls its finding in chapter 4.5.2 *Schedule C.9.2* that those detained at Kalinovik Elementary School were transferred to this warehouse. In relation to incident (c)(iii), the detainee at who was detained at the apartment of a Serb soldier in Foča had also been detained at Kalinovik Elementary School. Based on the Trial Chamber's findings above in respect of incident (e)(i), namely that those detained at Kalinovik Elementary School were civilians, the Trial Chamber finds that the only reasonable inference is that the detainees in incidents (c)(iii) and (e)(ii) were also civilians.

3346. For incident (e)(iii), the Trial Chamber recalls its finding in chapter 4.5.2 *Unscheduled Incidents – Kalinovik police station* that the two Bosnian-Muslim detainees were transferred to the Kalinovik Police Station from KP Dom Foča. It further recalls its finding that the detainees at KP Dom Foča were civilians. The Trial Chamber has further considered the evidence of the two detainees, Witnesses RM-012 and RM-063, who described their background and occupation. Based on the foregoing, the Trial Chamber finds that the two Bosnian-Muslim detainees in incident (e)(iii) were also civilians.

3347. The Trial Chamber will consider the status of the detainees in incidents (f)(ii) and (iii) together. The Trial Chamber recalls its finding in chapter 4.6.2 *Sanica school and Sitnica school* that those detained at Sitnica School were 200 to 250 civilians. Those civilians were earlier detained at Sanica School within a larger group of 400 detainees as described in incident f(iii). Therefore, the Trial Chamber finds that, in light



of the finding in chapter 4.6.2 *Sanica school and Sitnica school*, that all the detainees in incident (f)(iii) were civilian, and that at least 200 to 250 of the 400 detainees in incident (f)(ii) were civilian.

3348. With respect to incident (h)(i), which concerns Omarska camp detainees, the Trial Chamber recalls its findings in chapter 4.10.2 *Schedule C.15.2* that the detainees at the camp were divided into three categories: intellectuals and political leaders from the Bosnian-Muslim and Bosnian-Croat communities; people who associated themselves with those from the first category; and detainees who were, in the view of the Bosnian-Serb authorities, the least 'guilty'. The Trial Chamber also recalls that detainees included elderly people, women, children, mentally impaired people and people who were sick, as well as a number of prominent members of the Bosnian-Muslim and Bosnian-Croat local communities. The Trial Chamber considers these findings to indicate that the Omarska camp detainees were civilian. It also recalls its finding that Omarska camp detainees were transferred to Manjača camp and Trnopolje camp. Considering that the detainees at Manjača camp were almost exclusively civilians, and that detainees at Trnopolje camp were also civilians, the Trial Chamber finds that the only reasonable inference is that the detainees at Omarska camp were almost exclusively civilians.

3349. Regarding incident (h)(ii), the Trial Chamber recalls its finding in chapter 4.10.2 *Schedule C.15.3* that male and female detainees at Keraterm camp included civilians. Furthermore, detainees were arrested from their homes and in the street. Witness RM-008 described the detainees who were arrested with him as civilians, who had not been involved in any fighting. The Trial Chamber also found that all detainees at Keraterm camp were eventually transferred to Omarska or Trnopolje camps. In this regard, the Trial Chamber recalls its finding above that detainees at Omarska camp were almost exclusively civilians and that detainees at Trnopolje camp were civilians. Based on the foregoing, the Trial Chamber finds that the only reasonable inference is that the detainees at Keraterm camp were also almost exclusively civilians.

3350. For incident (i)(ii), the Trial Chamber recalls its finding in chapter 4.11.2 *Schedule C.16.3* that Rasadnik detention facility held detainees of all ages and genders and its finding in chapter 4.11.2 *Schedule C.16.1* that some of the several hundred detainees at Veljko Vlahović Secondary School were transferred to Rasadnik detention facility. Based on the foregoing, and the Trial Chamber's finding in respect of incident

(i)(i) that the several hundred detainees at Veljko Vlahović Secondary School were civilians, the Trial Chamber finds that the only reasonable inference is that the detainees at Rasadnik detention facility were also civilians.

3351. For incident (i)(iv), the Trial Chamber recalls its finding in chapter 4.11.2 *Unscheduled incidents* that the detainees at the Rogatica military reception centre included an imam and former president of the Žepa War Presidency, an electrical engineer and former president of the municipal executive committee, and a forestry engineer and former commander of civilian protection staff. The Trial Chamber notes that the detainees were referred to as ‘POWs’ on VRS correspondence. However, considering the evidence on the occupation of some of the detainees and the evidence reviewed in chapter 4.11.7 on the agreement concerning the separation, registration, and accommodation in a holding centre under the control of the VRS of the able-bodied population of Žepa at the end of July 1995, the Trial Chamber finds that the only reasonable inference is that detainees at the Rogatica military reception centre were civilians or placed *hors de combat*.

3352. With respect to incident (j)(i), the Trial Chamber recalls its findings in chapter 4.14.2, *Schedule C.19.3* that detainees of both genders and all ages, including civilians, were detained at Sušica camp. In particular, approximately half of the detainees in June and July 1992 were women. Witnesses Mane Đurić and Milenko Stanić also described the detainees as civilians. Furthermore, the Trial Chamber found that many of the detainees at Sušica camp were transferred to Batković camp, which the Trial Chamber found above to have detained mostly civilians. Based on the foregoing, the Trial Chamber finds that the only reasonable inference is that the 2,000 to 2,500 Bosnian Muslims detained at Sušica camp were mostly civilians.

3353. Turning to incident (d)(i), the Trial Chamber recalls its finding in chapter 4.4.2 *Schedule C.8.1* that Kula prison held Bosnian-Muslim civilians and, in light of that finding, finds that the Bosnian-Muslim detainees were civilians. As discussed above in relation to discriminatory intent, from 22 or 23 June 1993 until October 1994, there were also some Bosnian Croats at the prison and Croat POWs who were held separately from the other detainees. The Trial Chamber was unable to determine whether the Bosnian Croats detained at Kula prison, apart from the Croat POWs that were held separately, were also civilians or combatants who were not held separately from the Bosnian-Muslim civilians. Under these circumstances, the Trial Chamber does not find

that the Bosnian-Croat detainees were civilians and will therefore not consider this incident further insofar as it concerns any of the Bosnian-Croat detainees.

3354. The Trial Chamber will consider the status of the detainees in incidents (c)(ii) and (v) together. For incident (c)(ii), which concerns detention at ‘Karaman’s house’, the Trial Chamber recalls that the detainees were women and girls. Regarding incident (c)(v), which concerns detention at the Worker’s Huts at Buk Bijela, the detainees were women. One of the detainees in incidents (c)(ii) and (c)(v) was also detained at Partizan Hall, which held civilians. Another detainee in incident (c)(ii) was also detained at Kalinovik Elementary School, which held civilians. Based on the foregoing, the Trial Chamber finds that the only reasonable inference is that the detainees in incidents (c)(ii) and (c)(v) were civilians.

3355. In relation to incident (g), the Trial Chamber recalls its finding in chapter 4.7.2 *Unscheduled incidents* that the captured group at the Grabovica School consisted of around 50 women and a number of children, as well as a number of men, some of whom were armed. The Trial Chamber finds that the women and children were civilians. Further, considering that the group were caught during the night while attempting to escape Večići towards Travnik, after the population of Večići had surrendered to the Serb forces, the Trial Chamber considers that the men within the group were also civilians.

3356. The Trial Chamber also recalls its findings in chapter 4.6.2 *Schedule C.10.3* that the detainees at Velagići Elementary School were between the ages of 18 and 60 years from the villages of Vojići, Nežići, Hačići, Častovići, and Hadžići. They were directed to leave their villages and gather at the checkpoint where they were detained. Approximately 30 of these detainees approached the checkpoint with a white sheet on a stick. In light of these circumstances, the Trial Chamber finds that the detainees were civilians.

3357. Regarding incident (h)(iv), the Trial Chamber recalls its findings in chapter 4.10.2 *Schedule C.15.5* that when the detainees were captured, they were unarmed and hiding in the forest after mistakenly entering a Serb village. Considering this, the Trial Chamber finds that the detainees were civilians.

3358. In conclusion, the Trial Chamber finds that in relation to incidents (c)(ii), (iii), (v), (vi), and (vii); (e)(i), (ii) and (iii); (f)(i) and (iii); (g); (h)(iii) and (iv); (i)(i), (ii), the

detainees were civilians. For incidents (a); (h)(i) and (ii), the detainees were almost exclusively civilians. Regarding incidents (d)(i) apart from the Bosnian-Croat detainees, the detainees were civilians. For incidents (b), (j)(i) and (ii), the detainees were mostly civilians. For incident (c)(i), the non-Serb detainees were civilians apart from the Muslim soldiers. For incident (f)(ii), at least 200 to 250 of the 400 detainees were civilian. For incident (i)(iv), the detainees were composed of civilians and or placed *hors de combat*.

3359. *Conclusion.* In conclusion, the Trial Chamber finds that the incidents listed in (a) to (j) insofar as they concern detained Bosnian-Muslim and Bosnian-Croat civilians, and with the exception of incidents (c)(iv), (d)(ii), (i)(iii) and (j)(ii), constitute unlawful detention as an underlying act of persecution as a crime against humanity.

*(e) Forced labour and the use of human shields*

*Forced labour*

3360. In chapters 4.1.5, 4.2.5, 4.3.5, 4.4.5, 4.10.5, 4.11.5, 4.12.5 and 4.14.5, the Trial Chamber decided to further consider the following incidents of alleged forced labour to the extent that they concern Bosnian Croats and Bosnian Muslims:

(a) in Banja Luka Municipality, between June and December 1992, guards at Manjača camp, VRS and SJB members, used detainees from Manjača camp to work on the front lines, dig trenches, work on a Serbian Orthodox church and a hydroelectric power plant and carry out agricultural work, as further set out in chapter 4.1.5;

(b) in Bijeljina Municipality, between July 1992 and 30 November 1995, guards at Batković camp, VRS members, used detainees from Batković camp to perform manual labour, including digging trenches on the front lines, as well as cutting trees, working in factories and in households, and performing agricultural and mechanical repair work, as further set out in chapter 4.2.5;

(c) in Foča Municipality and as further set out in chapter 4.3.5: (i) between 12 May 1992 and early July 1993, Milorad Krnojelac used detainees from KP Dom Foča to dig trenches and perform agricultural, construction, and factory work; at that time, KP Dom Foča was guarded by MoJ employees and VRS members; (ii) from December 1993 to March 1994, Savo Todović, head of workers at KP Dom, used 16 detainees from KP

Dom Foča to work at Miljevina mine and perform agricultural work; (iii) between 2 or 3 August and 30 October 1992, Radovan Stanković used detainees at Karaman's house in Miljevina to perform household chores for soldiers, in particular to wash uniforms and cook for them;

(d) in Ilidža Municipality and as further set out in chapter 4.4.5: (i) guards, who were under the jurisdiction of the Serb MUP until the beginning of August 1992, and after that under the jurisdiction of the MoJ used detainees from Kula prison, most of whom were Bosnian-Muslim civilians and some were Bosnian Croats, to perform manual labour such as digging trenches and graves and, on one occasion on 31 December 1993, MoJ employees used the detainees to perform labour at a worksite in the immediate vicinity of enemy trenches; (ii) between 23 June and 21 July 1992, members of the MUP used a Bosnian-Muslim detainee from Kula prison to carry material for barricades while being shot at; (iii) between 3 July 1993 and 20 August 1993, MoJ employees used Bosnian-Muslim and/or Bosnian-Croat detainees from Kula prison to work on a farm to move property in Dobrinj; (iv) between 13 August and 23 October 1992, MUP police officers used a Bosnian-Muslim detainee from the Ilidža Police Station to clean cars, kitchens, toilets, and move ammunition, as well as move property from apartments and storehouses in Ilidža together with Serb policemen; (v) sometime between 20 and 25 August 1992, MUP police officers used a Bosnian-Muslim detainee from the Ilidža Police Station to load pipes and radiators from a Serb house;

(e) in Prijedor Municipality and as further set out in chapter 4.10.5: (i) in July 1992, members of the VRS ordered Bosnian Muslims including Bosnian-Muslim and Bosnian-Croat detainees from the Ljubija stadium, to collect approximately 300 to 400 human corpses in Prijedor Municipality and load them onto buses and military trucks; (ii) between 25 May and late August 1992, guards made detainees at Omarska camp load and unload corpses onto and from trucks, as well as clean the white and red houses after detainees were beaten there; (iii) from mid-July 1992, guards selected Bosnian-Muslim and Bosnian-Croat detainees at Trnopolje camp, including women and children, to perform labour, including the burial of corpses in the area surrounding the camp; (iv) around 10 August 1992, guards ordered some detainees at Trnopolje Camp to remove wire from the fencing around the camp; (v) on or around 25 July 1992, guards made detainees in Keraterm camp load and unload corpses onto a truck, clean Room 3 and the

surrounding area where detainees were murdered, as well as wash the truck in which the corpses were being transported.

(f) in Rogatica Municipality and as further set out in chapter 4.11.5: (i) between 9 or 10 June and the end of October 1992, detainees from Veljko Vlahović Secondary School were used to perform several types of manual labour, including digging trenches, carrying ammunition and arranging sandbags for machine-gun nests, burying corpses and cleaning streets and apartments; at that time, local Serbs under Rajko Kušić, who was Commander of the VRS Rogatica Brigade, civilian police, Serb TO, and paramilitary unit members guarded the camp (ii) between July and October 1992, Rajko Kušić, Commander of the VRS Rogatica Brigade, used four to five Muslim detainees from Veljko Vlahović Secondary School to extract dead and wounded soldiers; (iii) between the beginning of August 1992 and mid-September 1992, the use of detainees from Rasadnik camp to clean apartments and move furniture; (iv) in the first two weeks of August 1992, Radisav Ljubinac, a member of the VRS Rogatica Brigade, used detainees from Rasadnik detention facility to clean up shelling debris on a daily basis; (v) on 15 August 1992, Radisav Ljubinac, Sinan Čatić, and a Serb called 'Macola', who was a member of a paramilitary unit belonging to Arkan's men, used detainees from Rasadnik detention facility to unload a lorry at the Sladara Factory; (vi) on 21 March 1993, the guards from Rasadnik detention facility, members of the VRS, used detainees from the facility to dig trenches in Trnovo; (vii) between 9 and 11 July 1993, the warden at Rasadnik detention facility, Vinko Bojić, warden of Rasadnik camp at the time and member of the VRS Rogatica Brigade, used twelve detainees from Rasadnik detention facility, including one captured combatant, to recover the bodies of 17 Serb soldiers in a mined area in Starčići; (viii) between 1 and 17 April 1994, Vinko Bojić, warden of Rasadnik camp at the time and member of the VRS Rogatica Brigade, used more than 100 Bosnian-Muslim detainees from Rasadnik detention facility to carry food and ammunition up Trovrh Hill; (ix) between 17 and 27 April 1994, Vinko Bojić, warden of Rasadnik camp at the time and member of the VRS Rogatica Brigade used 10-15 detainees from Rasadnik detention facility to work in the forest at Gnila Hill;

(g) in Vlasenica Municipality, from at least mid-June until the end of September 1992, Vojislav Nikolić, Veljko Bašić, Milanko Sargić, and Radenko Stanić used detainees from Sušica camp to perform several types of labour including the burial of men killed in Drum, digging of trenches and carrying munitions at the front lines, and from the

second half of July onwards, to work on various projects on a daily basis, as further set out in chapter 4.14.5;

(h) in Sanski Most Municipality, from early September 1993 until at least October 1994, Boro Tadić, Commander of the 1st Battalion of the 6th Krajina Brigade, selected Bosnian Muslims from Sanski Most to perform different types of manual labour for the VRS, including digging trenches, carrying and delivering food and water, and chopping wood at the front lines, as further set out in chapter 4.12.5.

3361. The Trial Chamber will now proceed to consider the aforementioned alleged incidents of forced labour pursuant to the applicable law.

3362. *Forcible nature of labour.* Concerning incident (e)(i), the Trial Chamber recalls its finding in chapter 4.10.5 that the VRS ordered the work to be performed and that the work involved collecting approximately 300 to 400 human corpses. Therefore, the Trial Chamber finds that the work was performed in circumstances objectively so coercive so as to negate any possibility of consent.

3363. Concerning incident (h), the Trial Chamber recalls its finding in chapter 4.12.5 that the VRS selected Bosnian Muslims to perform different types of manual labour for the VRS, including digging trenches, carrying and delivering food and water, and chopping wood at the front lines. Therefore, the Trial Chamber finds that the work was performed in circumstances objectively so coercive so as to negate any possibility of consent.

3364. In relation to the remaining incidents, labour was performed by detainees during their detention in the following detention facilities: Manjača camp, Batković camp, KP Dom Foča, Karaman's house, Kula Prison, Ilidža Police Station, Keraterm camp, Omarska camp, Trnopolje camp, Veljko Vlahović Secondary School, Rasadnik detention facility, and Sušica camp. Relevantly, in chapter 8.9.2(b), the Trial Chamber found that detainees in these detention facilities were subject to treatment, such as beatings, physical and psychological abuse, as well as inhumane living conditions, that caused serious mental and physical suffering and injury. Based on the foregoing, the Trial Chamber finds that work was performed in circumstances objectively so coercive so as to negate any possibility of consent.

3365. Therefore, the Trial Chamber finds that labour was forced in all of the incidents listed in (a) to (h).

3366. *Protective conditions.* The Trial Chamber reiterates, as discussed above, that detainees performing the forced labour referred to in incidents (a) to (d), and (e)(ii) to (g), were subject to treatment that caused serious mental and physical suffering and injury. In incident (e)(i), the victims forced to perform labour were required to collect 300 to 400 human corpses, sometimes by hand. Under these circumstances, the Trial Chamber finds that the labour involved in each of these incidents was performed without the protective conditions discussed in the applicable law. Therefore, the Trial Chamber finds that regardless of the form of forced labour performed by the victims, the forced labour was prohibited.

3367. In any event, in relation to incidents (a), (b), (d)(i) with respect to the 31 December 1993 incident, (g), and (h) the Trial Chamber recalls its finding that detainees, and in the case of incident (h) Bosnian Muslims, performed labour at the front lines. Based on the applicable law discussed in chapter 8.9.1(e), labour at front lines cannot fall within any lawful exceptions to the prohibition of forced labour.

3368. *Mens rea.* Based on the character of the forced labour, including the circumstances discussed above, the Trial Chamber finds that the perpetrators intended to force the victims to perform prohibited labour.

3369. *Discrimination.* In relation to incidents (a) to (d)(iii); (e)(ii) to (g), which concerned forced labour in and around Manjača camp, Batković camp, KP Dom Foča, Karaman's house, Kula Prison, Keraterm camp, Omarska camp, Trnopolje camp, Veljko Vlahović Secondary School, Rasadnik detention facility, and Sušica camp, the perpetrators of the forced labour were also amongst the perpetrators of unlawful detention and/or cruel treatment in these detention facilities. It is relevant that the Trial Chamber found in chapters 8.9.2(b) and (d) that the perpetrators of the unlawful detention and cruel and/or inhumane treatment in these detention facilities acted on political, racial or religious grounds. Further, in relation to incident (f)(iii), on the same day that detainees from Rasadnik detention facility performed labour, Radisav Ljubinac, Sinan Čatić, and a Serb called 'Macola' told those detainees to declare their loyalty to the Serb state. With respect to incidents (f)(vii), when detainees were forced to recover bodies in Starčići, the warden at Rasadnik detention facility, Vinko Bojić, taunted the detainees by calling their mothers 'Baliža'. In addition, across all incidents, those forced to perform labour were predominantly Bosnian-Muslim and Bosnian-Croat. The Trial



Chamber finds that this factor, in and of itself, evidences that labour was forced on political, racial, or religious grounds.

3370. In relation to incident (h), the Trial Chamber recalls its finding in chapter 4.12.5 that Bosnian Muslims were selected by the VRS to perform manual labour for the VRS, including at the front lines. Under these circumstances, the Trial Chamber finds that labour was forced on political, racial, or religious grounds.

3371. For the foregoing reasons, the Trial Chamber finds that the perpetrators of all of the incidents listed in (a) to (h) forced labour on political, racial, or religious grounds.

3372. *Gravity of forced labour.* In relation to this issue, the Trial Chamber considers that each of the alleged incidents of forced labour, apart from incidents (d)(iv) and (v); and (e)(i) were either at front lines or at a detention facility carried out in conjunction with a series of acts comprising unlawful detention and beatings. Therefore, the Trial Chamber finds that these incidents amount to acts of the same gravity as other crimes listed under Article 5 of the Statute.

3373. Incidents (d)(iv) and (v) involved a detainee that had been kept in a windowless cell which was of such a size that conditions were crowded given the number of detainees. In chapter 8.9.2(b), the Trial Chamber considered this treatment to have caused serious mental and physical suffering and injury. In light of these circumstances, the Trial Chamber finds that these incidents amount to acts of the same gravity as other crimes listed under Article 5 of the Statute.

3374. In incident (e)(i), Bosnian Muslims, including detainees at the Ljubija stadium, collected and loaded human corpses in Prijedor Municipality in July 1992. While the labour was not performed in conjunction with unlawful detention or beatings, the Trial Chamber recalls its findings in chapter 4.10.1 *Schedules A.6.5 and A.6.8* that detainees from the Ljubija stadium, and Bosnian Muslims and Bosnian Croats in Prijedor Municipality were killed in July 1992. The victims of the forced labour were required to collect and load the corpses of those killed in these incidents, sometimes by hand. Under these circumstances, the Trial Chamber finds that this incident amounts to an act of the same gravity as other crimes listed under Article 5 of the Statute.

3375. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3376. *Status of victims.* For incidents (d)(iv) and (v), the Trial Chamber recalls its finding in chapter 4.4.5 that the Bosnian-Muslim detainee that was forced to perform labour at Ilidža Police Station had been previously detained at Kula prison. In light of the Trial Chamber's finding in chapter 8.9.2(d) that the Bosnian-Muslim detainees at Kula prison were civilians, the Trial Chamber finds that the Bosnian-Muslim detainee in incidents (d)(iv) and (v) was also a civilian.

3377. Regarding incident (e)(i), the Trial Chamber considered the circumstances in which labour was forced, including those some of the victims of the forced labour were detained, and that the victims were forced to perform labour following the killing of civilians in Scheduled Incidents A.6.5 and A.6.8, as further set out in chapter 8.3.2. Given that some victims were detained, and the proximity Scheduled Incidents A.6.5 and A.6.8 involving the killing of civilians, the Trial Chamber finds that for incident (e)(i), the victims forced to perform labour were either civilians, or placed *hors de combat* and were not taking an active part in hostilities at the time that labour was performed.

3378. Regarding incident (h), the Trial Chamber recalls its finding in chapter 4.12.5 that Boro Tadić selected Bosnian Muslims considered to be 'fit for various jobs'. Based on the foregoing and considering that some the manual labour performed by these Bosnian Muslims included labour at the front lines, the Trial Chamber finds that the only reasonable inference is that the victims forced to perform labour were either civilians or placed *hors de combat* and were not taking an active part in hostilities at the time that labour was performed.

3379. For the remaining incidents, noting that the victims of forced labour were also the victims of unlawful detention, the Trial Chamber recalls its finding in chapter 8.9.2(d) that at Manjača camp, Keraterm camp, and Omarska camp, detainees were almost exclusively civilians. At Batković camp, they were mostly civilians. At KP Dom Foča, the detainees were civilians apart from the Muslim soldiers. At Karaman's house, Trnopolje camp, Veljko Vlahović Secondary School and Rasadnik detention facility, detainees were civilians. At Kula prison, apart from the Bosnian-Croat detainees, the detainees were predominantly civilians. At Sušica camp, the detainees included civilians. The Trial Chamber also recalls that in chapter 8.9.2(b), it found that those detainees found not to be civilians in 8.9.2(d) were placed *hors de combat* as a result of their detention. Accordingly, the victims of the incidents listed in (a) to (h) were either

civilians or placed *hors de combat* and not taking an active part in hostilities at the time that labour was performed.

3380. In conclusion, the Trial Chamber finds that all of the incidents listed in (a) to (h) above, insofar as they concern Bosnian Muslims and Bosnian Croats, constitute forced labour as an underlying act of persecution as a crime against humanity.

#### *Human shields*

3381. In chapters 4.5.5 and 4.11.5, the Trial Chamber decided to further consider the following incidents of alleged human shields to the extent that they concern Bosnian Croats and Bosnian Muslims:

(a) in Kalinovik Municipality, sometime between 18 September 1992 and 24 March 1993, Boško Govedarica, the Chief of Police at Kalinovik SJB, and the police commander, Neđelko Zeljaja, or their subordinates, used a Bosnian-Muslim detainee, and another detainee of unknown ethnicity, from Kalinovik Police Station to drive a number of times in front of other cars in order to detect mines, as further set out in chapter 4.5.5;

(b) in Rogatica Municipality, on 15 August 1992, Dragoje Paunović, the Commander of the Kozići unit of the VRS Rogatica Brigade, forced at least 24 Muslim males brought from Rasadnik detention facility, to walk two-by-two down an alley at the front line in Duljevac, as further set out in chapter 4.11.5.

3382. For incident (a), detainees were brought to a mined area and forced to drive in front of other cars. The Trial Chamber considers the area where these mines were located amounted to a combat operation that the detainees were exposed to for the purpose of detecting mines. The Trial Chamber considers the laying of mines, under these circumstances, to constitute a military operation or armed attack. Based on the foregoing, the only reasonable inference for moving the detainees in this manner was to render the area, and/or the activities of those in the cars, or future Bosnian-Serb soldiers going through that area, immune from this military operation or armed attack.

3383. For incident (b), at least two detainees were wounded, Serb soldiers were present and that the Trial Chamber found that these detainees were used 'as a human shield'. Based on the foregoing, the Trial Chamber finds that the detainees were placed in an

area where they were exposed to combat operations. The Trial Chamber finds that the only reasonable inference for moving these detainees to the front line was to render the area and/or the activities of the Bosnian-Serb soldiers present immune from military operations or armed attack.

3384. *Discrimination.* These incidents took place in connection with unlawful detentions at Kalinovik Police Station and Rasadnik detention facility. Based on its findings in chapter 8.9.2(d) that the associated unlawful detentions were discriminatory, and that the victims of these incidents were almost exclusively Bosnian-Muslim, the Trial Chamber finds that the incident was carried out on political, racial, or religious grounds.

