

Bosna i Hercegovina

Bosnia and Herzegovina



**Sud Bosne i Hercegovine
Court of Bosnia and Herzegovina**

Case Number: S1 1 K 002798 13 Kžk

Date: Pronounced: 12 November 2013
Written Verdict Issued: 27 December 2013

Before the Panel composed of: Judge Senadin Begtašević
Judge Mirko Božović
Judge Redžib Begić

CASE OF PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA

v.

Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina

SECOND INSTANCE VERDICT

Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina: Munib Halilović

The Accused Milan Perić, Defense Counsel Boško Čegar

The Accused Spasoje Doder, Defense Counsel Refik Serdarević

The Accused Predrag Terzić, Defense Counsel Adis Jahić

The Accused Aleksandar Cerovina, Defense Counsel Radivoje Lazarević

Sud Bosne i Hercegovine, Sarajevo, ul. Kraljice Jelene br. 88

Telefon: 033 707 100, 707 596; Fax: 033 707 225

IN THE NAME OF BOSNIA AND HERZEGOVINA

The Court of Bosnia and Herzegovina, Section I for War Crimes, sitting on the Panel of the Appellate Division¹, composed of Judge Senadin Begtašević, as the Presiding Judge, and Judge Mirko Božović and Judge Redžib Begić, as members of the Panel, with the participation of Legal Advisor Emira Hodžić, as the record-taker, in the criminal case against the Accused Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina, for the criminal offense of Crimes against Humanity, in violation of Article 172(1)(h), as read with Sub-Paragraph (e) of the Criminal Code of Bosnia and Herzegovina (CC B-H), and as read with the criminal offense of War Crimes against Civilians, in violation of Article 173(1)(a), (e) and (f) of the CC B-H, all as read with Article 180(1) and Article 29 of the CC B-H, having decided on the Indictment by the Prosecutor's Office of Bosnia and Herzegovina No. T20 0 KT RZ 0000 609 10 of 7 October 2010, amended at the main trial on 24 January 2012 and the hearing before the Appellate Panel held on 24 January 2013 and 23 September 2013, following the public hearing held in the presence of Seid Marušić, Prosecutor for the Prosecutor's Office of B-H, the Accused Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina, the Defense Counsel for the Accused, Attorneys Boško Čegar, Refik Serdarević, Adis Jahić and Radivoje Lazarević, on 31 October 2013 rendered and on 12 November 2013 publicly announced the following:

VERDICT

THE ACCUSED:

1. MILAN PERIĆ, son of Mirko and Danica née Jokić, born on 7 June 1961 in the village of Vrapče, Vogošća Municipality, residence address ..., Personal Identification Number ..., ... by ethnicity, citizen of ..., police officer by occupation, completed a one year post-secondary education, car mechanic-specialist, married, father of two adult children, military service completed in the former JNA (Yugoslav People's Army) in Kičevo, Macedonia, private 1st class, decorated as an exemplary soldier, indigent;

¹ Hereinafter: the Appellate Panel/the Panel.

2. SPASOJE DODER, son of Bogdan and Milica née Okuka, born on 6 April 1961 in the village of Šivolji, Kalinovik Municipality, residence address ..., temporarily residing in ..., Personal Identification Number ..., ... by ethnicity, citizen of ..., police officer by occupation, secondary school education, did not serve in the military, married, father of one adult child, middle income;

3. PREDRAG TERZIĆ, son of Marko and Petra née Jeremić, born on 5 November 1969 in Mostar, residence address ..., Personal Identification Number ..., ... by ethnicity, citizen of ..., police officer by occupation, graduated from the Police Academy, did not serve in the military, married, father of two minor children, middle income;

4. ALEKSANDAR CEROVINA aka Saša, son of Petar and Slavojka née Govedarica, born on 29 June 1971 in Foča, residence address ..., Personal Identification Number ..., police officer by occupation, graduated from the Police Academy, did not serve in the military, married, father of one minor child, middle income, in 1998 convicted by the Basic Court in Foča to a suspended sentence for the criminal offense of overstepping his official authority;

pursuant to Article 284(c) of the Criminal Procedure Code of Bosnia and Herzegovina (CPC B-H)

ARE HEREBY ACQUITTED OF THE CHARGES

That:

During the period from June to September 1992, during the war in B-H, within a widespread and systematic attack of the Army of the Serb Republic of Bosnia and Herzegovina (SRB-H) and police units of the Kalinovik Public Security Station (SJB) directed against the Bosniak civilian population of the Kalinovik Municipality, as police officers in the Kalinovik SJB, and Spasoje Doder and Milan Perić as patrol sector leaders, knowing of that attack and that their acts constituted a part thereof, they committed and aided and abetted the persecution of the entire Bosniak population of the Kalinovik Municipality on political, national, ethnic and religious grounds by way of illegal

imprisonment, murder, self-willed destruction of property on a large scale that is not justifiable by military needs, and by applying measures of intimidation and terror:

1. Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina

1a) On 25 June 1992, in the afternoon hours, together with other members of the Kalinovik SJB, in front of the Kalinovik Municipality building, surrounded a group of Bosniak civilian men who had come in front of the municipal building heeding the call-up for compulsory work service issued by the Kalinovik Municipality National Defense Secretariat. The group included Fezija Hadžić, Esad Hadžić, Enes Hadžić, Veiz Hadžić, Smail Hadžić, Nasuf Hadžić, Ahmo Hadžić, Selim Hadžić, Edhem Hadžić, Muhamed Čusto, Sabahudin Juković, Salko Vranović, Rašid Redžović, Ibro Bajrić, Hasan Suljić, Ramo Kurtović, Mirsad Suljić, Sado Suljić, Sevdoo Suljić, Safet Suljić, Emir Suljić, Elvir Suljić, Remzo Suljić, Ramiz Suljić, Ibro Suljić, Suad Suljić aka Medo, Edin Suljić aka Čića, Zijo Pervan, Nedžib Pervan, Ramiz Kešo, Hilmo Rogoj, Husnija Rogoj, Nezir Rogoj, Ismet Hatić, Adem Hatić, Fadil Hatić aka Čičko, Salko Bičo, Zaim Čusto, Nasuf Bičo and Muharem Bičo. Under the order of Spasoje Doder, who commanded over this group of police officers, they forced the civilians to get on the *TAM 110* freight vehicle, driven by Milan Perić, and in two rounds transported and unlawfully detained them at the *Miladin Radojević* Elementary School in Kalinovik. When entering the school the civilians were searched by Predrag Terzić and Aleksandar Cerovina, who confiscated sharp objects from them. Fezija Hadžić was the only civilian who survived detention.

1b) On the same day, in the afternoon hours, together with other police officers of the Kalinovik SJB and members of the Army of the SRB-H, they attacked the Bosniak civilians in the villages of Jelašca and Vihovići, Kalinovik Municipality, during which process they deprived of liberty all Bosniak men who failed to flee, including Mirsad Karaman, Fikret Karaman, Edin Bičo, Muharem Bičo, Ibro Pervan, Mujo Pervan, Hamdo Pervan, the underage Almir Čusto, Ramo Suljić, Salko Suljić and Ramiz Suljić, and transported and unlawfully detained all civilians in the *Miladin Radojević* Elementary School in Kalinovik, which served as a prison for civilians. None of the detainees survived detention.

2. Predrag Terzić and Aleksandar Cerovina

On or about 31 July 1992, together with other police officers of the Kalinovik SJB, in the village of Vihovići, Kalinovik Municipality, they unlawfully deprived of liberty civilians Salko Suljić, Damir Suljić, Salko Kurtović, Hilmo Suljić, Fehim Suljić, Kasim Suljić, Adem Suljić, Hasan Mušanović, Mustafa Mušanović and imam Fehim Srnja, and surrendered them for detention to the *Barutni magacin* camp for civilians, in which they were killed on 5 August 1992.

3. Milan Perić and Aleksandar Cerovina

On 1 August 1992, late in the afternoon, with a group of police officers of the Kalinovik SJB commanded by Milan Perić, and together with members of the Army of SRB-H, they participated in the attack against the Bosniak civilians of the village of Jelašca, Kalinovik Municipality, although they knew that only women, children and a small number of elderly men were in the village at the relevant time; during the attack the village was under fire from an anti-aircraft gun, some houses were set on fire and civilians were captured, as a result of which all houses of the Pervan family in the hamlet of Karaula were burnt down, Dervana Pervan was killed, while her granddaughter, five-year-old Mirveta Pervan, was wounded, the houses of Nusret Kešo, Ismet Hatić, Derviša Rogoj, Džafer Kešo and Sejdo Kešo and a large number of stables and haystacks were set on fire, and the following civilians were deprived of liberty: Rukija Rogoj, her 10-year-old daughter Dženana, "N", Temima Rogoj, Samija Rogoj, Hasna Čusto, Sejda Kešo, Zijada Hatić, Ajka Šalaka, Fadila Hatić, Fatima Pervan, Izeta Pervan, Ismeta Pervan, Fatima Pervan, Azemina Pervan, Edin Bičo, old men Hašim Hatić and Sejdo Kešo. These civilians were taken by the police officers and soldiers on foot to the *Barutni magacin* camp, wherefrom they were transferred to Kalinovik by truck and detained in the civilian prison in the *Miladin Radojević* Elementary School in Kalinovik. The same night the remaining civilians from Vihovići, Mjehovine and other neighboring villages, except for the elderly who were unable to walk across the hill, left the Kalinovik Municipality fleeing the attack. The body of Dervana Pervan was shifted to an unknown location, and she is still registered as a missing person, while civilians Edin Bičo, Sejdo Kešo, Hašim Hatić, Azemina Pervan and Fatima Pervan were killed during detention, while the other detainees were exchanged in late August 1992.

4. Predrag Terzić and Aleksandar Cerovina

On 2 August 1992, they unlawfully deprived of liberty civilian Hasnija Ahatović by taking her out of her apartment in Kalinovik under the pretext that she had to give a statement at the Kalinovik SJB, whereupon they detained her in the *Miladin Radojević* Elementary School, which served as a prison for civilians and where she was detained for 22 days, after which she was exchanged.

5. Predrag Terzić

On or about 31 July 1992, together with other police officers of the Kalinovik SJB, in the settlement of Mjehovina, he unlawfully deprived of liberty doctor Abdurahman Filipović from Kalinovik, who had worked in the Kalinovik Medical Center until that day, and brought him for detention to the *Barutni magacin* camp, where he was killed on 5 August 1992.

6. Aleksandar Cerovina

On 25 June 1992, together with one member of the Army of SRB-H, he unlawfully deprived of liberty civilian “R” by taking him out of his apartment in Kalinovik and bringing him to the Kalinovik SJB where he was identified, whereupon he took and detained the civilian “R” at the *Miladin Radojević* Elementary School, where other Bosniak men were detained that day as well. The civilian “R” was detained until 18 July 1992 when he escaped.

Therefore, Milan Perić, by the acts described in Counts **1a)**, **1b)**, and **3**; **Spasoje Doder**, by the acts described in Counts **1a)** and **1b)**; **Predrag Terzić** by the acts described in Counts **1a)**, **1b)**, **2**, **4** and **5**; and **Aleksandar Cerovina**, by the acts described in Counts **1a)**, **1b)**, **2**, **3**, **4** and **6**; within a widespread and systematic attack aimed at the civilian population, knowing of that attack and that their acts constituted a part of the attack, committed and aided and abetted the persecution of the civilian population on political, national, ethnic and religious grounds by way of unlawful detention, attack against the civilian population, which resulted in the death of civilians, the application of measures of intimidation and terror, and arbitrary destruction of property not justifiable by military needs,

whereby they would have committed the following crimes:

The Accused Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina

- by the acts described in Counts **1a)** and **1b)**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, Article **180(1)**, and Article **29 of the CC B-H**;

The Accused Predrag Terzić and Aleksandar Cerovina

- by the acts described in Count **2**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, Article **180(1)**, and Article **29 of the CC B-H**;

The Accused Milan Perić and Aleksandar Cerovina

- by the acts described in Count **3**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, and as read with the criminal offense of **War Crimes against Civilians** in violation of Article **173(1)(a), (e) and (f)**, Article **180(1)**, and Article **29 of the CC B-H**;

The Accused Predrag Terzić and Aleksandar Cerovina

- by the acts described in Count **4**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, Article **180(1)**, and Article **29 of the CC B-H**;

The Accused Predrag Terzić

- by the acts described in Count **5**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, Article **180(1)**, and Article **29 of the CC B-H**;

The Accused Aleksandar Cerovina

- by the acts described in Count **6**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, Article **180(1)**, and Article **29 of the CC B-H**.

Pursuant to Article 283(b) of the CPC B-H,

with respect to the Accused Spasoje Doder and Predrag Terzić

THE FOLLOWING CHARGES ARE HEREBY DISMISSED

I

That the Accused Spasoje Doder (Count 2 of the Indictment, as amended on 24 January 2012):

On or about 31 July 1992, together with other police officers of the Kalinovik SJB, in the village of Vihovići, Kalinovik Municipality, unlawfully deprived of liberty civilians Salko Suljić, Damir Suljić, Salko Kurtović, Hilmo Suljić, Fehim Suljić, Kasim Suljić, Adem Suljić, Hasan Mušanović, Mustafa Mušanović and imam Fehim Srnja, and surrendered them for detention to the *Barutni magacin* camp for civilians, in which they were killed on 5 August 1992;

Whereby he would have committed the following crime:

- by the acts described in Count 2, the criminal offense of **Crimes against Humanity** in violation of Article 172(1)(h), as read with Sub-Paragraph (e) of the same Article, as read with Article 180(1) and Article 29 of the CC B-H.

II

That the Accused Predrag Terzić (Count 3 of the Indictment, as amended on 24 January 2012):

On 1 August 1992, late in the afternoon, with a group of police officers of the Kalinovik SJB commanded by Milan Perić, and together with members of the Army of SRB-H, participated in the attack against the Bosniak civilians of the village of Jelašca, Kalinovik Municipality, although they knew that only women, children and a small number of elderly men were in the village at the relevant time; during the attack the village was under fire from an anti-aircraft gun, some houses were set on fire and civilians were captured, as a result of which all houses of the Pervan family in the hamlet of Karaula were burnt down, Dervana Pervan was killed and her granddaughter, five-year-old Mirveta Pervan, was

wounded, the houses of Nusret Kešo, Ismet Hatić, Derviša Rogoj, Džafer Kešo and Sejdo Kešo and a large number of stables and haystacks were set on fire, and the following civilians were deprived of liberty: Rukija Rogoj, her 10-year-old daughter Dženana, "N", Temima Rogoj, Samija Rogoj, Hasna Čusto, Sejda Kešo, Zijada Hatić, Ajka Šalaka, Fadila Hatić, Fatima Pervan, Izeta Pervan, Ismeta Pervan, Fatima Pervan, Azemina Pervan, Edin Bičo, old men Hašim Hatić and Sejdo Kešo. These civilians were taken by the police officers and soldiers on foot to the *Barutni magacin* camp, wherefrom they were transferred to Kalinovik by truck and detained in the civilian prison in the *Miladin Radojević* Elementary School in Kalinovik. The same night the remaining civilians from Vihovići, Mjehovine and other neighboring villages, except for the elderly who were unable to walk across the hill, left the Kalinovik Municipality fleeing the attack. The body of Dervana Pervan was shifted to an unknown location, so she is still registered as a missing person, while civilians Edin Bičo, Sejdo Kešo, Hašim Hatić, Azemina Pervan and Fatima Pervan were killed in detention, and the other detainees were exchanged in late August 1992;

Whereby he would have committed the following crime:

- by the acts described in Count **3**, the criminal offense of **Crimes against Humanity** in violation of Article **172(1)(h)**, as read with Sub-Paragraph **(e)** of the same Article, and as read with the criminal offense of **War Crimes against Civilians** in violation of Article **173(1)(a), (e) and (f)**, Article **180(1)**, and Article **29 of the CC B-H**.

Pursuant to Article 189(1) of the CPC B-H, all Accused are hereby relieved of the duty to reimburse the costs of the criminal proceedings, which shall be paid from within the budget appropriations of the Court.

R e a s o n i n g

I. PROCEDURAL HISTORY

1. By the Verdict of the Court of B-H No. S1 1 K 002798 10 Krl of 27 March 2012, the Accused Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina were acquitted of the charges that they had committed the criminal offense of Crimes against Humanity in violation of Article 172(1)(h), as read with Sub-Paragraph (e) of the same Article, and the Accused Milan Perić and Aleksandar Cerovina were also acquitted of the charges that they had committed the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (e) and (f), all as read with Article 180(1) and Article 29 of the CC B-H.
2. Under the first instance Verdict, charges were dismissed with respect to Spasoje Doder (Count 2 of the amended Indictment) and Predrag Terzić (Count 3 of the amended Indictment), as the Prosecutor had meanwhile dropped the charges.
3. On 14 November 2013, the Appellate Panel granted the Appeal filed by the Prosecutor's Office of B-H from the first instance Verdict and rendered a decision revoking the Verdict.

1. Hearing before the Panel of the Appellate Division

4. A hearing before the Appellate Panel started on 12 April 2013 and ended on 8 October 2013.
5. On 24 January 2013 and 23 September 2013, the Prosecution filed the amended Indictments.
6. In the course of the hearing before the Appellate Panel, upon the agreed motion by the parties the Panel accepted that statements of witnesses examined during the main trial before the Trial Panel should be reproduced, which implied that when rendering its decision the Appellate Panel had an obligation to carefully analyze and evaluate all the other evidence adduced in the first instance proceedings before the Trial Panel, in addition

to the reproduced evidence. The Appellate Panel reproduced the statements of the following Prosecution witnesses: Fejzija Hadžić, Gojko Lalović, Hasna Čusto, Dragan Cerovina, Obren Đorem, Predrag Đorem, Elvir Čusto, Rukija Rogoj, Risto Badnjar, Izeta Pervan, Sejda Kešo, Fadila Hatić, Zijada Hatić, Šalaka Ajka, Zlatka Hadžić, Razija Hatić, Hasnija Ahatović, Mirveta Pervan, Fatima Kešo, Danilo Đorem, Fatima Suljić, Zlatka Čukurija, Raza Suljić, Emina Juković, Remza Šurković, protected witnesses T and R; and the following Defense witnesses: Tihomir Regoje, Željko Pržulj, Željko Žarković, Suljić Ibro, Rajka Žmukić, Nihad Suljić, Čedo Okuka, Duško Mandić, Miloš Veletić, Nikola Šupeta, Milan Tunguz, Radomir Tošović and expert witness Mile Matijević.

