



**The Court of Bosnia and Herzegovina
Sud Bosne i Hercegovine
Суд Босна и Херцеговина**

Case No: S1 1 K 003369 10 Krl

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**Before the Trial Panel composed of: Judge Željka Marenčić, Presiding
Judge Vesna Jesenković,
Judge Staniša Gluhajić,**

PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA

v. the Accused:

**Mensur Memić
Dževad Salčin
Senad Hakalović
Nedžad Hodžić
Nihad Bojadžić**

TRIAL JUDGMENT

Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina: Emir Neradin

Counsel for the accused:

**Mensur Memić, attorneys Hamdija Veladžić and Safet Medošević
Dževad Salčin, attorneys Kerim Čelik and Aldin Lejlić
Senad Hakalović, attorneys Kadrija Kolić and Marsela Bajramović
Nedžad Hodžić, attorneys Midhat Kočo and Nedžla Šehić
Nihad Bojadžić, attorneys Vasvija Vidović and Edina Rešidović**

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IN THE NAME OF BOSNIA AND HERZEGOVINA!

On 1 September, 2015, the Court of Bosnia and Herzegovina, sitting as a Panel composed of Judge Željka Marenčić as the Presiding Judge, and Judges Vesna Jesenković and Staniša Gluhajić as the Panel members, with the participation of legal adviser Amra Hodžić-Zećo, as the record keeper, in the criminal case against the Accused Mensur Memić *et al.* concerning the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a) of the criminal Code of Bosnia and Herzegovina (CC of BiH) and the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (b), (c), (e) and (f), in conjunction with Articles 180(1), 29 and 53(1) of the same Code, as regards the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ-107/05 dated 10 March 2010, KT-RZ-15/2010 dated 12 March 2010, KT-RZ-23/10 dated 26 April 2010 and T20 0 KTRZ 0000383 10 dated 15 June 2010, amended on 24 November 2014, following a public trial, during which the public was partly excluded, in the presence of the Accused Mensur Memić, his defense counsel, attorney Safet Medošević; the Accused Dževad Salčin, his defense counsel, attorney Kerim Čelik; the Accused Senad Hakalović, his defense counsel, attorneys Kadrija Kolić and Marsela Bajramović; the Accused Nedžad Hodžić, his defense counsel, attorney Midhat Kočo; and the Accused Nihad Bojadžić, his defense counsel, attorneys Vasvija Vidović and Edina Rešidović; and the Prosecutor of BiH Prosecutor's Office Emir Neradin, rendered, and the Presiding Judge publicly pronounced, the following

J U D G M E N T

FINDING THE ACCUSED

1. Mensur Memić, aka Menta, father's name Esad, mother's name Besima, maiden name Šehić, born on 28 June 1966 in Prijedor, permanently residing in, address.....
..... No....., JMBG no....., citizen of
....., married, no children, engineering technician, employed in the Bihać Brewery;

2. Nedžad Hodžić aka Džon Vejn and Džoni, father's name Kemal, born 15 March 1969 in Novi Pazar, permanently residing in..... address..... .. No.

....., father of two,, citizen of, JMBG no.
.....

3. Nihad Bojadžić, father's name Hajdin, mother's name Mujesira, maiden Komatina, born on 20 June 1962 in Novi Pazar, Serbia, permanently residing in, address..... No. father of two,, citizen of and , JMBG no....., retired;

I.

Pursuant to Article 285 of the Criminal Procedure Code of Bosnia and Herzegovina (CPC of BiH)

GUILTY

Because:

During the war in Bosnia and Herzegovina and the armed conflict between the forces of the Army of Bosnia and Herzegovina and the Croat Defense Council (HVO) in the Konjic Municipality, the Accused Nihad Bojadžić, as Deputy Commander of the Special-Purpose Detachment of the Army of RBiH "Zulfikar", and Accused Mensur Memić and Nedžad Hodžić, as members of the Special Purpose Detachment of the Army of RBiH "Zulfikar", in the pre-planned and prepared attack on the Croat population of the village of Trusina, the Accused Mensur Memić and Nedžad Hodžić acted contrary to Article 3(1)(a) of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, while the Accused Nihad Bojadžić acted contrary to Article 3(1)(a) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and Article 3(1)(a) of the Geneva Convention relative to Treatment of Prisoners of War of August 12, 1949, and contrary to Article 4(1) and (2)(a) and Article 13 of the Protocol additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)

whereby:

The Accused Mensur Memić,

On the morning of **16 April 1993**, in the hamlet of Gaj, village of Trusina, Konjic municipality, together with Nedžad Hodžić, Rasema Handanović aka Zolja and other persons he knew, members of the Special Purpose Detachment of the Army of RBiH "Zulfikar," after Nedžad Hodžić issued the order: "firing squad, open fire", participated in the killing by firing squad of the lined up HVO soldiers: Ivan (Andrija) Drljo born in 1971, Nedeljko (Marinko) Krešo born in 1953, Pero (Smiljko) Krešo born in 1961, Zdravko (Ivan) Drljo born in 1963, Željko (Slavko) Blažević born in 1965 and Franjo (Ilija) Drljo born in 1942;

Thus, violating the rules of international law, participated in the murder of prisoners of war, as follows:

The Accused Nedžad Hodžić,

On the morning of **16 April 1993** in the hamlet of Gaj, village of Trusina, Konjic municipality, together with Mensur Memić aka Menta, Rasema Handanović aka Zolja and others known to him, members of the Special-Purpose Detachment of the Army of RBiH "Zulfikar", issued the order "firing squad, open fire" and participated in the killing by firing squad of the lined up HVO soldiers who had surrendered, including Ivan (Andrija) Drljo born in 1971, Nedeljko (Marinko) Krešo born in 1953, Pero (Smiljko) Krešo born in 1961, Zdravko (Ivan) Drljo born in 1963, Željko (Slavko) Blažević born in 1965 and Franjo (Ilija) Drljo born in 1942,

Thus, violating the rules of international law, participated in the murder of prisoners of war;