3385. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3386. *Status of victims.* The Trial Chamber recalls its finding in 8.9.2(d) that Witness RM-012, who was the Bosnian-Muslim victim in incident (a), was a civilian. It further recalls its finding that detainees at Rasadnik detention facility, who were used as human shields in incident (b), were also civilians.

3387. In conclusion, the Trial Chamber finds that the above incidents constitute the use of human shields as an underlying act of persecution as a crime against humanity.

*(f) Appropriation or plunder of property*

3388. In chapters 4.2.4, 4.5.4, 4.6.4, 4.7.4, 4.10.4, 4.11.4, 4.12.4 , and 4.14.4 the Trial Chamber decided to further consider the following incidents of alleged appropriation or plunder of property against the applicable law:

(a) in Bijeljina Municipality and as further set out in chapter 4.2.4: (i) from the beginning of 1992 until the beginning of 1993, many Bosnian Muslims and Bosnian Croats who left the municipality through a private agency called 'Europa', staffed by MUP personnel, were required to sign statements leaving all of their property to the agency; (ii) from 1992 onwards, Vojkan Đurković of the Bijeljina SDS, aided by Mauzer's men, who joined the IBK on 3 June 1992, extorted property from Bosnian Muslims and stripped them of their valuables before they were forced out of the municipality; and (iii) after the Bosnian Muslims were forced out of the municipality,

Vojkan Đurković of the Bijeljina SDS, aided by Mauzer's men, who joined the IBK on 3 June 1992, looted the Bosnian-Muslim houses;

(b) in Kalinovik Municipality and as further set out in chapter 4.5.4 Kalinovik: (i) on 5 August 1992, Serb soldiers, headed by Pero Elez, who had his own sub-unit under Marko Kovač, Commander of the Foča Tactical Group, took valuables away from around 25 Bosnian-Muslim detainees at the ammunition warehouse in Jelašačko Polje; and (ii) in July or August 1992, Čosa's men, Pero Elez's men, Zoran and Nedžo Samardžić, and Dragan Kunarac's men, all of whom headed, or were members of, sub-units under Marko Kovač, Commander of the Foča Tactical Group, took valuables away from Bosnian-Muslim detainees at the Kalinovik elementary school;

(c) in Ključ Municipality and as further set out in chapter 4.6.4: (i) on 1 June 1992, a military police platoon and members of the intervention platoon with the engineering unit took away items, including valuables and money, from approximately 100 Bosnian-Muslims civilians at the Velagići checkpoint; (ii) in late May 1992, Bosnian-Serb soldiers and soldiers from Serbia looted houses belonging to Bosnian Muslims in Ključ Town and took away money, a VCR, and a TV; (iii) in mid-1992, Bosnian-Serb forces looted valuables, including electronic devices, vehicles, furniture, money and jewellery from the inhabitants of the predominantly Bosnian-Muslim or Bosnian-Croat villages of Pudin Han, Prhovo and Crljeni during attacks on these villages. This attack on Pudin Han was perpetrated by a VRS battalion and other units between 28 and 31 May 1992;

(d) in Kotor Varoš Municipality and as further set out in chapter 4.7.4: (i) in June and July 1992, a special unit from CSB Banja Luka, led by VRS Captain Slobodan Dubočanin, took furniture, televisions, videocassette recorders, and gold from the houses of Bosnian Muslims and Bosnian Croats in towns and villages in Kotor Varoš Municipality; and (ii) on 3 November 1992, VRS members confiscated money and valuables from Bosnian-Muslim detainees in a field near Grabovica;

(e) in Prijedor Municipality and as further set out in chapter 4.10.4: (i) in mid-1992, VRS members, paramilitaries and police looted houses belonging to Bosnian-Muslim inhabitants of Biščani, Kozaruša, Kamičani, Kevljani, Rakovčani, Čarakovo, and Rizvanovići villages and took items including tractors, cars, cattle, farming equipment, and household goods; (ii) Serb soldiers looted property including valuables, cars, and tractors, from Bosnian-Muslim inhabitants of Hambarine, after the village was attacked on 21 May 1992; (iii) on 9 June 1992, four armed men wearing JNA uniforms looted

goods from a café in Hambarine that was owned by a Bosnian Muslim; (iv) Serb soldiers looted houses belonging to Bosnian-Muslim inhabitants of Kozarac Town some time after the town was attacked at the end of May 1992 (*see* chapter 4.10.3); (v) sometime between the end of May and August 1992, Slavko Puhalić, who was a member of the VRS 43rd Motorized Brigade took a Bosnian-Muslim man's car in Prijedor Municipality, along with three trucks that belonged to the man's father and brother; (vi) property was looted from the Bosnian-Croat inhabitants of Briševo on three different occasions: soldiers, acting jointly with police and paramilitaries, looted houses on 27 May 1992, 'Chetnik' groups and regular soldiers looted property including cars, agricultural equipment, and electronic equipment during an attack on the village on 25 July 1992, and 'Chetnik' groups led by Draško Topić looted the village daily between 25 July and November 1992; (vii) on 30 May 1992, the 5th Kozarac Brigade, the 43rd Motorized Brigade, some members of the 6th Krajina Brigade and other units, as specified in chapter 4.10.3, took goods from apartments owned by Bosnian Muslims in Prijedor Town; (viii) some time between 21 and 24 July 1992, small groups of soldiers repeatedly took household appliances and valuables from the Bosnian-Muslim and Bosnian-Croat inhabitants of Čemernica; (ix) the VRS, acting jointly with the police and paramilitary forces, collected money and jewellery from Bosnian-Muslim women and took valuables from Bosnian-Muslim and Bosnian-Croat houses in Ljubija over the course of several days after the attack on the village in July 1992; (x) a law passed by the Crisis Staff required Bosnian-Muslim and Bosnian-Croat villagers to sign over their property to either the ARK or the Bosnian-Serb Republic when they were forced to leave Prijedor Municipality; (xi) between May and August 1992, Serb guards and the police forced Bosnian-Muslim and Bosnian-Croat detainees at Omarska camp to hand over valuables and money; (xii) on 14 June 1992, Serb soldiers under the command of Draze Mitrović forced a group of 43 Bosnian-Muslim and Bosnian-Croat men who had been arrested to hand over money and valuables before being transferred to Keraterm camp; (xiii) Duško Sikirica, the camp commander at Keraterm camp, took jewellery and valuables from two Bosnian-Muslim women and a number of Bosnian-Muslim and Bosnian-Croat men upon their arrival at Keraterm camp on 14 July 1992; (xiv) on 26 May 1992, camp guards from Kuruzović's unit took valuables, money, and personal effects from Bosnian-Muslim and Bosnian-Croat detainees at Trnopolje camp; (xv) on 20 July 1992, camp guards, members of the TO and VRS, forced newly arrived Bosnian-Muslim and Bosnian-Croat detainees at Trnopolje camp to hand over their

valuables; (xvi) on several occasions between late May and September 1992, camp guards, members of the police, TO, and the VRS allowed Bosnian-Muslim and Bosnian-Croat detainees from Trnopolje and Omarska camps to leave the municipality in bus convoys on the condition that they handed over their money and valuables or signed a form stating that they voluntarily transferred all of their real and personal property to the Serb authorities or the Serbs; and (xvii) during the same time period, while being bussed from Trnopolje and Omarska camps, Bosnian-Muslim and Bosnian-Croat detainees were forced to hand over money and valuables to the guards at both camps, to Serb soldiers including soldiers from the Special Task Force, to a man wearing a police uniform, and to the military police;

(f) in Rogatica Municipality and as further set out in chapter 4.11.4: (i) from 19 July 1992 onwards, Radisav Ljubinac, called 'Pjano', who was a member of the VRS Rogatica Brigade, and a Serb from Zagreb nicknamed 'Macola', who was a member of a paramilitary unit belonging to Arkan's men, took jewellery from detainees, who were all Bosnian Muslims, with the exception of a Serb family and two Serb women married to Bosnian-Muslim men, at Veljko Vlahović School; (ii) on 15 August 1992, 'Macola', in the presence of Radisav Ljubinac, took money, valuables, and other items from Bosnian-Muslim detainees from Rasadnik camp who had been gathered into a room at the post office in Gračanica; and (iii) between August and September 1992, guards at Rasadnik camp, members of the SJB and the VRS, forced detainees to take objects, including furniture, from Bosnian-Muslim houses in Rogatica, load them onto lorries, and offload them in Serb houses and flats;

(g) in Sanski Most Municipality and as further set out in chapter 4.12.4 Sanski Most: (i) on 31 May 1992, Bosnian-Serb forces looted houses belonging to the Bosnian-Muslim inhabitants of Begići Village; (ii) on the same day, about 100 Serb soldiers in olive grey-green uniforms and camouflage uniforms with red scarves and black armbands made 120 Bosnian-Muslim villagers they had taken to Kljevci hand over their jewellery and other valuables; and (iii) in May and June 1992, local police and the Sanski Most SOS looted property belonging to the Bosnian-Muslim inhabitants of the Mahala neighbourhood, some of which was carried out under the command of non-commissioned officer Dobrivoje Ribić of the first company of the 1st Battalion;

(h) in Vlasenica Municipality and as further set out in chapter 4.14.4: (i) on, or shortly after 17 May 1992, the Vlasenica municipal authorities forced a group of Bosnian-

Muslim women from Zaklopač to sign over their houses and properties to Serbs; (ii) in June 1992, members of Kraljević's unit (*see* chapter 4.15.2 Schedule A.9.1) took televisions and other property from Bosnian-Muslim residences in Vlasenica Town, and one member of the unit claimed and moved into a Bosnian-Muslim house; and (iii) in early June 1992, at Sušica camp, possessions were taken from Bosnian-Muslim detainees following an order from Dragan Nikolić, and Sušica camp guards, members of the VRS and MUP stripped more than 800 Bosnian-Muslim women of their valuables.

3389. The Trial Chamber will now proceed to consider the aforementioned alleged incidents of appropriation or plunder of property against the applicable law.

3390. *Acts of appropriation of private or public property.* With respect to events occurring in Bijeljina Municipality, the Trial Chamber recalls its finding that those leaving the municipality through the Europa agency had no choice but to leave,<sup>13292</sup> as well as the fact that the agency required many people who left the municipality in this manner to sign statements leaving all of their property to it, as described in incident (a)(i). The Trial Chamber finds that this constituted appropriation of private property.

3391. With respect to incident (e)(x), the Trial Chamber recalls its finding that those leaving Prijedor Municipality had no choice but to leave<sup>13293</sup> and that the Crisis Staff required them to sign statements leaving all their property to the ARK or the Bosnian-Serb Republic when they left the municipality. The Trial Chamber finds that this constituted appropriation of private property. While the Trial Chamber received evidence in relation to this incident that real property certificates were issued at first to justify the confiscations, this practice then ceased. The Trial Chamber therefore finds that this evidence does not impact its finding that appropriation of private property occurred.

3392. With regard to incident (e)(xvi), the Trial Chamber recalls that some of the Trnopolje and Omarska camp detainees were allowed to leave on condition that they handed over their money and valuables or signed a form stating that they voluntarily transferred all of their real and personal property to the Serb authorities or the Serbs. The Trial Chamber recalls its findings on unlawful detention and cruel and inhumane treatment at Trnopolje and Omarska camps,<sup>13294</sup> and considers that, given the factual

<sup>13292</sup> *See* chapter 8.5.2.

<sup>13293</sup> *See* chapter 8.5.2.

<sup>13294</sup> *See* chapters 4.10.2 Schedules C.15.2 and C.15.4 and 8.9.2(d).



circumstances in which these incidents occurred, the detainees had no choice other than to surrender their property. Therefore, the Trial Chamber finds that the acts described in incident (e)(xvi) constituted appropriation of private property.

3393. With regard to incident (f)(iii), the Trial Chamber recalls that Rasadnik camp guards, who were members of the SJB and VRS between June and October 1992 (*see* chapter 4.11.2 *Schedule C.16.3*), forced detainees to take property, including furniture, from Bosnian-Muslim homes in Rogatica and move it to Bosnian-Serb residences. The Trial Chamber finds that the acts described in incident (f)(iii) constituted appropriation of private property by the Rasadnik camp guards.

3394. With respect to the remaining incidents, the Trial Chamber is satisfied that, having considered the factual circumstances of each incident, acts of appropriation of private property were committed.

3395. *Unlawfulness.* The Trial Chamber recalls that in certain circumstances appropriation of property may not be regarded as unlawful where it can be justified by military necessity.<sup>13295</sup> Whether an act of appropriation is carried out on discriminatory grounds, that is, political, racial, or religious grounds, is determinative of whether the act of appropriation was also unlawful. Accordingly, the Trial Chamber will consider the unlawfulness of all the incidents listed in (a) to (h) further below when assessing whether the acts were carried out on political, racial or religious grounds.

3396. *Discrimination.* The Trial Chamber recalls that the acts of appropriation described in incidents (a)(i); (d)(i); (e)(ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), and (xvii) were committed against Bosnian Muslims and Bosnian Croats. It further recalls that the acts of appropriation described in incidents (a)(ii) and (iii); (b)(i) and (ii); (c)(i) and (ii); (d)(ii); (e)(i), (ii), (iii), (iv), (v), (vii), and (viii); (f)(i), (ii), and (iii); (g)(i), (ii), and (iii); and (h)(i), (ii), and (iii) were committed against Bosnian Muslims, while the acts of appropriation described in incident (e)(vi) were committed against Bosnian Croats and the acts of appropriation described in incident (c)(iii) were committed against Bosnian Muslims or Bosnian Croats.

3397. The Trial Chamber also recalls that the acts of appropriation described in incidents (a)(i), (ii), and (iii); (c)(ii) and (c)(iii); (d)(i); (e)(i), (ii), (iii), (iv), (vi), (vii), (ix), and (x); (g)(i), (ii), and (iii); and (h)(i) took place in connection with forcible

<sup>13295</sup> *See* chapter 8.9.2.

transfer and deportation, and/or destruction in Bijeljina, Ključ, Prijedor, Sanski Most, and Vlasenica municipalities.<sup>13296</sup> The acts of appropriation described in incidents (b)(i) and (ii); (e)(xi), (xii), (xiii), (xiv), (xv), (xvi), and (xvii); (f)(i) and (ii); and (h)(iii) took place in connection with unlawful detention in Kalinovik, Prijedor, Rogatica, and Vlasenica municipalities, and the appropriation of property described in incidents (c)(i) and (d)(ii) took place in connection with murder in Ključ and Kotor Varoš municipalities, respectively.<sup>13297</sup> The Trial Chamber found that the acts of forcible transfer and deportation, destruction, unlawful detention, and murder in these municipalities were carried out on political, racial or religious grounds against Bosnian Muslims and Bosnian Croats.<sup>13298</sup> With respect to incident (e)(viii), the Trial Chamber recalls that the acts of appropriation took place during the same time frame as a number of murders in nearby villages in Prijedor Municipality, as found in chapter 4.10.1.<sup>13299</sup> With respect to incident (f)(i), the Trial Chamber also recalls that the Rasadnik camp detainees who had their jewellery taken away were also forced to sign papers stating that they had voluntarily converted to the Serbian Orthodox religion.<sup>13300</sup> With respect to incident (f)(iii), the Trial Chamber recalls that the objects removed from Bosnian-Muslim houses in Rogatica were offloaded in Serb houses and flats.<sup>13301</sup> With respect to incident (h)(ii), the Trial Chamber recalls that the perpetrators were specifically directed to take property from non-Serbs.<sup>13302</sup>

3398. For the foregoing reasons, the Trial Chamber finds that all of the incidents listed in (a) to (h) were carried out on political, racial, or religious grounds and were therefore carried out with discriminatory intent. In relation to whether these acts were unlawful, the Trial Chamber finds that because these acts of appropriation were committed with discriminatory intent, they were unlawful.

3399. *Intent.* Considering the factual circumstances in which the acts of appropriation listed in (a) to (h) above were carried out, the Trial Chamber is satisfied that the only reasonable inference is that the perpetrators acted knowingly with the intent to appropriate private property.

<sup>13296</sup> See chapters 8.5.2 and 8.9.2(b).

<sup>13297</sup> See chapters 8.9.2(a) and (d).

<sup>13298</sup> See chapters 8.9.2(a), (c), (d), (g).

<sup>13299</sup> See chapter 8.9.2(a).

<sup>13300</sup> See chapter 4.11.4.

<sup>13301</sup> See chapter 4.11.4.

<sup>13302</sup> See chapter 4.14.4.

3400. *Plunder of property as an underlying act of persecution.* In relation to the issue of the gravity of an underlying act of persecution and whether it meets the standard of other crimes under Article 5 of the Statute, the Trial Chamber considers that the incident described in (e)(i) in so far as it relates to the appropriation of tractors, cars, cattle, and farming equipment, and incidents (e)(ii) and (v), with respect to the looting of tractors, cars, and trucks, may have had a serious impact on the owners of the property, due to the economic value of these items and their necessity for the victims' livelihoods. With respect to the incidents described in (a)(i) and (ii); (e)(x); and (h)(i), the Trial Chamber also considers that given the circumstances in which the acts occurred, where the victims had no choice but to leave their respective municipalities,<sup>13303</sup> the appropriation of the victims' private property, especially in times of an armed conflict,<sup>13304</sup> may have had a serious impact on them. However, the Trial Chamber notes that the acts of appropriation listed in (a) to (h) did not occur in isolation, but were carried out in conjunction with a series of other acts amounting to persecution, including forcible transfer and deportation, unlawful detention, imposition and maintenance of restrictive and discriminatory measures, and the wanton destruction of private and public property, against Bosnian Muslims and Bosnian Croats (*see* chapter 8.9.2 (c), (d), (g) and (h)). Under these circumstances, the Trial Chamber finds that all these incidents constituted acts of equal gravity to other crimes listed under Article 5 of the Statute.

3401. In light of the foregoing, the Trial Chamber finds that all of the incidents listed in (a) to (h) constitute plunder as an underlying act of persecution.

3402. The Trial Chamber recalls its findings in chapter 8.2 with regard to the general elements and jurisdictional requirements of crimes against humanity.

3403. *Status of victims.* The Trial Chamber notes that the acts of appropriation described in incidents (a)(i), (ii), and (iii); (e)(i), (ii), (iii), (iv), (vi), (ix), and (x); (g)(i), (ii) and (iii); and (h)(i) took place in connection with forcible transfer and deportation and destruction in Bijeljina, Ključ, Prijedor, Sanski Most, and Vlasenica municipalities.<sup>13305</sup> Further, the Trial Chamber notes that the acts of appropriation described in incidents (b)(i) and (ii); (e)(xi), (xii), (xiii), (xiv), (xv), (xvi), and (xvii); (f)(i) and (ii); and (h)(iii) took place in connection with unlawful detention in Kalinovik,

<sup>13303</sup> *See* chapter 8.5.2.

<sup>13304</sup> *See* chapter 8.1.2.

<sup>13305</sup> *See* chapter 8.9.2(c) and (g).

Prijedor, Rogatica, and Vlasenica municipalities, and the acts of appropriation described in incidents (c)(i) and (d)(ii) took place in connection with murder in Ključ and Kotor Varoš municipalities, respectively.<sup>13306</sup> In chapter 9.8.2 (a), (c), (d), (g), the Trial Chamber found that the acts of forcible transfer and deportation, destruction, unlawful detention, and murder in these municipalities were carried out against civilians.<sup>13307</sup> The Trial Chamber finds that the acts of appropriation described in the aforementioned incidents were carried out against the same categories of victims and were therefore committed against civilians.

3404. With respect to incidents (c)(ii) and (c)(iii); (d)(i); (e)(v), (vii), and (viii); (f)(iii); (h)(i) and (ii), the Trial Chamber finds that the acts of appropriation were committed against individuals in residential areas and that given this context, as well as, in some instances, the nature of the items which were appropriated, the only reasonable inference is that the victims of each of these acts were predominantly civilians.

3405. *Conclusion.* In conclusion, the Trial Chamber finds that the acts listed in (a) to (h) constitute plunder as an underlying act of persecution as a crime against humanity.

*(g) Wanton destruction of private property, including homes and business premises, and public property, including cultural monuments and sacred sites*

3406. In chapters 4.3.3, 4.6.3, 4.7.3, 4.8.3, 4.10.3, 4.11.3, 4.12.3, 4.13.3, and 4.14.3, the Trial Chamber decided to further consider the following incidents of alleged wanton destruction of private and public property, including cultural monuments and sacred sites, against the applicable law:

(a) in Foča Municipality, (i) the destruction of one Muslim sacred site in Foča Town around 5 August 1992 by ‘Žaga’s men’, who headed his own sub-unit under Marko Kovač, Commander of Foča Tactical Group; and (ii) the setting on fire of Muslim houses and apartments after attacks on the municipality. The attacks went on until early June 1992 by Serb forces, including the military, the police, the paramilitaries, and sometimes Serb villagers. These incidents are further set out in chapter 4.3.3;

(b) in Ključ Municipality, (i) the complete destruction of or heavy damage inflicted on around 3,500 Muslim-owned houses in the municipality between June and mid-July

<sup>13306</sup> See chapter 8.9.2(a) and (d).

<sup>13307</sup> See chapter 8.9.2(a), (c), (d) and (g).

1992 by Serb forces; (ii) the destruction of all houses in Gornji Hadžići, a part of the Bosnian-Muslim village of Hadžići, during attacks against Pudín-Han and Hadžići between 28 and 31 May 1992 by a VRS battalion and other units; (iii) the blowing up of the Pudín Han-Velagići mosque during the same attacks by local Serbs and the VRS; (iv) the destruction of four Muslim sacred sites on or about 28 May 1992, by local Serbs and the VRS; (v) the destruction of two sacred sites, the Ključ Catholic church and the Atik mosque, in Ključ Town in 1992 by Serb forces; (vi) the burning of houses and of the Biljani-Džaferagići mosque, after which the ruins were razed with explosives, on or around 10 July 1992 by forces led by Drago Samardžija, Commander of the VRS 17th Light Infantry Brigade; and (vii) blowing up the Krasulje mosque and burning the Tičevići mosque, Imam's house, and mekteb on or about 28 May 1992 by local Serbs and the VRS. These incidents are further set out in chapter 4.6.3;

(c) in Kotor Varoš Municipality, (i) the shelling and burning of many non-Serb houses in the municipality starting mid-1992, by Bosnian-Serb forces, including the police and, for Večići, the VRS 1st Light Infantry Kotor Varoš Brigade; (ii), the setting on fire and mining of the Hanifići mosque by Bosnian-Serb forces during the same attacks; (iii) the shelling of the Hrvačani mosque in May or June 1992 by Bosnian-Serb forces; (iv) the shelling of the Večići Old and New mosques and blowing up of the Večići shrine of the three brothers in 1992 by the VRS 1st Light Infantry Kotor Varoš Brigade and the special police unit of CSB Banja Luka, as well as various police forces from Kotor Varoš and Banja Luka; (v) the setting on fire of the Kotor Varoš Catholic church, the shelling and heavy damage to the Vrbanjci Catholic church, and the setting on fire of and mining the Vrbanjci mosque by the VRS in June 1992; and (vi) the destruction of the Šiprage mosque in July or August 1993 by paramilitaries. These incidents are further set out in chapter 4.7.3;

(d) in Novi Grad Municipality, (i) on or about 27 May 1992, the destruction of or damage inflicted on almost all houses belonging to Bosnian Muslims in the village of Ahatovići during the attack on the village by Bosnian-Serb forces, which consisted of the White Eagles and other men in JNA uniforms; (ii) the destruction of the Ahatovići mosque on 4 June 1992 by TO forces and other men in JNA uniforms; and (iii) the damaging of two Roman Catholic sacred sites, the Franciscan Monastery and Theological Seminary in Nedžarići, including partially setting them on fire, on 8 June

1992, by Serb troops who identified themselves as members of the ‘Independent Chetnik Formation’. These incidents are further set out in chapter 4.8.3;