7. In addition to the reproduced witness statements, the Panel was also mindful of the non-reproduced witness statements from the first instance proceedings. Those are the statements of the following witnesses: Ešrefa Škoro, Ilija Đorem, Dika Suljić, Džemila Suljić and Rešad Hadžić.

8. The Appellate Panel agreed that the Defense for the Accused Aleksandar Cerovina should adduce additional documentary evidence in the course of the hearing, which evidence is listed together with all the other documentary evidence in the Annex to this Verdict, the Annex being an integral part of the Verdict. The Panel refused to admit the following Defense exhibits: the Document of the Supreme Command Staff of 24 August 1992 and the Certificate by the 4120 Kalinovik Military Post, signed by Sreto Lalović, as it considered them irrelevant since they did not concern the event referred to in the Indictment.

2. Closing arguments

a. Closing argument of the Prosecution

9. The Prosecution noted that during the period from June to September 1992 there existed a widespread and systematic attack in the territory of the Kalinovik Municipality, undertaken by members of the Kalinovik police station, in coordination with the VRS (Army of Republika Srpska) and paramilitary formations. Stating that a large number of witnesses who lived in different parts of the Kalinovik Municipality were examined about the attack on the civilians in the Municipality, and that they all gave an almost identical account of the attack, the Prosecution added that the police officers of the Kalinovik SJB, including the Accused Milan Perić, Spasoje Doder, Aleksandar Cerovina and Predrag Terzić, also actively participated in that attack.

10. With respect to Count 1a), the Prosecution emphasized the statement of witness Fejzija Hadžić, the only civilian who survived the detention and mass killing of civilians, and the statement of witness Dragan Cerovina, who stated in his evidence that on the day concerned the police officers arrested civilians without notifying them of the reasons for the arrest, and that all police officers were aware that they acted unlawfully and committed a criminal offense, but were afraid to disobey the order. The Prosecution also emphasized the statement of witness Gojko Lalović, who said that the people who happened to find themselves in front of the building of the Kalinovik Municipal Assembly were detained only because they were Muslims, and that when he got out of the office he met Milan Perić, who told the witness that those people would go to the school. Also, an analysis of the statements of the witnesses who testified about the circumstances referred to in Count 1b) showed that the civilians had received a call-up to report for arrangements regarding compulsory work service, whereupon they were arrested as a result of the action of the Accused and other police officers. All civilians were arrested, the ones who responded to the call-up, as well as the ones who suspected the ulterior motive behind the call-up and therefore failed to respond and tried to escape.

11. According to the Prosecution, many Prosecution witnesses testified about the circumstances referred to in Count 2, as did the Defense witnesses, including Nikola Šupeta, Ibro Suljić and Miloš Veletić. The Prosecution stated that it could be concluded beyond doubt from an analysis of the referenced statements and the statements of the Defense witnesses that Aleksandar Cerovina and Predrag Terzić, together with the other police officers, committed the acts referred to in the Indictment.

12. The following witnesses testified about the circumstances referred to in Count 3: Mirveta Pervan, Izeta Pervan, Fadila Hatić, Sejda Kešo, Zijada Hatić, Danilo Đorem and others. The Prosecution argues that it ensues from the referenced evidence, especially the statement of witness Danilo Đorem, that Milan Perić, who commanded the action referred to in this Count, played a particularly important role in this crime.

13. With respect to Count 4 of the Indictment, the Prosecution pointed at the statement of witness Hasnija Ahatović, who clearly and unambiguously described her own deprivation of liberty and did not have any dilemma about the identity of the perpetrators, although she could not recognize them in the courtroom, most probably because of her poor eyesight.

14. The Prosecution emphasized the statement of witness Zlatka Hatić to argue that the circumstances from Count 5 of the Indictment were proven. Although her statement was the only proof that Predrag Terzić participated in the deprivation of liberty of doctor Abdurahman Filipović, it was sufficiently convincing for the Trial Panel to accept as proven that argument offered by the Prosecution.

15. The protected witness “R” testified about the circumstances referred to in Count 6 of the Indictment. Along with Fejzo Hadžić, the protected witness “R” is the only other witness who managed to survive the detention in the *Barutni magacin* camp and avoid the fate of the other detainees.

16. In the last part of its closing argument the Prosecution addressed the persecution of Muslim civilians. The Prosecution considered that the Accused were quite obviously aware that all acts of persecution of the Muslims in the period referred to in the Indictment were undertaken exactly because of those civilians’ national, ethnic and religious affiliation and that the acts they undertook were unlawful.

17. It follows from the foregoing that the Accused committed the criminal offenses they were charged with, so the Prosecution moved the Court to find them guilty and impose on them a statutory prison sentence. The Prosecution also moved the Court to order the Accused into custody on the grounds stipulated in Article 132(1)(a) of the CPC B-H until the Verdict became final and binding, pursuant to Article 138(1)(a) of the CPC B-H.

b. Closing argument of the Defense for the Accused Milan Perić

18. In the beginning of his closing argument, the Defense Counsel for the first Accused stated that he fully contested the existence of the criminal offense that the Accused Milan Perić was charged with. The Counsel also referred to the principle of lawfulness and application of the more lenient law, as his client was accused of the criminal offense not envisaged in the Criminal Code of the Socialist Federal Republic of Yugoslavia (CC SFRY), and argued consequently that the Accused should not have been accused of the criminal offense of Crimes against Humanity.

19. With respect to the state of the facts, the Counsel stated that evidence about the events of 25 June 1992 was adduced by the examination of witnesses Fejzija Hadžić,

Dragan Cerovina, Hasna Čusto, Elvir Čusto, Obren Đorem, protected witness "T", Milivoje Faladžić, Ibro Suljić and Nihad Suljić.

20. It follows from the statements of these witnesses that at 14.00 hrs on 25 June 1992, Milan Perić came with a *Tam 110* vehicle in front of the Kalinovik Municipal Assembly building and allegedly transported to the Elementary School the Muslim men who had responded to the compulsory work call-up. There they stayed until 6 July 1992 when they were transported to the *Barutni magacin* camp.

21. The Defense Counsel for the first Accused stated that it followed from the statements of witnesses Regoje Pržulj and Željko Žarković that they were members of the 2nd Platoon commanded by Milan Perić and that they were at Kutine on that occasion. According to them, someone from the Kalinovik Police Station called them to come in front of the municipal building, so they went to the Elementary School together with Milan Perić by the [*Tam*] 110 truck. After Perić transported the people to the school, they returned with him by the same truck to the position at Kutine.

22. The Defense Counsel also stated that the description of facts and the legal definition of the offense did not correspond with the actually established state of facts relative to Milan Perić, and that there did not exist a single piece of evidence which would give rise to the conclusion that the Accused had surrounded a group of civilians in front of the municipal building or that they had forced the civilians to board the freight vehicle operated by Milan Perić. The gathering of the Muslim civilians in front of the Kalinovik municipal building was done on a voluntary basis, in response to the call-up for compulsory work service.

23. Defense Counsel added that his client likewise could not be charged with the legal definition referred to in Article 172(1)(e), imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, as his client neither imprisoned anyone nor deprived anyone of his physical liberty.

24. With respect to the legal definition of Crimes against Humanity, the Defense Counsel stated that his client was also charged with persecution against any identifiable group or collectivity on political, national, ethnic or religious grounds, but that the Prosecutor did not adduce any evidence that any persecution had been carried out at all.

25. With respect to Count 3 of the Indictment relative to the legal definition of War Crimes against Civilians in violation of Article 173(1)(a), the Defense considered that the

acts of the Accused could not be subsumed as an attack against the civilian population since the Muslim civilians, women and children, had been taken to the *Miladin Radojević* Elementary School for their own safety.

26. Based on the foregoing, Defense Counsel for the first-accused Perić considered that Perić's responsibility for the acts he was charged with or any other acts was not proven beyond a reasonable doubt in the course of the proceedings, and moved the Court to acquit him of the charges, pursuant to Article 284 of the CPC B-H.

c. Closing argument of Defense Counsel for the Accused Spasoje Doder

27. Defense Counsel for the Accused Spasoje Doder, Attorney Refik Serdarević, stated that for the existence of the criminal offense of Crimes against Humanity in violation of Article 172 of the CC B-H it is necessary to prove beyond a reasonable doubt the existence of the first and general requirement for the referenced offense – the existence of a systematic attack against the civilian population, that is, the alleged perpetrator's knowledge of such an attack, which the Prosecution did not corroborate with a single piece of evidence.

28. According to the Defense Counsel for the Accused Spasoje Doder, in the case at hand there is no collusion of the alleged perpetrators, but there is an order by the superior to bring in the persons who had failed to respond to the call-up issued by the SSNO [Federal Secretariat of National Defense]. It cannot be concluded that the Accused participated in the decision that such persons had to be brought in since, objectively, neither by their status nor any offered evidence could the Accused know of any potential plan that resulted in the referenced subsequent events.

29. With respect to Article 172 of the CC B-H, the Defense Counsel for the second Accused states that the *mens rea* of crimes against humanity is satisfied when the Accused possesses a preserved awareness and will to commit the criminal offense he is accused of, when he is aware of the existence of an attack against a civilian population and is also aware that his acts constitute part of or fall within the framework of that attack. In the case at hand, the Defense Counsel argues that the Accused's lack of awareness of the existence of the attack implies that he cannot be liable for individual charges relative to the criminal offense concerned. With respect to the analysis of the evidence, the regulations of the former SFRY that were applied as the laws of the Republic of B-H are

absolutely clear concerning the obligation to follow a superior's order, which is confirmed by the Defense exhibit, the 1985 Rule of the Armed Force. This rule stipulates that an order of a superior commanding officer must be carried out unconditionally, absolutely precisely and in time. Any failure or refusal to carry out a superior's order constituted a criminal offense against the Armed Forces, which carried a sentence of imprisonment not exceeding five years.

30. The Defense Counsel for the Accused Doder contends that the Prosecution did not adduce evidence that would indicate that the Accused Doder had any knowledge that the orders he carried out were unlawful or aimed at the perpetration of a war crime. Actually, not one piece of evidence indicates that the Accused considered that issue at all or that he had a reason to believe that those orders were unlawful.

31. With respect to illegal imprisonment, Defense Counsel Serdarević stressed the fact that all persons who responded to the call-up were transferred to the *Miladin Radojević* Elementary School under the order of Boško Govedarica, Chief of the Kalinovik SJB. The Counsel further noted that the Accused Spasoje Doder did not at all participate in the taking of the persons who had been called-up from the Municipality to the School, which follows from the statements given by Radomir Tošović, Ibro Suljić, Fejzija Hadžić, Tihomir Regoje, Željko Pržulj and Željko Žarković. According to the Defense, it was established during the evidentiary procedure that only the police participated in the taking of the persons who had failed to respond to the SSNO call-up.

32. With respect to the application of the criminal law, the adopted CC SFRY is a more lenient law for the Accused Doder, which means that the CC B-H is to be applied only exceptionally, if in the given case it is more lenient than the law that was in effect at the time of the alleged perpetration of the offense by the Accused.

33. Based on the foregoing, the Defense Counsel moved the Court of B-H to render an acquittal with respect to Counts 1a) and 1b) of the Indictment, pursuant to Article 284(c) of the CPC B-H.

d. Closing argument of Defense Counsel for the Accused Predrag Terzić

34. Defense Counsel for the third-accused Predrag Terzić, Attorney Adis Jahić, in his closing argument delivered on 13 March 2012 stressed that it was necessary to prove that

all the other acts, that is, the acts referred to in Sub-Paragraph (e) – unlawful detention, were committed with a discriminatory intent in order for the Accused Predrag Terzić to be found guilty of the criminal offense of persecution, and that it was not proven that the Accused possessed that intent at all.

35. Defense Counsel commented on the disputable situation of bringing in the underage Almir Ćusto and stated that the Law on National Defense stipulated that persons aged between 15 and 60 could be called-up for mobilization. The Counsel also commented on the content of the exhibits, Report on the operations of the Kalinovik SJB dated 18 August 1992, and the Finding and Opinion of expert witness Mile Matijević. It follows from this evidence that in the conduct of their duties members of the Kalinovik SJB encountered many problems related to certain members of the VSRB-H (Army of the Serb Republic of Bosnia and Herzegovina), volunteers and paramilitary formations, and that in the given circumstances they undertook certain activities to implement the law, befitting their abilities and the given situation. Thus the Accused only carried out their superiors' orders and took the persons to the *Miladin Radojević* School in Kalinovik. According to Defense Counsel, the Prosecution did not prove that the Accused was aware of the existence of the attack and that his acts constituted or might constitute part of that attack. With respect to the incrimination under Count 1a) of the Indictment that the Accused searched the apprehended persons and seized sharp objects from them, Defense Counsel contended that it was clear that such a conduct was in line with the rules of service and that the Accused did not have any influence on the subsequent events given the fact that, under the order of the military authorities, after 10 days of stay in the school, the civilians were transferred to the *Barutni magacin*, where they were killed or wherefrom they were transferred to other locations under the control of the army.

36. With respect to Counts 1b) and 2 of the Indictment, the Defense Counsel provided his own analysis and interpretation of the witnesses' statements. With respect to Count 4 of the Indictment and witness Hasnija Ahatović's detention, according to Defense Counsel it is clear that she was apprehended under the order of the Kalinovik SJB Commander and that it was not the Accused who imprisoned her, with which the Indictment charged him. Count 5 of the Indictment charged the Accused Predrag Terzić with the criminal offense of Crimes against Humanity in violation of Article 172(1)(e) -- imprisonment, because on 31 July 1992, together with other police officers, he deprived of liberty doctor Abdurahman Filipović from Kalinovik, who was killed at the *Barutni magacin* on 5 August 1992. With respect to this Count, the Defense contended that it followed from the statement of witness

Fejzija Hadžić that an entirely different person participated in the arrest of Dr. Filipović. In the end Defense Counsel stated that the role of the Accused, that is, his influence on the functioning of the detention facility in the Elementary School, could not be seen from the statements of the witnesses for the Prosecution and the Defense, and that it was indisputable that the Accused carried out orders without pondering whether the persons who were deprived of liberty posed a threat to security, of which his superiors decided. The deprivation of liberty of the civilians cannot be subsumed under “severe deprivation of physical liberty”, as required by the criminal act of imprisonment referred to in Sub-Paragraph (e) of Article 172 of the CC B-H. In the end, Defense Counsel moved the Court to acquit the Accused Predrag Terzić of the charges. The Accused Predrag Terzić reiterated his Counsel’s closing argument.

e. Closing argument of Defense Counsel for the Accused Aleksandar Cerovina

37. In the beginning of his closing argument, Defense Counsel for Aleksandar Cerovina moved the Court of B-H to acquit the Accused Cerovina of the criminal offenses the Indictment by the Prosecutor's Office of B-H charged him with, since the Prosecution failed to prove any punishable act or omission by the Accused, especially not the existence of his intent to contribute to a punishable act in any way. Defense Counsel Lazarević stated that the witnesses who were examined about the widespread and systematic attack after 25 June 1992, namely Dika Suljić, Fatima Suljić, Remza Šurkanović, Emina Juković, Raza Suljić, Zlatka Čukurija, Fejzija Hadžić and Ibro Suljić, spoke solely about the deprivation of liberty of the male inhabitants of the village of Vihovići on 31 July 1992. None of the witnesses mentioned any kind of activities or situations that might lead the Court to conclude that the taking of the civilians on 31 July had the character of an attack or that it was undertaken as part of the existing attack.

38. With respect to unlawful detention, the Defense for the Accused Cerovina stated that, given that certain persons referred to in this case were military prisoners of war at the relevant time, it followed beyond a doubt that their internment was permissible, although the Accused could not influence that decision or the decision on where they would be held and in which conditions. According to the Defense, the Accused did not ponder on whether the act of depriving the civilians of liberty and incarcerating them was unlawful, about which many witnesses testified.

39. More precisely, the Accused assisted the civilian police, diligently carried out orders not questioning the reasonable grounds whether the civilians who were being deprived of liberty in order to be detained posed a security threat in the new circumstances. With respect to the conjunction between the criminal offense of Crimes against Humanity and the criminal offense of War Crimes against Civilians, it is clear that these two offenses differ considerably when it comes to their underlying or general elements, which are mutually exclusive. The Defense maintains that the respective underlying elements of these two offenses are mutually exclusive with respect to the identical state of the facts. When it comes to the events in the *Miladin Radojević* Elementary School, the Defense stressed a possibility of two different options: certain Prosecution witnesses were aware of the events in the school and the likely perpetrators, whereas some could not even notice that something was going on. The only conclusion that may be drawn from the Defense and the Prosecution evidence tendered into the case file is that the Accused Cerovina acted solely in line with the regulations that were in effect at the time.

40. Defense Counsel argues that the Accused Cerovina could not possess the awareness that his acts satisfied the elements of any criminal offense, and moved the Court to acquit his client of the charges.

II. FINDINGS OF THE APPELLATE PANEL

a. BURDEN OF PROOF

41. The burden of proving the commission of the essential elements of the criminal offense lay with the Prosecution. The evidence the Prosecution offered with a view to proving the factual findings, the essential elements of the criminal offense and the guilt of the Accused, could not lead this Panel to conclude beyond any reasonable doubt that the Accused committed the criminal offense they were charged with. In such a situation, the Court had to render a verdict acquitting the Accused of the charges.

42. The Court is obliged to render an acquittal not only in case when innocence has been proven, but also in case when guilt of the Accused has not been proven. Any doubt with regard to the existence of some legally relevant fact must be reflected in favor of the accused person. The facts *in peius*, that is, to the detriment of the Accused, must be established with absolute certainty (beyond any reasonable doubt). If there exists a doubt with respect to such facts, they cannot be regarded as established, but must be regarded as non-established. The other rule pertains to the facts *in favorem*, or in favor of the Accused. Such facts are regarded as established even when they are only probable, that is, if their existence is doubted, and even if the existence of the facts to the detriment of the Accused is more probable.²

43. The Accused are charged that with their acts they committed and aided and abetted the persecution of the entire Bosniak population of the Kalinovik Municipality on political, national, ethnic and religious grounds by way of unlawful detention, and the Accused Aleksandar Cerovina and Milan Perić also by way of murder and arbitrary destruction of property on a large scale that is not justifiable by military needs, and by applying measures of intimidation and terror. The burden of proving the essential elements of these criminal offenses and the acts of the Accused lay with the Prosecutor's Office of B-H.