The Accused Nihad Bojadžić,

On 16 April 1993, ordered his subordinates, members of the Special-Purpose Detachment "Zulfikar" of the Army of RBiH, in accordance with the previously prepared plan of attack on the Trusina village, that no one in the village should remain alive, even though he knew that civilians were in the village, and then from a high ground above the village of Trusina on the same day he - through means of communication - led the attack

by issuing orders to his subordinate soldiers, who attacked the village from several directions, without discriminating between civilian and military targets, and in the attack the following civilians were killed: Tomo (Andrija) Drljo born 1926, Andrija (Ilija) Drljo born in 1947, Kata (Ivan) Drljo born in 1937, Kata (Mićo) Drljo born in 1918, Ivan (Pero) Drljo born in 1939, Branko (Andrija) Mlikota born 1925, Smiljko (Mirko) Krešo born in 1940, Velimir (Andrija) Krešo born in 1934, Ivica (Jure) Krešo born in 1935, Ilija (Ante) Ivanković born in 1926, Anđa (Jure) Ivanković born in 1936, Jure (Ante) Anđelić born in 1926, Stipo Mandić born in 1928, Anto Drljo born in 1936, Milenko (Stipo) Mandić born in 1961, and a prisoner of war - HVO soldier who had previously surrendered: Stipo (Pero) Ljubić born in 1961, while severely wounding civilians: Mara Krešo born in 1942, Anđela (Vinko) Šagolj born in 1969, Arijana (Pero) Krešo born in 1988, and Mario (Rade) Krešo born in 1991;

and **upon the completion of the attack**, he issued an order to Nedžad Hodžić to execute the captured members of the HVO, after which Hodžić issued the order "firing squad, open fire", so Nedžad Hodžić, aka Džon Vejn, Rasema Handanović aka Zolja and Mensur Memić aka Menta and other members of the Special-Purpose Detachment of the Army of RBiH "Zulfikar" known to them participated in the execution of the following lined up HVO soldiers who had previously surrendered: Ivan (Andrija) Drljo born in 1971, Nedeljko (Marinko) Krešo born in 1953, Pero (Smiljko) Krešo born in 1971, Zdravko (Ivan) Drljo born in 1963, Željko (Slavko) Blažević born in 1965, and Franjo (Ilija) Drljo born in 1942,

Therefore, in time of war and armed conflict, in violation of rules of international law, ordered the killing of prisoners of war and civilians;

Thereby committing criminal offenses as follows:

The Accused Mensur Memić, the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the Criminal Code of the Socialist Federal Republic of Yugoslavia, which was adopted on the basis of the Law on Application of the Criminal Code of the Republic of Bosnia and Herzegovina and the SFRY Criminal Code, in conjunction with Article 22 of the same Law,

The Accused Nedžad Hodžić, the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the Criminal Code of the Socialist Federal Republic of Yugoslavia, which was adopted on the basis of the Law on Application of the Criminal

Code of the Republic of Bosnia and Herzegovina and the SFRY Criminal Code, in conjunction with Article 22 of the same Law,

The Accused Nihad Bojadžić, the criminal offense of War Crimes against Civilian Population in violation of Article 142 and the criminal offense of War Crimes against Prisoners of War under Article 144 of the Criminal Code of the Socialist Federal Republic of Yugoslavia, which was adopted on the basis of the Law on Application of the Criminal Code of the Republic of Bosnia and Herzegovina and the SFRY Criminal Code,

Consequently,

concerning the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the SFRY Criminal Code, in conjunction with Article 22 of the same Code, on the grounds of Article 33, 38 and 41 of the CC of SFRY, the **Accused Mensur Memić** is hereby

S E N T E N C E D
TO 10 (TEN) YEARS' IMPRISONMENT

Pursuant to Article 50 of the CC of SFRY, the time the Accused Mensur Memić spent in custody during the period from 16 September 2009 until 8 February 2013, shall be credited towards the sentence of imprisonment;

concerning the criminal offense of War Crimes Against Prisoners of War in violation of Article 144 of the SFRY Criminal Code, in conjunction with Article 22 of the same Law, on the grounds of Article 33, 38 and 41 of the CC of SFRY, **the Accused Nedžad Hodžić** is hereby

S E N T E N C E D
TO 12 (TWELVE) YEARS' IMPRISONMENT

Pursuant to Article 50 of the CC of SFRY, the time the Accused Mensur Memić spent in custody during the period from 16 September 2009 until 19 January 2010 and in the period from 19 March 2010 and 19 March 2013, shall be credited towards the sentence of imprisonment;

The Accused Nihad Bojadžić, under Articles 33, 38, and 41 of the CC of SFRY

for the criminal offense of War Crimes against Civilian Population in violation of Article 142 of Criminal Code of SFRY, is sentenced to twelve (12) years' imprisonment,

for the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the Criminal Code of SFRY, is sentenced to ten (10) years' imprisonment,

by the application of Article 48 of the CC of SFRY, he is hereby,

S E N T E N C E D
TO A COMPOUND PRISON SENTENCE OF 15 (FIFTEEN) YEARS

Pursuant to Article 50 of the CC of SFRY, the time the Accused Nihad Bojadžić spent in custody during the period from 4 November 2009 to 28 April 2013, shall be credited towards the sentence of imprisonment.

Pursuant to Article 188(1) of the CPC of BiH, in conjunction with Article 186(2) of the same Code, the Accused shall reimburse the costs of criminal proceedings and the lump sum, the amount which the Court shall establish by a separate decision.

Pursuant to Article 198(2) of the CPC of BiH, the injured parties are referred to seek their property claims in a civil procedure.

II

Pursuant to Article 284(c) of the CPC of BiH, the Accused,

Dževad Salčin aka Struja, father's name Omer, mother's name Rukija, maiden name Čolpa, born on 13 July 1956, Donji Igri, Borač, Gacko municipality, permanently residing in, address..... bb, municipality of , JMBG no. , citizen of....., electrician, retired, married;

Senad Hakalović, father's name Zaim, mother's name Zlata, maiden name Graho, born on 11 November 1966, in Konjic, permanently residing in
....., JMBG no. citizen of municipality
caterer, owner of a private market shop, married, father of four;

Nedžad Hodžić aka Džon Vejn and Džoni, father's name Kemal, born 15 March 1969 in Novi Pazar, permanently residing in..... address..... No.
father of two,, citizen of, JMBG no.
....., are hereby:

ACQUITTED

of the charges that:

Dževad Salčin,

During the war in Bosnia and Herzegovina and the armed conflict between the forces of the Army of Bosnia and Herzegovina and the Croat Defense Council (HVO) in the municipality of Konjic, as a member of the Special-Purpose Detachment at the Supreme Command of the Army of Bosnia and Herzegovina - "Zulfikar", during the pre-planned and prepared attack against Croat civilians from the village of Trusina, which killed fifteen civilians, seven HVO soldiers, while four civilians were wounded, including two children, acted contrary to Article 3(1)(c) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and Article 3(1)(c) of the Geneva Convention relative to Treatment of Prisoners of War of 12 August 1949, and Article 4(1) and 2(a), (e), (g) and (h), and Article 13 of the Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), by committing the following acts:

On the morning of **16 April 1993**, in the hamlet of Gaj, village of Trusina, Konjic municipality, as a member of the Special-Purpose Detachment at the Supreme Command of the Army of Bosnia and Herzegovina "Zulfikar", he and a group of soldiers that he knew, repeatedly lined up a group of about fourteen civilians - women and children and men – three soldiers of the Croat Defense Council, who had surrendered, along the wall of a house, pointing rifles at them, telling them he would kill them all, cussing at them, shooting

at the crucifixes they found in their homes, keeping them in constant fear and inflicting upon them severe mental suffering, and taking money, jewelry and other valuables from them,

whereby,

Dževad Salčin aka Struja would have committed the criminal offense of War Crimes against Civilians under Article 173(1), (c) - inhuman treatment, e) - application of measures of intimidation and terror and (f) – pillaging, of the Criminal Code of Bosnia and Herzegovina, and the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a) of the criminal Code of Bosnia and Herzegovina – inhuman treatment, in conjunction with Article 180(1), Article 29 and Article 53(1) of the same Code.

Senad Hakalović,

During the war in Bosnia and Herzegovina and the armed conflict between the forces of the Army of Bosnia and Herzegovina and the Croat Defense Council in the municipality of Konjic, as a member of the 45th "Neretvica" Mountain Brigade of the Army of Bosnia and Herzegovina, during the pre-planned and prepared attack on the Croat civilian population of the village Trusina, which killed fifteen civilians, seven HVO soldiers who had surrendered, while four civilians were wounded, including two children, acting contrary to Article 3(1)(a) of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, by committing the following acts:

On the morning of 16 April 1993, in the hamlet of Gaj, village of Trusina, Konjic municipality, after the HVO soldiers had surrendered under the threat that their family members would be killed if they refused to surrender, he ordered Ivan Drljo aka Crni, whom he knew since childhood, to go to the village accompanied by two soldiers he knew and bring back Zdravko Drljo and Željko Blažević, the HVO members who were not in combat operations, and after "Crni" has done this, he was shot dead together with Zdravko Drljo, Željko Blažević, Nedeljko Krešo, Pero Krešo and Franjo Drljo,

whereby

Senad Hakalović would have committed the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a) of the Criminal Code of Bosnia and Herzegovina (taking part in murder), all in conjunction with Article 180(1) and Article 29 of the same Code;

Nedžad Hodžić,

During the war in Bosnia and Herzegovina and the armed conflict between the forces of the Army of Bosnia and Herzegovina and the Croat Defense Council in the municipality of Konjic, as a member of the Special-Purpose Detachment at the Supreme Command of the Army of Bosnia and Herzegovina "Zulfikar," acted contrary to Article 3(1)(a) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and Article 13 of the Protocol Additional to the Geneva conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), by committing the following acts:

1. On the morning of **16 April 1993** he took part in the well-prepared and previously planned attack against the Croat civilian population of the village of Trusina, Konjic municipality, **leading one prong of the attack**, knowing that civilians would get hurt in this attack and assenting to it, the attack indeed resulting in the death of the following civilians: Tomo (Andrija) Drljo born in 1926, Andrija (Ilija) Drljo born in 1947, Kata (Ivan) Drljo born in 1937, Kata (Mićo) Drljo born in 1918, Ivan (Pero) Drljo born in 1939, Branko (Andrija) Mlikota born in 1925, Smiljko (Mirko) Krešo born in 1940, Velimir (Andrija) Krešo born in 1934, Ivica (Jure) Krešo born in 1935, Ilija (Anto) Ivanković born in 1926, Anđa (Jure) Ivanković born in 1936, Jure (Anto) Anđelić born in 1926, Stipo Mandić born in 1928, Anto Drljo born in 1936, Milenko (Stipe) Mandić born in 1961, while severely wounding civilians Mara Krešo born in 1942, Anđelka (Vinko) Šagolj born in 1969, Arijana (Pero) Krešo born in 1988, and Mario (Rade) Krešo born in 1991,

whereby,

Nedžad Hodžić would have committed the criminal offense of War Crimes against Civilians under Article 173(1)(a) - (participation in an attack on a civilian population, which resulted in the death and serious bodily injury), (c) of the Criminal Code of Bosnia and

Herzegovina (participation in the killings), all in conjunction with Articles 180(1), 29 and 53(1) of the same Code.

As regards the acquitting part of the Judgment, the Accused, pursuant to Article 189(1) of the CPC of BiH, are relieved from the obligation to pay the costs of the proceedings, which shall be paid from within the Court's budget appropriations.

Pursuant to Article 198(3) of the CPC of BiH, the injured parties are referred to pursue their property claims in a civil lawsuit.

I. REASONING

a) CHARGES

1. In the criminal case conducted before this Court under No. X-KRN/09/786, the Prosecutor's Office of BiH filed several indictments, so the Indictment of the Prosecutor's Office Special Department for War Crimes, No. KT-RZ-107/05 dated 10 March 2010, confirmed on 11 March 2010, charges the Accused Mensur Memić aka Menta, Dževad Salčin aka Struja and Senad Hakalović with the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a) and the criminal offense of War Crimes against Civilians under Article 173(1)(c), (e) and (f), all in conjunction with Article 180(1), Article 29 and 53(1) of the same Code (the case was filed under No. X-KR/019/786-1 Mensur Memić *et al.*).