(e) In Prijedor Municipality: (i)(a) the shelling and burning of houses on 23 May 1992 during the attack on the predominantly Bosnian-Muslim village of Hambarine, led by the VRS, including the 5th Kozara Brigade, acting jointly with the police and paramilitary groups; (i)(b) the shelling of the old mosque in Hambarine on 24 May 1992 during the attack on the village led by the VRS, including the 5th Kozara Brigade, acting jointly with the police and paramilitary groups; (ii) the setting on fire of a Bosnian-Muslim café, a Bosnian-Muslim house, and a Bosnian-Muslim garage in Hambarine on 11 June 1992, by several groups of men described as ‘*Chetniks*’, including Jevo Maseldžija and Mlado Jurusić; (iii) in mid-1992, the setting on fire of houses in the predominantly Bosnian-Muslim village of Kozaruša by Bosnian-Serb forces, and on the same day, the destruction with an excavator of the houses belonging to Bosnian Muslims in Kozaruša by Radovan Zdjelar, pursuant to instructions received from Radiša Ljesnjak, a member of the Prijedor Crisis Staff; (iv) the setting on fire on 24 May 1992 of the Kozaruša mosque and the Kozaruša mekteb by Bosnian-Serb fighters in JNA uniforms with ‘Tito caps’, led by Savan Končar, a Bosnina-Serb from Kozaruša. Only Serb houses, for the most part untouched, remained in the village; (v)(a) the setting on fire of all houses in the predominantly Bosnian-Muslim village of Kamičani during the attack on the village beginning around 24 to 26 May and continuing until early June 1992 led by the VRS, acting jointly with the police and paramilitary groups; (v)(b) the setting on fire of the Kamičani mosque by the perpetrators of the attack; (vi)(a) the setting on fire of Bosnian-Muslim houses in the predominantly Bosnian-Muslim village of Biščani during the attack on the village led by the VRS, acting jointly with the police and paramilitary groups on 20 July 1992; (vi)(b) and the setting on fire of the mosque in Biščani by the perpetrators of the attack; (vii)(a) the setting on fire of houses during the attack on the predominantly Bosnian-Muslim village of Čarakovo by the VRS, and by Velimir Đurik a.k.a. Velja, Zoran Babić a.k.a. Babin, and Dragomir Soldat a.k.a. Čiča, acting jointly with the police and paramilitary groups on 23 July 1992; (vii)(b) the setting on fire of the Čarakovo mosque and blowing up of its minaret by the perpetrators of the attack on the village on the same day; (viii)(a) the setting on fire of houses during the attack on the predominantly Muslim village of Kevljani by Bosnian-Serb forces in mid-1992; (viii)(b) the

destruction with explosives and mines of the new mosque in Kevljani by the perpetrators of the attack on the village; (ix)(a) the setting on fire of houses during the onslaught on the Brdo area on 20 July 1992 in the predominantly Bosnian-Muslim villages of Rakovčani and Rizvanovići by Bosnian-Serb forces, consisting of military and police; (ix)(b) on the same day, the destruction with explosives of the Rakovčani, Rizvanovići and Ravine mosques by the perpetrators of the attack; (x)(a) the setting on fire of the Čaršijka mosque on 30 May 1992 in Prijedor Town by a group of men, including Milenko Milić, a member of Milan Andžić's paramilitary unit, his commander Momčilo Radanović a.k.a. Cigo, and Milorad Vokić, Simo Drljača's personal bodyguard during the attack on Prijedor Town by the 5th Kozara Brigade, commanded by Pero Colić, the 43rd Motorised Brigade, commanded by Arsić and Zeljaja, and some members of the 6th Krajina Brigade, the Prijedor police led by Simo Drljača, Dule Janković, Milutin Cadzo, and a group called the 'Spare Ribs', and people from Bosanski Novi; (x)(b) the destruction by the perpetrators of the attack of the old mosque in Stari Grad as well as the Zagrad mosque in the Bereg part of Prijedor Town. Following its destruction the Zagrad mosque's rubble as well as of old Muslim gravestones in the adjacent cemetery were levelled by a bulldozer and removed by the same perpetrators; (x)(c) the razing to the ground by the perpetrators of the attack of the archive and library of the Medžlis of the Islamic Community in Prijedor Town; (x)(d) the burning of Bosnian-Muslim houses by the perpetrators of the attack while no Serb homes were damaged; (xi) the destruction by an excavator of Muslim homes in the old area of Prijedor Town and in the broader area of Prijedor by Radovan Zdjelar, pursuant to instructions received from Radiša Ljesnjak, a member of the Crisis Staff shortly after the conflict in Prijedor had started; (xii)(a) the destruction with explosives of the Donja Puharska mosque in Prijedor Town at the end of August 1992 by Bosnian-Serbs; (xii)(b) the destruction of three houses in the immediate vicinity of the Donja Puharska mosque and the damage to a dozen other houses by the same Serbs who destroyed the Donja Puharska mosque; (xiii) only a few minutes after the Donja Puharska mosque's explosion, the destruction with explosives of the Roman Catholic church in Prijedor Town by Bosnian-Serb soldiers; (xiv)(a) the burning of houses in Muslim villages and neighbourhoods in the predominantly Bosnian-Muslim and Bosnian-Croat villages of Kozarac and Ljubija and their surrounding areas, including Hrnići, Jakupovići, and Koncari, between 24 May and July 1992 by the VRS, acting jointly with the police and paramilitary forces including the destruction of the medical clinic in Kozarac. Many

houses were destroyed in Ljubija. Serb infantry razed to the ground the village of Koncari during the same attack. The perpetrators of the attack also razed to the ground large parts of Jakupovići. During this attack care was taken to avoid damage to Serb property and the Serb Orthodox church was not attacked; (xiv)(b) the destruction of the Mutnik mosque in Kozarac by the perpetrators of the attack; (xiv)(c) the shelling of the Hrníci mosque by the perpetrators of the attack; (xiv)(d) the destruction of the Srednji and Gornji mosques in Jakupovići by the perpetrators of the attack; (xiv)(e) the setting on fire of the church and the mosque in July 1992 in the village of Ljubija where inhabitants were predominantly Bosnian-Muslim and Bosnian-Croat by the perpetrators of the attack; (xv)(a) the destruction of the village of Mujkanovići by Serb infantry; (xv)(b) the heavy damage caused to the Mujkanovići mosque by Serb infantry on or around 10 June 1992; (xvi)(a) the shelling and setting on fire of 68 Bosnian-Croat houses by the VRS, including soldiers in JNA uniforms with red ribbons around their arms, helmets and *subara* hats, acting jointly with the police, paramilitary groups, as well as with the 5th Kozara Brigade and the 6th Krajina Brigade, led by Basara and Veljko Brajić in the Bosnian-Croat village of Briševo; (xvi)(b) the shelling and setting on fire of the Roman Catholic church in Briševo by the perpetrators of the attack; (xvii) the destruction of remaining houses in Briševo by small groups of men described as ‘*Chetniks*’; and (xviii) the destruction with mines of the Roman Catholic parish church of the Sacred Heart of Jesus in Šurkovac by Serb forces on or around 26 December 1992, as further set out in chapter 4.10.3;

(f) in Rogatica Municipality, (i) the setting on fire of Muslim houses and shops in Rogatica Town from 21 May until August 1992, by Serb forces; (ii) the destruction of the Čaršija mosque and the Arnaudija mosque around the end of June and the end of July 1992 and of three other mosques in the Vragolovi area, all by Serb forces, and in the case of the Arnaudija mosque, with the participation of Danko Nerić, a soldier wearing a JNA uniform; (iii) the destruction with explosives of the Žepa mosque by a VRS sapper unit after the fall of the Žepa enclave which took place in July 1995; and (iv) the destruction of houses in the Bosnian-Muslim village of Kozadre on 2 August 1992 by Serb infantry. These incidents are further set out in chapter 4.11.3;

(g) in Sanski Most Municipality, (i) at the end of May 1992, the destruction by the VRS 6th Krajina Brigade, commanded by Branko Basara, acting jointly with the SOS of (i)(a) houses and four Muslim sacred sites in the Muslim villages of Vrhpolje and



Hrustovo, in cooperation with paramilitary units subordinated to Branko Basara; (i)(b) the Mahala mosque in the Muslim neighborhood of Mahala, in cooperation with the TO; (i)(c) three Muslim sacred sites and one Muslim cultural monument in the Muslim villages of Lukavice, Okreč, and Čirkići; (i)(d) houses and barns in the Muslim village of Begići on 31 May 1992; (ii) the destruction of houses in the Muslim neighborhood of Mahala in late May 1992 by the local police and the SOS following the departure of the population; (iii) the destruction of houses in the predominantly Bosnian-Muslim village of Pobrježje by Bosnian-Serb forces including Nikita Dobrijević on 26 May 1992 and, around the same date, the destruction of one Muslim sacred site by, among others, Nikita Dobrijević; (iv) the destruction of the Čapalj and Tomina mosques by Bosnian-Serb forces in 1992 in the predominantly Bosnian-Muslim village Čapalj and in the village of Tomina; (v) the destruction of the new Donji Kamengrad mosque by Mladen Majkić and his team from the TO, pursuant to an order from Colonel Aničić, a member of the Sanski Most Crisis Staff and Chief of the TO, in mid-1992; (vi) the destruction of Bosnian Muslims and Bosnian Croats properties and businesses in Sanski Most Town from the spring of 1992 until late May 1992 by members of the SOS, commanded by Dušan Saović, a.k.a Nunja; (vii) the destruction of the Sanski Town mosque by Mladen Majkić and his TO unit in late May 1992; (viii) the destruction of the Catholic Church in Sanski Most Town by Mladen Majkić and his TO unit in 1993 or 1994, after the attack on the town; (ix) the destruction of houses belonging to Muslims in the Muslim village of Trnova, of two Muslim sacred sites in Trnova and in the Muslim village of Skucani Vakuf, and of the Roman Catholic church in Stara Rijeka, by a group of reservists in October or November 1992; and (x) the destruction of the Šehovci mosque by Mladen Majkić and his TO unit in October or November 1992, pursuant to orders from Colonel Aničić. These incidents are further set out in chapter 4.12.3;

(h) in Sokolac Municipality, the destruction by fire of houses and five sacred sites during the attacks on several Muslim villages of the municipality by members of the VRS 2nd Motorised Romanija Brigade between the end of July and the end of September 1992. This incident is further set out in chapter 4.13.3;

(i) in Vlasenica Municipality, (i) the destruction by fire of many Muslim houses in Gradina and the surrounding villages such as Barice and Piskavice, a mixed Serb and Muslim village, by a VRS unit acting on the orders of Kraljević and by police officers from the SJB Vlasenica, during the Gradina operations at the end of May and early June

1992; (ii) the destruction by fire of most of the content of the apartment of a Muslim in Vlasenica between 18 and 30 June 1992. The content of the apartment was destroyed by Sušica camp detainees upon an order from the camp guards; and (iii) the destruction with explosives of the Vlasenica Town mosque by a VRS unit in August 1992. These incidents are further set out in chapter 4.14.3.

3407. *Destruction on a large scale.* With regard to the destruction of private property, the Trial Chamber finds that the destruction was on a large scale in the following incidents for the following reasons: multiple properties were destroyed over an extended time period in incidents (a)(ii), (b)(ii), (f)(i), and (g)(vi); the houses, as well as the medical clinic in the case of (e)(xiv)(a), were destroyed in multiple villages in incidents (c)(i), (e)(xiv)(a), (g)(i)(a), (h), and (i)(i); 3,500 houses were destroyed in incident (b)(i); all the houses in some villages were destroyed in incidents (b)(ii), (e)(v)(a), and (e)(xv)(a); almost all the houses in the villages were destroyed in incidents (e)(xvi)(a), and (d)(i); and multiple houses and one business were destroyed in incidents (e)(i)(a), (e)(ii), (e)(iii), (e)(vi)(a), (e)(vii)(a), (e)(viii)(a), (e)(ix)(a), (e)(x)(d), (e)(xi), (e)(xii)(b), (e)(xvii), (f)(iv), (g)(i)(d), (g)(ii), (g)(iii), and (g)(ix). With regard to the destruction of private property in incident (i)(ii), the Trial Chamber finds that the destruction of almost everything from one apartment, absent any evidence establishing what these items are, does not constitute destruction on a large scale. The Trial Chamber will therefore not further consider this incident.

3408. With regard to the remaining incidents of destruction, which concern Muslim and Roman Catholic sacred sites and a Muslim cultural monument, the Trial Chamber finds that, as each incident had a severe impact on the people who valued the property and amounted to an attack on the religious identity of Muslims and Roman Catholics, the destruction was on a large scale.

3409. *Military necessity.* With regard to the all but incident (i)(ii), the Trial Chamber finds that these acts of destruction concerned private properties, sacred sites, and cultural monuments, none of which qualified as military objects whose destruction would make an effective contribution to military action or whose destruction would offer a definite military advantage. The Trial Chamber is therefore satisfied that the destruction identified in all incidents was not justified by military necessity.

3410. *Intent.* With regard to incidents (a)(ii); (b)(ii),(iii),(vi); (c)(i),(ii); (d)(i); (e)(i)(a) to (e)(iii); (e)(iv) to (e)(x)(a), (e)(x)(c); (e)(x)(d); (e)(xii)(a) to (e)(xiv)(a); (e)(xiv)(c);

(e)(xiv)(e); (e)(xvi)(a), (e)(xvi)(b); (e)(xviii); (f)(i),(ii); (g)(i)(a) to (g)(i)(c); (g)(iv); (h), and (i)(i) the physical perpetrators damaged or destroyed with explosives or by fire, private property as well as sacred and cultural sites during attacks on villages and towns. In the case of incidents (b)(vi), (e)(x)(b) - Zagrad Mosque only - and (g)(iii), the physical perpetrators razed the ruins of these sites after destroying them, for some with explosives. In relation to incident (e)(xi), a member of the Prijedor Crisis Staff instructed the perpetrators to destroy Muslim homes in the old area of Prijedor Town with the use of an excavator. With regard to incident (f)(i), the physical perpetrators targeted and set on fire, using flame throwers, Bosnian-Muslim private property in Rogatica Town. Concerning incident (i)(i), the Trial Chamber received evidence that the physical perpetrators acted pursuant to their commander's order to destroy Muslim private property to prevent Muslims from returning to their home.

3411. The destruction covered in incidents (b)(i); (b)(iv) to (b)(v); (c)(iii) to (c)(vi); (d)(ii) to (d)(iii); (e)(x)(b) – old mosque in Stari Grad, (e)(xii)(b); (e)(xiv)(b); (e)(xiv)(d); (e)(xv)(a) to (e)(xv)(b); (f)(iii) to (f)(iv); (g)(i)(d); (g)(iii); (g)(v) to (g)(vii); (g)(x); and (i)(iii) concerns private and public property. With regard to these incidents, the Trial Chamber infers the intent to destroy from the fact that sacred religious and cultural sites as well as private property were targeted or destroyed by various means including explosives or fire, and from the general circumstances of their destruction. Concerning incident (b)(i) the Trial Chamber considered that large numbers of Bosnian-Muslim private properties were targeted and destroyed. With regard to incident (c)(iv), the Večići mosque was targeted five times. Concerning incident (g)(v), the physical perpetrators acted pursuant to an order from Colonel Aničić, a member of the Sanski Most Crisis Staff and Chief of the TO. Concerning incident (i)(iii), the perpetrator ordered the destruction of one Muslim sacred site in Vlasenica Town, after giving notice to the Vlasenica SJB and asking the population to leave the area.

3412. Concerning the incidents discussed above, the Trial Chamber finds that the physical perpetrators had the intent to destroy these buildings.

3413. With regard to the destruction of two Muslim sacred sites and one Catholic Church mentioned in incidents (a)(i); (c)(vi), and (g)(viii) as well as the destruction of houses mentioned in incident (e)(xvii), the Trial Chamber has not received evidence on the mode of destruction of the sites, circumstances of their destruction, orders pertaining to their destruction, or any other evidence useful to establish that the physical

perpetrators acted with the *mens rea* to destroy and will therefore not consider these incidents further.

3414. *Discrimination.* For all incidents still being considered, wanton destruction was committed against Bosnian Muslim and Bosnian Croat property as well as against Muslim and Croat cultural monuments and sacred sites. In particular, in incidents (c)(i), (e)(iii), (e)(x)(d), (e)(xiv)(a), and (f)(i), Serb properties or properties located in Serb areas were spared. Of relevance to incidents (e)(iii), (e)(x)(d), and (e)(xiv)(a), following the take-over of Prijedor Town and before the take-over of Kozarac, Serbs made continuous references on the radio to the destruction of mosques and all property belonging to Bosnian Muslims, whom they referred to as '*Balijas*'. Non-Serb settlements were surrounded, bombarded, and invaded while care was taken not to damage Serb property during these attacks. In incident (i)(i), the physical perpetrators acted pursuant to orders from their command to destroy as much Muslim property as possible in order to prevent Muslims from returning to their homes. The Trial Chamber further considered that the incidents of wanton destruction of private and public property, including cultural monuments and sacred sites, were committed in conjunction with other underlying acts of persecution which were perpetrated at the same time, as described in chapter 4. For these reasons, the Trial Chamber finds that all of the incidents listed above were carried out on political, racial or religious grounds.

3415. *Destruction as an underlying act of persecution.* In relation to the issue of the gravity of an incident of destruction and whether it meets the standard of other crimes under Article 5 of the Statute, the Trial Chamber considers that the incidents of destruction still being considered were carried out in conjunction with a series of acts comprising murder and deportation. These incidents, therefore, constitute an act of the same gravity as other crimes listed under Article 5 of the Statute. In light of the foregoing, the Trial Chamber finds that all of these incidents constitute destruction as an underlying act of persecution.

3416. The Trial Chamber recalls its findings in chapters 8.1 and 8.2 with regard to the general elements and jurisdictional requirement of crimes against humanity.

3417. *Status of victims.* Considering that the destruction concerned private and public properties intended to be used by civilians, including sacred sites and cultural monuments, the Trial Chamber finds that the victims were civilians.

3418. *Conclusion.* The Trial Chamber finds that the incidents of wanton destruction, listed in the first paragraph of this chapter, with the exception of incidents (a)(i), (c)(vi), (e)(xvii), (g)(viii), and (i)(ii), constitute destruction as an underlying act of persecution as a crime against humanity.

*(h) Imposition and maintenance of restrictive and discriminatory measures*

3419. In chapters 4.1.6, 4.3.6, 4.5.6, 4.6.6, 4.7.6, 4.10.6, 4.12.6, 4.14.6 the Trial Chamber decided to further consider the following incidents of alleged imposition and maintenance of restrictive and discriminatory measures to the extent that they concern Bosnian Croats and Bosnian Muslims:

*Denial of the freedom of movement*

(a) in relation to Foča Municipality, from 12 May to July 1992, Serb soldiers and police restricted the movement of Bosnian Muslims in the municipality, as further set out in chapter 4.3.6;

(b) in relation to Kalinovik Municipality, from 12 May or later in May 1992, the SDS Crisis Staff restricted the movement of the Bosnian-Muslim population in the municipality, and further restricted these movements from at least 11 June 1992, as further set out in chapter 4.5.6;

(c) in relation to Ključ Municipality, from 12 May or later in May 1992, the Ključ Crisis Staff and Serb police severely restricted the movement of Bosnian Muslims in the municipality, as further set out in chapter 4.6.6;

(d) in relation to Kotor Varoš Municipality, from 12 May 1992 onwards, the VRS and the local authorities in Kotor Varoš, including the MUP and the Kotor Varoš Crisis Staff, restricted the movement of Bosnian Muslims and Bosnian Croats in the municipality, as further set out in chapter 4.7.6;

(e) in relation to Prijedor Municipality, between the end of May and end of June 1992, Serbs restricted the movement of Bosnian Muslims and Bosnian Croats in the municipality, by requiring them to register their movements, as further set out in chapter 4.10.6;

(f) in relation to Sanski Most Municipality, from 12 May until the end of May 1992 and during the second half of 1992, JNA 6th Krajina Brigade soldiers; Serb policemen; local

Serbs from Lukavica and people described as Martić's men, both of whom wore olive-grey or olive-green camouflage uniforms; the White Eagles; and persons described as Šešelj's Chetniks, restricted the movement of Bosnian Muslims in the municipality, as further set out in chapter 4.12.6;

(g) in relation to Vlasenica Municipality, from 19 May 1992, the Vlasenica Crisis Staff, headed by Milenko Stanić, restricted the movement of Bosnian Muslims in the municipality, as further set out in chapter 4.14.6;

*Removal from positions of authority in local government institutions and the police and the general dismissal from employment*

(h) in relation to Banja Luka Municipality, from 12 May 1992 and throughout the remainder of that year, Bosnian Muslims and Bosnian Croats were dismissed from publicly-owned enterprises in Krajina pursuant to ARK Crisis Staff decisions on 26 May and 22 June 1992, as further set out in chapter 4.1.6;

(i) in relation to Ključ Municipality: (i) in late May 1992, Serb authorities dismissed Bosnian Muslims and Bosnian Croats, and a Serb married to a Bosnian Muslim from posts in companies, including the Sanica factory, and public bodies, including the police; (ii) on 21 July 1992, the war presidency of Ključ Municipality issued a decision stating that all central positions in public institutions and companies were to be filled only by Serbs loyal to the Bosnian-Serb Republic and ordered the dismissal of several Bosnian Muslims from municipal positions, as further set out in chapter 4.6.6;

(j) in relation to Kotor Varoš Municipality, from June 1992, civilian authorities including the Kotor Varoš Crisis Staff, dismissed Bosnian Muslims and Bosnian Croats from employment, as further set out in chapter 4.7.6;

(k) in relation to Prijedor Municipality, from 12 May 1992 onwards, the Prijedor Crisis Staff dismissed Bosnian Muslims and Bosnian Croats, as further set out in chapter 4.10.6;

(l) in relation to Sanski Most Municipality, on 15 May 1992, the Sanski Most Crisis Staff, pursuant to ARK Crisis Staff decisions, dismissed Muslim employees from the municipal court in Sanski Most Municipality, as further set out in chapter 4.12.6;

(m) in relation to Vlasenica Municipality, around 17 or 18 May 1992, the Vlasenica SJB dismissed Bosnian-Muslim police staff members, as further set out in chapter 4.14.6;

*Denial of equal access to public services*

(n) in relation to Kotor Varoš Municipality, from 12 May 1992 onwards, the local authorities in Kotor Varoš Town, including the Kotor Varoš MUP and Crisis Staff, restricted access to medical care for Bosnian Muslims and Bosnian Croats, as further set out in chapter 4.7.6;

*Invasion of privacy through arbitrary searches of homes*

3420. To the extent that the Trial Chamber has received evidence on the invasion of privacy through the arbitrary searches of homes, it has considered this evidence as part of other alleged crimes, including murder, plunder, forcible transfer, and deportation.

*Unlawful arrest*

3421. The Trial Chamber has received evidence on unlawful arrest and will consider this as part of its findings on incidents of alleged unlawful detention in chapter 8.9.2(d).

*Denial of the right to judicial process*

3422. The Trial Chamber has not made any positive factual findings on the denial of the right to judicial process.

3423. The Trial Chamber will now proceed to consider the aforementioned alleged incidents against the applicable law.

3424. *Discrimination.* The above incidents set out in (a) to (n) were committed against Bosnian Muslims and Bosnian Croats. The Trial Chamber recalls that in incident (a), specific restrictions of movement were placed on Bosnian Muslims in Foča Municipality, including that they could not visit each other, gather in large groups in the street, or bury their dead in the graveyard, while Serbs could move freely. In incidents (b) and (g), Bosnian Muslims were issued passes which they were required to use in order to move around the municipalities of Kalinovik and Vlasenica, or to travel to other municipalities, while this requirement was not imposed on the Serb population. In incident (l), in Sanski Most Municipality Muslim judges and other employees from the municipal court were dismissed and replaced with Serbs. In incident (m), Bosnian-Muslim active and reserve police forces were dismissed whereas Serb police officers and MUP personnel were called back to work.

3425. The Trial Chamber also recalls that the measures described in incidents (a); (e); (h); and (k) took place in connection with unlawful detention as well as forcible transfer

and deportation in Banja Luka, Foča, and Prijedor municipalities.<sup>13308</sup> The measures described in incidents (d); (f); (g); (j); (l); (m); (n) took place in connection with destruction as well as forcible transfer and deportation in Kotor Varoš, Sanski Most, and Vlasenica municipalities.<sup>13309</sup> Finally, the incident described in (b) took place in connection with unlawful detention in Kalinovik Municipality and the incidents described in (c) and (i) took place in connection with forcible transfer and deportation in Ključ Municipality.<sup>13310</sup> The Trial Chamber found that the acts of forcible transfer and deportation, destruction, and unlawful detention in these municipalities were carried out on political, racial or religious grounds against Bosnian Muslims and Bosnian Croats.<sup>13311</sup>

3426. For the foregoing reasons, the Trial Chamber finds that all of the incidents listed in (a) to (n) were carried out on political, racial, or religious grounds.

3427. *Imposition and maintenance of restrictive and discriminatory measures as an underlying act of persecution.* In relation to the issue of the gravity of an underlying act of persecution and whether it meets the standard of other crimes under Article 5 of the Statute, the Trial Chamber considers that the above incidents against the Bosnian-Muslim and Bosnian-Croat population did not occur in isolation. These incidents were perpetrated contemporaneously throughout the municipalities of Banja Luka, Foča, Kalinovik, Ključ, Kotor Varoš, Prijedor, Sanski Most and Vlasenica. These incidents were also carried out in conjunction with other underlying acts of persecution, at the same time, and against Bosnian Muslims and Bosnian Croats in these municipalities. These acts include forcible displacement, unlawful detention, plunder, and the wanton destruction of private and public property. Under these circumstances, the Trial Chamber is satisfied that these incidents listed in (a) to (n) were of equal gravity as other crimes listed under Article 5 of the Statute.

3428. In light of the foregoing, the Trial Chamber finds that all of the incidents listed in (a) to (n) constitute imposition and maintenance of restrictive and discriminatory measures as an underlying act of persecution.

3429. The Trial Chamber recalls its findings in 8.2 with regard to the general elements and jurisdictional requirement of crimes against humanity.

<sup>13308</sup> See chapter 8.9.2(c) and (d).

<sup>13309</sup> See chapter 8.9.2(d) and (g).

<sup>13310</sup> See chapter 8.9.2(c) and (d).



3430. *Status of victims.* The Trial Chamber has considered that the incidents set out in (a) to (n) concerned restrictions on movement within the municipalities of Foča, Kalinovik, Ključ, Kotor Varoš, Prijedor, Sanski Most and Vlasenica, and restricted access to medical care in Kotor Varoš Municipality. It also involved dismissals from employment, including from public bodies, in the municipalities of Banja Luka, Ključ, Kotor Varoš, Prijedor, Sanski Most and Vlasenica. In this regard, the nature of these measures indicate that the perpetrators targeted Bosnian Muslims and Bosnian Croats that remained in the towns and villages of these municipalities, rather than those at the front lines. The Trial Chamber therefore finds that the only reasonable inference is that the victims of these acts were Bosnian Muslims and Bosnian Croats in these municipalities and were, therefore, mostly civilians.

3431. *Conclusion.* In conclusion, the Trial Chamber finds that the imposition and maintenance of restrictive and discriminatory measures listed in (a) to (n), insofar as they concern Bosnian-Muslim and Bosnian-Croat civilians, constitute an underlying act of persecution as a crime against humanity.

<sup>13311</sup> See chapter 8.9.2(c), (d) and (g).

## 8.10 Genocide

### *8.10.1 Applicable law*

3432. Counts 1 and 2 of the Indictment charge the Accused with genocide, punishable under Article 4(3)(a) of the Statute. The Accused has been charged under Counts 1 and 2 with: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; and under Count 1, additionally, with (c) deliberately inflicting on the group, whilst detained, conditions of life calculated to bring about its physical destruction.<sup>13312</sup> The Accused, under Count 1, is charged with committing those prohibited acts against a part of the Bosnian-Muslim and/or Bosnian-Croat national, ethnical and/or religious groups as such.<sup>13313</sup> The Accused, under Count 2, is charged with committing those prohibited acts against a part of the Bosnian-Muslim national, ethnical and/or religious group as such.<sup>13314</sup>

3433. Genocide is defined under Article 4(2) of the Statute to encompass any of certain prohibited acts committed with intent to destroy, in whole or part, a national, ethnical, racial or religious group, as such.