44. On the other hand, pursuant to Article 281(2) of the CPC B-H, the Court is obligated to conscientiously evaluate every piece of evidence and its correspondence with the rest

² *Commentary on the Criminal Procedure Code of Bosnia and Herzegovina*, Joint Project of the Council of Europe and the European Commission, p. 50.

of the evidence and, based on such an evaluation, conclude whether a fact has been proven.³

45. Having reviewed the allegations in the Indictment, on the basis of the presented evidence the Panel reviewed the existence of both the factual findings and the elements of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h) of the CC B-H as read with Sub-Paragraph (e), with which offense all Accused were charged, and the elements of the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (e) and (f), with which Aleksandar Cerovina and Milan Perić were charged under Count 3 of the Indictment.

46. The issues that had to be established in this case were as follows: whether there existed a widespread and systematic attack, whether the events referred to in the Indictment indeed happened, whether the Accused participated in them, and whether there existed the elements of the criminal offense that the Accused were charged with.

b. CRIMINAL OFFENSES THE ACCUSED WERE CHARGED WITH

47. Under the amended Indictment all Accused were charged with the commission of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h), as read with Sub-Paragraph (e) of the CC B-H. In addition, the Accused Milan Perić and Aleksandar Cerovina were also accused of the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (e) and (f) of the CC B-H.

i. Crimes against Humanity -- Article 172 of the CC B-H

48. Article 172 of the CC B-H reads: "Whoever, as part of a widespread or systematic attack directed against any civilian population, being aware of such an attack perpetrates any of the following acts: a),.. e) Imprisonment or other severe deprivation of physical

³ Article 281(2) of the CPC B-H: "The Court is obligated to conscientiously evaluate every item of evidence and its correspondence with the rest of the evidence and, based on such evaluation, to conclude whether the facts have been proved."

liberty in violation of fundamental rules of international law; h) Persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognized as impermissible under international law, in connection with any offense listed in this paragraph of this Code, any offense listed in this Code or any offense falling under the competence of the Court of Bosnia and Herzegovina ...”

49. The essential elements of Crimes against Humanity are as follows:

- a) the existence of a widespread and systematic attack,
- b) the attack must be directed against any civilian population,
- c) the acts of the perpetrator must constitute a part of that attack,
- d) awareness that the acts of the Accused constituted a part of the attack and that the Accused was aware that his acts constituted a part of that attack.

50. The *mens rea* of the Accused that is established when it comes to Crimes against Humanity:

Intent:

- The perpetrator must have the intent to commit the underlying offense;⁴
- The accused need not share the purpose or goal behind the attack;⁵
- It is irrelevant whether the Accused intended his acts to be directed against a civilian population or merely against his victim.⁶

Knowledge:

The perpetrator must knowingly participate in a widespread or systematic attack, he must be aware of the nexus between his act and the context of the widespread or systematic attack⁷.

⁴ Vasiljević, Trial Chamber Judgment, 29 November 2002, para. 37.

⁵ Kunarac, Kovač and Vuković, Appeals Chamber Judgment, 12 June 2002, para. 103.

⁶ Kunarac, Kovač and Vuković, Ibid, para. 103.

Underlying crimes: Persecution and Unlawful Detention

51. Persecution means the intentional and severe deprivation of fundamental rights, contrary to international law, by reason of the identity of a group or collectivity. Therefore, persecution implies persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognized as impermissible under international law, in connection with any offense listed in Article 172 of the CC B-H, any offense listed in the CC B-H, or any offense falling under the jurisdiction of the Court of B-H. Concerning persecution, it is necessary to prove the existence of a discriminatory intent on the part of the perpetrator. With respect to aiding and abetting, it is necessary to prove that the perpetrator knew of the principal perpetrator's discriminatory intent.

52. The essential element of the act referred to in Sub-Paragraph (e) of Article 172(1) of the CC B-H is satisfied when the perpetrator has detained one or more persons or otherwise deprived of liberty one or more persons, with the committed act being so grave that it violates the fundamental rules of international law, and the perpetrator being aware of the actual circumstances that led to the gravity of that act. The fundamental rules of international law pertaining to the incarceration of civilians are provided in Articles 42 and 43 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (IV Geneva Convention), Article 9 of the Universal Declaration of Human Rights (Universal Declaration), and Article 9 of the International Covenant on Civil and Political Rights (ICCPR). Article 42 of the IV Geneva Convention stipulates that the internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary, while Article 43 guarantees the minimum procedural guarantees that protected persons are entitled to. Also, Article 9 of the Universal Declaration stipulates: "No one shall be subjected to arbitrary arrest, detention or exile". Article 9 of the ICCPR reads as follows: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention." Article 5 of the European Convention on Human Rights (ECHR) prohibits any deprivation of liberty, save in the specifically referenced cases and in accordance with a procedure prescribed by law. The foregoing rules of international law clearly stipulate that internment or

⁷ Ibid, para. 102; *Tadić*, Appeals Chamber Judgment, 15 July 1999.

deprivation of liberty may be carried out on legal grounds only, with adherence to procedural guarantees.

53. The International Criminal Tribunal for the Former Yugoslavia (ICTY) described the elements of the criminal act of illegal imprisonment as a crime against humanity, as follows: “An individual is deprived of his or her liberty; the deprivation of liberty is imposed arbitrarily, that is, no legal basis can be invoked to justify the deprivation of liberty; the act or omission by which the individual is deprived of his or her physical liberty is performed by the accused or a person or persons for whom the accused bears criminal responsibility with the intent to deprive the individual arbitrarily of his or her physical liberty or in the reasonable knowledge that his act or omission is likely to cause arbitrary deprivation of physical liberty.”⁸

ii. War Crimes against Civilians -- Article 173 of the CC B-H

54. Under Count 3 of the Indictment, the Prosecutor accused Milan Perić and Aleksandar Cerovina of having committed the criminal offense of Crimes against Humanity in violation of Article 172(1)(h), as read with Sub-Paragraph (e) of the same Article, as read with the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (e) and (f) of the CC B-H.

55. Article 173(1) reads as follows:

“Whoever in violation of rules of international law in time of war, armed conflict or occupation, orders or perpetrates any of the following acts:

- a) Attack against civilian population, settlement, individual civilians or persons placed *hors de combat*, which results in the death, grave bodily injuries or serious damaging of people’s health;

.....

- e) Coercing another by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him, to sexual intercourse or an equivalent sexual act (rape) or forcible prostitution, **application of measures of intimidation and**

terror, taking of hostages, imposing collective punishment, unlawful bringing in concentration camps and other illegal arrests and detention, deprivation of rights to fair and impartial trial, forcible service in the armed forces of enemy's army or in its intelligence service or administration;

f) Forced labor, starvation of the population, property confiscation, pillaging, **illegal and self-willed destruction and stealing on large scale of property that is not justified by military needs**, taking an illegal and disproportionate contribution or requisition, devaluation of domestic money or the unlawful issuance of money.

56. From the referenced statutory definition there ensue the essential elements of the criminal offense of War Crimes against Civilians that need to be established:

- a) the perpetrator's act must be perpetrated in violation of rules of international law,
- b) the violation must be perpetrated in time of war, armed conflict or occupation,
- c) the act of the perpetrator must be related to war, armed conflict or occupation,
- d) the perpetrator must order or perpetrate the act.

57. The essential elements of this criminal offense, primarily the diverse relevant acts of commission, confirm that the legislator provided for a protection of values protected by international law in full scope. For these very reasons armed conflicts were not divided into international and non-international ones within the scope of the criminal offense of War Crimes against Civilians, nor were violations of international law divided into grave breaches of the Geneva Conventions and other violations that do not constitute grave breaches.

58. For the existence of this criminal offense it is required that the relevant acts of commission constitute a violation of rules of international law committed in time of war, armed conflict or occupation, and that the act that the perpetrator ordered or perpetrated must be related to a war, armed conflict or occupation.

59. The referenced statutory provision is based, *inter alia*, on the Geneva Convention relative to the Protection of Civilian Persons in Time of War dated 12 August 1949.

⁸ Trial Panel Verdict of the Court of B-H in the *Mandić* case, No. X-KR-05/58, p. 128, quoting the *Krnjelac* Trial Chamber Judgment, para. 115.

60. Article 3 of the Geneva Convention contains rules that are considered customary law and that constitute a minimum standard the warring parties should never depart from.⁹

iii. **The existence of a widespread and systematic attack**

61. Based on the adduced evidence the Panel concluded that during the relevant time, specifically from June to September 1992, there existed a widespread and systematic attack of the Army of the Serb Republic of B-H and police units of the Kalinovik SJB, and that it was directed against the Bosniak civilian population of the Kalinovik Municipality.

62. The Criminal Code of B-H does not provide a definition of a widespread and systematic attack, therefore when evaluating the evidence the Panel was guided by the relevant jurisprudence of the ICTY and the Court of B-H.

63. An attack can be described as a course of conduct involving the commission of acts of violence.¹⁰ In the context of the criminal offense of Crimes against Humanity defined in Article 172 of the CC B-H, the phrase “attack” is not limited to the use of armed force, but also encompasses any mistreatment of the civilian population.¹¹ Therefore, an attack may encompass not only armed hostilities, but also other situations that pertain to the unlawful conduct toward persons not directly participating in the hostilities.

64. A crime may be widespread or committed on a large scale by the cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude¹². The ICTY Judgment in *Blaškić* reads: “The widespread characteristic may refer to large-scale and mass frequent acts committed collectively and with considerable seriousness and directed against a multiplicity of victims”¹³.

⁹ Article 3 common to the 1949 Geneva Conventions.

¹⁰ *Kunarac*, Trial Chamber Judgement, 22 February 2001, para. 415.

¹¹ *Vasiljević*, Trial Chamber Judgement, 29 November 2002, paras. 29,30; See, also: *Kunarac, Kovač and Vuković*, Appeals Chamber Judgement, 12 June 2002, para. 86.

¹² *Kordić and Čerkez*, Trial Chamber Judgement, 26 February 2001, para. 179.

¹³ *Blaškić*, Trial Chamber Judgement, para. 206.

65. “Patterns of crimes – that is the non-accidental repetition of similar criminal conduct on a regular basis – are a common expression of such systematic occurrence”.¹⁴ In the *Naletilić and Martinović* case the element “systematic” requires an organized nature of the acts and the improbability of their random occurrence.¹⁵

66. The systematic nature of an attack is reflected in the fact that it was undertaken following a certain set pattern against a civilian population. In the context of the foregoing it is important to stress that the systematic nature of the attack can be described as a course of conduct involving the commission of acts of violence¹⁶.

67. The factors relevant for evaluating the widespread and systematic elements are also referred to in the ICTY *Kunarac* case, reading that in the assessment of what constitutes a widespread or systematic attack “a Trial Chamber must therefore first identify the population which is the object of the attack and, in light of the means, methods, resources and result of the attack upon the population, ascertain whether the attack was indeed widespread or systematic. The consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes, could be taken into account to determine whether the attack satisfies either or both requirements of a ‘widespread’ or ‘systematic’ attack vis-à-vis this civilian population.”¹⁷

68. Having in mind the referenced definitions of the concept of a widespread and systematic attack within the criminal offense of crimes against humanity as determined in the jurisprudence of the ICTY and the Court of B-H, the Panel concluded that in order to determine the existence of a widespread and systematic attack the events cannot be analyzed separately, but should be regarded over a continuous period of time within the context of the events in a certain area manifested in different forms, involving not only the use of arms, but also the unlawful conduct against civilians.

69. It follows from the adduced evidence that there was a set pattern of conduct in all villages of the Kalinovik Municipality. Given the results of the attack manifested as

¹⁴ *Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković*, No. IT-96-23 & 23/1, Appeals Chamber Judgment, 12 June 2002, para. 94.

¹⁵ Appeals Chamber Judgment, 31 March 2003, para. 236.

¹⁶ *Kunarac* Trial Chamber Judgment, para. 415.

consequences for the Muslim population of that Municipality, especially the men who were taken away and subsequently killed, but also the women and children who were displaced from the villages in which they had lived, it follows that the events that happened had been planned and organized in advance, and that they were obscured by the deteriorated relations between Muslims and Serbs in the Kalinovik Municipality, which was particularly referred to in the reports on the operations of the Kalinovik SJB.

70. Thus, the Report on the operations of the Kalinovik SJB¹⁸ for the period from 1 April 1992 to 15 August 1992 reads, *inter alia*, that the Muslim employees have quit the Kalinovik SJB whereupon the relations between the Serbs and the Muslims deteriorated. ... *“During the month of May, Muslim armed forces were formed in the territory of the Municipality and a number of able-bodied Muslims left and joined units of the Muslim armed forces formed in the territory of the Kalinovik Municipality in the villages of Sela and Ljuta and on Mt. Zelengora.”*¹⁹

71. Consequently, *“an operation of disarming the Muslim employees was carried out. The part of the Muslim population that has remained in the territory of Kalinovik Municipality has actively assisted their units ... The Report further reads that because of the war operations in the neighboring municipalities of Foča, Gacko, Trnovo, Nevesinje and Konjic, the situation in the territory of Kalinovik Municipality is becoming ever more complicated and the problems ever more difficult every day. Paramilitary units from the direction of Foča also participated in the Serb Army’s operation of taking the town of Trnovo but they did not comply with the orders of the Command,... so the referenced negative trends have spilled over into the territory of the Kalinovik Municipality. The pillaging of the Muslim property has taken place....”*²⁰

72. The Report further reads that *“because of the foregoing, the municipal and military authorities have issued a decision that the able-bodied Muslim population should be apprehended and placed in the Kalinovik Elementary School, which order the Kalinovik SJB carried out, so on 6 July 1992 the Muslim men eligible for draft were transferred from the Elementary School, where they were guarded by the SJB, to the military prison, where*

¹⁷ Appeals Chamber, 12 June 2002, para. 95.

¹⁸ T-35.

¹⁹ Report on the operations of the Kalinovik SJB for the period 1 April -- 15 August 1992.

²⁰ Ibid.

the *military command of the Kalinovik Tactical Group assumed the task of providing security.*”

73. “*After the defeat of the Serb forces in Trnovo on 31 July 1992 the security and political situation in our area suddenly deteriorated.*”²¹

74. The Panel notes that the relations must have deteriorated for sure and that there were certain clashes, which also follows from the witness statements; however, considering the sequence of events, the manner in which they took place and their consequences for the Muslim population, it is clear that there existed a widespread and systematic attack at the time concerned.

75. Although the Indictment made reference to several events that took place in the Kalinovik Municipality on certain dates, the Panel concluded that time-wise these events cannot be regarded individually and isolated from the general context and pattern of conduct that was in effect during that period in several villages of the Kalinovik Municipality.

76. The Panel notes that in the villages of Kalinovik Municipality that are listed in the Indictment all able-bodied Muslim men were taken away (either pursuant to the call-up or later) and detained in the Elementary School and subsequently in the *Barutni magacin* camp. The women, children and the elderly were also forced, in an organized manner, to leave these villages. It follows clearly from the adduced evidence that they were all civilians, since the men had been called to surrender arms before June and they were all also placed *hors de combat*. Before they were taken away they had been called by the official authorities to surrender arms and instructed they had to report to the Police Station in Kalinovik.

77. Thus witness Fejzija Hadžić stated that before the war he had lived in the village of Mjehovine, Kalinovik Municipality. In early April 1992, they were told by the police that all Muslim men fit for work should report to the Kalinovik Police Station, while members of the other ethnic groups did not have such an obligation. In April 1992, a meeting was held in the Kalinovik Station, presided over by Boško Govedarica, the Chief of the Kalinovik CJB [Public Security Center], who said that all stations had been divided to Serb and Bosniak ones, and the active and reserve Bosniak policemen were handed out papers to sign as a

token of their loyalty.²² He stated that he had taken annual leave and that once his leave ended in early June, he went to the Kalinovik Station, where at the end of that working day Commander Neđo Zeljaja told him not to come to work any longer. He also stated that he had not found any of his Muslim colleagues at work. Witness Fejzija Hadžić said that Grujo Lalović, president of the Kalinovik Municipality Executive Board, came to the village of Mjehovine on the same day and told them that they should surrender arms and that nothing would happen to them. Witness Elvir Čusto testified that they had to surrender arms even earlier, before receiving the call-ups. Witness Zlatka Hadžić also confirmed that a meeting was held, attended by Ratko Bundalo and Grujo Lalović, at which they were told to surrender arms, to report to work and that nothing would happen to them. This was also confirmed by witnesses Zijada Hatić and Rešid Hadžić.

78. That the attack involved a wide area stems from the established circumstance that it involved several villages of the Kalinovik Municipality and the Kalinovik town, as well as the territories of the neighboring municipalities. It follows from the statement of witness Obren Đorem that the Muslim population mostly left Kalinovik, and those who did not were apprehended later on. Witness Fejzija Hadžić stressed that in early May Serb forces attacked the village of Jeleč in the Foča Municipality and that the villagers who were found there were arrested and taken to the *Milan Radojević* Elementary School, wherefrom the men were first taken to Bileća, then to Kalinovik, and then to the Foča *KP Dom* [Penal and Correctional Institution]. The women were accommodated with families in Kalinovik and Mjehovina, whereupon they were transferred to the village of Ljuta. Witness Dragan Cerovina also confirmed the averments of witness Fejzija Hadžić, stating that in May there occurred a conflict between Serbs and Bosniaks in the village of Jeleč, Foča Municipality, and that they took part in an operation that was presented to them as a rescue of the Bosniaks and that they went to the place where the Bosniaks used to get together²³. The witness remembers that those men from *Barutni magacin* were transferred to the Foča *KPD*.

79. With respect to the Kalinovik Municipality, it follows beyond doubt from the adduced evidence that the attack was directed against the villages of Mjehovina, Jelašca, Vihovići, Sočani, Daganj, Bojičići, Lutko and Hotovlje. It has already been stressed that the concept

²¹ Ibid.

²² Statement of witness Nihad Suljić at the main trial held on 14 June 2011, Transcript, p. 38.