2. On 12 March 2010, the Prosecutor's Office of BiH submitted to the Court the Indictment No. KT-RZ-15/2010, confirmed on 17 March 2010, charging the Accused Nedžad Hodžić aka Džon Vejn and Džoni with the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a) and the criminal offense of War Crimes against Civilians under Article 173(1)(a) and (c), all in conjunction with Article 180(1), Article 29 and 53(1) of the same Code (the case was conducted under No. X-KR/09/786-2 Nedžad Hodžić), while Indictment KT-RZ-23/10, was filed on 27 April 2010 and confirmed on 28 April 2010, charging the Accused Nihad Bojadžić with the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a) and the criminal offense of War Crimes against Civilians under Article 173(1)(a), (b) and (c), all in conjunction with Articles 180(1)

and 29 of the same Code (the proceedings were conducted under No. X-KR/09/786-3 Nihad Bojadžić).

3. At the plea hearing held on 9 April 2010, in the case No. X-KR-09 / 786-1, the accused Mensur Memić, Dževad Salčin and Senad Hakalović pleaded not guilty to all charges, and on the same day a plea hearing in X-KR / 09-786- 2 Nedžad Hodžić was held, at which the preliminary hearing judge, considering that the accused Hodžić did not answer questions put to him by the judge, in accordance with Article 229(1) of the CPC BiH, noted that the Accused pleaded not guilty on all counts. In accordance with Article 229(4) of the CPC BiH, both case files have been forwarded to the Panel for scheduling the trial.

4. A plea hearing for the Accused Nihad Bojadžić in X-KR/09/786-3 was held on 21 May 2010, at which the Accused pleaded not guilty to all charges, so the preliminary hearing judge, acting under Article 229(4) of the CPC of BiH, forwarded the file to the Panel for scheduling the trial.

5. Acting on a Motion from the Prosecutor's Office dated 10 May 2010, the Court, pursuant to Article 25(1) and (4) of the CPC of BiH, with the aim of efficiency, economy and preserving the procedural guarantees and rights of the Accused, issued a Decision No. X-KR-09/786-1 dated 21 May 2010, joining the criminal proceedings before the Court No. X-KR-09/786-1 for the Accused Mensur Memić, Dževad Salčin and Senad Hakalović, with the proceedings conducted under No. X-KR-09/786- 2 for the Accused Nedžad Hodžić and the proceedings under No. X-KR-09/786-3 for the Accused Nihad Bojadžić. Consequently, a single proceeding under No. X-KR-09/786-1 Mensur Memić *et al.* would be conducted for all the Accused, and a single judgment rendered.

6. After the Court issued a decision on the joinder of these proceedings into one, on 15 June 2010 the Prosecutor's Office raised the indictment No. T20 0 KTRZ 0000383 10 against the Accused Zulfikar Ališpago aka Zuka (confirmed on 21 June 2010), charging him with the criminal offense of War Crimes against Civilians under Article 173(1)(a), (b) and (c) and the criminal offense of War Crimes against Prisoners of War under Article 175(1)(a), in conjunction with Article 180(2) of the CC of BiH (the proceedings were conducted under No. X-KR-09/786 Zulfikar Ališpago).

7. A plea hearing was held on 13 July 2010, at which the Accused Zulfikar Ališpago pleaded not guilty to all charges, so the preliminary hearing judge, acting pursuant to Article 229(4) of the CPC of BiH, forwarded the file to the Panel for scheduling the trial.

8. Under Article 233a of the CPC of BiH, the first status conference in the case No. X-KR-09/786-1 for the Accused Mensur Memić *et al.*, was held on 16 June 2010 before the Trial Panel composed of Judge Šaban Maksumić, as the presiding judge, and judges Staniša Gluhajić and Marie Tuma as the Panel members. As the fourth member of the Trial Panel, under Article 238(2) of the CPC of BiH (obligatory presence at the Main Trial)¹, given the likelihood that due to the complexity of the case it would not be completed in a short period of time, and because of the limited mandate of the international judge, so as to preempt a situation that the trial may have to start over because of the changes of Trial Panel members, Judge Vesna Jesenković was designated as the fourth member of the Panel to attend the hearings, and, at a certain point, when necessary, replace the international member of the Trial Panel.

9. Commencement of trial No. X-KR-09-786-1 Mensur Memić *et al.*, in the composition of the above Trial Panel, scheduled for 5 July 2010, did not take place as planned, given that an expert opinion on the health condition of the Accused Nedžad Hodžić was tendered in the case file, as well as the fact that the Prosecution submitted to the Court Motion No. KT-RZ-107/05 and T-200 KT RZ 0000383 10 dated 30 June 2010, to join this criminal case with the criminal case conducted before the Court versus the Accused Zulfikar Ališpago under No. X-KR-09/786-4.

10. Acting on that Motion, the Court, under Article 25(1) and (4) of the CPC of BiH, issued Decision No. X-KR-09/786-1 dated 7 July 2010, and, with a view to efficiency, economy and preserving the procedural guarantees and rights of the Accused, joined the criminal proceedings at this court, No. X-KR-09/786-1, versus the Accused Mensur Memić *et al.* with the case conducted under No. X-KR-09/786-4 versus the Accused Zulfikar

¹ Article 238(2) of the BiH CPC prescribes that: "If it seems likely that the main trial will continue for a lengthy period of time, the presiding judge may request from the President of the Court to appoint one (1) or two (2) judges to be present at the main trial so that they can replace members of the Panel in case of their absence."

Ališpago. A single proceeding under No. X- KR-09/786-1 Mensur Memić *et al.* would thus be conducted for all the Accused, and a single judgment rendered.²

11. After a decision on the conduct of a single proceeding in relation to all the Accused, on 9 July 2010 the presiding judge, Judge Šaban Maksumić, within the meaning of Article 29(f) of the CPC of BiH,³ informed the President of the Court on the circumstances that would, in the opinion of the judge, represent an obstacle to his further work in this case. The Plenum of the Court of BiH, by its Decision No. SU-10-398/10 dated 20 August 2010, granted Judge Maksumić's recusal request in this case, after which Judge Željka Marenić was appointed as the presiding judge in the Trial Panel.

12. Given that the previous status conference was held at the time when the case against the Accused Zulfikar Ališpago was not joined with the case in relation to the other Accused, and that the composition of the Panel changed in the meantime, meaning that the President of the Trial Panel and the Panel member changed (Judge Vesna Jesenković, previously an additional judge, was appointed as a regular member of the Trial Panel), the second status conference under Article 233a of the CPC of BiH was held on 31 August 2010.