3434. The underlying prohibited acts, or *actus reus*, of genocide include the following as enumerated in Article 4(2) of the Statute: (a) *killing members of the group*; (b) *causing serious bodily or mental harm to members of the group*; and (c) *deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part*. In relation to (a), the material elements of killing are equivalent to the elements of murder,<sup>13315</sup> which have been discussed above in chapter 8.3.1. In relation to (b), the bodily or mental harm caused must be of such a serious nature as to contribute or tend to contribute to the destruction of the group.<sup>13316</sup> The acts causing such harm may include torture; rape; and non-fatal physical violence that causes disfigurement or serious injury to the external or internal organs.<sup>13317</sup> The harm must be

<sup>13312</sup> Indictment, paras 35, 39-40, 46.

<sup>13313</sup> Indictment, paras 35, 40.

<sup>13314</sup> Indictment, paras 35, 40.

<sup>13315</sup> *Kayishema and Ruzindana* Appeal Judgment, para. 151.

<sup>13316</sup> *Seromba* Appeal Judgment, para. 46; *Tolimir* Appeal Judgment, para. 203.

<sup>13317</sup> *Seromba* Appeal Judgment, para. 46. The Appeal Chamber in *Krstić* held that 'forcible transfer does not constitute in and of itself a genocidal act'. In some circumstances, however, forcible transfer can be an underlying act that causes serious bodily or mental harm, in particular if the forcible transfer operation was attended by such circumstances as to lead to the death of the whole or part of the displaced population. See *Krstić* Appeal Judgment, para. 33; *Blagojević and Jokić* Appeal Judgment, para. 123.

inflicted intentionally.<sup>13318</sup> In relation to (c), the acts may include: systematic expulsion from homes; denial of medical services; and the creation of circumstances that would lead to a slow death, such as lack of proper housing, clothing, and hygiene or excessive work or physical exertion.<sup>13319</sup> The acts under sub-paragraph (c) must be carried out ‘deliberately’.

3435. The *mens rea* required for genocide is a specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The term ‘destroy’ is limited to the physical or biological destruction of the group.<sup>13320</sup> Acts which do not fall under the definition of prohibited acts may be considered as evidence of the specific intent of a perpetrator to physically destroy the group.<sup>13321</sup> In assessing specific intent, consideration ought to be given to all of the evidence, taken together instead of considering separately whether an accused intended to destroy a protected group through each of the prohibited acts of genocide.<sup>13322</sup> In relation to JCE I, if the physical perpetrators (who are not JCE members) of the underlying prohibited acts do not possess the required specific intent then the specific intent of an accused and other JCE members, if proved, is sufficient.<sup>13323</sup>

3436. A national, ethnical, racial or religious group, as the protected group under Article 4(2) of the Statute, must be a collection of people with a particular group identity.<sup>13324</sup> The protected group must be defined positively and have unique distinguishing characteristics.<sup>13325</sup>

3437. Where only part of a protected group is targeted that part must constitute a substantial part of that group such that it is significant enough to have an impact on the group as a whole.<sup>13326</sup> In determining substantiality, considerations may include: the

<sup>13318</sup> *Brđanin* Trial Judgment, para. 690; *Blagojević and Jokić* Trial Judgment, para. 645.

<sup>13319</sup> *Stakić* Trial Judgment, para. 517; *Brđanin* Trial Judgment, para. 691; *Popović et al.* Trial Judgment, para. 815. As noted above, the Appeal Chamber in *Krstić* held that ‘forcible transfer does not constitute in and of itself a genocidal act’. In some cases, however, systematic expulsion from homes, which may amount to forcible transfer, may be a potential means of inflicting conditions of life calculated to bring about destruction. See *Krstić* Appeal Judgment, para. 33; *Blagojević and Jokić* Appeal Judgment, para. 123.

<sup>13320</sup> *Krstić* Appeal Judgment, para. 25.

<sup>13321</sup> *Krstić* Trial Judgment, para. 580; *Tolimir* Appeal Judgment, paras 230, 254. See also *Blagojević and Jokić* Appeal Judgment, para. 123; *Krstić* Appeal Judgment, paras 33, 133.

<sup>13322</sup> *Stakić* Appeal Judgment, para. 55; *Karadžić* Rule 98 bis Appeal Judgment, para. 56. See also *Tolimir* Appeal Judgment, paras 246–248, 253.

<sup>13323</sup> *Karadžić*, Rule 98 bis Appeal Judgment, paras 79-83.

<sup>13324</sup> *Stakić* Appeal Judgment, para. 20.

<sup>13325</sup> *Stakić* Appeal Judgment, paras 16-28.

<sup>13326</sup> *Krstić* Appeal Judgment, para. 8.

relative numerical size of the targeted part, the prominence of the part of the group within the larger whole, and the area of the perpetrators' activity and control.<sup>13327</sup>

### 8.10.2 Legal findings

#### Count 1

3438. According to the Indictment, between 31 March and 31 December 1992, in Foča, Ključ, Kotor Varoš, Prijedor, Sanski Most, and Vlasenica, as the Count 1 municipalities, a campaign of persecutions 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.<sup>13328</sup> The Indictment further alleges that in these municipalities, a significant section of the Bosnian-Muslim and/or Bosnian-Croat groups, namely their leaderships, as well as a substantial number of members of these groups were targeted for destruction.<sup>13329</sup> In chapter 4, the Trial Chamber decided to further consider a number of alleged prohibited acts against Bosnian Muslims and Bosnian Croats in the Count 1 municipalities in light of the applicable law.

3439. In this section of the judgment, the Trial Chamber will first define the 'protected group' within the meaning of Article 4(2) of the Statute. The Trial Chamber will then turn to the *actus reus* of genocide, specified in Article 4(2) of the Statute as three underlying prohibited acts, namely: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; and (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

3440. The Trial Chamber will then assess the *mens rea* requirement for genocide by considering the specific intent of the physical perpetrators of the prohibited acts. In

<sup>13327</sup> *Krstić* Appeal Judgment, paras 12-14.

<sup>13328</sup> Indictment, paras 35, 37. The Trial Chamber notes that paragraph 37 of the Indictment refers to conduct that manifested an intent to destroy in 'some municipalities' and alleges that the 'most extreme manifestations of an intent to partially destroy these groups took place in in Foča, Ključ, Kotor Varoš, Prijedor, Sanski Most, and Vlasenica'. The Trial Chamber, in the absence of further specification in Count 1, understands this allegation to be limited to these six named municipalities. This accords with the parties' submissions. The Prosecution in its Final Brief at paragraph 352 and its closing submissions at T. 44470-44471, stated that 'the Prosecution has alleged that this combination of acts under Article 4 (*actus reus*) and genocidal intent (*mens rea*) existed in six municipalities'. The Defence in its Final Brief at paragraph 26 stated that 'Count 1 is confined to the six municipalities pleaded by name at paragraph 37 of the Indictment'.

relation to assessing the specific intent of the physical perpetrators, the Trial Chamber recalls that, where direct evidence of specific intent is absent, the specific intent may be inferred from the surrounding facts and circumstances which may include the commission by physical perpetrators of other culpable acts. Those facts and circumstances may also include connections between physical perpetrators in terms of time, location and composition of their group. This will be analysed further below for the physical perpetrators of prohibited acts in relation to each protected group, Bosnian Croats and Bosnian Muslims, in each of the Count 1 municipalities. Lastly, the Trial Chamber will assess whether the targeted part of the protected group, as alleged, constituted a substantial part of the protected group, in so far as the specific intent of the physical perpetrators is concerned.

3441. In chapter 9.2.14, the Trial Chamber will further consider the specific intent, if any, of the Accused and/or other alleged members of the JCE in light of the totality of the evidence and its findings made on the specific intent of the physical perpetrators in this chapter.

*Protected group*

3442. The Prosecution alleged, for the purposes of Count 1, that the protected groups are the national, ethnical, and/or religious groups of Bosnian Muslims and Bosnian Croats.<sup>13330</sup> The Defence does not dispute that the Bosnian Muslims and Bosnian Croats are protected groups.<sup>13331</sup> The Trial Chamber recalls its review of Adjudicated Facts 1, 2, 6, and 12 in chapter 9.2.2 that from 1945 until 1990, Yugoslavia was composed of six Republics: Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia.<sup>13332</sup> Certain Republics were populated predominantly by one ethnic group: for example, Serbs in Serbia and Croats in Croatia.<sup>13333</sup> Maršal Tito's post-war government discouraged ethnic division and nationalism with a focus on the unity of the communist state.<sup>13334</sup> Thus, the period from 1945 until 1990 was marked by relative calm and peaceful inter-ethnic relations, although the various groups remained conscious of their

<sup>13329</sup> Indictment, para. 37.

<sup>13330</sup> Indictment, paras 35, 37, 39.

<sup>13331</sup> See Defence Final Brief, paras 47, 55, 57.

<sup>13332</sup> Adjudicated Facts I, no. 1.

<sup>13333</sup> Adjudicated Facts I, no. 1.

<sup>13334</sup> Adjudicated Facts I, no. 2.

separate identities.<sup>13335</sup> Bosnia-Herzegovina, more than any other republic of the former Yugoslavia, was multi-ethnic for centuries, with Serbs, Muslims, and Croats as the predominant nationalities.<sup>13336</sup> A census in April 1991 recorded that 43.7 per cent of the residents of Bosnia-Herzegovina were ethnic Muslims, 32.4 per cent were Serbs, and 17.3 per cent were Croats.<sup>13337</sup> The Trial Chamber therefore finds that Bosnian Muslims and Bosnian Croats are protected groups within the meaning of Article 4 of the Statute.

*Actus reus*

3443. The Trial Chamber recalls, as noted in chapter 8.10.1, that the crime of genocide is constituted of certain prohibited acts which, in respect of the charges in Count 1, relate to killing members of the protected group, causing serious bodily or mental harm to members of the protected group and deliberately inflicting on the protected group, whilst detained, conditions of life calculated to bring about its physical destruction. The Trial Chamber will examine each of these charges below.

3444. In relation to the *actus reus* of Count 1, the Prosecution argued that the destruction of a group may be pursued in ways that do not result in the death of a large number of people or even a single member of the protected group, in the Count 1 municipalities.<sup>13338</sup> In its final brief, the Prosecution focused on Prijedor Municipality in particular as an example for all of the Count 1 municipalities, highlighting that there were thousands of murders, incidents of serious bodily and mental harm, and subjecting members of the protected group to conditions calculated to destroy.<sup>13339</sup>

3445. *Killing members of the Bosnian-Muslim and Bosnian-Croat groups.* The Defence contended, specifically in relation to the killings, that the Prosecution failed to prove that the prohibited acts of killing in the Count 1 municipalities were committed as alleged.<sup>13340</sup>

3446. In relation to Foča Municipality, the Trial Chamber recalls its findings in chapters 8.3.2 and 4.3.1 *Schedules A.2.1, B.5.1* that 46 Bosnian Muslims as well as hundreds of predominantly Bosnian-Muslim detainees at KP Dom Foča were killed and

<sup>13335</sup> Adjudicated Facts I, no. 2.

<sup>13336</sup> Adjudicated Facts I, no. 6.

<sup>13337</sup> Adjudicated Facts I, no. 12.

<sup>13338</sup> Prosecution Final Brief, para. 353.

<sup>13339</sup> Prosecution Final Brief, paras 350, 352-365.

<sup>13340</sup> Defence Final Brief, paras 57-58, 75-79.

that those killings constituted murder.<sup>13341</sup> In relation to Ključ Municipality, the Trial Chamber recalls its findings in chapters 8.3.2 and 4.6.1 *Schedules A.3.3, B.8.1* that at least 266 Bosnian Muslims were killed and that those killings constituted murder. In relation to Kotor Varoš Municipality, the Trial Chamber recalls its findings in chapters 8.3.2 and 4.7.1 *Schedule A.4.4, unscheduled incidents of 13 June 1992 and 2 July 1992* that at least 185 Bosnian Muslims were killed and that those killings constituted murder. In relation to Prijedor Municipality, the Trial Chamber recalls its findings in chapters 8.3.2 and 4.10.1 *Schedules A.6.1, A.6.2, A.6.3, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, A.6.9, B.13.1, B.13.2, B.13.3, B.13.4, B.13.5, C.15.3, C.15.5* that: at least 993 Bosnian Muslims as well as at least 536 Bosnian Muslims or Bosnian Croats were killed and that those killings constituted murder. In relation to Sanski Most Municipality, the Trial Chamber recalls its findings in chapters 8.3.2 and 4.12.1 *Schedules A.7.1, A.7.2, A.7.3, A.7.4, A.7.5* that at least 94 Bosnian Muslims and 9 Bosnian Croats were killed and that those killings constituted murder. In Vlasenica Municipality, the Trial Chamber found in chapters 8.3.2 and 4.14.1 *Schedules A.9.1, B.16.1, B.16.2* that at least 169 Bosnian Muslims were killed and that those killings constituted murder.<sup>13342</sup> The Trial Chamber, accordingly, finds that a large number of Bosnian Muslims and/or Bosnian Croats were murdered in the Count 1 municipalities. The Trial Chamber, therefore, rejects the Defence's submissions that the Prosecution failed to prove that prohibited acts of killing in the Count 1 municipalities were committed as alleged.

3447. *Causing serious bodily or mental harm to Bosnian-Muslim and Bosnian-Croat members of the group.* In relation to the second underlying prohibited act of genocide, the Trial Chamber recalls that the bodily or mental harm caused must be of such a serious nature as to contribute or tend to contribute to the destruction of the group.<sup>13343</sup> The Defence contended that the Prosecution failed to prove that acts carried out in Foča, Ključ, Prijedor, and Vlasenica Municipalities threatened the destruction of any group in whole or in part, and more specifically, that conditions in the detention facilities set out

<sup>13341</sup> The Trial Chamber notes that the killing of one Muslim in June 1993 in Scheduled Incident B.5.1 and the killing of three Bosnian Muslims in the unscheduled incident in early spring 1993 fall outside the temporal scope of Count 1.

<sup>13342</sup> The Trial Chamber notes that these figures are based on an aggregation of a minimum number of those killed as found in chapter 8.3.2. The Trial Chamber observes that murder findings relating to a specific incident may: refer to killings of both Bosnian Muslims and Bosnian Croats together without further specificity; relate to hundreds of victims without further specificity; or provide a minimum number of victims or a numerical range for the number of victims. Considering the foregoing, the Trial Chamber is unable to provide a single precise figure on exactly how many Bosnian Muslims and Bosnian Croats were murdered in the Count 1 municipalities.

in Scheduled Incidents C.6.1, C.6.2, C.6.3, C.6.4, C.6.5, C.10.3, C.15.2, C.15.3, C.15.4, C.15.5, and C.19.3 did not amount to cruel and/or inhumane treatment.<sup>13344</sup>

3448. In relation to Sanski Most Municipality, the Trial Chamber observes that no incidents in detention facilities were charged as having caused serious bodily or mental harm. In relation to Kotor Varoš Municipality, in chapter 8.9.2 (b) no incidents were found to have constituted cruel and inhumane treatment.<sup>13345</sup> In chapter 8.9.2 (b) the conditions of detention or the treatment of the detained Bosnian Muslims at Bukovica Motel in Foča Municipality were not found to have constituted cruel and inhumane treatment. The Trial Chamber will not consider these incidents further.

3449. The Trial Chamber recalls its findings in the chapter on cruel and inhumane treatment as underlying acts of persecution 8.9.2 (b) and its factual findings in chapter 4.6.2, *Schedule C.10.3, unscheduled incidents at Sanica School and Sitnica School*.

3450. Regarding the treatment of detainees in Ključ Municipality, the Trial Chamber found that at Sanica School Bosnian-Muslim detainees were being escorted at gunpoint and were not fed. At Velagići Elementary School in Ključ Municipality on 1 June 1992, detainees were kept in one room and were beaten, threatened, and harassed before being killed. At Sitnica School in Ključ Municipality, detainees were beaten and interrogated from 3 until 7 June 1992, and only received a small sandwich after being detained for four days. While the Trial Chamber found that these acts caused serious mental and physical suffering and injury to the detainees, the Trial Chamber is not satisfied that these acts, even in conjunction with the limited food provided to the detainees, were of such a serious nature as to contribute, or tend to contribute, to the destruction of the protected groups. For these reasons, the Trial Chamber will not further consider the incidents at Sanica School, Sitnica School, and Velagići Elementary School for the purposes of Count 1 of the Indictment.

3451. The Trial Chamber recalls its findings in chapter 8.9.2 (b) and its factual findings in chapters 4.3.2 *Schedules C.6.1, C.6.2, C.6.3, C.6.4, C.6.5* and 4.14.2 *Schedule C.19.3, and unscheduled incident at Vlasenica Secondary School* that Bosnian Muslims

<sup>13343</sup> See *Seromba* Appeal Judgment, para. 46; *Tolimir* Appeal Judgment, para. 203.

<sup>13344</sup> Defence Final Brief, paras 57-58, 65-74, 80-82.

<sup>13345</sup> The Trial Chamber found in chapter 8.9.2 (b) that the acts inflicted on the Bosnian Muslims at the unscheduled incident in Grabovica School in Kotor Varoš Municipality did not cause serious mental or physical suffering or injury, or a serious attack on human dignity.



detained in Foča and Vlasenica Municipalities, namely at KP Dom Foča,<sup>13346</sup> Janjić's apartment,<sup>13347</sup> 'Karaman's house', the Worker's Huts in Buk Bijela, Partizan Hall, Foča High School and elsewhere in Foča, Sušica camp, and Vlasenica Secondary School were subjected to acts which caused serious mental and physical suffering and injury. The Trial Chamber made the same legal finding in chapter 8.9.2 (b) in relation to its factual findings in chapters 4.6.2 *unscheduled incident at Sitnica School* and 4.10.2 *Schedules C.15.2, C.15.3, C.15.4, C.15.5* for Bosnian Muslims and Bosnian Croats detained in Miška Glava Dom and in Omarska, Keraterm and Trnopolje camps in Prijedor Municipality. The Trial Chamber considers that the brutality of the harm suffered by these Bosnian Muslims and Bosnian Croats had a long-lasting, devastating, physical and mental impact on the victims who survived, which gravely affected their ability to lead normal and constructive lives. Other victims, who were later killed, suffered before facing their deaths. Having regard to the treatment of Bosnian Muslims and Bosnian Croats described in the findings in chapters 4.3.2 *Schedules C.6.1, C.6.2, C.6.3, C.6.4, C.6.5*, 4.6.2 *Schedule C.10.3, unscheduled incident at Sitnica School*, 4.10.2 *Schedules C.15.2, C.15.3, C.15.4, C.15.5* and 4.15.2 *Schedule C.19.3, unscheduled incident at Vlasenica Secondary School* and the legal finding in chapter 8.9.2 (b), the Trial Chamber finds that Bosnian Muslims in Foča, Prijedor, and Vlasenica Municipalities and Bosnian Croats in Prijedor Municipality were subjected to serious bodily or mental harm and that this harm contributed to the destruction of the protected groups. The Trial Chamber, therefore, rejects the Defence's submissions that the Prosecution failed to prove that prohibited acts causing serious bodily or mental harm in the Count 1 municipalities were committed as alleged.

3452. *Deliberately inflicting on Bosnian Muslims and Bosnian Croats conditions of life calculated to bring about the physical destruction of those groups in whole or in part.* The Defence argued that the alleged acts of deliberately inflicting on the group conditions of life calculated to bring about the physical destruction in whole or in part cannot be established.<sup>13348</sup> In particular, the Defence submitted that conditions of life calculated to bring about the physical destruction in whole or in part of the Bosnian

<sup>13346</sup> The Trial Chamber recalls its finding in chapter 4.3.2 *Schedule C.6.1* that ill-treatment occurred until October 1994. For the purposes of Count 1 of the Indictment, the Trial Chamber has not considered acts beyond 31 December 1992.

<sup>13347</sup> The Trial Chamber recalls its finding in chapter 4.3.2 *Schedule C.6.2* that a Bosnian-Muslim woman was raped at a Serb soldier's apartment from August 1992 to July 1993. For the purposes of Count 1 of the Indictment, the Trial Chamber has not considered acts beyond 31 December 1992.

Muslims and Bosnian Croats were not inflicted on these groups in the detention facilities set out in Scheduled Incidents C.6.1, C.6.2, C.6.3, C.6.4, C.6.5, C.10.3, C.15.2, C.15.3, C.15.4, C.15.5, and C.19.3.<sup>13349</sup>

3453. The Trial Chamber recalls that when the same prohibited acts are charged under both Article 4(2)(b) and Article 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'.<sup>13350</sup> The Trial Chamber, therefore has only considered prohibited acts under Article 4(2)(c) which are not found to have met the test under Article 4(2)(b) above. The Trial Chamber recalls that Article 4(2)(c) relates to those prohibited acts which do not immediately kill the members of a protected group, but which ultimately seek their physical destruction.<sup>13351</sup> Such acts 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.<sup>13352</sup>

3454. The Trial Chamber recalls its findings in chapter 8.9.2 (b) and, its factual findings in chapter 4.6.2 *Schedule C.10.3, unscheduled incidents at Sanica School and Sitnica School*. Based on the evidence before it, regarding the conditions of detention at Sanica School, Sitnica School, and Velagići Elementary School, the Trial Chamber is not satisfied that the conditions imposed at these facilities demonstrate that the perpetrators involved intended to deliberately inflict conditions of life calculated to bring about the physical destruction of the protected groups.

3455. In the foregoing paragraphs, the Trial Chamber has addressed the Defence's submissions that conditions of life calculated to bring about the physical destruction in whole or in part of the Bosnian Muslims and Bosnian Croats were not inflicted on these groups in certain detention facilities as alleged.

<sup>13348</sup> Defence Final Brief, paras 57-58, 66-74, 83-84, 86.

<sup>13349</sup> Defence Final Brief, paras 84, 86.

<sup>13350</sup> See *Brđanin* Trial Judgment, para. 905; *Karadžić* Trial Judgment, para. 2583.

<sup>13351</sup> See *Tolimir* Appeal Judgment, paras 227-228.

<sup>13352</sup> See Indictment, para. 39(c).

*Mens rea - factors considered for the intent of physical perpetrators to destroy Bosnian Muslims and Bosnian Croats, in part, as such*

3456. The Prosecution argued that the specific intent of the perpetrators is revealed both by the concerted attack on the very foundation and fabric of the protected group to prevent it from continued existence in the Count 1 municipalities through the prohibited acts and other culpable acts, as well as by direct evidence of intent found in the statements of Mladić, Karadžić, and other members of the alleged JCE.<sup>13353</sup> It submitted that in the Count 1 municipalities, the number and nature of the crimes, considered together, reflected an intention to destroy the groups in part rather than an intention just to ‘ethnically cleanse’ Bosnian Muslims and Bosnian Croats.<sup>13354</sup> The Defence argued that Count 1 is defective as it does ‘not disclose the crime of genocide’. It submitted that while Count 1 alleges a discriminatory approach to killings, there is nothing to suggest the physical destruction of the ‘national group’ as opposed to its cultural or functional destruction.<sup>13355</sup>

3457. The Trial Chamber recalls Appeals Chamber jurisprudence that where direct evidence of specific intent is absent, the specific intent may be inferred from the surrounding facts and circumstances which may include: the general context; the perpetration of other culpable acts systematically directed against the same group; the scale of the atrocities committed; the systematic targeting of victims on account of their membership in a particular group; proof of the mental state with respect to the commission of the underlying acts; the repetition of destructive and discriminatory acts; or the existence of a plan or policy.<sup>13356</sup> The collective scale of the atrocities in the Count 1 municipalities, comprising of prohibited acts and other culpable acts, is vast. The prohibited acts were committed by a myriad of physical perpetrators in each individual Count 1 municipality. Therefore, the Trial Chamber considers that to be able to draw inferences, on whether the physical perpetrators committed the prohibited acts with the requisite specific intent, its inquiry should proceed as follows. The Trial Chamber will assess the surrounding facts and circumstances in respect of physical perpetrators of prohibited acts in a municipality. In this context, the Trial Chamber will

<sup>13353</sup> Prosecution Final Brief, paras 351-353, 366-373.

<sup>13354</sup> Prosecution Final Brief, para. 350.

<sup>13355</sup> Defence Final Brief, paras 45, 49-53.

consider whether there were any connections between physical perpetrators of the prohibited acts in terms of time, place or their membership of a group in a particular incident or in other incidents in that municipality, such that an intent to destroy a protected group can be inferred from their collective prohibited acts. The Trial Chamber will also consider whether the physical perpetrators of prohibited acts participated in other culpable acts which could indicate an intent to destroy a part of the protected group. Before setting out its findings on the specific intent of the physical perpetrators, the Trial Chamber, for each protected group in each Count 1 municipality, will discuss the foregoing. The Trial Chamber will consider the specific intent, if any, of the Accused and other alleged JCE members in chapter 9.2.14 in light of the totality of the evidence and the findings made on the specific intent of the physical perpetrators.

3458. *Bosnian Croats in Foča, Ključ, Kotor Varoš, and Vlasenica Municipalities.* The Trial Chamber recalls that it has not established that Bosnian Croats were the victims of prohibited acts in Foča, Ključ, Kotor Varoš, and Vlasenica municipalities. The Trial Chamber will, therefore, consider the surrounding facts and circumstances in which Bosnian Muslims in Foča, Ključ, Kotor Varoš, and Vlasenica Municipalities were the victims of prohibited acts before discussing the surrounding circumstances in which Bosnian Muslims and Bosnian Croats were the victims of prohibited acts in Prijedor and Sanski Most Municipalities.

3459. *Bosnian Muslims in Foča Municipality.* The Trial Chamber recalls its findings in chapters 8.3.2 and 8.9.2 (b) regarding Bosnian Muslims in Foča Municipality. The Trial Chamber found for Schedule A.2.1 that in early July 1992, local Serb soldiers, led by Gojko Janković and including Radomir Kovač a.k.a. Klamfa, Janko Janjić a.k.a. Tuta, Slavo Ivanović a.k.a. Jazavac, Dragan Zelenović a.k.a. Zelja, and Visco Miletić killed ten Bosnian-Muslim civilians in the village of Mješaja/Trošanj. In chapters 8.4.2 and 8.9.2 (a) the Trial Chamber could not find that these perpetrators intended to kill on a mass scale, but that they carried out these killings on political, racial or religious grounds. The Trial Chamber found that between June and August 1992, some of these perpetrators, namely Gojko Janković,<sup>13357</sup> Radomir Kovač,<sup>13358</sup> Janko Janjić,<sup>13359</sup> Slavo

<sup>13356</sup> *Jelisić* Appeal Judgment, paras 47-48; *Krstić* Appeal Judgment, para. 34; *Stakić* Appeal Judgment, para. 55; *Hategekimana* Appeal Judgment, para. 133; *Karadžić* Rule 98 bis Appeal Judgment, paras 80, 99; *Popović et al.* Appeal Judgment, paras 430, 440, 468; *Tolimir* Appeal Judgment, paras 246, 248, 253.