²³ Transcript of 1 February 2011, p. 28.

of attack is not linked to the use of arms only. Consequently, it is important to stress that one of the facets of the attack was the taking away of the Bosniak men, their incarceration in the Elementary School and subsequent transfer to the *Barutni magacin*, whereupon almost all of them were killed. On 25 June 1992, all men fit for labor came in front of the Kalinovik Municipal Assembly building following the call-up by the Municipal Secretariat, whereupon they were transferred to the *Milan Radojević* Elementary School in Kalinovik. Several witnesses testified about this circumstance, which will be elaborated on in the part related to Section 1a) of the enacting clause of the Verdict. The call-ups to report for compulsory work service pertained to the villages of Vihovići, Jelašca, Mjehovina and Kalinovik. In the afternoon of the same day, the Bosniak men from the villages of Jelašca and Vihovići who had failed that day to respond to the call-up by the Secretariat for National Defense were apprehended and taken to the *Milan Radojević* Elementary School. They were later transferred to *Barutni magacin* and subsequently killed. Apprehensions continued even after 25 June 1992, precisely, on 31 July 1992 in the village of Vihovići, and on 1 August 1992 in the village of Jelašca, which follows from the witnesses' statements elaborated on in more detail in Sections 2 and 3 of the Verdict.

80. The referenced civilians were first detained in the *Miladin Radojević* Elementary School, guarded by the police of the Kalinovik SJB, wherefrom some 10 days later they were transferred to the *Barutni magacin* detention facility, guarded by the military, and in early August these civilians were taken out of the *Barutni magacin* and almost all killed. Numerous witnesses testified about this event, including the detained Fejzija Hadžić and members of the police and the relatives of the killed. Witness Fejzija Hadžić, as the sole surviving prisoner of the *Barutni magacin* camp, described the referenced events in great detail and very convincingly, with respect to both the deprivation of liberty and the taking to the Elementary School and subsequently to the *Barutni magacin*, and the taking of these civilians out of the *Barutni magacin* and their execution. His testimony was confirmed by numerous statements of the other examined witnesses, such as Dika Suljić, Elvir Ćusto, Hasna Ćusto, Mirveta Pervan, Rukija Rogoj, Fadila Hatić, Zijada Hatić and others, as well as the statements of the witnesses – former policemen of the Kalinovik SJB, such as Danilo Đorem, Ilija Đorem, Milivoje Faladžić and Dragan Cerovina. There also exists documentary evidence about this event of the arrest of civilians, such as a call-up to report for compulsory work service, issued by the Kalinovik Municipality National Defense Secretariat on 25 June 1992. In the case at hand, it was not a typical armed attack against civilians. However, the Panel considers that the capturing of almost all remaining Bosniak

men fit for labor under the pretext of arranging details of compulsory work service also constitutes an attack against the civilian population, especially since that attack was closely related to the armed attack going on in that area at that time, which means that there was a temporal and geographical connection between that attack and the armed conflict. On 1 August 1992, the army and police from Kalinovik also carried out an attack against the Bosniak civilian population in the village of Jelašca, Kalinovik Municipality. The attack was directed against the facilities and the part of the village populated by Bosniak civilians where there were only women, children and the elderly at that time. The attack resulted in the death of one person and wounding of one girl, which will be elaborated on in detail in relation to Section 3 of the Verdict.

81. In July 1992, an attack was carried out against the following villages: Sočani, Daganj, Bojičići, Hotovlje and Luko. It follows from the concurring statements of witness Dragan Cerovina and witness T that the police participated in the torching of the village of Sočani and that the army participated in the torching of the other villages. In view of the preceding events and the concurring statements of these two witnesses, the Panel concluded that these acts, too, constituted part of the widespread and systematic attack. Witness Fejzija Hadžić also testified that attacks were carried out against these villages.

82. This attack was directed solely against the civilian population, the Bosniak men, as all arrested persons were civilians who were subject to compulsory work service at that time.

83. Given that the statements of all witnesses were in agreement with respect to the facts about the events in the villages of the Kalinovik Municipality, especially the fact that the Bosniak civilian men from Kalinovik were placed into the Elementary School, that is, the *Barutni magacin* and subsequently killed, and that the women, children and the elderly were also taken from the villages, and that, in the opinion of this Panel, these statements were rather reliable with respect to these facts, the Panel accepted them as credible and truthful.

84. Having in mind the identical pattern of repetition of these acts and the acts that preceded the taking away of the men, as well as the subsequent treatment of the Bosniak civilian men who were taken away in the territory of the Kalinovik Municipality and the neighboring municipalities, and also having in mind the outcome for the civilian population of this area, the Panel concludes that these acts took place within a widespread and systematic attack.

85. All foregoing acts, from the mass unlawful deprivation of liberty of the Bosniak civilian population, their placing in detention facilities, the armed attacks in which a certain number of Bosniak civilians were killed, the incarceration of the remaining Bosniak civilians, to the torching of the houses and other buildings in the village of Jelašca in which there were Bosniaks, constitute acts of attack against the Bosniak civilian population of the Kalinovik Municipality, which was widespread and systematic.

86. However, with respect to the specific acts that the Accused were charged with under the amended Indictment, they do not have to constitute a part of the attack in their own right, nor does the participation of the Accused in a certain event necessarily mean that the Accused were aware of the attack and that their acts constituted a part thereof. This is evaluated in each individual case in view of the specific facts and circumstances under which a certain act took place, as well as the *mens rea* of the each Accused as the requisite element of the criminal offense of Crimes against Humanity in violation of Article 172 of the CC B-H and the criminal offense of War Crimes against Civilians in violation of Article 173 of the CC B-H.

iv. Factual and legal conclusions relative to certain Counts of the Indictment

87. First of all, on the basis of the adduced evidence the Appellate Panel concluded that at the relevant time the Accused Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina were members of the police (the Trebinje Security Service Center -- CSB), that is, the Kalinovik SJB. This stems from the documentary evidence, namely Personal Questionnaires for all Accused dated 10 November 1992.²⁴

88. In addition to the foregoing, the Indictment also stressed that the Accused Milan Perić and Spasoje Doder were also patrol sector leaders, which also stems from the Personal Questionnaires for the Accused. Thus the Personal Questionnaire for Milan Perić reads, under number 12, in the position-in-the-service section, “*police officer, sector leader*”, and under number 14, “*sector leader since the establishment of the Ministry of the*

²⁴ Personal Questionnaire of the Sarajevo MUP [Ministry of the Interior] for Milan Perić, Prosecution Exhibit No. T-15; Personal Questionnaire of the Sarajevo MUP for Spasoje Doder, Prosecution Exhibit No. T-21; Personal Questionnaire of the Sarajevo MUP for Predrag Terzić, Prosecution Exhibit No. T- 23; Personal Questionnaire of the Sarajevo MUP for Aleksandar Cerovina, Prosecution Exhibit No. T- 27.

Interior (MUP)”. The Personal Questionnaire for Spasoje Doder reads, under number 12, in the position-in-the-service section, “*police officer, sector leader*”, and under number 14, “*sector leader since the establishment of the MUP*”. The same also follows from the Decision of the Sarajevo MUP, dated 1 April 1992, temporarily assigning Spasoje Doder to the duty of patrol sector leader²⁵.

89. Analyzing the role of the accused, in addition to all the other adduced evidence, the Court was also mindful of the Finding and Opinion of expert witness, Professor Dr. Mile Matijević, whose oral presentation of the Finding and Opinion was also replayed during the hearing before the Appellate Panel. His Finding and Opinion was admitted as evidence in the proceedings before the Appellate Panel, as was all the other evidence adduced in the first instance proceedings.

90. In early April 1992, the Kalinovik SJB became a part of the Trebinje Security Service Center. The expert witness emphasized that the Public Security Station in Kalinovik followed the organizational structure stipulated in the Rulebook on the Internal Organization that was in effect prior to the establishment of the Ministry of the Interior of Republika Srpska. Pursuant to the Law on the Internal Affairs of the Serb Republic of Bosnia and Herzegovina (*Official Gazette of the Serb People in Bosnia and Herzegovina* No. 4, 23 March 1992), and subsequently also the Rulebook on the Internal Organization, each police station is commanded by the police station commander who answers to the public security station chief²⁶. It follows from the adduced evidence, mostly the witnesses’ statements, that Neđo Zeljaja was the Commander and Boško Govedarica was the Chief of the Kalinovik SJB at the relevant time.

91. The method of operation and the execution of prescribed tasks and duties were stipulated by the Rulebook on the Method of Operation of Public Security Service, which is a bylaw passed in 1977, regulating the method of use of police authorities.²⁷

92. Among the regular tasks of police officers were the issuance of warnings, apprehension and holding of persons. The police would sometimes be engaged in combat

²⁵ T-19.

²⁶ Page 9 of the Transcript of the presentation of the Finding and Opinion of expert witness Mile Matijević of 10 January 2012.

²⁷ O2/4 - Finding and Opinion of expert witness Mile Matijević, December 2011, p. 5.

tasks for semi-police type of activities, such as locating the infiltrated sabotage groups and fugitives, and search for persons.²⁸

93. Within the chain-of-command there existed a strict and clear superior-subordinate relationship between all ranks, including commanders, deputy commanders, sector leaders and patrol leaders.

94. The expert witness also noted: “In that respect, I can stress that, pursuant to laws and bylaws and the established practice in the functioning of the police force, there exists a very clear superior-subordinate relationship between all the ranks established both in terms of the organization and the functioning in the Rulebook on the internal organization of duties, so that at any given moment it is known who of the subordinates does what. On the other hand, their responsibility in the so-called vertical subordination is also clear, starting from the lowest-level police officers, via certain commanding duties of sector leaders, even patrol leaders, who are operational practical commanding officers as per particular patrol orders, to senior officers in a police station – assistants, deputies and commanders of police stations²⁹”.

95. The Panel accepted the Finding and Opinion of this expert witness, as it was presented in line with the rules of profession, and the procedure of drafting and presenting the report was fully in accordance with the effective provisions of the CPC B-H, and in the process of drafting the Finding the expert witness applied the relevant laws and bylaws. The Panel emphasizes that with its evidence the Prosecution did not challenge this Finding and Opinion, therefore it was admitted. The Panel used the Finding in order to explain which regulations the Accused had to comply with as police officers and what police officer’s obligations were pursuant to the statutory regulations in effect at the time.

96. The expert witness thus clarified that the commander’s authorities were the organizing, managing and controlling the work of the employees in a given police station, and that the commander commanded and controlled the work of the employees in a given station. Sector leaders operationally work in the security sector and keep certain prescribed records. Patrol leaders are police officers who are *ad hoc* operation leaders from time to time and then they decide about the work and method of operation of a

²⁸ Page 10 of the Transcript.

²⁹ Page 11 of the Transcript.

specific patrol in the execution of specific tasks, in which case police officers are obligated to follow the lawful orders of patrol leaders.

97. Explaining the obligations of the Accused with respect to the positions they held as police members at the relevant time, that is, with respect to the regulations in effect at the time, the expert witness stressed that the Accused carried out their tasks without having a particular influence on the functioning of the Police Station, especially the decision-making related to the execution of tasks, specifically the execution of the specific acts of apprehension of persons.³⁰

98. The expert witness also stressed that the Accused had the duty to carry out orders to apprehend persons, oral or written ones regardless, without going into the circumstances of the execution of the order. It also follows from the expert witness' Finding and Opinion that, if a police officer thought that the issued order was not in accordance with the law or the interests of the service, he was obligated to warn the order-issuing authority of such circumstances, and if the authority repeated the order in writing, the officer was obligated to execute it and was exempt from responsibility for the executed written order. If the written order constituted a criminal offense, the police officer had to stay its execution and inform the immediately superior officer, that is, a control body about it. If the police officer executed such an order, he would answer for it in the same way as the order-issuing authority.

99. Based on the adduced evidence, the Court established the participation of the Accused in the referenced capacities in the individual events referred to in the Indictment. However, having analyzed all circumstances of the case, on the basis of the presented evidence the Court could not draw the conclusion that those acts satisfied all essential elements of the criminal offense of Crimes against Humanity. The Court also did not find that the acts of the Accused satisfied the elements required to establish specific acts within the Crimes against Humanity they were charged with by the Indictment, namely the persecution of the overall Bosniak population of the Kalinovik Municipality on political, national, ethnic and religious grounds by way of unlawful detention, murder, arbitrary destruction of property on a large scale that is not justifiable by military needs, and by applying measures of intimidation and terror.

³⁰ Ibid.

100. It cannot be concluded from a single piece of the adduced evidence that by way of persecution of a jeopardized group of people (of Bosniak ethnicity in the case at hand) at the relevant time, with their acts the Accused deprived the group of the basic rights, deliberately and in violation of international law. Also, the Prosecution has not proven that the Accused knew that their acts constituted a part of that attack or that they were aware of the risk that their acts might constitute a part of that attack.

101. The Prosecution is correct in considering that superiors' orders do not constitute a defense from charges, either for the criminal offense that the Accused are charged with, or generally for the criminal offenses of war crimes, crimes against humanity or genocide. This is usually considered one of the accomplishments of the Nuremberg trials. However, the defense of the Accused that they carried out orders and that they did not know that those orders were unlawful, let alone that by their contents they satisfied the elements of a criminal offense, is reasonable and acceptable and corroborated by the adduced evidence. In the opinion of this Panel, a person with common sense would not know that these orders were unlawful.

Counts 1a) and 1b)

102. Counts 1a) and 1b) charged all Accused with persecution referred to in Sub-Paragraph (h), in conjunction with imprisonment referred to in Sub-Paragraph (e) of the criminal offense of Crimes against Humanity under Article 172(1) of the CC B-H. It should also be noted that the introductory part of the Indictment reads that with their acts the Accused committed and aided and abetted persecution, which is why the Panel also deliberated on the issue of aiding and abetting the persecution referred to in all Counts of the Indictment.

103. Counts 1a) and 1b) of the Indictment pertain to 25 June 1992 and the event that took place in front of the building of the Kalinovik Municipal Assembly and the events in the villages of Jelašca and Vihovići, as described in Sections 1a) and 1b) of the enacting clause of this Verdict, that is, Counts 1a) and 1b) of the amended Indictment.

Count 1a

104. Based on the presented evidence, the Panel finds that on the above-mentioned date a number of Bosniak civilian men came in front of the Municipal Assembly building in Kalinovik upon the call-up of the Municipal National Defense Secretariat. Witness Gojko

Lalović testified in relation to the sending of call-up papers.³¹ Witness Lalović testified that the President of the Executive Board of the Kalinovik municipality, Grujo Lalović, ordered that able-bodied Muslim men from the surrounding villages of Vlahovići, Jelašca and Mjehovina be called up for the purpose of performing compulsory work service. Witness Lalović added that the record of all able-bodied Muslims was available from unit files. He also stated that he participated in preparing the call-up papers, more precisely that he typed them together with his colleague Slobodan and that he personally served them on several villagers from Mjehovina. Witness Zlatka Hadžić testified about the circumstances when her husband was brought in from the village of Mjehovina.³² The call-up paper indicated that Bosniaks were to come to the Municipal Assembly building on 25 June 1992, at 14:00 hours, at which time they were to receive their work assignments. Other witnesses, including Dragan Cerovina, Obren Đorem, Rukija Rogoj, Fejzija Hadžić, Fadila Hatić, Ajka Šalaka, Ešrefa Škoro, Nihad Suljić, Remza Šurković, Fatima Kešo, Milivoje Faladžić and Ibro Suljić, also testified about the serving of call-up papers on the Muslim men from these villages and their gathering in front of the Municipal Assembly building.

105. Witness Rukija Rogoj testified that she lived in the village of Jelašca. On 25 June 1992, Srđan Puhalo came to her door with call-up papers containing instructions to come to Kalinovik. Her husband and a friend named Ismet Hatić responded to the call-up.³³ Witnesses Fadila Hatić, Zijada Hatić and Ajka Šalaka also confirmed that after responding to the call-up, men were brought in, with each of these witnesses describing the events from their own perspective. Witness Dragan Cerovina confirmed that the purpose of this call-up was for these men to report for compulsory work obligation. Witness Cerovina testified that a few days before the critical date, Hilmo Rogoj showed him the call-up papers and asked him what to do. Witness Cerovina stated that he advised him to respond to it, adding: “I could not imagine even in my wildest dreams what was going to happen to them later on!”³⁴ Witness Fejzija Hadžić testified that he responded to the call-up and came in front of the building of the municipality, where he was joined by: “Esad and Enes Hadžić, Veiz Hadžić, Edhem Hadžić, Smail Hadžić, Selim Hadžić, Nasuf Hadžić, Ahmo Hadžić and Jusuf Hadžić. From Kalinovik there were Rašid Redžović, Ibrahim Bajrić, Muhamed Ćusto, Salko Vranović, Sabahudin Gluković and Hasan Suljić. From Vihovići, Ramo Kurtović,

³¹ Main trial hearing held on 18 January 2011

³² Main trial hearing held on 5 April 2011

³³ Main trial hearing held on 22 February 2011

³⁴ Transcript of the testimony dated 1 February 2011, pg. 31

Mirsad Suljić, Sado Suljić, Sevdó Suljić, Safet Suljić, Elmir Suljić, Suljić brothers aka Čiča and Medo, Remzo Suljić, his son Elvin, his brother Ramiz Suljić. From Jelašca, Zijo Pervan, Nedžib Pervan, Ramiz Tešo, Ismet Hatić, Adin Hatić, Fadil Hatić, Hilmo Rogoj, Husnija Rogoj, Nezo Rogoj, Salko Vičo, his son Edin, Zaim Čustović a.k.a. Čusto, Muharem Bičo and Naser Bičo”.³⁵ Witness Obren Đorem testified that he was patrolling the town when he noticed that people were gathering in front of the municipality building. He stated that he was told at the time they had been called up to report for compulsory work obligation.³⁶ According to his account, there were around thirty gathered men, while witness Dragan Cerovina estimated the figure to be around fifty or sixty. Witness Gojko Lalović testified to seeing around 35 or 36 men in the conference room inside the municipality building.

106. According to the testimony of witness Gojko Lalović, it was said that there was going to be a meeting to assign the able-bodied Muslim men to their duties, which is why witness Lalović took a pen and paper to record all important details of the meeting.

107. On that same day, after they gathered in front of the municipality building, all Bosniak men were taken to the *Miladin Radojević* Elementary School and detained there. Witness Gojko Lalović testified that upon arrival of the Bosniak men in front of the municipality building, Milan Perić approached him and said that the meeting would not take place in the municipal building, but in the school. Witness Lalović stated that this took him by surprise because everything had already been arranged.³⁷ On this occasion, he saw one or two TAM trucks and the policemen. Witness Ibro Suljić testified that he saw Milan Perić standing there and that it was he who told them to get on the truck that transported them to the school. Witness Radomir Tošović³⁸ testified that he was at the police station on that day. The police station commander Neđo Zeljaja personally instructed him to head to the municipality building and inform the people there that they were going to be transported to the school for reasons having to do with their own safety. On the way, he met Spasoje Doder who participated in securing the gathering and told him to report to the station for further instructions, that is, to report directly to the PS commander Zeljaja and the PS chief Govedarica.