13. The Main Trial in this case commenced on 8 September 2010, by reading the Indictment issued by the Prosecutor's Office in relation to the Accused Mensur Memić, Dževad Salčin, Senad Hakalović, Nedžad Hodžić, Nihad Bojadžić and Zulfikar Ališpago.

14. In the course of the presentation of Defense evidence (for the fifth accused Nihad Bojadžić), in the letters dated 6 March and 12 March 2014, Defense Counsel for the accused Zulfikar Ališpago, attorney Ragib Hadžić, informed the Court of the Accused's poor health condition, that he was subjected to a surgery and was hospitalized, after which the Court of BiH, on 24 March 2014, held a short status conference so that the parties in the proceedings could comment on the further course of the criminal proceedings, specifically whether it was worthwhile to wait for the Accused Ališpago to fully heal, so that the criminal proceedings could continue.

² Following the entry of all criminal cases in the CMS system (a project of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina - electronic case management), this case was given a new No.: S1 1 K 003369 10 Kro Mensur Memić *et al.*

³ Article 29(f) of the BiH CPC prescribes the grounds for disqualification of judges, and stated that: "A judge cannot perform his duties as a judge if... f) circumstances exist that raise a reasonable suspicion as to his impartiality."

15. Given that the parties in the proceedings, as well as defense counsel for the Accused Mensur Memić, Dževad Salčin, Senad Hakalović, Nedžad Hodžić and Nihad Bojadžić, agreed that the criminal proceedings versus the Accused Zulfikar Ališpago be separated and conducted separately, the Court, under Article 26 of the CPC of BiH issued Decision No. S1 1 K 003369 10 Kro dated 24 March 2014, separating the criminal proceedings in the case against the Accused Memić, Salčin, Hakalović, Hodžić, Bojadžić and Ališpago, conducted under the confirmed indictments of the Prosecutor's Office, so that the proceedings against the Accused Zulfikar Ališpago would be conducted separately and completed under No. S1 K 1 14 015 655 Krl.

16. In relation to the other Accused (Mensur Memić, Dževad Salčin, Senad Hakalović, Nedžad Hodžić and Nihad Bojadžić), the proceedings continued under the existing No. S1 1 K 003369 10 Krl (old No. X-KR-09/786-1).

17. After the criminal proceedings were separated for the Accused Zulfikar Ališpago, on 24 November 2014 the Prosecutor's Office submitted to the Court the Amended Indictment No. T20 0 KTRZ 000 5047 05, under Article 275 of the CPC BiH, in relation to the Accused Mensur Memić, Dževad Salčin, Senad Hakalović, Nedžad Hodžić and Nihad Bojadžić, charging the Accused with the criminal offence of War Crimes against Prisoners of War under Article 175(1)(a) and the criminal offense of War Crimes against Civilians under Article 173(1)(a), (b), (c), (e) and (f) of the CC of BiH, all in conjunction with Articles 180(1), 29 and 53(1) of the same Code.

18. On 16 June 2014, defense counsel for the Accused Nihad Bojadžić, attorneys Vasvija Vidović and Edina Rešidović; on 17 June 2014, defense counsel for the accused Senad Hakalović, attorney Marsela Bajramović; on 18 June 2014, defense counsel for the Accused Nedžad Hodžić, attorney Midhat Kočo; on 24 June 2014, defense counsel for the Accused Mensur Memić, attorney Hamdija Veladžić, under the grounds set out in Article 29, f) of the BiH CPC, filed with the Court their requests for the disqualification of judges, members of the Trial Panel, Vesna Jesenković and Staniša Gluhajić.

19. In their requests, the Defense teams emphasized that the judges whose disqualification was sought had already acted as members of the panel in the case against the Accused Edin Džeko, regarding the same factual event as for the Accused in the case against the Accused Mensur Memić *et al.* (the "Trusina" case), where the Accused was convicted by a trial panel on 6 June 2014. In view of the above, the Defense attorneys

believe that the trial judges, having acted in the case against the Accused Edin Džeko, and when deciding on facts in that case, practically also decided about the activities and responsibilities of the Accused in this case as well, given that the Accused in this case are charged with the commission of crimes concerning the same factual events.

20. In addition, the Defense teams, in view of the deadline by which the request for disqualification under Article 29(f) of the CPC of BiH may be submitted (before the start of the Main Trial, and if it is filed after the start of the Main Trial, the request will be rejected), stressed that a strict and verbatim application of Article 32(4) of the CPC of BiH would be in violation of the right to a fair trial under Article 6(1) of the European Convention on Human Rights and Fundamental Freedoms.

21. In the Court of BiH Decision No. S1 1 K 003369 10 Kv 23 dated 24 June 2014, the 24/7 Panel, bearing in mind Article 32(4) of the CPC of BiH, which stipulates that if a request for disqualification under Article 29(f) of the CPC of BiH is submitted after the start of the Main Trial it will be rejected, which is the case here, given that the Main Trial in this case commenced on 8 September 2010, the request for disqualification of judges, members of the panel, was rejected as inadmissible.

22. The Main Trial concluded on 8 June 2015, by presenting the closing arguments of the Defense for the Fifth Accused Nihad Bojadžić, following which the sentencing date was scheduled.

II. PRESENTED EVIDENCE

(i) Prosecution

23. During the evidentiary proceedings, the following people were examined as Prosecution witnesses: Janja Drljo, Šefko Poturović, Luca Krešo, Nusret Hanić, Marija Miškić, Enes Begeta, Ramiz Bećiri, Bosiljka Krešo, Arijana Krešo, Jure Krešo, Nikola Drljo, Mijo Anđelić, Cecilija Anđelić, Enes Gagula, Elmedin Čaušević, Cecilija Šimunović, Ruža Mlikota, Tomislav Mlikota, Sead Ćosić, Himzo Hondo, Atif Karović, Ilija Drljo, Safet Haketa, Bakir Alispahić, Kadir Poturović, Enver Mujala, Milka Drljo, Fikret Muslimović, Dragan Drljo, Muharem Košarić, Sead Branković, Sead Šehić, Fra Zdenko Mario Karačić, Ramo Masleša, Amir Begić, Ibrahim Turak, Abdulah Mašić, Sabro Hasković, Dževad Rađo, Šaćir Arnautović, Bahrudin Fazlić, Midhat Karović, Mujo Pirušić, Jela Ljubić, Jusuf Jašarević,

Anica Blažević, Mara Drljo, Nusret Šahić, Branimir Džamonja, Hamza Višća, Vahidin Čomor, Hasan Poturović, Suvad Rogo, Muamer Huseinbegović, Said Demirović, Irfan Masleša, Anđelka Šagolj, Ivan Šagolj, Munir Alibabić, Anica Krešo, Rasema Handanović, Sulejman Perva, Salko Šahinović, Salko Sultić, Jovan Divjak, Vahid Karavelić, Mara Delinac, Murat Kahrović, Esad Ramić, Miralem Memić, protected witnesses "M", "B", "L", "A", "C", "X", "N", "R", "J", "Z", "O", "S" and "E" and the military court expert Nehru Ganić.