<sup>13357</sup> Scheduled Incidents A.2.1, C.6.2, and C.6.3 at the Worker's Huts in Buk Bijela.

<sup>13358</sup> Scheduled Incidents A.2.1 and C.6.2.

<sup>13359</sup> Scheduled Incidents A.2.1, C.6.1, C.6.2, C.6.4, and C.6.5.

Ivanović,<sup>13360</sup> and Dragan Zelenović,<sup>13361</sup> subjected Bosnian Muslims in multiple detention facilities to acts causing serious bodily and mental harm, with acts at KP Dom Foča continuing beyond 1992. Between June and August 1992, Dragoljub Kunarac a.k.a. Žaga,<sup>13362</sup> Dragan Gagović,<sup>13363</sup> Radovan Stanković,<sup>13364</sup> who were not found to have been involved in killings, subjected Bosnian Muslims in multiple detention facilities to conditions constituting serious bodily and mental harm. The Trial Chamber also recalls its findings in chapter 8.9.2 (b) that these perpetrators subjected Bosnian Muslims to cruel and/or inhumane treatment on political, racial or religious grounds, whilst unlawfully detaining these victims also on political, racial or religious grounds.

3460. The Trial Chamber refers to its finding in chapter 3.1.2 that Marko Kovač, Commander of the VRS Foča Tactical Group, was the superior officer with the following directly subordinated to him: Gojko Janković and Janko Janjić a.k.a. Tuta who had their own sub-units; Brane Ćosović who had his own unit; and Dragoljub Kunarac's who was the head of a Detachment. Radomir Kovač a.k.a. Klamfa and Dragan Zelenović a.k.a. Zelja were subordinates to Janko Janjić and Brane Ćosović respectively. Dragoljub Kunarac's Detachment engaged in operations together with the Elez Battalion, also known as the Miljevina Battalion, commanded by Pero Elez. Radovan Stanković was one of Elez's men.

3461. In addition, the Trial Chamber found, in Scheduled Incident B.5.1, that in the second half of 1992, Gojko Janković, Janko Janjić a.k.a. Tuta, Predrag Trivun a.k.a. Pedo, Nikola Brčić, Neđo Samardžić, Dragan Zelenović a.k.a. Zelja, Pero Elez, and Zoran Samardžić, alongside other perpetrators, murdered hundreds of Bosnian Muslims, who were civilians or combatants placed *hors de combat*, at KP Dom Foča. The Trial Chamber also found that Zoran Samardžić, as Commander of the Miljevina Military Police, was subordinated to Pero Elez. Predrag Trivun a.k.a. Pedo or Pedolino who commanded part of the Miljevina Battallion was also subordinated to Pero Elez. The Trial Chamber found that the perpetrators of this incident intended to kill on a mass scale in the same murder operation with the killing of 36 Bosnian-Muslim detainees in June and July 1992 in Scheduled Incident B.5.1 and carried out these killings on

<sup>13360</sup> Scheduled Incidents A.2.1 and C.6.5.

<sup>13361</sup> Scheduled Incidents A.2.1, C.6.2, C.6.3 at the Worker's Huts in Buk Bijela, and C.6.5.

<sup>13362</sup> Scheduled Incidents C.6.2, C.6.4, and C.6.5.

<sup>13363</sup> Scheduled Incidents C.6.4 and C.6.5. The Trial Chamber found Dragan Gagović to have been the head of the Foča police.

<sup>13364</sup> Scheduled Incident C.6.2.

political, racial or religious grounds. Predrag Trivun and Zoran Samardžić, who had both committed prohibited acts in the second half of 1992, also killed a Bosnian-Muslim doctor in June 1993, by suspending him by his legs, lighting a fire under his head, and beating him for four hours until he died.<sup>13365</sup> The Trial Chamber further found that Pero Elez Neđo Samardžić, Zoran Samardžić, and Radovan Stanković subjected Bosnian Muslims to cruel and inhumane treatment at two detention facilities, which was discriminatory.<sup>13366</sup>

3462. The Trial Chamber found in an unscheduled incident in early spring of 1993 that Neđo Samardžić and Nikola Brčić, upon the order of Marko Kovač, Commander of the Tactical Group in Foča, shot and killed three elderly Bosnian-Muslim women in Foča Municipality in Kovač's presence. The Trial Chamber recalls 8.9.2 (a) that the killing was on political, racial or religious grounds. The Trial Chamber recalls its findings in chapters 8.9.2 (b) and 4.3.2 *Schedule C.6.1* that Marko Kovač was responsible for the detentions at KP Dom Foča and that Milorad Krnojelac, among others, was responsible for the conditions which caused serious bodily and mental harm there. The Trial Chamber recalls its findings in chapters 8.9.2 (b) and 4.3.2 *Schedule C.6.2* that from early August 1992, Neđo Samardžić, Zoran Samardžić, Radovan Stanković, and Nikola Brčić, a.k.a. Rodzo, raped women and girls at Karaman's house and subjected them to conditions constituting serious bodily and mental harm that were discriminatory.

3463. The Trial Chamber found in chapter 4.3.3 that villages were attacked until early June 1992 and, once secured, Serb forces – the military, the police, the paramilitaries, and sometimes Serb villagers – burned down Muslim houses and apartments. In one instance, around 5 August 1992, Dragoljub Kunarac's a.k.a. Žaga's men destroyed a Muslim sacred site in Foča Town. The Trial Chamber also notes its finding above that Dragoljub Kunarac, a.k.a. Žaga, inflicted serious bodily and mental harm on detainees at three detention facilities.<sup>13367</sup> The Trial Chamber recalls its finding in 8.9.2 (g) that the destruction of houses and apartments was committed on a discriminatory basis. The Trial Chamber also found in chapter 4.3.7 that, beginning in mid-June 1992, the Serb forces – the military, the police, the paramilitaries and, sometimes, also Serb villagers –

<sup>13365</sup> The Trial Chamber notes that while the incident in June 1993 is outside the temporal scope in which prohibited acts were alleged to have occurred, the brutality of this killing and the involvement of the same physical perpetrators only a few months from which they committed prohibited acts were relevant considerations for their specific intent.

<sup>13366</sup> Scheduled Incidents C.6.1 and C.6.2.

<sup>13367</sup> Scheduled Incidents C.6.2, C.6.4 and C.6.5.

participated in a pattern of acts, including burning homes belonging to Bosnian Muslims, rounding up Bosnian Muslims and killing them, which caused surviving Bosnian Muslims to leave the municipality from July until 13 August 1992. Civilian and military authorities, including the Foča War Commission, arranged transportation of individuals leaving the municipality. From 26 June 1992 to December 1992, other Bosnian Muslims were taken from their places of detention, including KP Dom Foča, to other parts of the country or abroad by a number of perpetrators, including ‘*chetniks*’ utilizing police cars upon directions from Gojko Janković and Pedro Gašević, and ‘*chetniks*’ wearing SMB uniforms. The Trial Chamber found in chapter 8.9.2(c) that the Bosnian Muslims were forcibly transferred or deported on political, racial or religious grounds. The Trial Chamber further notes its finding above that Gojko Janković killed Bosnian Muslims and inflicted serious bodily and mental harm on Bosnian Muslims at two detention facilities. The Trial Chamber also found in chapter 8.9.2 (h) that Serb soldiers and police restricted the movement of Bosnian Muslims in the municipality from 12 May to July 1992.

3464. The Trial Chamber observes that Bosnian Muslims in Foča Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts, including killings, detention, cruel and inhumane treatment, destruction of property, inhumane acts (forcible transfer), and deportation. These acts against Bosnian Muslims were committed mainly between June and August 1992, and at times beyond August 1992 to December 1992. The majority of these killings, cruel and inhumane treatment, destructions, unlawful detentions, inhumane acts (forcible transfer) and deportation were committed on a discriminatory basis against Bosnian Muslims in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

3465. *Bosnian Muslims in Ključ Municipality.* The Trial Chamber recalls its findings in chapter 8.3.2 regarding Bosnian Muslims in Ključ Municipality. In early June 1992, members of the VRS killed at least 77 Bosnian-Muslim men at Velagići School, and on 10 July 1992, VRS soldiers, military police, and reserve police members killed at least 189 Bosnian-Muslim detainees, including women, elderly men, and one baby in Biljani. The killings in Biljani took place in the context of a mopping up operation per orders from Drago Samardžija, Commander of the VRS 17th Light Infantry Brigade. Mile

Pešević, a Serb soldier, was present before the killings. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that the perpetrators of both incidents intended to kill on a mass scale and carried out these killings on political, racial or religious grounds.

3466. In chapter 8.9.2 (b), the Trial Chamber found that on 1 June 1992, members of the VRS, subjected Bosnian Muslims to cruel and/or inhumane treatment at the Velagići Elementary School. Members of the military police, including Mile Petrović and Ratko Samac, searched and assaulted detainees upon arrival at the school. The Trial Chamber also recalls its findings in chapter 8.9.2 (b) that the perpetrators carried out these acts on political, racial or religious grounds, while unlawfully detaining these victims also on political, racial or religious grounds. Furthermore, from 1 June to about 7 June 1992, policemen from Ključ, including Duško Pavlović, reserve police officers and the commander of the Sanica police, Milan Tomić, unlawfully detained Bosnian Muslims and Bosnian Croats at Sitnica School, and subjected them to cruel and/or inhumane treatment in a discriminatory manner. The Trial Chamber was unable to determine the precise affiliation of the physical perpetrators who caused serious bodily or mental harm.

3467. The Trial Chamber refers to its findings in chapter 4.6.3 that (i) Serb forces completely destroyed or heavily damaged around 3,500 Muslim-owned houses in the municipality between June and mid-July 1992; (ii) during attacks against Pudín-Han and the Muslim village of Hadžići by a VRS battalion and other units between 28 and 31 May 1992, all houses in Gornji Hadžići were destroyed; (iii) during the same attacks, local Serbs and the VRS blew up one Muslim sacred site, the Pudín Han-Velagići mosque; (iv) on or about 28 May 1992, local Serbs and the VRS destroyed four Muslim sacred sites; (v) Serb forces destroyed with explosives two sacred sites, the Ključ Catholic Church and the Atik Mosque, in Ključ Town in 1992; and (vi) on or around 10 July 1992, following the shelling of Biljani, Bosnian-Serb forces set houses on fire and burned one Muslim sacred site, Biljani-Džaferagići mosque, and then razed its ruins with explosives. The Trial Chamber recalls its finding in 8.9.2 (g) that these acts of destruction were carried out on a discriminatory basis against Bosnian Muslims.

3468. The Trial Chamber also established in chapter 4.6.7 that most Bosnian Muslims had left the municipality by the summer of 1992 out of fear because of unbearable circumstances. These circumstances included provocations, looting, thefts, shooting, torching of property, and killings. Departing convoys were organized by both the



Civilian Protection Department of the Ključ Municipal Assembly and the police, and were generally escorted by the police to territory under the control of Muslims and Croats. At the departure point for convoys, Bosnian-Serb local police and the VRS checked lists of who paid what was demanded of them and who signed over their property. The Trial Chamber recalls its finding in 8.5.2 that the Bosnian Muslims were forcibly transferred on political, racial or religious grounds. The Trial Chamber also found in chapter 8.9.2 (h) that Serbs, Serb police, and the Ključ Municipal Assembly restricted the movement of Bosnian Muslims in Ključ from 12 May 1992, and that Serb authorities also dismissed Bosnian Muslims from their jobs including at public bodies.

3469. The Trial Chamber observes that Bosnian Muslims in Ključ Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts, including killings, unlawful detention, cruel and inhumane treatment, destruction of property, inhumane acts (forcible transfer) and deportation. The prohibited and other culpable acts against Bosnian Muslims in Ključ Municipality were committed within a relatively short period of time, between 12 May 1992 and mid-July 1992. By the summer of 1992 there were few Bosnian Muslims left in the municipality. The majority of these killings, cruel and inhumane treatment, destructions, unlawful detentions and inhumane acts (forcible transfer) and deportation were committed on a discriminatory basis against Bosnian Muslims in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

3470. *Bosnian Muslims in Kotor Varoš Municipality.* The Trial Chamber recalls its findings in chapter 8.3.2 regarding Bosnian Muslims in Kotor Varoš Municipality. In relation to Scheduled Incident A.4.4, the Trial Chamber found that members of the VRS 1st Kotor Varoš Light Infantry Brigade killed approximately 150 unarmed Bosnian-Muslim men at Grabovica School on 4 November 1992 while these members were under the command of Dušan Novaković, Commander of the VRS 1st Kotor Varoš Light Infantry Brigade. The Trial Chamber also found in chapter 9.2.10 that pursuant to a verbal order from Duško Kerezović, members of the Sanitation Unit, with the help of 20 soldiers from the Grabovica and Vrbanjci units, and Nedeljko Đekanović, the President of the Kotor Varoš War Presidency made efforts to conceal the murder at Grabovica School from the international community.

3471. The Trial Chamber also found that Bosnian Muslims were killed in the following instances: on 13 June 1992 in Hrvačani by Serb military forces; on 2 July 1992 by military forces under the command of Slobodan Župljanin and Saša Petrović, or members of the Banja Luka CSB Special Police Detachment. The Trial Chamber found in chapters 4.7.1 and 3 that Slobodan Župljanin was the 2nd Infantry Battalion Commander of the VRS 22nd Brigade which was part of the 1KK. The Trial Chamber found in chapter 9.2.10 that Duško Kerezović, acting pursuant to orders from Sretko Majstorović, the Minister of War for Kotor Varoš, and members of the Sanitation Unit made efforts to conceal the murder from the public. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that the perpetrators of the incidents on 13 June 1992 and 2 July 1992 intended to kill on a mass scale and carried out these killings on political, racial or religious grounds. In chapter 8.9.2 (f), the Trial Chamber found that the appropriation of money and valuables by VRS members from Bosnian-Muslim detainees in a field near Grabovica was a crime and was carried out on political, racial or religious grounds.

3472. The Trial Chamber recalls its findings in chapter 4.7.3 that in mid-1992, including in May and June 1992, Bosnian-Serb forces, including the police, the VRS, and the VRS 1st Kotor Varoš Light Infantry Brigade, destroyed many houses of Bosnian Muslims as well as the Hanifići and Hrvačani mosques. In 1992, the VRS 1st Kotor Varoš Light Infantry Brigade and the special police unit of CSB Banja Luka, as well as various police forces from Kotor Varoš and Banja Luka, also destroyed the old and new mosques in Večići, Vrbanjci mosque, and blew up the Shrine of the Three Brothers in Večići. The Trial Chamber found in chapter 8.9.2 (g) that these acts of destruction were carried out on a discriminatory basis against Bosnian Muslims. The Trial Chamber recalls its findings in chapter 4.7.7 that between June and November 1992, Bosnian Muslims left the municipality in convoys and that some were made to leave and others registered to leave because of their living conditions. The forces attacking the municipality consisted of VRS units, police, and the special police unit of CSB Banja Luka. The Trial Chamber recalls its finding in 8.5.2 that the Bosnian Muslims were forcibly transferred on political, racial or religious grounds. The Trial Chamber also refers to its findings in chapter 8.9.2 (h) that the VRS and the local authorities in Kotor Varoš Municipality, including the MUP and the Kotor Varoš Crisis Staff, imposed restrictive and discriminatory measures upon Bosnian Muslims in Kotor Varoš from 12 May 1992 onwards.

3473. The Trial Chamber observes that Bosnian Muslims in Kotor Varoš Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts, including killings, destruction of property, plunder and appropriation, inhumane acts (forcible transfer) and deportation. Bosnian Muslims were attacked in Kotor Varoš Municipality from at least May to November 1992. The majority of these killings, destructions, inhumane acts (forcible transfer) and deportation were committed on a discriminatory basis against Bosnian Muslims in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

3474. *Bosnian Muslims in Vlasenica Municipality.* The Trial Chamber recalls its findings in chapters 8.3.2 and 8.9.2 (b) regarding Bosnian Muslims in Vlasenica Municipality. In relation to Scheduled Incident B.16.1, the Trial Chamber found that in June and July 1992, Dragan Nikolić and Goran Tešić, both members of the Bosnian-Serb MUP and Mićo Kraljević's special police platoon of Vlasenica SJB, killed eight Bosnian Muslims at Sušica camp, either through shooting or severe mistreatment. The Trial Chamber also found that one victim was killed by these men or local policemen. In chapter 8.9.2 (a), the Trial Chamber found that the physical perpetrators carried out these killings on political, racial or religious grounds. Both Dragan Nikolić, camp commander in charge of security matters and daily operations, and Goran Tešić, alongside other perpetrators, subjected Bosnian Muslims to acts at Sušica camp (Scheduled Incident C.19.3), between 31 May 1992 and 30 September 1992, which were found in this chapter (above) to constitute serious bodily and mental harm.<sup>13368</sup> The Trial Chamber also recalls its findings in chapter 8.9.2 (b) and (d) that the physical perpetrators carried out these acts on political, racial or religious grounds, whilst unlawfully detaining these victims also on political, racial or religious grounds. The other perpetrators at Sušica camp were: Veljko Bašić, a former policeman mobilized into Vlasenica SJB; the Vlasenica Crisis Staff and guards, consisting of members of the VRS and the MUP; other police officers; Goran a.k.a. Vjetar; and Đuro. The Vlasenica Crisis Staff were also involved in other culpable acts, as recalled below.

<sup>13368</sup> The Trial Chamber recalls that Dragan Nikolić assumed his duties sometime in mid-June 1992 upon appointment by Mićo Kraljević.

3475. The Trial Chamber found in chapters 4.14.2 *Other detention incidents – Vlasenica secondary school* and 8.9.2 (b) that Veljko Bašić was also the commander at the Vlasenica secondary school where, between 31 May 1992 and 8 June 1992, 160 Bosnian-Muslim men were detained in conditions which were found in this chapter (above) to constitute serious bodily and mental harm. The guards at the school included Vojin Grabovica, a person called Zoran, Milorad Petrović, and Dragan Lukić.

3476. In relation to Scheduled Incident A.9.1, the Trial Chamber found that members of Kraljević's unit supported by VRS members killed Bosnian Muslims on 2 June 1992 in Drum in the context of a wider operation in Vlasenica Municipality. Kraljević's unit was formally under TO command but operationally under the command of Vlasenica SJB at the time (until some time in June when it was also formally attached to the SJB). For Scheduled Incident B.16.2, the Trial Chamber found that MUP officers, upon the order of Mane Đurić, Head of the Vlasenica SJB as of 20 May 1992, removed 140-150 Bosnian-Muslim detainees from Susica camp and killed them on 30 September 1992. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that the perpetrators of Scheduled Incident A.9.1 intended to kill on a mass scale and that the perpetrators of both Scheduled Incidents A.9.1 and B.16.2 carried out these killings on political, racial or religious grounds.

3477. The Trial Chamber recalls its findings in chapter 4.14.3 that: (i) on 30 or 31 May 1992 and 2 June 1992 a VRS unit acting on the orders of Kraljević and police officers from the Vlasenica SJB, destroyed houses belonging to Bosnian Muslims during the two Gradina operations. This was particularly the case in Gradina itself and its surrounding villages such as Barice and Piskavice, a mixed Serb and Muslim village; and (ii) in August 1992, a VRS unit destroyed the Vlasenica Town Mosque. The Trial Chamber found in 8.9.2 (g) that these acts of destruction were carried out on a discriminatory basis against Bosnian Muslims. The Trial Chamber established in chapter 4.14.7 that Bosnian Muslims did not feel their lives were secure in Vlasenica Municipality and that, by August 1992, almost all Bosnian Muslims had left the municipality. The Trial Chamber also recalls that in May and June 1992, Kraljević, under the command of the Vlasenica Crisis Staff, led the Vlasenica SJB special police platoon, supported by a VRS unit, to take over Gradina, Sušica and other Bosnian-Muslim hamlets and sent women and children to Vlasenica town. Kraljević ordered the SJB special police platoon to torch all Bosnian-Muslim houses in order to prevent

owners from returning. Following the Serb forces' 1992 take-over of 16 Muslim villages in Vlasenica Municipality, including Drum, Piskavice, Gradina, Zaklopača, and Turalići, no non-Serb inhabitants remained in those villages; those that survived either escaped or were taken to Sušica camp. Between June and August 1992, a large number of women, children, and elderly men were transferred from Sušica camp to Kladanj or Cerska by Serb police or military. The Trial Chamber recalls its finding in 8.9.2 (c) that the Bosnian Muslims were forcibly transferred on political, racial or religious grounds.

3478. The Trial Chamber also found in chapter 8.9.2 (h) that there were restrictive and discriminatory measures imposed upon Bosnian Muslims in Vlasenica Municipality as acts of persecution. The perpetrators of these acts included: members of the Vlasenica Crisis Staff, headed by Milenko Stanić, who restricted the movement of Bosnian Muslims in the municipality from 19 May 1992; and members of the Vlasenica SJB who dismissed Bosnian-Muslim police staff around 17 or 18 May 1992. In chapter 8.9.2 (f), the Trial Chamber found that: (i) in June 1992, members of Kraljević's unit took televisions and other property from Bosnian-Muslim residences in Vlasenica Town; and (ii) in early June 1992, at Sušica camp, possessions were taken from Bosnian-Muslim detainees following an order from Dragan Nikolić, and guards stripped more than 800 Bosnian-Muslim women of their valuables. The Trial Chamber found that these acts were crimes and were carried out on political, racial or religious grounds.

3479. The Trial Chamber observes that Bosnian Muslims in Vlasenica Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts, including killings, detention, cruel and inhumane treatment, destruction of property, plunder and appropriation, inhumane acts (forcible transfer), and deportation. Bosnian Muslims were attacked in Vlasenica Municipality between May and September 1992. The majority of these killings, cruel and inhumane treatment, destructions, unlawful detentions, inhumane acts (forcible transfer), and deportation were committed on a discriminatory basis against Bosnian Muslims in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

3480. *Bosnian Croats and Bosnian Muslims in Prijedor Municipality.* The Trial Chamber recalls its findings in chapters 8.3.2 and 8.9.2 (b) regarding Bosnian Croats and Bosnian Muslims in Prijedor Municipality. In Scheduled Incident A.6.1, the Trial

Chamber found that from 24 until around 26 May 1992, a range of perpetrators, attacked the predominantly Bosnian-Muslim town of Kozarac and its surrounding Bosnian-Muslim villages through shelling and infantry advances, killing Bosnian Muslims. The perpetrators included VRS units of the Banja Luka Corps, commanded by Talić, including the 343rd Mechanised Brigade, later known as the 43rd Motorised Brigade commanded by Vladimir Arsić and, his deputy, Radmilo Zeljaja. In addition, Duško Tadić, Andžić's paramilitaries, members of the 5th Kozara Brigade, the 6th Krajina Brigade commanded by Branko Basara including a platoon under the command of Macola, as well as the *Crni Đorđe* intervention platoon, a scouts platoon, a police platoon and the Serb police from Prijedor, headed by Simo Drljača, participated in the attack. The Trial Chamber found that all the paramilitary units which took part in the attack on Kozarac were part of the VRS in May 1992 for the purpose of this attack.

3481. In relation to Scheduled Incident A.6.2, Mićo Jursić and Jevo Maseldžija, both Serb police officers, along with four other men killed two Bosnian Muslims on 1 July 1992.

3482. In Scheduled Incident A.6.3, the Trial Chamber found that the same forces that attacked Kozarac in late May 1992 attacked the predominantly Bosnian-Muslim village of Kamičani and entered the basement of Mehmed Šahorić's house, where they killed nine Bosnian Muslims who were hiding. Eight of the victims were found in civilian clothing and six of the victims were over the age of 60.

3483. In Scheduled Incident A.6.4, the Trial Chamber found that Duško Tadić and the uniformed soldiers who were with him killed Bosnian Muslims on 14 June 1992 in Jaskići. The Trial Chamber recalls from chapter 4.10.1 *Schedule A.6.4* that the attack on Jaskići on 14 June 1992 was part of an attack in the areas of Kozarac village, Prijedor, and Sanski Most. It further recalls that the killings in Jaskići were perpetrated by members of the same forces that attacked Kozarac in late May 1992. The Trial Chamber recalls from chapter 4.10.1 *Schedule A.6.1* that in February or March 1992, Radmilo Zeljaja, Deputy Commander of the 43rd Motorized Brigade, said that 'he was going to level Kozarac because they were preparing a defence'. Similarly, during a meeting with SDA leaders in May 1992, Zeljaja had threatened to 'raze Kozarac to the ground' if they would not surrender several thousand pieces of weaponry within 48 hours. When the SDA leaders pleaded that there was not much weaponry to surrender, Zeljaja responded that this was their problem.

3484. In Scheduled Incident A.6.5, between 1 and 23 July 1992, including during and immediately after they had attacked the Brdo area, members of the Bosnian-Serb military and police, including Velimir Đurić, Zoran Babić, Dragomir Soldat, Goran Gruban, Mićo Jurusić, Vinko Panić, killed Bosnian-Muslim and Bosnian-Croat civilians in Čarakovo. The Trial Chamber recalls its finding in chapter 3.1.2 that Goran Gruban was a member of the 43rd Motorized Brigade. In Scheduled Incident A.6.6, on 20 July 1992 Bosnian-Muslim men were killed in Bišćani, Čemernica, Mrkalji and Hegići by Bosnian-Serb soldiers including Gligić who belonged to a group which was commanded by Rade Bilbija. The Trial Chamber recalls the evidence in chapter 3.1.2 that Rade Bilbija was a battalion commander of the 43rd Motorised Brigade. It further recalls that members of the 43rd Motorised Brigade's Logistics Battalion were ordered to collect bodies in Brdo and Bišćani and clean the areas.

3485. In Scheduled Incident A.6.9, on 24 and 25 July 1992, the VRS, comprising members of the 6th Krajina Brigade under the command of Colonel Basara and the 5th Kozara Brigade, killed at least 68 people who were mainly Bosnian Croats.