³⁵ Transcript of the testimony of witness Fejzija Hodžić dated 11 January 2011, p. 19.

³⁶ Transcript of the testimony dated 8 February 2011, p. 32.

³⁷ Transcript of the testimony, p. 17.

³⁸ Testimony of witness Radomir Tošović, main trial hearing held on 12 September 2011.

108. Defense witness Tihomir Regoja³⁹ testified that as a member of the reserve forces of the Kalinovik police station he manned the front line in Kutine when on 25 June they were called back to Kalinovik in order to secure a funeral. Around seven or eight of them, including Milan Perić, set off from Kutine. They stationed themselves in front of the municipality building where he saw the gathered Muslims, but he did not know the reason for their gathering. He knew, however, that it was their task to take them to the school for the reasons related to their own safety. Witness Gojko Lalović also stated that Vukica Manjak was to be buried on that day so that many people, Serbs and Bosniaks, gathered there that day. Witness Dragan Cerovina testified that there was a concern about potential incidents, which is why the police were tasked with providing security. It follows from the above, and also from the testimony of Fejzija Hadžić who testified from the perspective of a man who responded to the call-up and was standing in front of the municipality building, that the entire situation was certainly uneasy because of all the uncertainty, but in the view of the court it was not such that the men gathered in front of the municipality building were surrounded.

109. It follows from the testimonial evidence presented in this case that on the critical day members of the Kalinovik SJB secured a group of Bosniak men who came in front of the municipality building. It was also established based on the presented evidence that members of the Kalinovik SJB also participated in their transfer to the school.

110. That the Accused Milan Perić and Spasoje Doder were present in front of the municipality building and that they participated in the transport of men to the school is confirmed, among other things, by the testimony of witnesses Ibro Suljić, Dragan Cerovina, Radomir Tošović, Tihomir Regoja, Gojko Lalović and Fejzija Hadžić.

111. However, based on the presented evidence, more specifically the testimony of witnesses Fejzija Hadžić and Dragan Cerovina, it follows that the Accused Predrag Terzić and Aleksandar Cerovina were present on the critical day in the school, taking away any sharp objects from the men who had been transferred from the municipality building to the school, but none of the witnesses mentioned seeing them in front of the Kalinovik municipality building. Additionally, defense witness Tihomir Regoja mentioned the Accused Predrag Terzić and Aleksandar Cerovina in the context of their presence at the school. Witness Fejzija Hadžić testified that upon their arrival in front of the municipality building

³⁹ Testimony of witness Tihomir Regoja, main trial hearing held on 6 September 2011.

they expected Grujo Lalović to address them. He also testified to seeing members of the reserve police forces, a TAM 100 vehicle with Milan Perić at the helm, and that Spasoje Doder ordered them to board the truck that was to take them to the elementary school building.

112. Upon their arrival at the school, he saw Aleksandar Cerovina and Predrag Terzić take any sharp objects from the Bosniak men. Witness Hadžić testified that after their arrival, a second group of Bosniaks was brought to the school. Witness Dragan Cerovina testified that at the time of the arrival of one group of Bosniaks to the school, he saw Aleksandar Cerovina and Predrag Terzić frisk them and take any sharp objects from them before they were allowed to enter the school. With respect to the role of police officers of the Kalinovik SJB, including the Accused, as described and as alleged in the Indictment, the Panel concludes based on the presented evidence that the police officers of the Kalinovik SJB came there upon the orders of their superiors and that they had a certain security-related purpose and role, and notes that it cannot be concluded that the Accused "... together with other members of the SJB Kalinovik... surrounded the group of civilian Bosniak men", as alleged in Count 1a) of the Indictment.

113. Moreover, the Panel did not find it proved beyond a reasonable doubt that, upon the order of Spasoje Doder who commanded over the group of police officers, the Accused forced the gathered civilians to board the TAM 110 freight vehicle. In relation to this fact, the Panel relied on the testimony of witness Dragan Cerovina who stated that Spasoje Doder came from the police station and passed the chief Govedarica's order that he and Milan Perić were to transport the gathered men to the school. The Panel was also mindful of the testimony of witness Radomir Tošović who stated that he met Spasoje Doder, who participated in securing the gathering, and told him to report to commander Zeljaja and chief Govedarica for the purpose of assigning concrete duties and coordinating the transport of these men. Witness Lalović testified that the Accused Doder could not have ordered on his own initiative the transport of these men, but, as this witness put it: "Someone had to order it first before it was carried out." Based on the above, the Panel concluded that the Accused Spasoje Doder did not have command over the group of police officers nor did he order that the civilians board the truck. He only followed the order of his superiors, which, in relation to him, essentially said that the men be transported to the school. The same applies to the Accused Milan Perić who was tasked with the transport of these men and who, following the orders by his superiors, told the gathered men, according to the account of witness Ibro Suljić, to board the truck.

114. The group of civilian Bosniak men came in front of the Kalinovik municipality building in response to the call-up by the Municipal National Defense Secretariat. According to the Law on National Defense⁴⁰, the Secretariat was a body authorized to send call-up papers. As demonstrated by the testimonial evidence, the Accused did not participate in the drafting or serving of these call-up papers.

115. According to the witness accounts, some of the Accused were manning the front line in Kutine when they were ordered to leave the front line and come in front of the municipality building. As demonstrated by testimonial evidence, including the testimony of witness Gojko Lalović, Vukica Manjak was to be buried on that same day, so that many people, both Serbs and Bosniaks, were gathered there that day. Witness Grujo Lalović testified to hearing from the Accused Milan Perić about a meeting that was to take place at the school. It follows from the testimony of witness Fejzija Hadžić that all men who gathered on that critical day in front of the municipality building responded to the call-up. He added that they had waited for Grujo Lalović to address them, while witness Ibro Suljić testified that he saw Milan Perić while waiting in front of the municipality building.

116. Witness Dragan Cerovina testified that the police chief Boško Govedarica tasked him and Milan Perić to take the TAM 110 truck and assist the police that had already been in front of the municipality building. The patrol leader was Spasoje Doder. In his testimony, he described the events in front of the municipality building and spoke of the assignments of members of the SJB Kalinovik.⁴¹

117. Witness Radomir Tošević testified that on that very day, the station commander Neđo Zeljaja told him personally on the premises of the police station to go to the area in front of the municipality building and inform the people there that they would be transported to the school for safety reasons.

118. It follows from the testimony of witness Tihomir Regoja that on that day, while manning the front line in Kutine, his group that included the Accused Milan Perić, was tasked to leave the front line for the purpose of securing the gathering in front of the municipality building. As already noted above, witness Dragan Cerovina testified that Spasoje Doder went to the police station and that, after leaving the station, he said that Boško Govedarica's order, namely to have the Bosniaks transported to the school, was to

⁴⁰ Exhibit O-3/15.

be passed around.⁴² This witness corroborated the testimony of witness Gojko Lalović who stated that he was supposed to meet with those men who came in front of the municipality building and that the reason for their transfer to the school was the fact that Grujo Lalović was not able to see them and talk to them that day.⁴³ Furthermore, as for the transfer of the civilian Bosniak men who gathered in front of the municipality building, this took place on the direct orders by the police chief Boško Govedarica. As noted above, Neđo Zeljaja, who was superior to all the Accused, was also involved in the organization and coordination of this transport. In other words, the entire transport was organized and coordinated by the superiors.

119. Relying on the finding and opinion of expert witness Mile Matijević and evidence that supports all factual findings concerning this event, the Panel found that the Accused carried out all tasks and duties that they were authorized for in accordance with the law and rulebook applicable at the time. They carried out these tasks based on the order of the superior officer. In the view of the court, it cannot be concluded based on the presented evidence that the Accused knew that the intentions were different from what they were at face value, and that the Accused, as ordinary police officers, knew at the time anything other than that the men who had responded to the call-up and gathered in front of the municipality building needed to be secured and subsequently, upon the order of the Chief of SJB Kalinovik Boško Govedarica, transported to the school, nor did the Accused have any reason to doubt the lawfulness of this order.

120. The acts with which the Accused have been charged in the Indictment pertain to their actions until the handover of these men at the school, including the confiscation of items from these men as they entered the school. As witness Dragan Cerovina, himself a police officer at the time, testified: "We could not even anticipate what was in store for them or what was going to happen to them in the next couple of days."⁴⁴

121. In this context, the Panel notes that the Accused were neither involved nor was the issue of further detention of civilians within their authority, nor did they have any influence on further developments following the arrival of these men at the school, especially in relation to their transfer to the *Barutni magacin* detention camp and their subsequent

⁴¹ Page 32 of the transcript of testimony of 1 February 2011.

⁴² Pages 33-34 of the transcript of testimony of 1 February 2011.

⁴³ Page 34 of the transcript of testimony of 1 February 2011.

⁴⁴ Page 36 of the transcript of testimony of 1 February 2011.

murder. It follows from the report on the work of the SJB Kalinovik of 18 August 1992 that the Muslim conscripts were transferred on 6 July 1992 from the elementary school in Kalinovik, which was secured by the SJB Kalinovik, to the military prison where their security was in the hands of the military command of the Kalinovik Tactical Group. The testimony of witness Fejzija Hadžić is consistent with the contents of this report in that he stated that he, along with others, remained until 6 July 1992 in the school where the police secured them, and on that day they were transported in military trucks under the escort of the reserve police forces to the *Barutni magacin* camp, which was to be used as a prison facility.

122. Based on all the above, the Panel concludes that it has not been proved that the Accused had discriminatory intent on any basis, which is required for the crime of persecution to be established, nor did they know of such intent on the part of principal perpetrators. Therefore, it has not been proven that they committed the crime of persecution, or aided and abetted in the commission of this crime. Additionally, in light of the established state of facts, based on the presented evidence the Panel could not find beyond a reasonable doubt that the Accused had intent, that is, the will and desire to unlawfully imprison these men, or that they were aware that by their acts they were assisting the unlawful imprisonment under Article 172(e) of the CC of BiH. The Panel also concludes that the awareness of the Accused was not focused on the fact that their acts constitute part of the attack.

Count 1b

123. Under Count 1b) of the Amended Indictment, Milan Perić, Spasoje Doder, Predrag Terzić and Aleksandar Cerovina were charged that “[o]n the same day [as in Count 1a)], in the afternoon hours, together with other members of the SJB Kalinovik and members of the Army of the SRBiH, they attacked the Bosniak villages of Jelašca and Vihovići, Kalinovik municipality, in which process they deprived of liberty all Bosniak men who failed to flee, including Mirsad Karaman, Fikret Karaman, Edin Bičo, Muharem Bičo, Ibro Pervan, Mujo Pervan, Hamdo Pervan, underage Almir Čusto, Ramo Suljić, Salko Suljić and Ramiz Suljić, and transported all the civilians and unlawfully detained them in the *Miladin Radojević* Elementary School in Kalinovik, which served as a prison for civilians, [with] none of the civilians surviv[ing] detention.”

124. The names of some persons mentioned in Count 1a) of the Indictment, as persons who responded to the call-up and were among those gathered in front of the municipality

building, reappear in Count 1b) of the Indictment that refers to persons who did not respond to the call-up and who, on the same day in the afternoon hours, were brought from the villages of Jelašca and Vihovići to the school. Those are the following persons: Mirsad Karaman, Fikret Karaman, Ramo Suljić, Ramiz Suljić and Muharem Bičo.

125. Since the names of some persons are repeated under both counts, and as some witnesses testified that among those brought to the school some voluntarily responded to the call-up while others were brought there from the villages of Jelašca and Vihovići, it remained unclear as to who exactly, among those who eventually ended up in the school, voluntarily responded to the call-up and who was brought there later that day. However, it was established beyond a reasonable doubt that a certain number of individuals responded to the call-up and gathered in front of the Kalinovik municipality building, while others were brought to the school later on. Given that it has not been proven that the Accused committed the offenses charged, the Panel notes that this fact is not of a decisive importance considering that it has not been proved that the Accused committed the criminal offense charged.

126. The evidence presented in the case shows that the incident indeed took place and that on the relevant date, 25 June 1992, the Accused were in the villages of Jelašca and Vihovići in the afternoon hours. Additionally, the Panel found that the men were deprived of liberty and taken to the elementary school.

127. In her testimony witness Zijada Hatić stated that she had learnt from her daughter that military trucks were on the way to the village and that four armed men requested of her to tell her sons to come. She heard from her neighbors that all those who had failed to respond to the call-up and did not flee were arrested on that day, including Muharem and Nasuf Bičo, Zaim Čusto and one of Čusto's sons. After that, according to her testimony, only women and children, and an elderly man named Hašim, remained in the village.⁴⁵

128. Witness Elvir Čusto testified that he lived in the village of Jelašca during the period relevant to the Indictment, and that on 25 June 1992 he saw a military truck by Huso Rogoja's house, and around twenty men, including Aleksandar Cerovina and Predrag Terzić, coming down the hill. He also mentioned Milan Perić whom he had seen near the

⁴⁵ Testimony of 22 March 2011.

garage. Witness Čusto stated that they forced the men found in the village to board the truck.

129. Witness Hasna Čusto, Elvir Čusto's mother, testified that her husband and underage son Almir had been taken away on that occasion. The taking away of Almir Čusto was corroborated by the testimony of the protected witness T, Rukija Rogoj and Ilija Đorem. She testified that Srđan Puhalo brought some papers to the effect that these men would have to perform compulsory work service, at which time some men fled for the woods. On that fateful day, according to her testimony, she saw 20-30 police officers coming down the hill, with the Accused Milan Perić at the wheel of the truck that stopped by her house.⁴⁶ Witness Hasna Čusto testified that Aleksandar Cerovina took her son Almir out of the house and that he and Predrag Terzić loaded him on the truck. The taking away of Almir Čusto, in spite of the fact that he was underage, in the view of the court is a violation of the police duty. However, it is not sufficient to conclude that the Accused committed the criminal offense charged against him.

130. Witness Izeta Pervan testified that, apart from her father Ibro Pervan, among those taken away on that day were Salko and Ramo Bičo, Avdo Kešo, Bajro, Hamdo, Asim, Nedžib and Bećir Pervan, and that only the elderly remained in the village. Witness Zijada Hatić also testified about the taking away of men and noted that all those who did not respond to the call-up were taken away on that day, leaving only women, children and the elderly in the village.

131. The Panel established the presence of the Accused in the village of Jelašca on that day based on the testimony of witnesses Obren Đorem, Elvir Čusto, Izeta Pervan and Fatima Kešo. Witness Obren Đorem testified that on that day he was performing his regular patrol duties together with another police officer when he was called to report to the station. Upon his arrival at the station, he was told that they had to go to the villages of Jelašca and Vihovići to bring in the men who did not respond to the call-up for compulsory work service. They were told there that those who responded to the call-up had been transferred to the school, and that the civilians from the village should be brought in too. The reason for bringing in these men, as they were explained, was their failure to respond to the call-up for compulsory work service.⁴⁷ Witness Đorem explained that they left for the

⁴⁶ Page 9 of the transcript of testimony of 1 February 2011.

⁴⁷ Page 32 of the transcript of testimony of 8 February 2011.

village of Jelašca aboard two TAM 110 trucks used by the police. Upon their arrival in the village, they were divided into groups and told that if they were to find any of these men they should bring them and load them onto the truck parked in the middle of the village. Milan Perić and Dragan Cerovina were responsible for the TAM 110 trucks.

132. Witness Ajka Šalaka testified that among the police officers who came to take away the men from Jelašca who had not responded to the call-up, she saw Obren Đorem and Cerovina, but not the Accused Aleksandar Cerovina, and that on this occasion they came to all the Muslim homes, adding that she saw them take away Ibro Pervan and Mujo Pervan. Witness Šalaka stated that all of them were taken to the elementary school and later on transferred to the *Barutni magacin* detention camp.

133. Witness Izeta Pervan testified that Aleksandar Cerovina came to her home in Jelašca to take away her brother and father. Since they were not home, she headed to the field to fetch them. On the way there she met her father and told him that Cerovina was looking for him. Upon returning home she saw Neđo Zeljaja, who was the police commander. She stated that among those taken away on that occasion were the Bičos, as well as Avdo Kešo, Bajro, Hamdo, Asim, Nedžib and Bećir, all with the last name of Pervan.⁴⁸

134. Witness Fatima Kešo testified that on 25 June 1992, in the afternoon hours, she saw trucks in front of her house in the village of Jelašca, which is when she saw Neđo Zeljaja and Spasoje Doder. Witness Kešo also testified about the circumstances surrounding the taking away of men to the elementary school in Kalinovik on that afternoon.⁴⁹ Witness Fejzija Hadžić testified that among the men from Jelašca who were taken to the school that afternoon were Bećir and Hamdo Pervan, Bajro Pervan, Asim Pervan, Ibro Pervan and Avdo Kešo, while his father-in-law was taken away from his home by none other than Neđo Zeljaja.

135. The above testimonial evidence is corroborated by witness Rukija Rogoj too, who testified that her husband and his friend Ismet responded to the call-up and that shortly afterwards, on that same day, Ismet Hatić's sons came and said that the troops had arrived with trucks and were arresting people. She saw them take away Ibro Pervan. After

⁴⁸ Testimony of 15 March 2011.

⁴⁹ Testimony of 10 May 2011.

that only elderly people remained in the village. Those taken away were brought to the Elementary School and later transferred to the *Barutni magacin* detention camp.

136. Another witness who testified about the taking away of men from the village of Jelašca to the Elementary School and then to the *Barutni magacin* detention camp was Fadila Hatić, who stated that the troops came on that day and searched their homes looking for men who had not responded to the call-up. According to the testimony of witness Hatić, the following members of Rogoj, Čusto, Karaman and Bičo families were taken away on that day: Nizo, Huso and Hilmo Rogoj, Zaim Čusto, Fikret and Mirsad Karaman, and finally Edin Bičo.

137. Witness Džemila Suljić testified that on 25 February 1992 the soldiers and police rounded up these men and transported them to Kalinovik.⁵⁰ After first being taken to the school, they were then transferred to the *Barutni magacin* detention camp. Witness Raza Suljić confirmed that the men from the village of Vihovići were taken away in late June. They first received the call-up papers that were served on them by Srđan Puhalo and Brane Sladoje.⁵¹

138. As for the village of Vihovići, witness Nihad Suljić testified that on the same day when the men left for Kalinovik for the purpose of responding to the call-up, Milan Perić and Spasoje Doder came to the village in the afternoon hours, with the Accused Doder telling him that they came for him and that he should take his weapon and follow them. According to his testimony, together with Perić and Doder were a reserve police officer Obren Đorem and Ranko Pavlović.⁵² Witness Suljić handed over his weapon at the police station and returned home together with his father Ibro who had already been at the school. Damir Suljić, Salko Kurtović and Fehmo Suljić remained in the village. Witness Džemila Suljić testified that Ramo Kurtović, Safet Suljić and Ramiz Suljić were taken away from the village of Vihovići on that day and that only the elderly remained in the village.