24. In rebutting evidence, the witnesses Nusret Điver, Ćazim Ćibo, Salko Gušić were examined, while the witness Zoran Barun was examined during the presentation of additional evidence of the Prosecution.

25. Statements of deceased witnesses Jasmin Guska and Šime Krešo were read out at the Main Trial.

26. During the Main Trial, the Prosecution waived examining some witnesses that were proposed in the Indictment.

27. The list of documentary evidence the Prosecution presented and tendered as evidence is provided in the Annex of this judgment and constitutes its integral part.

(ii) Defense for the Accused Mensur Memić

28. During the Main Trial, the court heard the following Defense witnesses for the Accused Mensur Memić: Milka Drljo, Munevera Mujala, Nedžad Lepara, protected witness "D", while the Accused Mensur Memić also gave a statement as a witness at the Main Trial.

29. As additional evidence of the Defense for the Accused Memić, the witness Berdihan Mešić was examined.

30. During the Main Trial, the Defense waived examining a number of proposed witnesses (Enes Dedić and protected witness "N," previously examined as a witness for the Prosecution).

31. The Court denied Defense's motion to summon and examine as witnesses the co-Accused in the same case: Zulfikar Ališpago, Nihad Bojadžić and Dževad Salčin, while the Defense was given the opportunity to examine the Accused Bojadžić and Salčin, given that these Accused testified as witnesses at the Main Trial. In relation to the Accused

Zulfikar Ališpago, for whom the proceeding was separated (paragraph 15), the Defense did not reiterate the request to examine him.

32. The Court also refused the proposal to read the transcripts from the hearing of the Accused Edin Džeko, who testified as a witness in the proceedings against him before the Court in another case (No. S1 1 K 01294 12 Krl) for the same event, given that the Defense was given the opportunity to summon the Accused and examine him as a witness in this case.

33. The Defense did not tender documentary evidence.

(i) Defense for the Accused Dževad Salčin

34. At the Main Trial the Defense for the Accused did not propose examining any witnesses, while the Accused Dževad Salčin gave a statement as a witness.

35. The list of documentary evidence the Defense for the Accused presented and tendered is provided in the Annex to this judgment as an integral part thereof.

(ii) Defense for the Accused Senad Hakalović

36. During the Main Trial, the Defense for the Accused Senad Hakalović examined the following witnesses: Redžo Poturović, Mustafa Hakalović, Edin Čolak, Ismet Redžić, Mušan Padalović, Muharem Hakalović, Salko Moro, and protected witnesses "D", "K", "O-III 1 ", "O-III-2" and " O-III-3", and a court expert in land surveying, Almir Šahinović, and a court expert in military matters, Asim Džambasović.

37. During the Main Trial, the Defense for the accused Hakalović waived examining a certain number of the proposed witnesses.

38. The list of documentary evidence the Defense for the Accused Hakalović presented and tendered is provided in the Annex to this judgment as an integral part thereof.

(iii) Defense for the Accused Nedžad

Hodžić

39. During the evidentiary proceedings, the Defense for the Accused Nedžad Hodžić examined the protected witnesses "D" and "K", and neuropsychiatrist Prof. Dr. Sci. Abdulah Kučukalić.

40. The Defense waived examining the witnesses Dr. Džemaludin Kantadžić, Dr. Fikret Jonoz, Dr. Sabina Radulović and Edib Šarić, although they were proposed as Defense witnesses to testify on the circumstances of the health condition of the Accused after his return and during the treatment in the Republic of Turkey, having concluded that their testimony is no longer relevant.⁴

41. During the trial the Defense has also given up the hearing of a number of proposed witnesses.

42. The list of documentary evidence by the Defense for the Accused presented and tendered is provided in the Annex to this judgment as an integral part thereof.

(iv) The Defense for the Accused Nihad Bojadžić

43. During the evidentiary proceedings, the following Defense witnesses were examined: Redžo Poturović, Mustafa Hakalović, Senad Mikić, Remzija Šiljak, Edhem Godinjak, Ramiz Dreković, Dr. Aida Volić, Nusret Đelilović, E.J., Reuf Hero, Avdulah Kajević, Nijaz Habibija, Aziz Mušanović, Ilijas Mustafić, Fatima Kozić, Muharem Hakalović, Nusret Avdibegović, Sakib Alihodžić, Fadil Karić, Elvedin Ibrahimović, Zijad Mušić, Hasan Hakalović and Mirsad Čaušević, and protected witnesses "K", "V" and "D". Also during the Main Trial, the Accused Nihad Bojadžić too was examined as a witness.

44. During the Main Trial, the Defense for the Accused Bojadžić waived examining a certain number of proposed witnesses.

45. The list of documentary evidence the Defense for the Accused Bojadžić presented and tendered is provided in the Annex to this judgment as an integral part thereof.

⁴ In considering the proposal of the Defense for the accused Hodžić at the status conference, held on 4 March 2013, responding to a direct question of the presiding judge whether medical records for the health condition of the Accused exist for that period, defense counsel stated: *"There is extensive medical documentation... the Prosecution also has this*

(v) Experts examined regarding the Accused Nedžad Hodžić's capacity to
stand trial

46. During the Main Trial, the Court examined the expert witness Prim. Dr. Omer Ćemalović, who has, under the order of the Court, together with two other specialist doctors, examined the Accused Nedžad Hodžić and submitted to the Court his findings and opinion on the health condition of the Accused (Court Exhibit S-5).