3486. In Scheduled Incidents A.6.7 and A.6.8, on 25 July 1992, Bosnian Muslims and Bosnian Croats were killed by Bosnian-Serb soldiers including a VRS military police officer, and police, including a MUP policeman called Stiven. The Trial Chamber could not establish precise affiliations to units or brigades for these physical perpetrators.

3487. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that the perpetrators of Scheduled Incidents A.6.1, A.6.3, A.6.4, A.6.5, and A.6.9 intended to kill on a mass scale and carried out these killings on political, racial or religious grounds. In Scheduled Incident A.6.2, the Trial Chamber found that the perpetrators did not intend to kill on a mass scale or on political, racial or religious grounds.

3488. In Scheduled Incidents C.15.2, C.15.3, and C.15.4, the Trial Chamber found that the Prijedor Crisis Staff established the Trnopolje, Omarska, and Keraterm camps. The Trial Chamber also found that, among others, the Prijedor Crisis Staff, the SJB and the VRS detained people and were responsible for the conditions at the camps.

3489. In Scheduled Incident C.15.2, at Omarska, perpetrators who caused serious bodily or mental harm included Milutin Popović a.k.a. Pop, Žarko Marmat, Miroslav Zorić, Ranko Mijić, Dušan Knežević a.k.a. Duca, Zoran Žigić, Mirvan, Mlađo Radić a.k.a. Krkan, Momir Gruban a.k.a. Čkalja, Milojica Kos a.k.a. Krle, and Miroslav

Kvočka. The Trial Chamber recalls the evidence in chapter 3.1.2 that Dušan Knežević and Zoran Žigić were members of the reconnaissance and sabotage unit of the 43rd Motorized Brigade. Mlađo Radić a.k.a. Krkan, raped and sexually assaulted female detainees.

3490. In Scheduled Incident C.15.3, at Keraterm, perpetrators who caused serious bodily or mental harm included Duško Sikirica who served as the camp commander. Other perpetrators included members of the Banja Luka CSB, Banja Luka Corps / 1KK, 'Čupo' Banović, Dragan Kondić, Zoran Žigić, and guards working on the shift led by 'Kole', Dušan Knežević a.k.a. 'Duča', and Nedeljko Timarac. The Trial Chamber recalls the evidence in chapter 3.1.2 that Dušan Knežević and Zoran Žigić were members of the reconnaissance and sabotage unit of the 43rd Motorized Brigade.

3491. In Scheduled Incident C.15.4, at Trnopolje, perpetrators who caused serious bodily or mental harm included Slobodan Kuruzović, who was the camp commander and Slavko Puhalić, his deputy. The Trial Chamber recalls the evidence described in chapter 3.1.2 that Slobodan Kuruzović and Slavko Puhalić were members of the 43rd Motorized Brigade. Other perpetrators at Trnopolje included Darko Mrđa, Mladen Mitrović, Mirijan Mitrović, a man named Stojanović a.k.a. Zemunac, Dragoja Čavić, Dragan Škrbić, Stojan Madžar a.k.a. Stole, Branko Topola, soldiers named Mile and Deba, and Zoran Žigić. VRS soldiers came from outside with the assistance of Kuruzović to rape and sexually assault detainees. The Trial Chamber recalls the evidence in chapter 3.1.2 that Zoran Žigić, Dragan Škrbić, and Stojan Madžar were members of the reconnaissance and sabotage unit of the 43rd Motorized Brigade.

3492. In Scheduled Incident C.15.5, the perpetrators who caused serious bodily or mental harm included members of the Miška Glava TO. In Scheduled Incident C.15.3, the Prijedor SJB, among other perpetrators, inflicted serious bodily and mental harm on Bosnian Croats and Bosnian Muslims at Keraterm camp from 25 May until at least 5 August 1992. In Scheduled Incident C.15.2, members of the SJB inflicted serious bodily and mental harm on Bosnian Croats and Bosnian Muslims at Omarska camp between 27 May and 16 August 1992, but the Trial Chamber was unable to determine whether these members belonged to the Prijedor SJB or another SJB. The Trial Chamber recalls its findings in chapters 8.9.2 (b) that the perpetrators, including members of the Prijedor Crisis Staff, who inflicted serious bodily and mental harm on Bosnian Croats and Bosnian Muslims in the detention facilities carried out these acts on political, racial or



religious grounds, whilst unlawfully detaining these victims also on political, racial or religious grounds.<sup>13369</sup>

3493. With regard to killings in detention settings in Prijedor Municipality, the Trial Chamber made the following findings. In Scheduled Incident B.13.1, on or around 25 July 1992 camp guards and VRS soldiers killed between 190 and 220 detainees in Keraterm camp after corralling them in Room 3. In Scheduled Incident C.15.3, during the night of 2 to 3 July 1992, camp guards at Keraterm killed a detainee. In Scheduled Incident B.13.2, camp guards killed detainees at Omarska camp. In Scheduled Incident B.13.3, on 5 August 1992, unidentified Bosnian Serbs killed at least 126 detainees from Omarska and Keraterm camps and in Scheduled Incident B.13.4, in the second half of July 1992, camp guards from Omarska killed approximately between 100 and 180 detainees from Omarska camp. In Scheduled Incident B.13.5, camp guards and soldiers killed detainees at Trnopolje camp. The Trial Chamber observes that the camp guards who committed these murders were the same group of camp guards who caused serious bodily and mental harm to detainees. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that all of the killings in the detention centres, other than B.13.3, were carried out on political, racial or religious grounds. The perpetrators of Scheduled Incidents B.13.1, B.13.3, and B.13.4 also intended to kill on a mass scale.

3494. The Trial Chamber found in chapter 4.10.3 that (i) on 23 and 26 May 1992 and continuing until 23 July 1992, during the attack on the predominantly Bosnian-Muslim villages of Hambarine, Bišćani, Čarakovo, Kevljani and Kamičani the VRS, including the 5th Kozara Brigade, acting jointly with police and paramilitary groups shelled and burned houses in those areas. They destroyed the old mosque in Hambarine, the Kamičani mosque, the Bišćani mosque, the Čarakovo mosque, and the new mosque in Kevljani. The perpetrators included Velimir Đurik a.k.a. Velja, Zoran Babić a.k.a. Babin, Goran Gruban, and Dragomir Soldat a.k.a. Čiča (ii) in mid-1992, Bosnian-Serb forces set fire to houses in the predominantly Bosnian-Muslim village of Kozaruša, and on the same day, Radovan Zdjelar, pursuant to instructions received from Radiša Ljesnjak, a member of the Crisis Staff destroyed houses belonging to Bosnian Muslims in Kozaruša; (iii) on 24 May 1992, Bosnian-Serb fighters in JNA uniforms with 'Tito caps', led by Savan Končar, a Bosnian-Serb from Kozaruša set fire to the Kozaruša mosque and the Kozaruša mekteb; (iv) on 20 July 1992, Bosnian-Serb forces, consisting

<sup>13369</sup> Scheduled Incidents C.15.2, C.15.3, C.15.4, and C.15.5.

of military and police, set fire to houses during the onslaught on the Brdo area in the predominantly Bosnian-Muslim villages of Rakovčani and Rizvanovići and destroyed the Rakovčani, Rizvanovići and Ravine mosques; (v) on 30 May 1992, a number of perpetrators set fire to houses belonging to Bosnian Muslims as well as the Čaršijka mosque in Prijedor Town during the attack on Prijedor Town by the 5th Kozara Brigade, commanded by Pero Colić, the 43rd Motorized Brigade, commanded by Arsić and Zeljaja, and some members of the 6th Krajina Brigade, the Prijedor police led by Simo Drljača, Dule Janković, Milutin Cadzo, and a group called the ‘Spare Ribs’, and people from Bosanski Novi. The perpetrators included a group of men, including Milenko Milić, a member of Milan Andžić’s paramilitary unit, his Commander Momčilo Radanović a.k.a. Cigo, and Milorad Vokić, Simo Drljača’s personal bodyguard. The perpetrators also destroyed the old mosque in Stari Grad, the archive and library of the Medžlis of the Islamic Community in Prijedor Town, as well as the Zagrad mosque in the Bereg part of Prijedor Town. Following the destruction, the Zagrad mosque’s remains as well as old Muslim gravestones in an adjacent cemetery were levelled with a bulldozer and removed by the same perpetrators; (vi) Radovan Zdjelar, pursuant to instructions received from Radiša Ljesnjak, a member of the Crisis Staff, destroyed Muslim homes in the old area of Prijedor Town and in the border area of Prijedor shortly after the conflict in Prijedor had started; (vii) at the end of August 1992, Serbs destroyed the Donja Puharska mosque in Prijedor Town, three houses in the immediate vicinity of the mosque and damaged a dozen other houses; (viii) only a few minutes after the Donja Puharska mosque’s destruction, Bosnian-Serb soldiers destroyed the Roman Catholic church in Prijedor Town; (ix) between 24 May and July 1992, the VRS, acting jointly with the police and paramilitary forces burned houses in Muslim villages and neighbourhoods in the predominantly Bosnian-Muslim and Bosnian-Croat villages of Kozarac and Ljubija and their surrounding areas, including Hrnići, Jakupovići, and Koncari. The perpetrators also destroyed the medical clinic in Kozarac, the Mutnik mosque in Kozarac, the Hrnići mosque, the Srednji and Gornji mosques in Jakupovići, and the church and the mosque in Ljubija; (x) Serb infantry destroyed the village of Mujkanovići and caused heavy damage to the Mujkanovići mosque; (xi) Bosnian-Serb military, including soldiers in JNA uniforms with red ribbons around their arms, helmets and *subara* hats, acting jointly with the police, paramilitary groups, the 5th Kozara Brigade and the 6th Krajina Brigade (led by Basara and Veljko Brajić) shelled and set fire to 68 houses belonging to Bosnian Croats in the

predominantly Bosnian-Croat village of Briševo and destroyed the Roman Catholic church in Briševo; and (xii) on or around 26 December 1992, Serb forces destroyed the Roman Catholic parish church of the Sacred Heart of Jesus in Šurkovac. The Trial Chamber recalls its finding in chapter 8.9.2 (g) that the destruction of houses, apartments and religious buildings were committed on a discriminatory basis against Bosnian Muslims and Bosnian Croats.

3495. The Trial Chamber also recalls its findings in chapter 4.10.7 that during the SDS takeover of the municipality between May and July 1992, and in particular following the attacks by the VRS, police, and paramilitaries on the predominantly Bosnian-Muslim and Bosnian-Croat inhabited areas and villages of Hambarine, Kozarac, Kamičani, Biščani, Čarakovo, Briševo, and Ljubija, many survivors fled the villages, seeking shelter in the surrounding forests. Approximately 20,000 non-Serbs in Hambarine and nearby Ljubija were removed on 20 July 1992. Until November 1992, Trnopolje camp was used as a transfer facility for the expulsion of the non-Serb population from the Bosnian Krajina to Travnik, Turbe, Doboje, Banja Luka, Tuzla, and Gračanica. People were transferred from Trnopolje using freight trains, trucks, and bus convoys organized and secured by Simo Drljača, the Commander of the SJB, as well as by the Bosnian Serb police and military. From the beginning of the conflict in April through August 1992, over 30,000 Muslims and Croats from Prijedor were either physically removed from the municipality or left their homes due to the unbearable living conditions or fearing for their lives. The Trial Chamber recalls its finding in chapter 8.5.2 that Bosnian Muslims and Bosnian Croats were forcibly transferred and deported by Simo Drljača, the Commander of the SJB, as well as by the Bosnian Serb police and military. The acts of inhumane acts (forcible transfer) and deportation were found in chapter 8.9.2 (c) to have been discriminatory. The Trial Chamber also recalls its findings in chapter 8.9.2 (h) that restrictive and discriminatory measures were imposed upon Bosnian Muslims in Prijedor including: restrictions on the movement of Bosnian Muslims and Bosnian Croats in the municipality by requiring them to register their movements between the end of May and end of June 1992, and that the Prijedor Crisis Staff dismissed Bosnian Muslims and Bosnian Croats from their employment from 12 May 1992 onwards.

3496. The Trial Chamber observes that Bosnian Croats and Bosnian Muslims in Prijedor Municipality were the victims of a number of crimes constituting prohibited

acts and other culpable acts, including killings, detention, cruel and inhumane treatment, destruction of property, inhumane acts (forcible transfer), and deportation. In Prijedor Municipality, acts against Bosnian Croats and Bosnian Muslims were committed from 25 May until at least mid-August 1992, with most killings committed in June and July 1992. Detention at Trnopolje camp lasted until the end of September 1992. The majority of these killings, cruel and inhumane treatment, destructions, unlawful detentions, inhumane acts (forcible transfer), and deportation were committed on a discriminatory basis against Bosnian Muslims and Bosnian Croats in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

3497. *Bosnian Croats and Bosnian Muslims in Sanski Most Municipality.* In relation to Bosnian Muslims in Sanski Most Municipality, the Trial Chamber found in chapter 8.3.2 that in Scheduled Incidents A.7.1 and A.7.2, on 31 May 1992, Bosnian Muslims were killed by perpetrators who were members of the 6th Krajina Brigade including Jadranko Palija. The perpetrators also included Nenad Kaurin, a member of the reserve police, and paramilitary formations located in Lušci Palanka, Dabar, Kljevci, Tomina, Kozica, Podlug, and Tramošinja. All of those perpetrators were under the command of Colonel Basara, commander of the 6th Krajina Brigade. In chapters 8.4.2 and 8.9.2 (a), the Trial Chamber found that these perpetrators intended to kill on a mass scale and on political, racial or religious grounds.

3498. In Scheduled Incident A.7.3, around 27 June 1992, Bosnian Muslims were killed by local Serb reservists from Kljevci under the command of Milorad Mijatović, as well as by Milutin a.k.a. Mićo, Đukić, and Rade Đukić. Milorad Mijatović and his men from Kljevci were subordinated to the 6th Krajina Brigade commanded by Branko Basara. In Scheduled Incident A.7.4, on 1 August 1992, Bosnian Muslims were killed by Serb soldiers led by Mićo 'Kudra' Praštalo who was the commander of a paramilitary unit from Lušci Palanka. The Trial Chamber recalls that the paramilitary unit from Lušci Palanka partook in the attack on Hrustovo and Vrhpolje under the command of Colonel Basara in Scheduled Incident A.7.2. In Scheduled Incident A.7.5, on 2 November, Bosnian Croats were killed by Daniluško Kajtez and Miloš Maksimović, members of the 6th Krajina Brigade, as well as by Todo Vokić and Goran Vukojević. The Trial Chamber found that the perpetrators of the killings in Scheduled Incident A.7.3 intended

to kill on a mass scale. The Trial Chamber could not establish that the perpetrators of the killings in Scheduled Incidents A.7.4 and A.7.5 intended to kill on a mass scale. The perpetrators of the killings in Scheduled Incidents A.7.3, A.7.4 and A.7.5 intended to kill on political, racial or religious grounds.

3499. The Trial Chamber recalls its findings in chapter 4.12.3 that: (i) in late May 1992, the VRS 6th Krajina Brigade, commanded by Branko Basara, and acting jointly with the SOS, destroyed: houses in the Muslim villages of Vrhpolje and Hrustovo, as well as the Kukavice Old Mosque, Kerani Mosque, New Hrustovo-Kukavice Mosque, and Vrhpolje Mosque, in cooperation with paramilitary units subordinated to Basara; Mahala Mosque in cooperation with the TO; Lukavice Mosque, Okreč Mosque, Čirkići Mosque, and an imam's house; (ii) in late May 1992, the local police and the SOS, following the departure of the population, destroyed houses in Mahala; (iii) in 1992, Bosnian-Serb forces destroyed Čapalj Mosque and Tomina mosque; (iv) between mid-1992 and November 1992, Mladen Majkić and his team from the TO, pursuant to an order from Colonel Aničić, a member of the Sanski Most Crisis Staff and Chief of the TO, destroyed the New Donji Kamengrad Mosque and the Šehovci Mosque; (v) from the spring of 1992 until late May 1992, members of the SOS, commanded by Dušan Saović, a.k.a Nunja destroyed properties and businesses owned by non-Serbs in Sanski Most Town; and (vi) in late May 1992, Mladen Majkić and his TO unit destroyed the Sanski Most Town Mosque. The Trial Chamber recalls its finding in 8.9.2 (g) that these acts of destruction were carried out on a discriminatory basis against Bosnian Muslims.

3500. The Trial Chamber found in chapter 4.12.7 that Vrkeš, President of the local SDS with responsibility for the removal and exchange of populations and detainees, stated that Muslims were historically not part of the Sanski Most region and needed to be resettled away from Sanski Most so that the town could become a purely Serb town. The Trial Chamber also recalls its finding from chapter 4.12.7 that from late May 1992, the VRS 6th Krajina Brigade, along with the TO and paramilitary groups including the SOS, carried out attacks and shelling campaigns in order to 'mop up' predominantly Muslim villages and hamlets pursuant to policies of the Crisis Staff and the SDS. The VRS 6th Krajina Brigade, the TO and paramilitaries carried out transfers and evacuations. Furthermore, heavy shelling from outside the targeted neighbourhoods and villages caused severe damage and killed people, forcing the inhabitants to flee. Bosnian Muslims and Bosnian Croats left Sanski Most Municipality following the

implementation of decisions of the Crisis Staff and SDS and actions of VRS units, TO, MUP, and paramilitary groups operating in the municipality. These actions included threats, shelling, burning of private property, killings, and arrests, as well as transfers in convoys. The perpetrators of these acts who assisted in the transport, by convoy, of Bosnian Muslims and Bosnian Croats included members of the 6th Krajina Brigade, Boško Banjac who was a member of the Sanski Most Municipality Crisis Staff, and Davidović, the Commander of the Serb Crisis Committee of Banja Luka. The majority of Bosnian Muslims and Bosnian Croats in Sanski Most Municipality had left the municipality by the end of 1992. The Trial Chamber found in 8.9.2 (c) that Bosnian Muslims and Bosnian Croats were forcibly transferred or deported on political, racial or religious grounds.

3501. The Trial Chamber also recalls its findings in chapter 8.9.2 (h) that there were restrictive and discriminatory measures imposed upon Bosnian Muslims in Sanski Most Municipality as follows. From 12 May until the end of May 1992 and during the second half of 1992, the VRS 6th Krajina Brigade soldiers; Serb policemen; local Serbs from Lukavica and people described as Martić's men, both of whom wore olive-grey or olive-green camouflage uniforms; the White Eagles; and persons described as Šešelj's Chetniks, restricted the movement of Bosnian Muslims in the municipality. On 15 May 1992, the Sanski Most Crisis Staff, pursuant to ARK Crisis Staff decisions, dismissed Bosnian-Muslim Judges and other employees from the municipal court.

3502. The Trial Chamber observes that within a relatively short period of time, primarily in late May 1992 and including the period up to early August 1992, Bosnian Muslims and Bosnian Croats in Sanski Most Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, destruction of property, inhumane acts (forcible transfer), deportation, and restrictive and discriminatory measures. The acts were committed on a discriminatory basis against Bosnian Muslims and Bosnian Croats and in the context of a widespread and systematic attack directed against the civilian population. By the summer of 1992 there were few Bosnian Muslims and Bosnian Croats left in the municipality. The Trial Chamber will consider the above factors in its findings on intent to destroy the protected groups below.

*Mens rea - assessment of factors relating to intent of physical perpetrators to destroy Bosnian Muslims and Bosnian Croats, in part, as such*

3503. As discussed above, the Trial Chamber could not establish that Bosnian Croats in Foča, Ključ, Kotor Varoš, and Vlasenica Municipalities were subjected to any prohibited acts.

3504. For Bosnian Muslims in Ključ Municipality, Bosnian Croats in Sanski Most and Prijedor Municipalities, the Trial Chamber finds that while the pattern and widespread nature of the acts or omissions indicate the gravity and seriousness of crimes, the evidence does not allow an inference that physical perpetrators of prohibited acts - as individuals or as affiliates of military, police or other units - shared the intent to destroy in part the protected groups. The prohibited acts or omissions of the physical perpetrators of a specific incident were not in and of themselves sufficient to allow an inference that they had the requisite specific intent even taking into consideration surrounding facts and circumstances. With the limited exceptions outlined in the following paragraphs, the evidence does not indicate sufficient connections or affiliations between the disparate physical perpetrators of different crimes that would allow for such an inference beyond reasonable doubt.

3505. For those instances where the Trial Chamber identified that a physical perpetrator of a prohibited act carried out more than one prohibited or other culpable act,<sup>13370</sup> the Trial Chamber finds that the surrounding facts and circumstances do not allow the Trial Chamber to infer beyond a reasonable doubt that these physical perpetrators had the requisite specific intent. These facts and circumstances include: the relatively small number of victims in each prohibited act; the length of time which had passed when the prohibited acts were committed; the scale of the prohibited acts inflicted against Bosnian Croats and Bosnian Muslims either varied significantly or the Trial Chamber received insufficient evidence to determine their scale; and the lack of evidence of coordination between these physical perpetrators. In some instances, the Trial Chamber received insufficient evidence to identify the physical perpetrator more specifically than as MUP officers, local policemen, or VRS members which precluded further analysis of the involvement of those individuals in more than one prohibited act

<sup>13370</sup> Apart from the connections discussed in the Trial Chamber's findings, *see, e.g.*, Simo Drljača, who headed the Prijedor SJB, and was involved in prohibited acts and other culpable acts in Prijedor Municipality.

or other culpable act. The Trial Chamber will discuss some of these specific connections below.

3506. In relation to Bosnian Croats in Sanski Most Municipality, the Trial Chamber notes that there were also prohibited acts and other culpable acts committed against Bosnian Croats up to and including November 1992. These acts were committed by members of 6th Krajina Brigade or paramilitaries subordinated to the 6th Krajina Brigade, and by the summer of 1992 there were few Bosnian Croats left in the municipality. The Trial Chamber, however, received evidence of only a few prohibited acts of killing perpetrated against Bosnian Croats and the Trial Chamber received insufficient evidence to determine the scale of the other culpable acts committed by the same perpetrators against Bosnian Croats. For these reasons, the Trial Chamber could not establish that the physical perpetrators had the requisite specific intent in respect of the Bosnian Croats in Sanski Most Municipality.

3507. In relation to Bosnian Croats in Prijedor Municipality, the Trial Chamber notes that there were also prohibited acts and other culpable acts committed against Bosnian Croats up to and including mid-August 1992. These acts were committed by members of the Banja Luka Corps including the 43rd Motorised Brigade and units of the 6th Krajina Brigade. By 1993, approximately half of the Bosnian Croat population remained in the municipality. The Trial Chamber, however, received evidence of only a few prohibited acts of killing and causing serious bodily or mental harm perpetrated against Bosnian Croats and the Trial Chamber received insufficient evidence to determine the scale of the other culpable acts committed by the same perpetrators against Bosnian Croats. For these reasons, the Trial Chamber could not establish that the physical perpetrators had the requisite specific intent in respect of the Bosnian Croats in Prijedor Municipality.

3508. In relation to the Bosnian Muslims in Ključ Municipality, Bosnian Croats in Sanski Most and Prijedor Municipalities, the Trial Chamber will, however, further consider in chapter 9.2.14 whether the circumstances and the context in which the prohibited and other culpable acts were committed are relevant for assessing the specific intent of the Accused and any other alleged JCE members who are not physical perpetrators. In such circumstances, the Trial Chamber will further assess whether the physical perpetrators, who did not have specific intent, nevertheless were tools of the Accused and/or other alleged JCE members for the purposes of the Overarching JCE.



3509. The Trial Chamber will now assess the specific intent of physical perpetrators of prohibited acts in relation to Bosnian Muslims in Kotor Varoš Municipality, Sanski Most Municipality, Foča Municipality, Vlasenica Municipality, and Prijedor Municipality. The assessment will be based on the factors identified and the findings recalled in this chapter (above).

3510. *Bosnian Muslims in Kotor Varoš Municipality.* In relation to Bosnian Muslims in Kotor Varoš Municipality, the Trial Chamber observes that it identified specific individuals affiliated with the VRS 1st Kotor Varoš Light Infantry Brigade who carried out prohibited or other culpable acts within a relatively short time frame and under the same direct command structure. On 2 July 1992, forces under the command of Slobodan Župljanin, the 2nd Infantry Battalion Commander of the VRS 22nd Brigade, killed at least 30 Bosnian Muslims, including 15 Bosnian Muslims who were detained in Alagić café. Forces under command of Dušan Novaković, Commander of the VRS 1st Kotor Varoš Light Infantry Brigade, detained, separated, and killed 150 unarmed Bosnian-Muslim men at Grabovica School on 4 November 1992. The Trial Chamber found in chapter 3.1.2 that both Novaković and Župljanin directly reported to Colonel Janko Trivić who commanded the Vlašić Operational Group and who, from October 1992, became the Commander of the 22nd Light Infantry Brigade. The prohibited acts, as was found in chapters 8.4.2 and 8.9.2 (b), were committed on a discriminatory basis against Bosnian Muslims, on a mass scale and in the context of a widespread and systematic attack directed against the civilian population. The Trial Chamber also recalls that soldiers from the Grabovica and Vrbanjci units, which formed part of the Vlašić Operational Group were involved in the cover-up of the killings at Grabovica School. The Trial Chamber also recalls that the VRS 1st Kotor Varoš Light Infantry Brigade, which fell under Trivić's command, carried out the destruction of many Bosnian-Muslim houses, mosques and shrines from May 1992 onwards also on a discriminatory basis.

3511. The Trial Chamber finds, Judge Orić dissenting,<sup>13371</sup> that, given the scale of the killings, the role of Novaković and Župljanin, who were directly commanded by Trivić, the discriminatory nature of the acts, and the overwhelming involvement of units affiliated to Trivić in the cover up of both acts, the only reasonable inference is that

<sup>13371</sup> See further chapter 13.

Novaković and Župljanin had the intent to destroy part of the protected group of Bosnian Muslims when carrying out the prohibited acts of killing.

3512. The Trial Chamber, however, is unable to establish the requisite specific intent of other physical perpetrators of prohibited acts in Kotor Varoš Municipality, as the Trial Chamber was unable to identify the physical perpetrators more precisely than members of Serb military forces, or VRS members which precluded further analysis of the involvement of those same individuals in more prohibited or other culpable acts. The Trial Chamber will, however, further consider in chapter 9.2.14 whether the circumstances and the context in which the prohibited and other culpable acts were committed are relevant for assessing the specific intent of the Accused and any other alleged JCE members who are not physical perpetrators.