139. In relation to the presence of the Accused in the villages of Jelašca and Vihovići, the Panel notes that their presence has been proved beyond a reasonable doubt. In making this finding the Panel relied on the testimony of witness Obren Đorem, who was a member of the reserve police forces and present in those two villages at the time relevant

⁵⁰ Page 5 of the transcript of testimony of 14 June 2011.

⁵¹ Testimony of 24 May 2011.

⁵² Page 40 of the transcript of testimony.

to the Indictment, and who mentioned all four Accused by their names as being there at the relevant time. Witness Đorem's testimony was very clear and convincing and it was consistent with other evidence and corroborated by the testimony of other witnesses. As for the presence of the Accused Milan Perić, Predrag Terzić and Aleksandar Cerovina, apart from the testimony of witness Obren Đorem the Panel also relied on the testimony of witnesses Elvir Čusto, Hasna Čusto and Izeta Pervan that were mutually consistent, which is why the Panel accepted them as reliable, as well as the testimony of witness Fatima Kešo that corroborates Obren Đorem's testimony in relation to the Accused Spasoje Doder. In the Panel's view, each of these witnesses testified from his/her own perspective depending on where the person was at the time when the events occurred. It should also be borne in mind that the witnesses gave their accounts long after the actual events. The Panel notes that although there were some discrepancies in the testimony of these witnesses, they mostly concern details that are not relevant to establishing the presence of the Accused. The Panel further notes that the witness accounts are consistent with each other in the important and relevant parts, which is why the Panel accepted them as credible.

140. Although the Defense witnesses Željko Pržulj and Tihomir Regoja provided alibi to the Accused by testifying that on 25 June 1992 he manned the front line in Kutine and then arrived along with others in front of the municipality building, which is when, according to their testimony, he returned to the front line, the Panel notes that it gave credence only to the part of their testimony in which they stated that they left Kutine and arrived in front of the municipality building, which is a fact testified to by other witnesses too. However, when the Panel compared this testimony with that of witnesses Elvira and Hasna Čusto, Nihad Suljić, as well as Predrag Đorem who all confirmed the presence of the Accused in the villages of Jelašca and Vihovići, which are situated at a close distance to each other, the Panel concluded that the Accused was in these two villages during the period relevant to the Indictment.

141. As for the participation of the Accused in this event, the Panel found that the Accused came to the villages upon the order of their superiors from SJB Kalinovik and the municipal administrative bodies. One of the duties they had under the then applicable Law on Internal Affairs and the Rulebook on performing public security duties was to bring in persons of interest, as explained by expert witness Mile Matijević.

142. Witness T and Milivoje Faladžić testified about the existence of the order issued by superiors ordering them to go to the village and bring in the persons who had not responded to the call-up. Upon leaving the front line in Kutine, witness T, an active police officer at the time, went back to the police station where he was met by the police chief Govedarica who told him and Milivoje Faladžić to go to the village of Jelašca and instruct people that they need to respond to the call-up. This was corroborated by witness Milivoje Faladžić who stated that both those who responded to the original call-up for compulsory work service and those who responded later on were ultimately detained in the school. Similarly, witness Obren Đorem stated: “They called me and another police officer back to the station to tell us that we should bring in those who had not responded to the call-up for compulsory work service, and so off we went.” Additionally, it follows from the report of the police chief Govedarica that the municipal and military authorities made a decision to take in the Muslim population and detain them in the elementary school in Kalinovik.

143. The Panel also notes that witnesses Fejzija Hadžić, Fatima Kešo and Izeta Pervan testified that Neđo Zeljaja, the commander of SJB Kalinovik and by virtue of this position superior to all the Accused, was present during the taking-in operation.

144. In this concrete case, the Accused acted in accordance with the duties they had as police officers, members of the SJB Kalinovik, and upon the order of their superiors to take in all the men who had not responded to the call-up and who failed to show up in front of the municipality building on that day. Based on the presented evidence, in the circumstances of the day and while carrying out the order, the Accused had no reason to doubt its lawfulness. On that day, upon the police chief’s order, all the called-up men were to be transferred to the school and the reason for their transfer, as the policemen were told, was that they were going to be interviewed. Therefore, in the Panel’s view, the Accused had no reason to question the order to take in these men.

145. In relation to this, the Panel notes that the Accused were not involved in any way in further detention of civilians since it was not within their scope of duties to assess the need for it. They had no influence on the course of events that followed after these men were brought to the school, in particular their transfer to the *Barutni magacin* detention camp and their subsequent murder.

146. In view of all the above, the Panel notes that based on the presented evidence it cannot be concluded that the Accused acted with the intention to unlawfully imprison the civilian population, nor were they aware that by their acts they were assisting unlawful

imprisonment defined in Article 172(e) of the CC of BiH. The Panel also found that the Accused did not have a discriminatory intent, nor did they know of discriminatory intent by the principal perpetrators, which is why they were not found to have committed persecution under Article 172(h) of the CC of BiH.

Count 2

147. Under Count 2 of the Indictment, the Accused Predrag Terzić and Aleksandar Cerovina were charged that “[o]n 31 July 1992, or about the day concerned, together with the other members of the SJB Kalinovik, they unlawfully deprived of liberty the civilians... [listed in paragraph 2 of the disposition of this Verdict] ... in the village of Vihovići... and surrendered them for detention to the *Barutni magacin* camp for civilians...”

148. Based on the testimony of the Prosecution witnesses Dika Suljić, Raza Suljić, Remza Šurković and Nihad Suljić, as well as the Defense witnesses Ibro Suljić, Miloš Veletić and Nikola Šupeta, the Panel found that the Accused Predrag Terzić and Aleksandar Cerovina participated, along with other police officers, in the taking away of the remaining men from the village of Vihovići. Witness Obren Đorem testified that they were assigned to go to Vihovići, take all the military-aged men in and bring them to *Barutni magacin* detention camp where others had already been transferred.⁵³ Upon their arrival in the village, according to witness Đorem’s account, most of the men had already gathered as if they had information beforehand. They were then presented with the written warrant for taking them in and, after they all gathered, the police escorted them on foot to the *Barutni magacin* detention camp where they were taken over by the military.⁵⁴ Based on the presented evidence, the Panel is satisfied that the persons mentioned in the Indictment were taken to the *Barutni magacin* detention camp. It also follows from the testimonial evidence that their names were called out from the list and the policemen were ordered to arrest all men and take them to the *Barutni magacin* detention camp.

149. Witness Dika Suljić testified that in late July, a day or two before the fall of Rogoj, they arrested the remaining men from Vihovići. She recalled that her father-in-law Fehmo was mowing grass that day and that he was taken away together with his brothers Hilmo, Kasim and Adem. Witness Suljić testified that among those taken away were Salko Suljić, his son Damir Suljić, Salko Kurtović, Fehim Srnja, Hasan and Mustafa Mušanović. Out of

⁵³ Page 36 of the transcript of testimony.

the individuals who came to the village that day and carried out the arrests, she recognized Predrag Terzić.

150. Witness Džemila Suljić testified that on the day when the men were taken away from the village, including Fehim Suljić, Salko Suljić, Damir Suljić, Hilmo Suljić, Adem Suljić and imam Fehim Srnja, she saw Predrag Terzić and Doder.⁵⁵ Witness Raza Suljić testified that the men from the village were taken to the *Barutni magacin* detention camp just before the fall of Rogoj, and that on that occasion she saw Predrag Terzić, Aleksandar Cerovina, Mićo Mandić and Miloš Veletić. She stated that Predrag Terzić had a list from which he was reading the names of persons being arrested. Witness Emina Juković also confirmed the presence of the Accused Predrag Terzić in the village.⁵⁶

151. Witness Remza Šurković confirmed the presence of both of the Accused in the village on that day. She testified that on or about 31 July she saw a large number of policemen in the village of Vihovići, more specifically the area known as Brdo, and that among them she recognized the Accused Aleksandar Cerovina and Predrag Terzić, with the latter holding a list and calling out the names of villagers from it.⁵⁷

152. Witness Nihad Suljić testified that the men who had not been taken away on 25 June were mostly hiding in the woods. In late July he saw a police car and returned to the village because he thought that the policemen were not going to harm him. In the village he saw the Accused Predrag Terzić and Aleksandar Cerovina, along with Miloš Veletić, Mićo Mandić and Zdravko Cerovina.⁵⁸ They were told by the policemen that they came to take in the remaining men.⁵⁹ Witness Suljić remained in the village while others were taken on foot to the *Barutni magacin* detention camp. According to witness Suljić's account, among those taken away on that day were: Salko Kurtović, Salko Suljić, Damir Suljić, Fehmo Suljić, Adil Suljić, Hilmo Suljić, imam Fehim Srnja, Mušanović from Foča. Only he, his father and grandfather, women and children remained in the village.

153. Witnesses Nikola Šupeta, Miloš Veletić and Ibro Suljić also testified to the presence of the Accused in the village.

⁵⁴ Page 36 of the transcript of testimony of 8 February 2011.

⁵⁵ Transcript of the testimony of 14 June 2011, pp. 8-10.

⁵⁶ Testimony of 24 May 2011.

⁵⁷ Page 24 of the transcript of 14 June 2011.

⁵⁸ Page 42 of the transcript.

⁵⁹ Page 42 of the transcript.

154. It follows from the above that the following persons from the village of Vihovići were taken to the *Barutni magacin* detention camp: Salko Suljić, Damir Suljić, Salko Kurtović, Hilmo Suljić, Fehim Suljić, Kasim Suljić, Adem Suljić, Hasan Mušanović, Mustafa Mušanović and imam Fehim Srnja. It is also clear that the Accused Aleksandar Cerovina and Predrag Terzić participated together with other police officers in the taking away of the remaining men from the village of Vihovići to the *Barutni magacin* detention camp in late July, or more specifically a day or two before the battle for Rogoj, which, according to the presented evidence, took place on 31 July 1992.

155. However, based on the presented evidence the Appellate Panel did not find it proved beyond a reasonable doubt that the Accused Predrag Terzić and Aleksandar Cerovina acted with the purpose of unlawful imprisonment of these civilians and their surrender for detention, or that they had discriminatory intent or that they knew of such intent on the part of the principal perpetrators.

156. It follows from the above that there was a written order to deprive these persons of their liberty. The evidence presented in the case does not suggest that the Accused knew or had reason to know that the order was unlawful. The acts of the accused boil down to acting on the written order to take these persons in, which was within the scope of police duties. It follows from the testimony of witnesses Ibro Suljić, Nikola Šupeta and Raza Suljić that the Accused could not themselves make a decision as to who stays in the village and who is to be taken away, but it was their superiors Neđo Zeljaja and Boško Govedarica who decided on it. Given their status of ordinary policemen, the Accused could not decide on where exactly the men from the village would be taken. Witness Miloš Veletić testified that such an order could have been issued only by the police chief and commander.⁶⁰

157. Witness Ibro Suljić testified how on that fateful day he asked them not to take away his father Mujo. Witness Suljić further stated that the Accused Cerovina and Terzić called Kalinovik and passed him a Motorola phone in order to ask Zeljaja and Govedarica if his father could stay in the village. Neđo Zeljaja eventually ordered that his father should stay. This was confirmed by witness Nikola Šupeta who testified that Ibro talked over the

⁶⁰ Testimony of 4 October 2011.

Motorola phone and that it was said that his father Mujo should stay. Witness Šupeta also stated that the Accused Terzić was not in a position to decide who would stay.⁶¹

158. Although witness Fatima Suljić testified that Hasna Kurtović addressed the Accused Predrag Terzić telling him that her son Salko was missing from the list, in response to which he added Salko's name to the list, this does not disprove the fact that the Accused came to the village with a written order and that the Accused Terzić was supposed to call his superior to ask for further instructions, as he did in the case of Ibro Suljić's father. However, the Panel holds that this omission does not contain elements of the charged criminal offense and that he should have potentially been sanctioned for it by the relevant police disciplinary authority.

159. The Panel concludes that none of the persons taken to the *Barutni magacin* detention camp survived the detention. However, the acts of the Accused end with surrendering the victims to the *Barutni magacin* detention camp, which is why the Accused cannot be held responsible for the events that happened later on, nor was the issue of assessment of further need for detention of these civilians within the authority and powers of the Accused as ordinary policemen. As for the date when they were deprived of liberty, contrary to the allegations from the Indictment that it happened on 5 August 1992, the Panel relies on the testimony of the sole survivor, witness Fejzija Hadžić, who stated that detainees were continuously taken away by the troops of Pero Elez over the period from 1-5 August 1992.

160. Therefore, in the absence of evidence that they committed the crime charged under Count 2 of the Indictment, the Panel acquitted the Accused of this charge.

Count 3

161. Under Count 3 of the Indictment, the Accused Milan Perić and Aleksandar Cerovina were charged that on 1 August 1992 they participated in the attack on the village of Jelašca in the manner described in more detail in the Indictment and paragraph 3 of the disposition of this Verdict, which resulted in the burning down of a number of houses, stables, haystacks, the wounding of little girl Mirveta Pervan and the killing of her grandmother Dervana Pervan, in the process of which they deprived of liberty the following

⁶¹ Testimony of 11 October 2011.

civilians: Rukija Rogoj, her daughter Dženana – 10-year-old child, “N”, Temima Rogoj, Samija Rogoj, Hasna Čusto, Sejda Kešo, Zijada Hatić, Ajka Šalaka, Fadila Hatić, Fatima Pervan, Izeta Pervan, Ismeta Pervan, Fatima Pervan, Azemina Pervan, Edin Bičo, old men Hašim Hatić, Sejdo Kešo, who were taken by the police officers and soldiers on foot to the *Barutni magacin* camp, wherefrom they were transferred to Kalinovik by a truck and detained in the civilian prison located in the *Miladin Radojević* Elementary School in Kalinovik. The same night the remaining civilians from Vihovići, Mjehovine and other neighboring villages, except for the old persons who were unable to walk across the hill, left the Kalinovik municipality fleeing the attack; the body of Derviša Pervan was disposed of at an unknown location, so she is still reported missing; the civilians Edin Bičo, Sejdo Kešo, Hašim Hatić, Azemina Pervan and Fatima Pervan were killed while in detention, and the other detainees were exchanged in late August 1992.

162. Based on the presented evidence, the Panel found that the attack on the village of Jelašca took place on 1 August 1992. The attack was directed against the civilian Muslim population.

163. Witnesses who testified in relation to this Count stated that the village of Jelašca came under attack on the same day when they were rounded up in the village and taken to the *Barutni magacin* detention camp, wherefrom they were transported by trucks to the *Miladin Radojević* elementary school.

164. In relation to events taking place in the village of Jelašca on 1 August 1992, the Panel heard eyewitness testimony from the following witnesses: Hasna Čusto, Fadila Hatić, Zijada Hatić, Fatima Kešo, Izeta Pervan, Rukija Rogoj, Sejda Kešo, Mirveta Pervan, Ajka Šalaka and Razija Hatić. These witnesses spoke of the manner in which the Muslim civilian population was taken in, while witnesses Obren Đorem, Danilo Đorem and Risto Badnjar also testified about these events.

165. Witnesses Hasna Čusto, Fadila Hatić, Zijada Hatić, Mirveta Pervan, Izeta Pervan, Fatima Kešo, Sejda Kešo, Rukija Rogoj, Ajka Šalaka and Razija Hatić testified that they remained in the village of Jelašca until 1 August 1992 when most of them, women, children and the elderly who stayed in the village after the men were taken away, were taken to the *Barutni magacin* detention camp and then to the *Miladin Radojević* elementary school in Kalinovik.

166. Witness Hasna Čusto testified that she stayed in Jelašca until 1 August 1992 when soldiers and the police came and took away women and children and burned down their homes. Witness Čusto stated that the homes of the Pervan family in the hamlet of Karaula were the first to be set on fire, while a bit further down the road the homes of Refo Rogoj, Ismet, Hašim and Fadil Hatić were in flames. According to her testimony, the projectiles putting their homes ablaze were fired from a truck/vehicle in Karaula. As they were taken away the homes of Džafer Kešo and Malko Kešo were also in flames. They were gathered in the house of Avdo Kešo and taken to the *Barutni magacin* detention camp, and then to the elementary school. Her group in Avdo Kešo's house included Rukija Rogoj, her daughter Dženana, Temina Rogoj, Samija Rogoj, Malka and Tifa Kešo.⁶²

167. Witness Sejda Kešo testified that she stayed in Jelašca until 1 August 1992. She also stated that when the shooting first started the hamlet of Karaula was set on fire and they all gathered in Avdo Kešo's house: Tifa Kešo, Ziza Hatić, Fadila Hatić, Hašim Hatić, Mujo Pervan, Sejdo Kešo and others. She remembered that Blaško Badnjar, Risto Badnjar and Slavko Puhalo were there, that they were all armed with rifles and that they instructed them to move in twos in the direction of the *Barutni magacin* detention camp. Witness Kešo remembered seeing the homes in Karaula in flames, including her own home.⁶³

168. Witness Rukija Rogoj⁶⁴ testified that women stayed in their homes until 1 August 1992 when armed men came to the village. She stated that there was shooting all around the village, that some homes were in flames and that her stable was burnt down. According to witness Rogoj, they walked to the *Barutni magacin* detention camp under armed escort and later on the trucks came and transported them to the elementary school.

169. Witness Fadila Hatić testified that on 1 August 1992 they came for women and the elderly, adding that she saw Blaško Badnjar and Savo Puhalo among them. All the villagers were taken to Avdo Kešo's house. Witness Hatić explained how, at the same time, the attack on the village continued unabated, with shooting and burning of homes.⁶⁵ Witness Zijada Hatić also testified about the burning of homes and how an anti-aircraft gun

⁶² Main trial hearing held on 1 February 2011.

⁶³ Main trial hearing held on 15 March 2011.

⁶⁴ Main trial hearing held on 22 February 2011.

⁶⁵ Main trial hearing of 22 March 2011.

was placed near the house of Jovo Badnjar. They were shooting from that direction, putting her home and stable ablaze in the process.⁶⁶

170. Witness Razija Hatić testified that on 1 August 1992, she saw 5-6 soldiers passing by her home in Jelašca, with Danilo Đorem among them. Witness Hatić described how, upon the arrival of soldiers, she escaped to the woods together with her children and how, while in the woods, she saw the houses in flames. Further, she stated that there was a lot of shooting.