47. Prof. Dr. Alma Mehmedbašić-Bravo and the court expert in psychiatry Mr. Med. Sc. Dr. Nera Zivlak-Radulović were also examined regarding the same circumstances.

III. CLOSING ARGUMENTS

(i) PROSECUTION'S CLOSING ARGUMENT

48. In his closing argument, the Prosecutor first addressed, and later elaborated, the general elements of the criminal offenses of War Crimes against Civilians and War Crimes against Prisoners of War – which are charged against the Accused Memić, Salčin, Hakalović, Hodžić and Bojadžić, stating that their actions constitute a violation of blanket provisions of international humanitarian law.

49. Furthermore, on the status of the victims, the Prosecutor's Office said that two groups of victims can be distinguished in the attack on Trusina; the first group consists of 15 civilians, mostly elderly people (as confirmed by the evidence – death reports, copies of the death certificates etc. T-78 through T-116), who were killed during the campaign of taking the village by the SOPN (Special Purpose Detachment) "Zulfikar" of the Supreme Command Staff of Army of RBiH, who were not members of any party to the conflict, and who were indeed civilians – safeguarded by the rules of international humanitarian law, as confirmed by witnesses (Bosiljka Krešo, Cecilija Šimunović, Ilija Drljo, Milka Drljo etc.).

50. In this regard, the Prosecution denies the argument by the Defense for the Accused Bojadžić that Milenko Mandić was not a civilian, i.e. that at the time of the killing the

documentation, but I find all this irrelevant, because yesterday one could have a good medical finding while today the same person might not have a good medical finding."

foregoing person was a member of the HVO, because this theory does not correspond to the statements of the witnesses Milka Drljo and Jure Krešo, who do not refer to him as an HVO member manning the position at the Križ hill. Stipo Ljubić was killed in the same circumstances, being a member of the HVO, captured at the position on Križ, and his wife Jela Ljubić and Jure Krešo confirmed his HVO membership at the Main Trial. Thus, the above evidence confirms that Stipo Ljubić was captured as an HVO member, due to which he was to be considered a prisoner of war.

51. The second group of victims of the incident includes 6 persons who were captured during the attack and who were shot in the hamlet of Gaj at the end of the campaign, when the ARBiH members, after Samir Šemsović and Ahmet Kokić were injured, started withdrawing from the village of Trusina, who it clearly ensues were members of the HVO, so it can be concluded that these persons were to be considered prisoners of war, and on such grounds enjoy protection.

52. Evidence presented by the Prosecution during the Main Trial, but also a large body of Defense evidence, confirms that at the time of the perpetration of the criminal offense there was an armed conflict between the forces of the ARBiH and the HVO in the Konjic municipality. In the case at hand, it is important to take into account the status of the Accused, i.e. their membership of the armed forces of a party to the conflict, their participation in the concrete attack against the Trusina village, as well as the existence of a relationship of mutuality and interdependence between the perpetration of the crimes and the ongoing armed conflict. The Prosecutor argued that all the accused were members of a party to the conflict that participated in the attack on the territory run by members of the other party to the conflict. Given that, in the context of this attack, they committed the killings of captured soldiers and civilians whom they found in houses, one may conclude that the crimes constituted an integral part of the attack and that they were committed as part of official duties of the perpetrators as members of the armed forces of a party to the conflict, because if there had been no attack on the Trusina village, none of the Accused would have found himself in a position to commit the respective crimes.

53. In his closing argument, the Prosecutor referred to the undisputed facts related to the general context of events just before and at the time of the perpetration of the offense (the position of the village of Trusina, the ethnic structure of the population, dominant elevations above Trusina, local brigades, start of the attack against the village of Trusina, etc.), then referred to the establishment and the status of the SOPN unit, and further in his

closing argument detailed and precisely presented and analyzed the testimony of witnesses in relation to the movement of the unit in combat operations in April 1993, then the role and position of the Accused Bojadžić as deputy commander of the SOPN ŠVK (Supreme HQ/Command Staff), and the other Accused - participants in the campaign, the course of the attack, the manner of their moving around in groups across the village, and the killing of prisoners of war and civilians.

54. In this regard, in relation to the Accused Mensur Memić, who under the official records dated 7 April 1993 and according to the statements of some witnesses has been a member of SOPN since the very beginning in 1993, the Prosecution alleged that he participated in the execution of six lined-up HVO members in Gaj, as confirmed by numerous witnesses, whose statements the Prosecutor analyzed in his closing argument. For these reasons, the Prosecution believes that Defense's argument that the Accused, as a new fighter who has just arrived at the SOPN ŠVK, remained in the base at Mt. Igman and that on the particular day he was not present in Trusina, is in direct contrast to the evidence presented in the charges, especially the statements of witness, former comrades of the Accused, who had no reason to testify falsely. In addition, this argument is not confirmed by the other witnesses who, being new fighters (e.g. Rasema Handanović who joined SOPN after the Accused Memić), also participated in the above campaign. If we take into account the fact that a number of witnesses said that the Accused joined SOPN ŠVK in early 1993, then a statement by the Defense, that he had to be considered a newly arrived soldier, stands no ground.

55. Finally, the argument of the Defense of the Accused Memić that at the time of the offense he was on Mt. Igman with Sead Fikić is contested by the Prosecution Exhibit T-147- "The establishment and war-time record of the Special Purpose Detachment "Zulfikar" of the Supreme Command No. 1-10-212/93 dated 4 December 1993," where on page 7, Chapter XV, it said that the same day when the fighters of the Zulfikar Detachment occupied Trusina, Sead Fikić was wounded in the other direction that goes to Homolje, who clearly was not on Mt. Igman with the Accused Memić. The Prosecution considered illogical a part of the testimony of the Accused Memić presented as a witness, stating that when he arrived at Mt. Igman in the Mrazište base he was in the room with the witness "N" (who did not confirm this), and that he spend 4-5 days in the room and did not go outside. Moreover, his citing of a rule that new fighters in the unit in their first month do not go into campaigns is contradictory to his statement, given that he said that it was only four days

after the departure of the unit for the Trusina campaign, therefore on 19 April 1993, when Mesar lined them up and told them to go out as part of that campaign.