3513. *Bosnian Muslims in Sanski Most Municipality.* In relation to Bosnian Muslims in Sanski Most Municipality, the Trial Chamber observes that within a relatively short period, primarily in late May 1992 and including the period up to early August 1992, Bosnian Muslims in Sanski Most Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, destruction of property, inhumane acts (forcible transfer), deportation, and restrictive and discriminatory measures. The acts were committed on a discriminatory basis against Bosnian Muslims and in the context of a widespread and systematic attack directed against the civilian population. By the summer of 1992, there were few Bosnian Muslims left in the municipality. The Trial Chamber notes that the prohibited acts of killings were perpetrated by the members of the VRS 6th Krajina Brigade, under the command of Colonel Basara, or paramilitaries subordinated to the 6th Krajina Brigade.<sup>13372</sup> The killings in Scheduled Incidents A.7.1 and A.7.2 were committed contemporaneously with the large number of destructions of religious buildings carried out by the VRS 6th Krajina Brigade who were often working in conjunction with the SOS or paramilitary units. The killings in all of the relevant Scheduled Incidents were committed contemporaneously with acts of inhumane acts (forcible transfer), deportation and restrictive measures throughout Sanski Most Municipality which extensively involved the 6th Krajina Brigade and targeted Bosnian Muslims in a

<sup>13372</sup> With the exception of Scheduled Incident A.7.4 whereby on 1 August 1992 Bosnian Muslims were killed by Serb soldiers led by Mićo 'Kudra' Praštalo who was the commander of a paramilitary unit from Lušci Palanka. The Trial Chamber, however, notes that Praštalo's unit was subordinated to the 6th Krajina Brigade on 31 May 1992 during which it was involved in the killing of Bosnian Muslims.

discriminatory manner. The Trial Chamber finds, Judge Orić dissenting, that, given the intensity of the attack on Sanski Most Municipality by the 6th Krajina Brigade, the widespread and discriminatory nature of the acts, and the overwhelming involvement of the 6th Krajina Brigade in all crimes, the only reasonable inference is that the physical perpetrators of the prohibited acts had the intent to destroy part of the protected group of Bosnian Muslims when carrying out the prohibited acts of killings.

3514. *Bosnian Muslims in Foča Municipality.* In relation to the Bosnian Muslims in Foča Municipality, the Trial Chamber observes that within a relatively short period, between June and early August 1992, Bosnian Muslims in Foča Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, detention, destruction of property, inhumane acts (forcible transfer), deportation, and restrictive and discriminatory measures. The acts were committed on a discriminatory basis against Bosnian Muslims and in the context of a widespread and systematic attack directed against the civilian population. By the summer of 1992, there were few Bosnian Muslims left in the municipality. The Trial Chamber notes that the prohibited acts of killing and the causing of serious bodily and mental harm were committed by perpetrators from the Foča Tactical Group. Dragan Zelenović a.k.a. Zelja and Radomir Kovač a.k.a. Klanfa inflicted serious bodily and mental harm on Bosnian Muslims at multiple detention facilities between June and August 1992.<sup>13373</sup> They also killed Bosnian Muslims in Scheduled Incident A.2.1 in early July 1992. Radovan Stanković also inflicted serious bodily and mental harm on Bosnian Muslims at a detention facility.<sup>13374</sup> Radomir Kovač was a member of a unit commanded by Brane Čosović and Radovan Stanković was a member of a unit commanded by Pero Elez; both commanders received orders from Marko Kovač, Commander of the Foča Tactical Group. Pero Elez, Nikola Brčić, Neđo Samardžić, and Zoran Samardžić killed hundreds of detained Bosnian Muslims in Scheduled Incident B.5.1 in the second half of 1992 and all those perpetrators, as well as Radovan Stanković, subjected Bosnian Muslims to cruel and inhumane treatment at two detention facilities.<sup>13375</sup> That treatment included raping Bosnian-Muslim women and girls. Dragoljub Kunarac a.k.a. Žaga inflicted serious bodily and mental harm at three detention facilities which included the raping of

<sup>13373</sup> Dragan Zelenović: Scheduled Incidents A.2.1, C.6.2, C.6.3 at the Worker's Huts in Buk Bijela, and C.6.5; Radomir Kovač: Scheduled Incidents A.2.1 and C.6.2.

<sup>13374</sup> Scheduled Incident C.6.2.

<sup>13375</sup> Scheduled Incidents C.6.1 and C.6.2.

Bosnian-Muslim women and girls.<sup>13376</sup> From early June 1992 to around 5 August 1992, Dragoljub Kunarac and his detachment burned down Bosnian-Muslim houses and apartments as well as destroyed a Bosnian-Muslim sacred site in Foča Town. Dragoljub Kunarac's Detachment was a unit under the control of the Foča Brigade and received orders from Marko Kovač.

3515. Each of the above perpetrators who were subordinated to Marko Kovač were also working with others who carried out more than one prohibited act in close geographical and temporal proximity. Marko Kovač ordered Neđo Samardžić and Nikola Brčić to kill three elderly Bosnian-Muslim women in Foča Municipality in his presence.<sup>13377</sup> Furthermore, Marko Kovač, through his Military Command, was responsible for the detentions at KP Dom Foča. The Trial Chamber finds, Judge Orić dissenting, that, given the intensity of the attack on Foča from early June 1992, the overwhelming involvement of the Foča Tactical Group in many prohibited acts and other culpable acts that were committed in close geographical and temporal proximity, and the systematic and discriminatory nature of all of the prohibited acts, the only reasonable inference is that certain physical perpetrators of the prohibited acts had the intent to destroy a part of the protected group of Bosnian Muslims when carrying out the prohibited acts. Those physical perpetrators comprised primarily Marko Kovač, Dragoljub Kunarac,<sup>13378</sup> Nikola Brčić, Radomir Kovač, Pero Elez, Neđo Samardžić, Zoran Samardžić, and those physical perpetrators subordinated to them and/or affiliated with the Foča SJB who had carried out multiple prohibited and/or other culpable acts.

3516. *Bosnian Muslims in Vlasenica Municipality.* In relation to the Bosnian Muslims in Vlasenica Municipality, the Trial Chamber observes that within a relatively short period, between June and 30 September 1992, Bosnian Muslims were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, detention, destruction of property, inhumane acts (forcible transfer), deportation, plunder and appropriation, and restrictive and discriminatory measures. The acts were committed on a discriminatory basis against Bosnian Muslims and in the context of a

<sup>13376</sup> Radovan Stanković: Scheduled Incident C.6.2; Dragoljub Kunarac a.k.a. Žaga: Scheduled Incidents C.6.2, C.6.4 and C.6.5.

<sup>13377</sup> The Trial Chamber observes that this act occurred in 1993 and therefore is outside the scope of the prohibited acts in Count 1. Accordingly, the Trial Chamber has not considered this act in determining the *actus reus* and relies only on this evidence for the purposes of inferring the specific intent of physical perpetrators from the surrounding facts and circumstances.

<sup>13378</sup> The Trial Chamber observes that Dragoljub Kunarac who was an accused in the case of *Prosecutor v. Dragoljub Kunarac et al.* Judgment, 22 February 2001, was not charged with the crime of genocide.

widespread and systematic attack directed against the civilian population. By August 1992, almost all Bosnian Muslims had left the municipality. The Trial Chamber notes that the prohibited acts of killing and the causing of serious bodily and mental harm were committed by perpetrators from the Vlasenica SJB and that Mićo Kraljević and his special police platoon which was attached to the Vlasenica SJB played a major role.

3517. The Trial Chamber recalls its finding in chapter 4.14.1 *Schedule A.9.1* that Kraljević was directly subordinate to Radenko Stanić, the police station commander, who was in turn subordinate to Mane Đurić, the Chief of Vlasenica SJB since May 1992 and a member of the Crisis Staff. On 2 June 1992, members of Kraljević's unit supported by VRS members were among the perpetrators of Scheduled Incident A.9.1. Kraljević ordered his unit to clean the territory - in an operation covering a large area, including the Bosnian-Muslim village of Drum - of Bosnian Muslims and to kill fleeing persons. Kraljević's unit was operationally under the command of Vlasenica SJB at the time until some time in June when it was also formally attached to the Vlasenica SJB. On 30 or 31 May 1992 and 2 June 1992, Kraljević's unit destroyed houses belonging to Bosnian Muslims during the two Gradina operations. This destruction was committed, in particular, in Gradina itself and its surrounding villages, such as Barice and Piskavice, a mixed Serb and Muslim village. In May and June 1992, Kraljević's unit took over Gradina, Sušica, and other Bosnian-Muslim hamlets and sent women and children to Vlasenica town. It torched all Bosnian-Muslim houses in order to prevent owners from returning. No non-Serb inhabitants remained in 16 villages that were taken over; those that survived either escaped or were taken to Sušica camp. In June 1992, Kraljević's unit appropriated property from Bosnian-Muslim residences in Vlasenica Town on a discriminatory basis.

3518. In relation to Sušica camp, the Trial Chamber recalls its finding in chapter 4.14.1 *Schedule B.16.1* that Dragan Nikolić and Goran Tešić were permanently stationed at the camp under orders from Kraljević from 15-18 June to September 1992 when Sušica camp was closed. The Trial Chamber recalls its finding in 4.15.2 *Schedule C.19.3* that Nikolić was directly accountable to Kraljević and was subordinate to him. He was given instructions by Kraljević to take whatever security measures he felt were necessary. In June and July 1992, Nikolić and Tešić killed eight Bosnian Muslims at Sušica camp and until September 1992, both subjected Bosnian Muslims to acts constituting serious bodily and mental harm. In early June 1992, at Sušica camp, Nikolić ordered

possessions to be taken from Bosnian-Muslim detainees; guards also stripped more than 800 Bosnian-Muslim women of their valuables. Veljko Bašić, a former policeman mobilized into Vlasenica SJB, who also had a commander's role at Sušica, was also the commander at the Vlasenica secondary school where, between 31 May 1992 and 8 June 1992, 160 Bosnian-Muslim men were subjected to acts causing serious bodily and mental harm. In relation to Sušica, in Scheduled Incident B.16.2, the Trial Chamber found that Kraljević's superior, Mane Đurić, ordered MUP officers to remove 140-150 Bosnian-Muslim detainees from Sušica camp following which the MUP officers killed them on 30 September 1992.

3519. The Trial Chamber finds that the attack on Vlasenica from late May 1992 was intensive, and overwhelmingly involved the Vlasenica SJB and, in particular, Mane Đurić's direct subordinate, Mićo Kraljević, in almost all of the prohibited acts and other culpable acts. Those acts were committed in close proximity in terms of time and location. The prohibited acts were also systematic and discriminatory in nature. The Trial Chamber finds, Judge Orić dissenting, that the only reasonable inference, therefore, is that certain physical perpetrators of the prohibited acts had the intent to destroy a part of the protected group of Bosnian Muslims when carrying out the prohibited acts. Those physical perpetrators comprised primarily Mane Đurić, Mićo Kraljević, Dragan Nikolić, Goran Tešić, Veljko Bašić, and those physical perpetrators subordinated to them and/or affiliated with the Vlasenica SJB who had carried out multiple prohibited and/or other culpable acts.

3520. *Bosnian Muslims in Prijedor Municipality.* In relation to Bosnian Muslims in Prijedor Municipality, the Trial Chamber observes that within a relatively short period, primarily in late May 1992 and including the period up to mid-August 1992, Bosnian Muslims in Prijedor Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, causing serious bodily and mental harm, destruction of property, inhumane acts (forcible transfer), and deportation, plunder and appropriation, as well as imposing restrictive and discriminatory measures. Almost all of the killings were committed in June and July 1992. The prohibited acts were largely committed on a discriminatory basis against Bosnian Muslims and in the context of a widespread and systematic attack directed against the civilian population. By the summer of 1992, there were few Bosnian Muslims left in the municipality.

3521. The Trial Chamber observes that the prohibited acts of killing predominantly Bosnian Muslims in Scheduled Incidents A.6.1, A.6.2, A.6.3, and A.6.4 were all perpetrated, among others, by members of the VRS 6th Krajina Brigade and 43rd Motorized Brigade, including Vladimir Arsić, and Radmilo Zeljaja. Radmilo Zeljaja of the 43rd Motorized Brigade and Duško Tadić specifically took part in the killings in Scheduled Incidents A.6.1, and A.6.4. The killings were committed in the context of a wider attack in late May 1992 in the areas of Kozarac village, Prijedor, and Sanski Most by VRS units. The 6th Krajina Brigade commanded by Branko Basara took part in that attack. The Trial Chamber found, Judge Orić dissenting, in this chapter that members of the 6th Krajina Brigade had an intention to destroy Bosnian Muslims by targeting them in Sanski Most from June 1992 onwards. The other VRS units participating in the attack included units of the Banja Luka Corps, commanded by Talić, including the 343rd Mechanised Brigade, later known as the 43rd Motorised Brigade, commanded by Vladimir Arsić and his deputy Radmilo Zeljaja. They acted together with the members of the 5th Kozara Brigade. The killings of predominantly Bosnian Muslims in July 1992 in Scheduled Incidents A.6.5 and A.6.6 which were committed in close proximity, and the subsequent attempt to clean up the crime sites were perpetrated by, among others, members of the 43rd Motorized Brigade. Those members included Goran Gruban and Rade Bilbija. The killings of mainly Bosnian Croats in Scheduled Incident A.6.9, on 24 and 25 July 1992, were committed by members of the 6th Krajina Brigade under the command of Colonel Basara and the 5th Kozara Brigade both of which took part in other prohibited acts. The Trial Chamber also recalls that the physical perpetrators of the killings in Scheduled Incidents A.6.1, A.6.4, A.6.5, A.6.6, A.6.7, A.6.8, and A.6.9 intended to kill on a mass scale.

3522. In relation to the serious bodily and mental harm inflicted by perpetrators in Scheduled Incidents C.15.2 (Omarska), C.15.3 (Keraterm), and C.15.4 (Trnopolje), the Trial Chamber found that a number of physical perpetrators of these prohibited acts shared affiliation and participated in multiple prohibited acts. All of these acts were carried out on political, racial or religious grounds. Dušan Knežević, a.k.a. Duca, and Zoran Žigić raped and sexually assaulted female detainees at Omarska and abused prisoners at Keraterm. At Keraterm other VRS physical perpetrators, who caused serious bodily or mental harm, included members of the Banja Luka Corps or 1KK. At Trnopolje, Slobodan Kuruzović, camp commander and Slavko Puhalić, deputy

commander, as well as Dragan Škrbić, Stojan Madžar, and Zoran Žigić were physical perpetrators. Slobodan Kuruzović, Dušan Knežević, a.k.a. Duca and Slavko Puhalić were members of the 43rd Motorized Brigade and Zoran Žigić, Dragan Škrbić, and Stojan Madžar were members of the reconnaissance and sabotage unit of the 43rd Motorized Brigade. The Trial Chamber also found that VRS soldiers, on or around 25 July 1992, were responsible for the killing of between 190 and 220 Bosnian Muslims at Room 3 in Keraterm. Similarly, in July or early August 1992, camp guards, who included members of the 43rd Motorised Brigade, as well as the Banja Luka Corps or 1KK killed detainees in Scheduled Incidents C.15.3, B.13.2, B.13.4, and B.13.5.

3523. The prohibited acts from late May 1992 and including the period up to mid-August 1992 were committed contemporaneously with the discriminatory acts of destruction carried out by the a range of perpetrators which included, *inter alios*, members of the 5th Kozara Brigade, the 43rd Motorized Brigade, the 6th Krajina Brigade, and the VRS, acting jointly with the police and paramilitary forces. The prohibited acts were also committed contemporaneously with the acts of inhumane acts (forcible transfer), deportation, and restrictive measures which were carried out by, among others, the VRS working in conjunction with the police or the Prijedor Crisis Staff.

3524. The Trial Chamber finds that the attack on Prijedor Municipality was intensive, over a short time frame and included physical perpetrators who committed crimes together and were part of the same units or brigades such as the 43rd Motorised Brigade under the direction of Vladimir Arsić and Radmilo Zeljaja, the 6th Krajina Brigade under the command of Branko Basara, units of the Banja Luka Corps commanded by Talić, and individuals working with Duško Tadić. Given the widespread and discriminatory nature of the acts, and the overwhelming involvement of the 43rd Motorized Brigade in almost all prohibited acts, the Trial Chamber finds, Judge Orić dissenting, that the only reasonable inference is that certain physical perpetrators of the prohibited acts had the intent to destroy part of the protected group of Bosnian Muslims when carrying out the prohibited acts of killings and causing serious bodily or mental harm. The physical perpetrators who shared the intent to destroy Bosnian Muslims in Prijedor included: VRS units of the Banja Luka Corps, commanded by Talić, including the 43rd Motorized Brigade commanded by Vladimir Arsić together with Radmilo Zeljaja; units of the 6th Krajina Brigade commanded by Branko Basara; and Duško



Tadić. Specific members of the 43rd Motorized Brigade who were known to have participated in multiple prohibited acts included: Goran Gruban, Rade Bilbija, Dušan Knežević a.k.a. Duca, Dragan Škrbić, Stojan Madzar, Zoran Žigić, Slobodan Kuruzović and Slavko Puhalić.

3525. The Trial Chamber is unable to establish the requisite specific intent of other physical perpetrators of prohibited acts in Prijedor Municipality as the perpetrators are either unnamed and/or their affiliations are not determined. This precludes any finding as to the extent and nature of their involvement in prohibited and/or other culpable acts. In relation to the camps, the Trial Chamber observes that the Prijedor Crisis Staff established Omarska, Keraterm, and Trnopolje, where Bosnian Croats and Bosnian Muslims suffered serious bodily and mental harm and killings. The Prijedor Crisis Staff also imposed restrictive and discriminatory measures on Bosnian Muslims from 12 May 1992 onwards and carried out forcible transfers and deportations. All of the prohibited acts were carried out on political, racial or religious grounds. The Trial Chamber notes that the Prijedor Crisis Staff was primarily involved in the establishment and administration of these camps. Without further evidence of the involvement of a named perpetrator of a prohibited act who was affiliated with the Prijedor Crisis Staff, specific intent cannot be inferred. This is especially the case when assessing the surrounding facts and circumstances in which multiple physical perpetrators were carrying out prohibited acts. The exceptions to this are known members of the Crisis Staff who carried out prohibited acts such as Radmilo Zeljaja and Slobodan Kuruzović. For these reasons, the Trial Chamber cannot infer beyond reasonable doubt that other unknown members of the Prijedor Crisis Staff possessed the required specific intent. The Trial Chamber will, however, further consider in chapter 9.2.14 whether the circumstances and the context in which the prohibited and other culpable acts were committed are relevant for assessing the specific intent of the Accused and/or any other alleged JCE members who are not physical perpetrators.

3526. In conclusion, the Trial Chamber finds, Judge Orić dissenting, that the physical perpetrators of the prohibited acts in Sanski Most, Vlasenica, and Foča Municipalities, and certain named perpetrators in Kotor Varoš and Prijedor Municipalities, intended to destroy the Bosnian Muslims in those Count 1 Municipalities as a part of the protected group. Whether the targeted part constituted a substantial part of the protected group, in

so far as the specific intent of physical perpetrators is concerned, will be considered further below.

*Mens rea - substantiality of part of the protected groups of Bosnian Muslims and Bosnian Croats*

3527. The Prosecution argued that destruction of a group ‘in part’ encompasses limited geographic areas such as a municipality.<sup>13379</sup> It submits that the ‘targeted communities’ within the Count 1 municipalities were not random aggregations of individuals but that they were ‘distinct entities’ with specific histories, attachments, and identities, which were developed over centuries.<sup>13380</sup> The Prosecution argued that Bosnian Muslims and Bosnian Croats in Prijedor, for instance – given the scale of the prohibited acts there – were targeted for destruction so that it would serve, among other things, as a potent example to the rest of the protected group of the physical demise of the Bosnian Muslims and Bosnian Croats given their ‘vulnerability and defencelessness’.<sup>13381</sup> The Defence submitted that the intent as described in paragraph 37 of the Indictment is an intent to kill selectively within ‘some municipalities’ and, therefore, the intent does not target a group which is a ‘sufficiently substantial part of the Bosnian-Muslim/Croat population of [Bosnia-Herzegovina]’.<sup>13382</sup> The Defence argued that the Indictment does not allege a campaign which targeted the destruction of a group, even in part. Rather, they suggested that, on the contrary, it implies a discriminatory approach to killings which is the antithesis of an intent to physically destroy the groups.<sup>13383</sup> The Defence explained that for substantiality it is necessary to consider whether the targeted group is substantial in relation to the Bosnian-Muslim or Bosnian-Croat population of Bosnia-Herzegovina as a whole.<sup>13384</sup> The Trial Chamber will address arguments related to the Accused and/or alleged JCE members who were not physical perpetrators further in chapter 9.2.14.

3528. The Trial Chamber recalls, as noted in chapter 8.10.1, that in determining the substantiality of the group, the numerical size of the targeted part of the protected group in absolute terms is one factor among many. Other factors include: numerical size of the

<sup>13379</sup> Prosecution Final Brief, para. 383.

<sup>13380</sup> Prosecution Final Brief, para. 385.

<sup>13381</sup> Prosecution Final Brief, paras 350, 352, 385-389.

<sup>13382</sup> Defence Final Brief, para. 54-55.

<sup>13383</sup> Defence Final Brief, para. 52-54.

part in relation to the overall size of the group; the prominence of the part of the group within the larger whole and whether it is emblematic of the overall group or essential to its survival; the area of the perpetrators' activity and control; and the perpetrators' potential reach. The Trial Chamber reiterates that this section concerns the specific intent of physical perpetrators and, accordingly, in determining whether the targeted part was substantial, consideration must be given, *inter alia*, to the physical perpetrators' activity, *de facto* control, and reach. The Trial Chamber in this regard recalls the Appeals Chamber jurisprudence that 'The intent to destroy formed by a perpetrator of genocide will always be limited by the opportunity presented to him. While this factor alone will not indicate whether the targeted group is substantial, it can - in combination with other factors - inform the analysis'.<sup>13385</sup> Furthermore the Appeals Chamber has emphasised that the above considerations are neither exhaustive nor dispositive and that they are only useful guidelines.<sup>13386</sup>

3529. The population of Bosnia-Herzegovina in 1991 was approximately 4.4 million people.<sup>13387</sup> According to an April 1991 census, 43.7 per cent of the residents of Bosnia-Herzegovina were Bosnian-Muslim, 32.4 per cent were Bosnian-Serb, and 17.3 per cent were Bosnian-Croat.<sup>13388</sup>

3530. In relation to Sanski Most Municipality, according to the April 1991 census, it comprised 28,136 (47 per cent) Bosnian Muslims, 25,363 (42 per cent) Bosnian Serbs, 4,322 (7 per cent) Bosnian Croats, 1,247 Yugoslavs, and 1,239 persons of other or unknown ethnicity.<sup>13389</sup> The Trial Chamber finds that while the number of Bosnian Muslims in Sanski Most would have formed a larger proportion of the population of Bosnian Muslims in the Bosnian-Serb claimed territory than they did of Bosnia-Herzegovina as a whole (approximately 1.5 per cent), they were still a relatively small part of the population under Bosnian-Serb activity and control. The Trial Chamber notes that it found in chapter 4.12.7 that the vast majority of Bosnian Muslims in Sanski Most Municipality had left by the end of 1992. In terms of other factors signifying the importance of Sanski Most, Karadžić and Krajišnik stressed the strategic significance of

<sup>13384</sup> Defence Final Brief, paras 47-48.

<sup>13385</sup> *Krštić* Appeal Judgment, paras 13-14.

<sup>13386</sup> *Krštić* Appeal Judgment, paras 13-14.

<sup>13387</sup> P2786 (Excerpts of transcript of testimony of Ewa Tabeau, 25 April 2012) p.10; Ewa Tabeau, T. 19239.

<sup>13388</sup> Adjudicated Facts I, no. 12.

<sup>13389</sup> Adjudicated Facts I, no. 1138.

Sanski Most Municipality and the need to retain it.<sup>13390</sup> At the 50th session of the Bosnian-Serb Assembly, Krajišnik remarked that '[t]he fact that we have organised this jubilee session in Sanski Most, a beautiful town in Krajina, is symbolical. Our presence here is a guarantee that Sanski Most was Serbian and will remain such, regardless of map-drawing and those engaged in such futile efforts'.<sup>13391</sup> The Trial Chamber also recalls from chapter 3.1.2 that while the authority of the VRS Main Staff extended throughout the Bosnian-Serb claimed territory, the authority of the VRS 6th Krajina Brigade, under the command of Branko Basara, charged with the take-over of Sanski Most Municipality did not extend beyond the municipality from early 1992 onwards. From the perspective of the 6th Krajina Brigade physical perpetrators, the Bosnian Muslims of Sanski Most were the only part of the Bosnian-Muslim group within their area of control.

3531. In relation to Foča Municipality, according to the April 1991 census, Foča Municipality was comprised of 20,790 (51 per cent) Bosnian Muslims, 18,315 (45 per cent) Bosnian Serbs, 94 Bosnian Croats, 463 Yugoslavs, and 851 persons of other or unknown ethnicity.<sup>13392</sup> The Trial Chamber finds, therefore, that while the number of Bosnian Muslims in Foča would have formed a larger proportion of the population of Bosnian Muslims in the Bosnian-Serb claimed territory than they did of Bosnia-Herzegovina as a whole (1.08 per cent) they were still a relatively small part of that population under Bosnian-Serb activity and control. The Trial Chamber found in chapter 4.3.7 that between July and 13 August 1992 Bosnian Muslim civilians left Foča Municipality for other countries. In terms of other factors signifying the importance of Foča, in September 1992, the Crisis Staff and War Commission President Miroslav Stanić informed Mladić that Foča 'was supposed to be the second Islamic Centre for Muslims in Europe' but was now 99 per cent Serb.<sup>13393</sup> During the war, Bosnian-Serb authorities renamed Foča 'Srbinje' or 'town of the Serbs'.<sup>13394</sup> In January 1994, Karadžić explained that Foča 'is extremely important to' the Muslims, 'but it will never be theirs again'.<sup>13395</sup> Vojislav Maksimović, the Bosnian-Serb Republic Commissioner for Foča, promoted a 'firm attitude that the Muslims and the Croats will not be allowed

<sup>13390</sup> P7294 (Excerpt of video footage of Karadžić discussing territorial division of Bosnia-Herzegovina); Nikola Erceg, T. 34091-34092.