171. Witness Hatić mentioned that it was then that Dervana Pervan was killed.⁶⁷ In her testimony, Mirveta Pervan described the circumstances surrounding her wounding, adding that her grandmother was killed on that occasion, which was confirmed by witnesses T, Milivoje Faladžić and Dika Suljić.⁶⁸ Witness Mirveta Pervan also stated that everything around her was in flames.

172. Witness Izeta Pervan testified that she stayed in the village until 1 August 1992, which is when Miodrag Badnjar and Slavko Puhalo, among others, came to the village and rounded them up in Avdo Kešo's house, wherefrom they were taken in a column of twos to the *Barutni magacin* detention camp.⁶⁹ She saw a tank on the hill near Badnjar houses, and the homes of Pervan family, Avdo Kešo and Sejdo Kešo in flames. She remembered boarding a truck that transported women from Jelašca and Mjehovina to the elementary school.

173. Witness Fatima Kešo testified that they were taken to the school, where upon arrival they found women from Gacko.⁷⁰

174. Witnesses Raza Suljić, Dika Suljić and Nihad Suljić, all residents of the adjacent village of Vihovići at the time, testified that there was shooting and that the homes in the village of Jelašca, and Karaula, were in flames.

⁶⁶ Main trial hearing of 22 March 2011.

⁶⁷ Main trial hearing of 12 April 2011.

⁶⁸ Main trial hearing of 26 April 2011.

⁶⁹ Main trial hearing of 15 March 2011.

⁷⁰ Main trial hearing of 10 May 2011.

175. Prosecution witness Risto Badnjar testified that he reported in 1992 to the *Donji Logor* military barracks and that he was assigned to operate a 100 mm gun set to fire on the village of Ljuta.⁷¹ He remained at this post until the fall of Rogoj, which, according to him, happened either on 1 or 2 August 1992. After that, he was assigned to the village of Jelašca where the platoon commander was Božo Bozalo. Witness Badnjar testified that the civilians were rounded up and that some houses were burnt down.

176. It follows from the testimony of this witness, as well as witnesses Zijada Hatić and Fadila Hatić, that the two sisters Azemina and Fatima Pervan were taken in on that occasion.

177. The Prosecution witness Čedo Okuka testified that in May 1992 he was militarily engaged first in the infantry and then in the anti-aircraft defense.⁷² The command of his unit was located at the *Gornji Logor* military barracks. Witness Okuka stated that he was ordered to take a position on the hill overlooking the village of Jelašca, so that they could fire and take part in the operation of defending the village. He stated that they fired along the edge of the woods, using incendiary ammunition and target marking fire. He thought that the woods caught fire as a result, but he could not see if the homes were ablaze too. After that, he was instructed to return to the *Gornji Logor* military barracks.

178. Witness T testified that he was manning the front line when the attack on the village of Jelašca was launched in early August and when he heard shots fired in the direction of Karaula. From a hill he saw that the village came under attack from an anti-aircraft gun, or an anti-aircraft machine-gun, and he was also able to hear shooting from infantry weapons. He stated that he heard the information about the attack and the firing of 100 mm gun shared by using communication equipment. Witness T then described how on the next day he went to the village of Jelašca to get his mother out, at which time he found a dead woman and a wounded girl by her side, Remzija Pervan's daughter. The girl had her wounds dressed at the Health Center and was handed over to her aunt who was detained in the elementary school. Witness T saw the burnt down homes of Ismet Hatić, Fadil Hatić and Derviš Rogoj, while the homes of Avdo and Sejdo Kešo, according to his account, were burnt down by soldiers in the next one or two days. Witness T stated that at the time when he found the girl no Muslims showed up in the village apart from the elderly persons,

⁷¹ Main trial hearing of 22 February 2011.

⁷² Testimony of witness Čedo Okuka, main trial hearing of 10 May 2011.

Zehra Rogoj, Rifa Bičo, Ćamil Karaman and his wife and a disabled person named Hajdar who all spent the night in Ćamil's house. When they set off they met them in the village of Luke, where they were eventually murdered.⁷³

179. Witness Milivoje Faladžić, an active police officer at the time, testified that after the fall of Rogoj the police brought women from Jelašca to Kalinovik in order to keep them out of harm's way.⁷⁴ He heard of the attack and shooting, and one could see that the homes of Pervan family had been set ablaze. The day after, he and witness T went to the village to see if there were any dead and wounded persons. Upon their arrival in the village of Jelašca, they saw four burnt down homes and found a wounded child by the side of Dervana Pervan who was dead. Witness Faladžić corroborated the testimony of witness T in relation to the wounded girl.

180. Having reviewed testimonial evidence regarding Count 3 of the Amended Indictment, the Panel finds that the witness accounts are mutually consistent when it comes to important elements. Certain discrepancies in the witness accounts are logical given the time distance between the events and the actual testimony and factors having to do with the perception of events by each individual witness. Based on the presented evidence, the Panel concludes that the attack on the village of Jelašca took place on the day noted above and that on this occasion women, children and the elderly were taken first to the *Barutni magacin* detention camp and then to the elementary school.

181. Based on all of the above, the Panel concludes that the shooting on the village and burning down of houses on 1 August 1992 constituted an attack directed against the civilian population. Additionally, the attack resulted in the death of Dervana Pervan and the wounding of her granddaughter Mirveta Pervan.

182. With respect to the concrete participation of the Accused Milan Perić and Aleksandar Cerovina in relation to Count 3 of the Indictment, the Panel finds it proved that the Accused Milan Perić and Aleksandar Cerovina were in the group of police officers who were headed to the village of Jelašca on 1 August 1992 to take in the remaining civilian population.

⁷³ Main trial hearing of 26 April 2011.

⁷⁴ Main trial hearing of 26 April 2011.

183. It follows from the testimony of witness Predrag Đorem that the policemen were ordered around the time of the fall of Rogoj to go to the village of Jelašca and take in the remaining civilians.⁷⁵ Witness Đorem stated in his testimony that around ten police officers received this assignment, including the Accused Milan Perić, who was driving a truck, and Aleksandar Cerovina. Witness Đorem testified that they were going door to door gathering people, that they headed from the hamlet with a mosque in it to the *Barutni magacin* detention camp, and that from there they transported these persons by truck to the elementary school in Kalinovik. Witness Đorem stated that the reason for bringing them in was their safety: “We were to bring them in to the school, so that no one could abuse or ill-treat them.”⁷⁶ Some of the villagers were transported by truck while others were escorted out of the village on foot. Witness Đorem stated that he was on a truck together with civilians, adding that it was a military truck, not the one that they had arrived by, and that they headed immediately to the school while civilians were escorted by the police and soldiers first to the *Barutni magacin* detention camp and then transported on a truck to the school.

184. Apart from Predrag Đorem, several other witnesses confirmed the presence of the Accused Aleksandar Cerovina and Milan Perić in the village of Jelašca at the relevant time. Zijada Hatić testified that the Accused Cerovina entered Samija’s house on that day and informed them that they had to be taken in, all the while treating them rather fairly. Witness Danilo Đorem⁷⁷, whose testimony essentially resembled that of Predrag Đorem, stated that the Accused Cerovina and Perić were in the group of police officers headed to the village of Jelašca and that upon arrival Milan Perić told him that he was headed in the direction of Bičo family houses, while witness Danilo Đorem proceeded in the direction of Karaula and did not take part in the transport of women to Kalinovik. Witness Predrag Đorem testified that Perić was giving them assignments because he was a squad leader, which in the Panel’s view, constituted carrying out of the orders, which was to take these persons in. It follows from the military expert report of Mile Matijević that Milan Perić had specific duties as a squad leader, but that he essentially performed the same duties as other police officers, which, in this concrete case, was giving assignments to police officers with the aim of carrying out Boško Govedarica’s order. Witness Risto Badnjar also testified

⁷⁵ Testimony of 15 February 2011.

⁷⁶ Page 16 of the transcript of 15 February 2011.

⁷⁷ Testimony of 10 May 2011.

that the persons to be taken in were gathered at the mosque and that he saw the Accused Milan Perić and Aleksandar Cerovina on that occasion, adding that he and Perić later headed in the direction of Karaula. Witness Ajka Šalaka testified that she saw the Accused Aleksandar Cerovina in Jelašca on that day. Witness Šalaka stated that he was sitting on a fence together with another police officer, with a person named Savo Puhalo and a group of women that included her mother and Samija Rogoj. One of the police officers said that they were taking them to Kalinovik. She remembered that the Accused Cerovina told her there and then: "Leave this place and go wherever you can. You'll be better off than here".⁷⁸ Although she did not explicitly mention the Accused Cerovina in her testimony at the main trial, witness Hasna Čusto mentioned in her investigative statement that he was present in the village of Jelašca on that day.⁷⁹ In response to the Prosecution's question as to why she did not mention in her testimony all the persons she had mentioned in her investigative statement, witness Čusto stated that her son died a few months ago and that she was not feeling well in the courtroom. Witness Rukija Rogoj testified that on 1 August 1992, between 3 and 4 p.m., she saw armed men in front of her house, including Saša Cerovina, Savo Puhalo and Predrag Đorem; there may have been others whom she did not see.⁸⁰

185. Based on the presented evidence, in particular testimonial evidence and the context of these events, the Panel concludes that it has not been proved that the Accused participated in the attack. Moreover, based on the presented evidence, the Panel could not conclude beyond a reasonable doubt that in the concrete circumstances of the present case the Accused acted with the aim and knowledge to unlawfully imprison the civilians and "surrender them for detention", or that by their acts they were aiding and abetting their imprisonment and detention. Therefore, their actions did not constitute part of the attack. In relation to the charges concerning War Crimes against Civilians, the Panel did not find it proved that the Accused committed the criminal offense of War Crimes against Civilians under Article 173(1)(a),(e) and (f) of the CC of BiH since their actions concerned the taking in of persons in the manner explained above in the Reasoning of this Verdict.

⁷⁸ Testimony of 22 March 2011.

⁷⁹ T-3 - Record of interview with witness Hasna Čusto, Prosecutor's Office of BiH, number: KT-RZ-80/05, KT-RZ-90/07 dated 17 April 2007.

⁸⁰ Main trial hearing of 22 February 2011.

186. It follows from all the testimony that the Accused did not go to the village of Jelašca on their own initiative, but upon the order issued by their superior officer. As noted in paragraph 184, witness Predrag Đorem stated that they received the order in Kalinovik to take in the remaining civilian population from the village of Jelašca. Witness Danilo Đorem testified that Boško Govedarica issued the order, which he initially refused, but then Boško Govedarica told him that everyone was going and that he must go too.⁸¹ In her testimony, witness Zijada Hatić stated that Aleksandar Cerovina told them that they had to take them in, pointing to his fair conduct in doing so. Witness Risto Badnjar testified that after the fall of Rogoj, the police came to the village of Jelašca to take the civilians in order to keep them out of harm's way.⁸² Witness Badnjar also stated that those who had stayed in the village were later killed. Witness Milivoje Faladžić stated that women were taken to Kalinovik: "I know the police took them in for the sake of their own protection".⁸³

187. It is prescribed in Article 92 of the 1977 Rulebook on the Manner of Performing Public Security Duties that police officers shall take in persons upon the order of a superior. In the present case, in the Panel's view, the Accused acted upon the order of their superior and under the circumstances at the time they had no reason to doubt its lawfulness. It follows from the evidence presented in the case, in particular the testimony of witnesses Predrag Đorem, Danilo Đorem, Risto Badnjar and Milivoje Faladžić, and the Report of the police chief Boško Govedarica on the work of SJB Kalinovik⁸⁴, which among other things includes events happening in the villages of the Kalinovik municipality at the time, that the safety of the Muslim population living in the area was in danger. It follows from this evidence that the rationale behind the order to take in persons from the village of Jelašca was their safety, that the attack on the village of Jelašca was a retaliation after the battle for Rogoj and that the population was removed from the village for safety reasons. Witnesses Dragan Ždrale⁸⁵ and Mile Mladić⁸⁶ testified that Rogoj was taken over by the Army of SR BiH on 31 July 1992, which also follows from Boško Govedarica's report.⁸⁷ It is also mentioned that the security situation in the Kalinovik municipality had deteriorated. This is evident from the report prepared by the Herzegovina Corps Command for 2 and 3

⁸¹ Main trial hearing of 10 May 2011.

⁸² Testimony of 22 February 2011.

⁸³ Main trial hearing of 26 April 2011.

⁸⁴ T-35 - Report on the work of SJB Kalinovik for the period April-August 1992, along with a cover letter number: 17-16/01-211-579/92 dated 18 August 1992.

⁸⁵ Main trial hearing of 1 November 2011.

⁸⁶ Main trial hearing of 1 November 2011.

August 1992, wherein it was indicated that the most intensive fighting took place along the Trnovo-Rogoj route.⁸⁸ It is further corroborated by the regular report of Tactical Group (TG) Foča for 2 August 1992, which clearly indicates that there were combat activities in the area of Rogoj.⁸⁹ That the security situation in Kalinovik took a turn for the worse is also illustrated by the Report dated 11 August 1992, which states that a great deal of its population left the Kalinovik municipality and that the hospital is in danger of halting its operations because many members of its medical staff have left Kalinovik.

188. In light of this evidence and the testimony of witnesses, it follows that the civilians who stayed in the village of Jelašca were killed during the attack. The Panel could not conclude beyond a reasonable doubt that the Accused in the concrete circumstances of the case acted with the aim and knowledge to unlawfully imprison the civilians, or that they aided and abetted their unlawful imprisonment. Accordingly, having applied the principle of *in dubio pro reo*, the Panel decided in favor of the Accused. The Panel notes that it has not been proved that the Accused had a discriminatory intent in relation to the Muslim civilian population of the village of Jelašca on any basis, or that they knew of such a discriminatory intent on the part of the principal perpetrators.

189. Based on the presented evidence, the acts of police officers were limited only to the bringing in of civilians and taking them to the *Barutni magacin* detention camp and the elementary school, which is what follows from the testimony of witnesses cited above. The Panel did not find support in evidence for the allegation that the Accused Milan Perić and Aleksandar Cerovina participated in the attack on the village of Jelašca, as described in the Indictment. This is supported, *inter alia*, by the fact that witness Čedo Okuka, a member of the VRS, testified about the participation of soldiers in the attack, stating that he operated a 20 mm anti-aircraft gun and that they fired on the village, while no evidence suggests that the police had this type of weapon.

190. Moreover, based on the presented evidence, the Panel could not conclude that the Accused Milan Perić was among those who escorted the civilians to the *Barutni magacin* detention camp, or to the elementary school. This is because witness Predrag Đorem testified that the Accused Milan Perić drove the truck that transported the group of policemen to the village of Jelašca upon their superior's order. Upon their arrival in the

⁸⁷ T-35.

⁸⁸ AO-4-13 Combat report, strictly confidential no. 147-371 dated 3 August 1992.

village, according to the testimony of witness Predrag Đorem, the Accused Milan Perić headed in the direction of Karaula and when the shooting started he left the truck. According to the testimony of witness Đorem, some of the civilians were transported by truck to the school, but it was not the same truck that they used to get to the village and he did not know who was driving the truck on that occasion. He also stated that he did not know if Milan Perić, upon leaving Karaula, headed back to the village or straight to Kalinovik. Witness Đorem's testimony is consistent in its main elements with the testimony of other witnesses, which is why the Panel, in the absence of any evidence that would suggest otherwise, gave credence to it in this part too. Although it follows from the testimony of witness Risto Badnjar that the civilians were taken in from Karaula too and that it is possible that the reason why Milan Perić went there was to take in the civilians, the Panel is of the view that this fact is not of decisive importance given that the Accused Perić has been acquitted of charges against him.

191. Finally, the issue of assessment of the need for further detention of civilians and the subsequent conduct in relation to them cannot be attributed to the Accused in the present case.

Count 4

192. Under Count 4 of the Indictment, the Accused Predrag Terzić and Aleksandar Cerovina were charged that "[o]n 2 August 1992, they unlawfully deprived of liberty civilian Hasnija Ahatović..."

193. The aggrieved party Hasnija Ahatović testified in relation to this circumstance and described how she was taken to the elementary school by the Accused Aleksandar Cerovina and Predrag Terzić.

194. Witness Hasnija Ahatović described the entire incident very clearly. It clearly follows from her testimony that the Accused Aleksandar Cerovina and Predrag Terzić took her to the *Milan Radojević* elementary school. Witness Ahatović testified that Predrag Terzić came to her apartment in Kalinovik and told her that she was going to give a statement at the police station. Aleksandar Cerovina was standing in front of the building. She acquiesced and they set off in the direction of the school, although she had been told initially that she was going to the police to give a statement. Upon arrival in the school they

⁸⁹ AO-4-14 Regular combat report of TG Foča dated 2 August 1992.

handed her over to a guard who told her to go upstairs. It was the Bosniak civilians who were detained in the *Miladin Radojević* elementary school.

195. In view of the events from a day before, the attack on the village of Jelašca when women and children were removed from this village and the village of Mjehovići to the elementary school and the fact that it follows from the testimony of a number of witnesses that the reason for taking them to the school was their own safety⁹⁰, and in the absence of evidence that would suggest that the Accused Cerovina and Terzić in this case acted on their own initiative and without the order of a superior and that they had the intention, that is, the willingness and desire, to unlawfully deprive the aggrieved person of her liberty and detain her or that they were aware that they aided and abetted her unlawful imprisonment, the Panel decided to acquit the Accused Predrag Terzić and Aleksandar Cerovina of this charge. Similarly to the previous counts, the Panel could not conclude that the Accused had a discriminatory intent, or that they knew of such a discriminatory intent on the part of the principal perpetrators.

196. The Accused Terzić and Cerovina are charged for the acts up to her detention in the school, which is why anything that happened subsequently during her detention at the school cannot be attributed to them as they had no influence over it. All that happened in the school was beyond the reach of the Accused Terzić and Cerovina, and hence it has not been proved that they were in any way involved in the assessment or further detention of the aggrieved party Hasnija Ahatović.

Count 5

197. Under Count 5 of the Indictment, Predrag Terzić was charged that he “unlawfully deprived of liberty doctor Abdurahman Filipović... and brought him for detention to the *Barutni magacin* where he was killed on 5 August 1992.”

⁹⁰ Witness Risto Badnjar testified that one evening in early August, after the fall of Rogoj, the police came to the village of Jelašca to take civilians in and keep them out of the harm's way (testimony of 22 February 2011). Witness Milivoje Faladžić, an active police officer at the time, also testified that after the fall of Rogoj the police brought some women from the village of Jelašca to Kalinovik for the purpose of their own protection. Witness Raza Suljić from Vihovići testified that for security reasons and after the most recent round of arrests (of men), women were taken to the elementary school, with women from Mjehovina and Gacko already being there.

198. Witnesses Zlatka Hadžić and Fejzija Hadžić testified in relation to allegations made under Count 5 of the Indictment.

199. In her testimony, witness Zlatka Hadžić⁹¹ stated that one morning as she got out of her home to let the cattle out, she saw Dr. Filipović, whom she knew by his nickname Braco, coming from the direction of Kalinovik, dressed in white. By the way he was rushing home, she realized he was actually running away from someone. Seeing him on the run, witness Hadžić took the cattle back in and headed in the direction of his house. It was then that Ema Hadžić, who had also let her cattle out, pointed to five policemen and soldiers who rushed by them without saying anything. Witness Hadžić stated that, as far as she could tell, Predrag Terzić headed this group of policemen and soldiers. According to her account, soldiers came in front of the yard that was fenced in. Once they were in, witness Hadžić was unable to see from her position as to what was happening. She then returned home. Later on, she went to see Braco's mother, Mensura Filipović, who told her that he had been taken away by policemen. She heard that Rajko Višnjevac and Miloš Veletić were among those who took him away.

200. In his testimony, Fejzija Hadžić⁹² stated that Dr. Abdurahman Filipović was brought to the *Barutni magacin* detention camp in the morning hours of 31 July. According to Fejzija Hadžić's account, prior to his detention Dr. Filipović worked as a medical doctor at the Health Center in Kalinovik. During his detention, witness Hadžić learnt directly from Dr. Filipović that a group of policemen came for him and took him to the *Barutni magacin* detention camp. He remembered that Dr. Filipović mentioned the name of Miloš Veletić in this context, while the witness did not know about other police officers.

201. The participation of the Accused Predrag Terzić in this incident is not clear because witness Zlatka Hadžić mentioned the Accused Terzić as the person who was in the group of policemen who took Dr. Abdurahman Filipović away to the *Barutni magacin* detention camp, while witness Fevzija Hadžić testified that in their conversation in the camp Dr. Abdurahmanović mentioned only the name of Miloš Veletić, without ever mentioning the Accused Terzić. In his testimony, witness Fejzija Hadžić also mentioned the names of other persons who were brought to the *Barutni magacin* detention camp on the same day

⁹¹ Transcript of the testimony of 5 April 2011.

⁹² Transcript of the testimony of 11 January 2011.

as Dr. Filipović, including Šefko Suljić who also mentioned Miloš Veletić as one of the police officers in the group that took him to the camp.

202. Given that the witness accounts were not consistent with each other, the Panel could not conclude beyond a reasonable doubt that the Accused Terzić committed the acts described in this count of the Indictment. In the absence of other damning evidence and in accordance with the principle of *in dubio pro reo*, the Panel acquitted the Accused Predrag Terzić of this charge.

Count 6

203. Under Count 6 of the Indictment the Accused Aleksandar Cerovina was charged that "... together with one member of the Army of SR BiH, he unlawfully deprived of liberty civilian R... bringing him to the SJB Kalinovik where he was identified and then... took him and detained him at the Miladin Radojević Elementary School... civilian R was detained until 18 July 1992 when he escaped."

204. Witness R testified in relation to the allegations from this count of the Indictment at the main trial, and his testimony was reproduced in the proceedings before the Appellate Panel.⁹³ He stated that he lived in Kalinovik. On the day when he was brought in, that is, on 25 June 1992, he was in his apartment. Before he was brought in and while talking to a neighbor in front of his apartment building, he saw Ćifo Mandić and Aleksandar (Saša) Cerovina, both of whom he knew from before, enter the police station. In that conversation the neighbor told him that they were bringing in some people and interrogating them. Shortly after he returned home, Ćifo Mandić and Saša Cerovina came to his door and searched the apartment in search of weapons allegedly given to him by the political party that he was a member of, as they explained it at the time. On this occasion they indeed found an M-48 rifle, for which witness R said that he had got it at his workplace and for which he did not have a license. After taking witness R out of his apartment, on their way to the police station they came across Hilmo Jašarević whom Mandić and Cerovina also brought in together with witness R. They seized his rifle. At the police station, witness R saw Mitar Govedarica and Zeljaja. Witness R did not remember who took his personal details at the station, only that a record was made and that after that he was taken to the

⁹³ Witness R's testimony of 23 August 2011.

Miladin Radojević elementary school where he saw detained Muslim men. Witness R was explicit in stating that Mandić and Cerovina were the ones who took him to the school and handed him over to the guards at this detention facility, where he was detained along with the other men. Witness R spent 12-14 days there and, after they brought in women and children, they were transferred to the *Barutni magacin* detention camp. Witness R then proceeded to explain how he escaped from the *Barutni magacin* detention camp.

205. The Panel notes that searching for weapons is one of regular police duties. Shortly before coming to search witness R's apartment, the Accused Cerovina was at the police station with his superiors, which is why the Panel could not make a finding that the Accused Cerovina came to search the apartment of witness R on his own initiative. In view of this and also in the context of the existing obligation to hand over weapons, it cannot be concluded that the search of the apartment and bringing civilian R to the police station, after he had been found in possession of a weapon for which he did not have a license, was arbitrary and unlawful.

206. After witness R was brought to the police station, they took his personal details and, according to his own testimony, a record was made, and subsequently the Accused Cerovina and Ćifo Mandić took him to the school. Neđo Zeljaja, commander of the SJB Kalinovik and Accused Cerovina's superior, was also present on the premises of the police station at the time when witness R was giving his personal details. On that day all Bosniak men were taken to the school, with some of them responding to the call-up and others taken in later. The Accused Cerovina did not know nor did he have reason to know the intention behind their detention at the school, which has already been explained above in relation to Count 1 of the Indictment. Therefore, in the Panel's view, the evidence does not suggest that the Accused Cerovina acted arbitrarily in this case without the order of his superior, which is why the Panel acquits him of this particular charge.

207. Based on the above, it follows that the evidence does not suggest that the Accused Cerovina, by his acts described in this count of the Indictment, acted arbitrarily, but that he acted on the order which he did not know, nor did he have a reason to know, was unlawful. The Panel could not conclude beyond a reasonable doubt that he acted with the intent and will to unlawfully deprive witness R of liberty and detain him, or that he was aware that by his acts he was aiding and abetting unlawful imprisonment. Moreover, the Panel could not conclude that he had a discriminatory intent, or that he knew of any discriminatory intent on the part of the principal perpetrators.

208. All the subsequent events after the handover of witness R at the school were beyond the reach of the Accused Cerovina. Moreover, it has not been proved in the course of the proceedings that the Accused Aleksandar Cerovina was in any way involved in the assessment of the need for further detention of witness R and other civilians, or that he was aware of the fate that awaited them.

III. DISMISSING PART OF THE VERDICT

209. During the first instance proceedings, more precisely on 24 January 2012, the Prosecution filed the Amended Indictment in which it dropped criminal charges against Spasoje Doder in relation to Count 2 of the Indictment and against Predrag Terzić in relation to Count 3 of the Indictment, as noted also in the operative part of this Verdict.

210. The first-instance Verdict contained a part that concerned the charges withdrawn by the Prosecution. Since the first-instance Verdict has been revoked in its entirety based on the Prosecution's arguments on appeal, the present second-instance Verdict contains a decision on the part of the Indictment withdrawn by the Prosecution in the first-instance proceedings.

IV. DECISION ON THE COSTS OF THE CRIMINAL PROCEEDINGS

211. Pursuant to Article 189(1) of the CPC of BiH, all Accused are relieved of the obligation to cover the costs of the criminal proceedings and, given that the Accused have been acquitted of all charges, they shall be paid from within budget appropriations of the Court.

212. Based on all the foregoing and pursuant to Article 284(c) and Article 283(b) of the CPC of BiH, the Panel decided as stated in the operative part of this Verdict.

Record-taker:
Emira Hodžić

PRESIDING JUDGE
Senadin Begtašević

NOTE ON LEGAL REMEDY: No appeal lies from this Verdict.

V. ANNEX 1 - PROSECUTION'S DOCUMENTARY EVIDENCE

Number	Document
T-1	Call-up paper by the National Defense Municipal Secretariat for Kalinovik municipality of 25 June 1992 for Rašid Redžović
T-2	Record of the interview with witness Gojko Lalović, Prosecutor's Office of BiH, number: KT-RZ-90/07 of 10 December 2009
T-3	Record of the interview with witness Hasna Čusto, Prosecutor's Office of BiH, number: KT-RZ-80/05, KT-RZ-90/07 of 17 April 2007
T-4	Record of the interview with witness Obren Đorem, Prosecutor's Office of BiH, KT-RZ 90/07 of 17 March 2010
T-5	Record of the interview with witness Predrag Đorem, Prosecutor's Office of BiH, KT-RZ 90/07 of 17 March 2010
T-6	Record of the interview with witness Ilija Đorem, Prosecutor's Office of BiH, number: KT-RZ-80/05 of 18 October 2007
T-7	Report by SJB Kalinovik police officers of 31 December 1992
T-8	Document of the Court of BiH, number X-KRN-08/618 of 21 May 2010
T-9	Official report of the State Investigation and Protection Agency on realization of the order, number: 17-04/2-4-04-2-299-84/07.BF of 19 May 2010
T-10	Order of the Court of BiH, number: X-KRN-09/618 of 13 May 2010 (BCS and ENG version),
T-11	Record on search of the apartment, other premises and movable property of Milan Perić, SIPA, number: 17-04/2-4-04-2-28/10 of 18 May 2010
T-12	Certificate on temporary seizure of items, SIPA, number: 17-04/2-4-04-2-15/10 of 18 May 2010
T-13	Order by the Command of TG Kalinovik for gathering of livestock from the spoils of war, pov.br.954-1 of 18 November 1992
T-14	Personnel file for Milan Perić (CJB Istočno Sarajevo), Pale, 21 October 2010
T-15	Personnel questionnaire for Milan Perić of 10 November 1992, MUP RS
T-16	Decision number: 120-1248 of 23 November 1993, MUP Bijeljina, Milan Perić
T-17	General information questionnaire for MUP RS personnel of 22 May 1996, Milan Perić
T-18	Personnel file for Spasoje Doder (CJB Istočno Sarajevo), Pale, 21 January 2010

T-19	Decision on appointment as the head of SJB Kalinovik Patrol Sector, number: 10-916 of 1 April 1992, Doder Spasoje
T-20	Decision on appointment as the head of Patrol Sector, number: 09-120-1249 of 23 November 1993, Spasoje Doder
T-21	Personnel file for Spasoje Doder of 10 November 1992
T-22	Personnel file for Predrag Terzić (CJB Istočno Sarajevo), Pale, 21 January 2010
T-23	Personnel questionnaire for Predrag Terzić of 10 November 1992
T-24	Decision number: 09/120-1245 of 23 November 1993
T-25	Decision number: 09/3-120-3590 of 17 September 1994
T - 26	Personnel file of Aleksandar Cerovina (CJB Istočno Sarajevo), Pale, 21 January 2010
T- 27	Personnel questionnaire-form for Aleksandar Cerovina of 10 November 1992
T - 28	Decision number: 01-120-1247 of 23 November 1993
T- 29	Decision number: 09/3-120-3588 of 17 September 1994
T- 30	List of employees of SJB Kalinovik and active police officers in the Kalinovik police station who did not receive advance payment on their salary for June 1992 (02971909)
T-31	Payroll for July 1992 (list), SJB Kalinovik
T-32	List of active employees of SJB Kalinovik for the payment of salary for August 1992, SJB Kalinovik
T-33	Payroll list for August 1992 (F120-2797)
T-34	List of conscripts with the wartime assignment in SJB Kalinovik in the period from 4 August 1991 to 30 June 1996, number: 15-2/01-100/99 of 11 June 1999 (02972133)
T-35	Report on the work of SJB Kalinovik for the period April-August 1992 along with a cover letter, number: 17-16/01-211-579/92 of 18 August 1992
T- 36	Rulebook on internal organization of the Secretariat of Interior of the Socialist Republic of Bosnia and Herzegovina of 29 January 1990 (01137039)
T-37	Decision of the Presidency of the Republic of Bosnia and Herzegovina, number 01-011-301/92 of 8 April 1992, declaring the imminent threat of war
T-38	Decision on declaring the state of war promulgated in the „Official Gazette of RBiH“, number 7/92 of 20 June 1992, which entered into force on the date of its

	promulgation
T-39	Order of the Command of TG Kalinovik of 11 June 1992 on declaring the war zones on the territory of Kalinovik and Trnovo municipalities
T-40	Certificate that Dervana Pervan is registered as a missing person, Missing Persons Institute of BiH, number: 01-40-CEN-14/2008 of 5 December 2008
T-41	Record of the interview with witness Emina Čorbo, Prosecutor's Office of BiH, no. KT-RZ 80/05 and KT – RZ-90/07 of 5 June 2007

VI. ANNEX 2 - DEFENSE DOCUMENTARY EVIDENCE

i. Documentary evidence of the Defense for the first-listed Accused Milan Perić

Number	Document
O1/1	Documentation no.11-02/1-16/11 of 20 January 2011
O1/2	Nihad Suljić's statement to MUP CSB Sarajevo, no. 19/04-1.5 of 16 October 1996

ii. Documentary evidence of the defense for the second-listed Accused Spasoje Doder

Number	Document
O2/1	Fejzija Hadžić's statement of 12 September 1993
O2/2	Record of the interview with witness Rukija Rogoj, number KT-RZ-80/05, KT-RZ- 90/07 of 12 April 2007
O2/3	Rukija Rogoj's statement of 18 April 1994
O2/5	Decision of the Republic Secretariat for Interior, no. 10/2-120/125 of 23 March 1990
O2/6	Law on the Interior, Official Gazette of the Serb People no. 4, 23 March 1992
O2/7	Rulebook on performing duties related to public security

iii. Documentary evidence of the Defense for the third-listed Accused Predrag Terzić

Number	Document
O3/1	Record of the interview with witness Fatima Kešo, no. 17-14/3-1-39/07 of 13 March 2007
O3/2	Record of taking of the statement from witness Dika Suljić, number 17-14/3-1-47/07 of 22 March 2007
O3/3	Letter by the Executive Board of the Kalinovik Municipal Assembly, number 02-012-4/92 of 9 April 1992
O3/4	Decision by the Crisis Staff and Government of SAO Herzegovina of 29 April 1992
O3/5	Bulletin of daily events for 27-28 May 1992
O3/6	Official note of 27 October 1992
O3/7	Official note of 9 November 1992
O3/8	Official note of 21 September 1992
O3/9	Official note of 21 September 1992
O3/10	Milomir Kovač's statement of 28 August 1992
O3/11	Damage caused to the catering facility on 20 September 1998
O3/12	Report on the criminal offenses committed in the last month in Kalinovik municipality
O3/13	Record of the crime-scene investigation of 31 August 1992
O3/14	Official note of 18 October 1992
O3/15	Law on People's Defense, Official Gazette of the Serb People in BiH no. 4 of 23 March 1992
O3/16	Record of the interview with witness Zijada Hatić, number 17-14/3-1-34/07 of 2 March 2007
O3/17	Record of the interview with witness Fadila Hatić, number 17-14/3-1-45/07 of 21 March 2007
O3/18	Record of the interview with witness Zlatka Hadžić, no. KT-RZ-80/05, KT-RZ-90/07 of 10 April 2007
O3/19	Record of the interview with witness Džemila Suljić, no. KT-RZ-80/05, KT-RZ-90/07 of 10 April 2007

iv. Documentary evidence of the Defense for the fourth-listed Accused Aleksandar Cerovina

Number	Document
O4/1	Record on taking the statement from witness Ešrefa Škoro, no. 17-14/3-1-53 /07 of 2 April 2007

	EVIDENCE	DATE OF ADMISSION
AO-4-2	Decision of the RBiH Ministry of People's Defense of 12 April 1992	8 October 2013
AO-4-3	Statement on the principles of new constitutional arrangements for BiH	8 October 2013
AO-4-4	Information on supplying the Muslim paramilitary formations in BiH with weapons from abroad	8 October 2013
AO-4-5	Order of the BiH Ministry of Defense, Sarajevo, 25 June 1992	8 October 2013
AO-4-6	Decision on the setting up of the RBiH Army Corps	8 October 2013
AO-4-7	Regular combat report of the Command of Herzegovina Corps of 6 August 1992	8 October 2013
AO-4-8	Interim combat report of the Command of TG Kalinovik of 28 August 1992	8 October 2013
AO-4-9	Combat report of 4 August 1992	8 October 2013
AO-4-10	Combat report of 5 August 1992	8 October 2013
AO-4-11	Combat report of 15 August 1992	8 October 2013
AO-4-12	Combat report of 11 August 1992	8 October 2013
AO-4-13	Combat report of the Command of Herzegovina Corps of 3 August 1992	8 October 2013
AO-4-14	Document of the Information Center, Trebinje, 2 August 1992	8 October 2013
AO-4-15	Combat report of the Command of Herzegovina Corps of 5 August 1992	8 October 2013
AO-4-16	Regular combat report of the Command of Herzegovina Corps of 9 August 1992	8 October 2013
AO-4-17	Decision on merging all armed forces on the territory of RBiH of 9 April 1992	8 October 2013
AO-4-18	MUP collegium dispatch note describing the	8 October 2013

	organization of police forces of 1 April 1992	
AO-4-19	Dispatch note of the Ministry of Interior, Sarajevo 24 August 1992	8 October 2013
AO-4-20	Order of the President of the Serb Republic of Bosnia and Herzegovina of 23 July 1992	8 October 2013
AO-4-21	Document of the War-time Presidency of Konjic municipality of 16 November 1992	8 October 2013
AO-4-22	Official Gazette of RBiH of 20 May 1992	8 October 2013
AO-4-23	Instruction on the treatment of prisoners of 13 June 1992	8 October 2013
AO-4-24	Official Gazette of RBiH of 9 April 1992	8 October 2013
AO-4-25	Document of the Ministry of Interior, Sarajevo, 19 July 1992	8 October 2013

v. Joint evidence of all the Defense teams

Number	Document
O2/4	Finding and opinion of expert witness Mile Matijević from December 2011