<sup>13391</sup> P4583 (Transcript from the 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 2.

<sup>13392</sup> P6686 (Excerpt of census data by municipality from Bosnia-Herzegovina, 1995), p. 3.

<sup>13393</sup> P355 (Mladić notebook, 10-30 September 1992), p. 66.

<sup>13394</sup> P2936 (Witness RM-050, witness statement, 15 September 2011), pp. 18831-18832.

to return to the areas under our rule. ... [A]ny thought about having 500 or more Muslims within our future country is out of the question.’<sup>13396</sup> In August 1994, Krajišnik praised Bosnian Serbs in Foča for having created ‘a true Serbian town’ and preventing Foča becoming ‘another Mecca.’<sup>13397</sup> The Trial Chamber also recalls from chapter 3.1.2 that while the authority of the VRS Main Staff extended throughout the Bosnian-Serb claimed territory, the authority of the VRS Foča Tactical Brigade, under the command of Marko Kovač, charged with the take-over of Foča Municipality did not extend beyond the Municipality from early June 1992 onwards. From the perspective of the physical perpetrators, most of whom were part of the Foča Tactical Brigade, the Bosnian Muslims of Foča were the only part of the Bosnian-Muslim protected group within their area of activity and control.

3532. In relation to Kotor Varoš Municipality, according to the 1991 census in Bosnia-Herzegovina, Kotor Varoš Municipality was comprised of 14,056 (38 per cent) Serbs, 11,090 (30 per cent) Muslims, 10,695 (29 per cent) Croats, 745 Yugoslavs, and 267 persons of other or unknown ethnicity.<sup>13398</sup> The Trial Chamber finds that while the number of Bosnian Muslims in Kotor Varoš would have formed a larger proportion of the population of Bosnian Muslims in the Bosnian-Serb claimed territory than they did of Bosnia-Herzegovina as a whole (0.57 per cent) they were still a relatively small part of that population under Bosnian-Serb activity and control. The Trial Chamber recalls its finding in chapter 4.7.7 that between June and November 1992, large parts of the Bosnian-Muslim population were moved out of Kotor Varoš Municipality in convoys by the forces attacking the municipality. Kotor Varoš was, marginally, a majority Serb municipality and such municipalities with a majority Serbian population were targeted to become a part of the Republika Srpska.<sup>13399</sup> Additionally, Kotor Varoš being located almost on the border of the Federation and Republika Srpska made it strategically important.<sup>13400</sup> The Trial Chamber also recalls from chapter 3.1.2 that the VRS 1st Kotor Varoš Brigade and VRS 22nd Brigade – both under the command of Colonel Janko Trivić who commanded the Vlašić Operational Group – were charged with the take-over of Kotor Varoš Municipality. The authority of the two brigades did not extend

<sup>13395</sup> P3076 (Minutes of Bosnian-Serb Assembly, 10 January 1994), p. 26.

<sup>13396</sup> P2001 (Report by Dr Robert Donia titled ‘Highlights of Deliberations in the Bosnian-Serb Assembly Relevant to the Indictment of Ratko Mladić, 1991-96’), pp. 31-32.

<sup>13397</sup> Adjudicated Facts I, no. 728.

<sup>13398</sup> Adjudicated Facts I, no. 796.

<sup>13399</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 30.

beyond the Municipality from early June 1992 onwards. From the perspective of the physical perpetrators, who were commanders of the VRS 1st Kotor Varoš Brigade and VRS 22nd Brigade, the Bosnian Muslims of Kotor Varoš were the only part of the Bosnian-Muslim protected group within their area of activity and control.

3533. In relation to Vlasenica Municipality, according to the 1991 census in Bosnia-Herzegovina, Vlasenica Municipality was comprised of 18,727 (55 per cent) Muslims, 14,359 (42 per cent) Serbs, 39 Croats, 340 Yugoslavs, and 477 persons of other or unknown ethnicity.<sup>13401</sup> The Trial Chamber finds that while the number of Bosnian Muslims in Vlasenica would have formed a larger proportion of the population of Bosnian Muslims in the Bosnian-Serb claimed territory than they did of Bosnia-Herzegovina as a whole (0.97 per cent) they were still a relatively small part of that population under Bosnian-Serb activity and control. The Trial Chamber found in chapter 4.14.7 that by August 1992 almost all Bosnian Muslims left the municipality. In terms of other factors signifying the importance of Vlasenica Municipality, it was understood that controlling Vlasenica would have allowed the advancement of the first and third strategic objectives.<sup>13402</sup> Forcing the Muslim population to leave Vlasenica would have created access to Eastern Herzegovina.<sup>13403</sup> As Mladić noted, ‘whoever controls Vlasenica, controls eastern Bosnia.’<sup>13404</sup> The Trial Chamber also recalls its finding from chapter 4.14.1 *Schedule A.9.1* that the Vlasenica SJB - under the command of its Chief, Mane Đurić, since May 1992 and from which Mićo Kraljević’s special police platoon operated – was charged with the take-over of Vlasenica Municipality. The authority of the Vlasenica SJB did not extend beyond the municipality from early June 1992 onwards. From the perspective of the physical perpetrators, most of whom were part of the Vlasenica SJB, the Bosnian Muslims of Vlasenica were the only part of the Bosnian-Muslim protected group within their area of activity and control.

3534. In relation to Prijedor Municipality, according to the 1991 census in Bosnia-Herzegovina, Prijedor Municipality was comprised of 49,700 (44 per cent) Muslims, 40,000 (42.5 per cent) Serbs, with the remainder made up of Croats (5.6 per cent), Yugoslavs (5.7 per cent) and others (2.2 per cent) out of a total population of

<sup>13400</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 16.

<sup>13401</sup> Adjudicated Facts I, no. 1241.

<sup>13402</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13403</sup> P2095 (DK Command order, 24 November 1992), p. 1.

<sup>13404</sup> P353 (Mladić notebook, 10-30 September 1992), p. 262.

112,000.<sup>13405</sup> The Trial Chamber finds that while the number of Bosnian Muslims in Prijedor would have formed a larger proportion of the population of Bosnian Muslims in the Bosnian-Serb claimed territory than they did of Bosnia-Herzegovina as a whole (2.2 per cent) they were still a relatively small part of that population under Bosnian-Serb activity and control. The Trial Chamber found in chapter 4.10.7 that by 1993 the vast majority of Bosnian Muslims left the municipality.<sup>13406</sup> In terms of other factors signifying the importance of Prijedor Municipality, the municipality was significant to the Bosnian Serbs because of its location as part of the land corridor that linked the Serb-dominated area in the Croatian Krajina in the west with Serbia and Montenegro in the east and south, which was said to be essential for supplying units of the VRS as it was the only land connection between western Bosnia-Herzegovina and Serbia.<sup>13407</sup> Senior figures in the Bosnian-Serb claimed territory emphasised that Prijedor and the Bosnian-Muslim and Bosnian-Croat communities living there symbolised World War II throughout the region. Prime Minister Lukić said in a speech that Prijedor had to be Serb because it had been Serb-majority before ‘the slaughter’, referring to World War II.<sup>13408</sup> In 1994, Karadžić continued to emphasise the need for continuing Serb control over Prijedor.<sup>13409</sup> Furthermore, Prijedor, as a multi-ethnic area, was a symbol throughout the region of Yugoslavia of ‘brotherhood and unity’, to the extent that Bosnian Muslims thought it was “the last town where ethnic conflict was possible.”<sup>13410</sup> The Trial Chamber found in chapter 4.10.7 that after the SDS takeover of Prijedor Town with the aid of the military and police forces on 30 April 1992, VRS soldiers changed the name to ‘Serbian Prijedor’ and occupied all of the prominent institutions such as the radio station, medical centre, and bank. A Serbian flag was raised over the Municipal Assembly building. Sometime before the attack on Prijedor, the President of the ARK Crisis Staff, Radoslav Brđanin, said on television that ‘non-Serbs would not need wood for the winter’, which among the non-Serb population was understood as a concealed threat and caused fear and panic. The Trial Chamber also recalls from chapter 3.1.2 that

<sup>13405</sup> Adjudicated Facts I, no. 839.

<sup>13406</sup> P182 (Witness RM-066, witness statement, 7 April 2010), p. 17.

<sup>13407</sup> Adjudicated Facts I, no. 837.

<sup>13408</sup> P7028 (Video from Bosnian-Serb State Television relating to the 43rd Motorised Brigade, July 1994); P7294 (Excerpt from video footage of an interview of Karadžić discussing territorial division of Bosnia-Herzegovina).

<sup>13409</sup> P7028 (Video from Bosnian-Serb State Television relating to the 43rd Motorised Brigade, July 1994); P7294 (Excerpt from video footage of an interview of Karadžić discussing territorial division of Bosnia-Herzegovina).

<sup>13410</sup> P3271 (Witness RM-065, witness statements, 22 March 1995 and 28 August 2000), p.15; Slobodan Radulj, T. 35558-35559.

the 43rd Motorized Brigade and the 6th Krajina Brigade, among others, were at the time of the relevant prohibited acts, charged with the take-over of Prijedor Municipality. The authority of those brigades did not extend beyond the municipality, with the exception of the 6th Krajina Brigade which also operated in neighbouring Sanski Most from early May 1992. From the perspective of the physical perpetrators, most of whom were members of the 43rd Motorized Brigade, the Bosnian Muslims of Prijedor were the only part of the Bosnian-Muslim protected group within their area of control.

3535. In light of the foregoing, the Trial Chamber finds that the Bosnian Muslims in Sanski Most, Vlasenica, Foča, Kotor Varoš, and Prijedor Municipalities were targeted by the physical perpetrators of prohibited acts largely in their own respective municipalities. The Trial Chamber notes that the physical perpetrators had limited geographical control or authority to carry out activities. The Bosnian Muslims targeted in each individual municipality formed a relatively small part of the Bosnian-Muslim population in the Bosnian-Serb claimed territory or in Bosnia-Herzegovina as a whole. The Trial Chamber received insufficient evidence indicating why the Bosnian Muslims in each of the above municipalities or the municipalities themselves had a special significance or were emblematic in relation to the protected group as a whole. The Trial Chamber is, therefore, not satisfied, beyond reasonable doubt, that the only reasonable inference that can be drawn from the surrounding facts and circumstances is that the physical perpetrators possessed the intent to destroy the Bosnian Muslims in Sanski Most, Foča, Kotor Varoš, Prijedor, and Vlasenica Municipalities as a substantial part of the protected group.

### *Conclusion*

3536. In conclusion, the Trial Chamber does not find, beyond reasonable doubt, that the physical perpetrators of prohibited acts against the Bosnian Muslims and Bosnian Croats in the Count 1 municipalities committed those prohibited acts, with the intent to destroy the Bosnian Muslims and Bosnian Croats as a substantial part of the protected groups in Bosnia-Herzegovina. In chapter 9.2.14, the Trial Chamber will consider whether there was a JCE to permanently remove the Bosnian Muslims and Bosnian Croats in the Count 1 municipalities through the commission of genocide. The Trial Chamber will consider the specific intent, if any, of the alleged members of the JCE in light of the totality of the evidence.



*Count 2*

3537. In chapters 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8.1, 7.8.2, 7.9, 7.10, 7.11, 7.12, 7.13.1, 7.13.2, 7.14.1, 7.14.2, 7.15, 7.15.3, and 7.16 the Trial Chamber decided to further consider certain incidents which occurred in Srebrenica as alleged genocidal acts against the applicable law.

3538. *Protected group.* As established above in relation to Count 1 in chapter 8.10.2, the Trial Chamber is satisfied that Bosnian Muslims were a protected group for the purpose of Article 4 of the Statute.

3539. *Actus reus.* The Trial Chamber recalls, as noted in chapter 8.10.1, that the crime of genocide is constituted of certain prohibited acts which, in respect of the charges in Count 2, relate to killing members of the protected group and causing serious bodily or mental harm to members of the protected group. The Trial Chamber will examine each of these charges below.

3540. *Killing members of the group.* The Trial Chamber recalls its findings in chapter 8.3.2, that following the fall of Srebrenica on 11 July 1995 Bosnian-Muslim men and boys were killed and that those killings constituted murder. The Trial Chamber, accordingly, finds that many thousands of members of the protected group were killed. The Trial Chamber will not consider the killing of women in Srebrenica any further in this chapter as those killings were not charged under Count 2 of the Indictment.

3541. *Causing serious bodily or mental harm to members of the group.* The Trial Chamber recalls its findings in chapter 7.16 and 8.9.2 that VRS units terrorised and abused the Bosnian Muslims of Srebrenica who had gathered in Potočari following the fall of Srebrenica on 11 July 1995 and that these acts constituted cruel and/or inhumane treatment.

3542. The Trial Chamber found in chapters 7.16 and 8.9.2 that VRS units separated Bosnian-Muslim men, particularly those of fighting age, from Bosnian-Muslim women, children, and the elderly in Potočari and finds that this act aroused intense fear as those detained understood the inevitable fate awaiting the men as they were placed onto buses while being punched, abused, hit, and branded with derogatory terms. The VRS created a fearful and threatening atmosphere in Potočari by intimidating the Bosnian Muslims of Srebrenica to an extent that some of them committed suicide.

3543. The Trial Chamber also recalls its findings in chapters 7.16 and 8.9.2 that members of the VRS, military police, civilian police, special police, Drina Wolves, and paramilitary formations beat Bosnian-Muslim men and boys of Srebrenica prior to their execution and that these acts constituted cruel and/or inhumane treatment. The Trial Chamber further found in chapter 7.16 and 8.9.2 that Bosnian-Muslim men from the column and at the execution sites were cursed, insulted, threatened and were forced to make the Serb salute and sing Serbian songs. The Trial Chamber recalls, as determined in chapters 8.3.2, 8.9.2 and 7.16, the circumstances, including discriminatory treatment, in which thousands of detained Bosnian-Muslim males of Srebrenica faced their imminent deaths in the following locations: Bratunac, Kravica, Tisova Kosa, Kravica Warehouse (Schedule E.3.1), Sandići Meadow (Schedule E.4.1), Luke School near Tišća (Schedule E.5.1), School in Orahovac (Schedule E.6.1), School in Petkovci (Schedule E.7.1), Kula School (Schedule E.9.1), Branjevo Military Farm (E.9.2), Pilica Cultural Centre (Schedule E.10.1), and Vuk Karadžić elementary school (Schedule E.15.1).<sup>13411</sup> The Trial Chamber finds that the suffering endured by the Bosnian Muslims of Srebrenica in the period before they were killed, was intense, prolonged, and serious. Many spent their last moments in a state of desperation.

3544. Based on the foregoing, the Trial Chamber observes that thousands of Bosnian Muslims of Srebrenica were subjected to serious bodily or mental harm which included: threats of death or treatment which brought them to the point of death or suicide; knowledge, in many cases, of impending death due to the terrible manner in which they were treated prior to being killed; and long-lasting physical and mental damage. The harm inflicted upon the victims by the perpetrators preceded the suffering which was inherently part of the acts of killing. The Trial Chamber, therefore, finds that the serious bodily or mental harm suffered by thousands of Bosnian Muslims of Srebrenica contributed to the destruction of the targeted group as a result of actions of the physical perpetrators.

3545. *Mens rea - Intent to destroy the protected group, in part, as such.* The Trial Chamber recalls Appeals Chamber jurisprudence that where direct evidence of specific intent is absent, the specific intent may be inferred from the surrounding facts and

<sup>13411</sup> The Trial Chamber recalls its finding in chapter 7.16 that Bosnian-Muslims men and boys were kept in poor and overcrowded conditions at Kravica Warehouse (Schedule E.3.1), School in Orahovac (Schedule E.6.1), School in Petkovci (Schedule E.7.1), Kula School (Schedule E.9.1), and Vuk Karadžić

circumstances which may include: the general context; the perpetration of other culpable acts systematically directed against the same group; the scale of the atrocities committed; the systematic targeting of victims on account of their membership in a particular group; proof of the mental state with respect to the commission of the underlying acts; the repetition of destructive and discriminatory acts; or the existence of a plan or policy.<sup>13412</sup>

3546. The Trial Chamber recalls its findings in chapter 8.3.2, that all of the victims of the killings in Srebrenica were not actively participating in the hostilities at the time of the killings. The killings were perpetrated by members of the VRS including soldiers and military police as well as the following groups: the 2nd Šehovići Detachment of the Special Police Brigade, the 10th Sabotage Detachment, the 1st Battalion of the Zvornik Brigade and the Zvornik Brigade more generally, the 6th Infantry Battalion of the Zvornik Brigade, the Bratunac Brigade Military Police Platoon, the 1st company of the Jahorina police training centre, the Drina Wolves, the Skorpions Unit, paramilitary formations, the Special Police Detachment, the Special Police Unit of the MUP and 'Chetniks'. The Trial Chamber recalls its finding in chapter 8.4.2 that the perpetrators of Scheduled Incidents E.1.1, E.2.1, E.3.1, E.5.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, and E.12.1 intended to kill on a mass scale. The Trial Chamber also recalls its finding in chapter 8.9.2 that the perpetrators of Scheduled Incidents E.1.1, E.2.1, E.3.1, E.4.1, E.5.1, E.6.1, E.6.2, E.7.1, E.7.2, E.8.1, E.8.2, E.9.1, E.9.2, E.10.1, E.12.1, E.13.1, E.14.1, E.14.2, E.15.1, E.15.3 and the unscheduled incidents of 13 July 1995, 18 July 1995 and 23 July 1995 committed the killings against the Bosnian Muslims on political, racial or religious grounds. Further, the Trial Chamber recalls its finding in chapter 7.16 and 8.9.2 that members of the VRS, military police, civilian police, special police, Drina Wolves and paramilitary formations terrorised and abused Bosnian Muslims in Potočari, mis-treated and beat Bosnian-Muslim boys and men prior to their execution, and intended to cause serious mental or physical suffering to Bosnian Muslims who were separated or detained.

3547. The Trial Chamber notes the scale of the events in Srebrenica, which involved the murder of a very large number of Bosnian-Muslim men and boys. Many thousands

elementary school (Schedule E.15.1). Some detainees were shot in their legs at Kravica Warehouse (Schedule E.3.1) and School in Petkovci (Schedule E.7.1), and others were severely handicapped.

of Bosnian-Muslim males were killed. These killings were carried out approximately between 12 and 23 July 1995 with the vast majority being killed over just a few days, from 12 until 17 July 1995. The killings followed a pattern. The victims were Bosnian-Muslim males who were captured and detained.<sup>13413</sup> Many of the detainees were transported to other locations prior to being taken to execution sites; they were then either lined up prior to the killings or summarily killed. They were often kept in dire conditions.<sup>13414</sup> The killings were often accompanied by ethnic slurs.<sup>13415</sup> In relation to Scheduled Incident E.10.1, the perpetrators were heard saying to one another: ‘don’t commit genocide, if you want to kill ... take a rifle and strike in a military way’ and ‘we committed the genocide like in Jasenovac in 1941.’ The Trial Chamber considers that the killings, taking into consideration their organized and systematic manner, demonstrate the perpetrators’ clear intent to kill all or substantially all able-bodied Bosnian-Muslim males from Srebrenica.

3548. In addition, the Trial Chamber recalls its findings in chapter 7.1.3 that, between 6 and 11 July 1995, the VRS and soldiers identified as ‘Chetniks’ destroyed houses belonging to Bosnian Muslims in Srebrenica, mosques in Srebrenica, and a building housing the archive and the library of the Medžlis of the Islamic Community of Srebrenica. These acts of destruction were also committed in the days immediately preceding the killings and by the same perpetrators as those who committed the murder and the cruel and inhumane treatment. The Trial Chamber also recalls its findings in chapter 8.5.2 and 8.9.2(b) that in addition to the murder, terrorising and abusing, ill-treatment, and destruction of property suffered by Bosnian Muslims in Srebrenica, all or substantially all of the remaining Bosnian Muslims in Srebrenica were forcibly transferred out of Potočari by the VRS and the MUP.

3549. In light of the foregoing, the Trial Chamber finds that the only reasonable inference is that the physical perpetrators of the prohibited acts intended to destroy the

<sup>13412</sup> *Jelišić* Appeal Judgment, paras. 47-48; *Krstić* Appeal Judgment, para. 34; *Stakić* Appeal Judgment, para. 55; *Hategekimana* Appeal Judgment, para. 133; *Karadžić* Rule 98 *bis* Appeal Judgment, paras 80, 99; *Popović et al.* Appeal Judgment, paras 430, 440, 468; *Tolimir* Appeal Judgment, paras 246, 248, 253.

<sup>13413</sup> In relation to Scheduled Incident E.4.1, the Trial Chamber recalls chapter 7.5 that the victims surrendered from the column near the meadow and were killed at the meadow.

<sup>13414</sup> See, for instance, in Scheduled Incident E.9.1 in chapter 7.10.1, the Trial Chamber found that some the victims died as they were kept in hot and overcrowded conditions with no food or water.

<sup>13415</sup> In relation to Scheduled Incidents E.3.1, E.4.1, E.6.1, E.6.2, E.7.1, E.7.2, E.9.2, E.13.1, and the unscheduled incidents of 18 July and 23 July 1995, the Trial Chamber found in chapter 8.9.2(a) that the perpetrators referred to the victims as *balijas* or *ustasas*, or treated them in discriminatory ways based on the victims’ religious, racial or political views.

Bosnian Muslims in Srebrenica, as a part of the protected group. Whether the targeted part constituted a substantial part of the protected group, in so far as the specific intent of physical perpetrators is concerned, will be considered further below.

3550. *Mens rea - Substantiality of part of the protected group.* The Trial Chamber recalls, as noted in chapter 8.10.1, that in determining the substantiality of the group, numerical size of the part in absolute terms is one factor among many. Other factors include: numerical size of the part in relation to the overall size of the group; the prominence of the part of the group within the larger whole and whether it is emblematic of the overall group or essential to its survival; the area of the perpetrators' activity and control; and the perpetrators' potential reach.

3551. The Trial Chamber notes that the population of Bosnia-Herzegovina in 1991 was approximately 4.4 million people.<sup>13416</sup> According to the April 1991 census 43.7 per cent of the residents of Bosnia-Herzegovina were Bosnian Muslim, 32.4 per cent were Bosnian Serb, and 17.3 per cent were Bosnian Croat.<sup>13417</sup> The Trial Chamber recalls its findings in chapter 7.1.1 that in 1991, the population of the Srebrenica Municipality was 37,000, of which 73 per cent were Muslim and 25 per cent were Serb. It also recalls that in April 1993 some 20,000 to 28,000 people were living in Srebrenica Town comprising displaced persons from the surrounding villages and 8,000 to 10,000 locals most of whom were Bosnian Muslims. The Bosnian-Muslim population of Srebrenica Town at times swelled to between 50,000 to 60,000 as a result of people being displaced from the surrounding villages and the enclave at one time comprised 70,000 people in April 1993. The Trial Chamber considers, therefore, that the population of Bosnian Muslims in Srebrenica formed less than two per cent of the Bosnian Muslims in Bosnia-Herzegovina as a whole.

3552. The Trial Chamber further recalls the evidence reviewed in chapters 7.1.3 and 9.7.7 regarding Mladić's statements with respect to Srebrenica. Mladić stated in an interview published in 1994, that Srebrenica was a large 'Islamic and Turkish' stronghold until the war started, and that although they had been the majority population there, the heritage did not belong to the 'Turks'. He declared that the Drina was a synonym of domination over the Serbs, dating from the time of the powerful Turkish

<sup>13416</sup> P2786 (Excerpts of transcript of testimony of Ewa Tabeau, 25 April 2012) p.10; Ewa Tabeau, T. 19239.

<sup>13417</sup> Adjudicated Facts I, no. 12.

empire. Mladić demanded that a representative of a humanitarian organization film the area in Srebrenica and said ‘Let our Serbs see what we have done to them, how we took care of the Turks’. Mladić also said that if the Dutch had not been there to protect the Bosnian Muslims, ‘they would have disappeared from this area a long time ago’. Upon Mladić’s arrival in Srebrenica on 11 July 1995, he said: ‘Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet great Serb holiday, we give this town to the Serb people as a gift. Finally, after the [R]ebellion against the Dahis, the time has come to take revenge on the Turks in this region’.

3553. The Trial Chamber also recalls its findings in chapters 7.1.3, 7.17 and 8.3.2(a) relating to the murder of many thousands of Bosnian-Muslim males, the destruction of political or religious monuments and homes, and the forcible transfer of Bosnian-Muslims women, children and the elderly. The physical perpetrators of these acts carried them out knowing that they would be demonstrative of the ultimate fate that awaited Bosnian Muslims in Bosnia-Herzegovina. This demonstrative effect would be due to the symbolic impact of the murder of Bosnian Muslims in a designated safe area, the destruction of a number of religious buildings and Bosnian-Muslim homes in the region, and the forcible transfer of all or substantially all of the remaining Bosnian-Muslim population. This symbolic impact was all the more significant given the scope of the VRS activity and control of this municipality in what was then one of the few remaining predominantly Bosnian-Muslim populated territories in the area claimed as the Bosnian-Serb Republic.

3554. In light of the foregoing, the Trial Chamber finds that the enclave of Srebrenica was of significant strategic importance to the Bosnian-Serb leadership during the conflict because the majority Bosnian-Muslim population of this region made it difficult for them to claim the land as inherently Serb. The Bosnian-Serb leadership, in particular, accorded Srebrenica importance as it was in close geographical proximity to Serbia and, therefore, was required for maintaining a Serb-populated border area contiguous with Serbia. During the war, Srebrenica also became a refuge to Bosnian Muslims from the region especially when it was designated a UN safe area. The Trial Chamber is, therefore, satisfied that the Bosnian Muslims in Srebrenica constituted a substantial part of the Bosnian Muslim population of Bosnia-Herzegovina.

3555. *Conclusion.* In conclusion, the Trial Chamber finds that the underlying prohibited acts set out in chapters 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8.1, 7.8.2, 7.9, 7.10, 7.11,

7.12, 7.13.1, 7.13.2, 7.14.1, 7.14.2, 7.15 and 7.16 were committed by the physical perpetrators with the intent to destroy the Bosnian Muslims in Srebrenica, as a substantial part of the protected group of Bosnian Muslims in Bosnian-Herzegovina and, accordingly, constitutes genocide punishable under Article 4(3)(a) of the Statute.