56. Regarding the participation of the Accused Dževad Salčin, also member of SOPN ŠVK "Zulfikar", the Prosecution found indisputable that he was a participant in the campaign on Trusina, as confirmed by numerous witnesses including the Accused himself, and that on the orders of Samir Šemsović he remained to guard the captured civilians and HVO soldiers in Gaj. The Prosecution argued that the Accused Salčin was responsible for two groups of captured people (the first group consisted of Croat civilians from the village of Gaj, while the second group were those captured who were brought to Gaj from the village of Kreše), both groups being robbed in the house of Marko Drljo. The Prosecutor's Office analyzed the testimonies of these witnesses, especially the part when they said that after being taken into captivity they were intimidated, threatened with being killed, repeatedly taken outside and escorted into the house of Marko Drljo, and lined up to be executed, and that soldiers searched them for money, jewelry and other valuables. These allegations were specifically confirmed by the witness Bosiljka Krešo, who, as stated by the Prosecution, "specifically described the role of the Accused Salčin who picked up the looted gold and money."

57. The Prosecution stated that a number of witnesses saw the Accused Senad Hakalović, member of the 45th Mountain Brigade of the 4th Corps of the ARBiH, in Trusina during the attack. In addition, from the witness statements it is clear that the Accused Senad Hakalović previously knew Ivan Drljo aka Crni and that at this critical occasion he addressed him with this nickname, while the witness Milka Drljo specifically confirmed that the Accused Hakalović committed the criminal offense as charged, claiming to have seen when the Accused Senad ordered her son Ivan Drljo to go to Kreše and bring Zdravko Drljo and Željko Blažević. Before issuing this command to Ivan Drljo, the Accused Hakalović saw at least one body of a murdered civilian, therefore he was aware of the substantial likelihood that they too will be killed, and later the Accused was present and testified of their being executed in Gaj.

58. The Prosecution also commented on those Defense witnesses who tried to provide an alibi for the Accused by claiming that the Accused, at the time of the attack against Trusina, was in Buturović Polje, which are testimonies the Prosecution finds to be opposite in relation to the testimonies of the Prosecution witnesses, who saw the Accused Hakalović in Trusina on that day.

59. As regards the Accused Nedžad Hodžić, the Prosecutor's Office first addressed the question of the capacity of the Accused to stand trial, and to this end analyzed the findings and opinions of the expert witnesses who examined the Accused, noting that, with the exception of Dr. Kučukalić, who in the finding held that the Accused was unable to follow these or any other proceedings, none of the experts made a conclusion that the Accused was incapable of standing trial. On the contrary, the teams of expert witnesses (including the teams where Dr. Kučukalić took part and where he issued a separate opinion) found that the Accused was not incompetent and that he had a malingering behavior.

60. Furthermore, with respect to the crimes the Accused is charged with, the Prosecution finds undisputable, as confirmed by documentary evidence and witnesses, that the Accused Hodžić was a SOPN member, that he took part in the action against Trusina, that on that day he led one prong of the attack, and that he was armed with a rifle and a communication radio. While moving through the village, and during the search of houses, the SOPN members killed 15 civilians and wounded four people, and this act represents the Accused's participation in the crime of killing and wounding civilians. After the soldiers Šemsović and Kokić were wounded, the Accused Hodžić communicated via radio link with the deputy commander Bojadžić, he took over command of the unit and ordered retreat to their original positions, where they took the prisoners. On arrival in the hamlet of Gaj, again via radio communication, he communicated with Deputy Bojadžić, then issued an order to form a firing squad of the attending soldiers, and issued an order "open fire," which is when members of the unit killed all six prisoners lined up along the wall. Numerous eyewitnesses of these events confirmed that the Accused Nedžad Hodžić was shooting along with the others after he issued the order.

61. The charges in the Indictment concerning the fifth-Accused Nihad Bojadžić (that from a hill overlooking the village, through the means of communication, he issued an order to the unit to attack the village of Trusina and that no one in the village should stay alive, led the attack in which members of the unit killed 15 civilians and wounded four, and issued an order to the accused Hodžić to execute 6 HVO members in the hamlet of Gaj) were supported by numerous witnesses ("O", "A", Rasema Handanović, etc.), as well as the fact that at that time the Accused Bojadžić was Deputy Commander of SOPN ŠVK "Zulfikar", which the Accused himself did not deny, and which was also confirmed by the documentary evidence.

62. Defense's argument that communication via radio link - Motorola was not possible in this area because of the distance and terrain configuration, was contradicted by the statements of numerous witnesses who, among other things, saw the Accused Bojadžić and Hodžić communicating using the Motorola radio.

63. The argument of the Defense for the Accused Bojadžić during the Main Trial was that the Accused, on 16 April 1993, was not present in either Parsovići or in the area overlooking Trusina. However, Defense's statement that on 15 April 1993 the Accused was in a meeting in Bradina until late in the evening, and that he, around 02:30 hrs on 16 April 1993, with his driver Elvedin Ibrahimović Ekco, went to Pazarić to visit his girlfriend, where he spent the rest of the night, and the next day in the morning visited *Hodja* in Pazarić, after which he went to visit Commander Ališpago in Tarčin, and then went to Bradina where he was resting until about 16.00h when a soldier informed him that wounded members SOPN had arrived, is simply not in accordance with, first of all, the statement the Accused Bojadžić gave during the investigation, wherein he did not mention that on 15 April 1993 he stayed in a meeting in Bradina until late in the evening, and that around 03:00 hrs on 16 April he arrived at his girlfriend's, where he spent the night.

64. In addition, there is a discrepancy with regard to the events that followed after he came to visit Commander Ališpago in Tarčin. While he was with Commander Ališpago, the Accused received news of injured members of the unit, as well as the order to go to the hospital in Suhodol and prepare the transfer of the wounded, which he did, and went to see Dr. Muharem Cero in Suhodol and informed him of the arrival of the wounded.

65. Furthermore, in a statement given during the investigation, the Accused stated that he went to Bradina, where he happened to see Nusret Avdibegović Beg to inquire if there were any news of the wounded, and that over the KT link they received news coded to have one "rib" (wounded) and one "heart" (killed), and that a half an hour later two ambulances arrived, one with Samir Šemsović with the driver and Orhan, his unit member, while in the other vehicle there was Sadat, a member of Haso's unit.

66. So, in contrast to his defense during the investigation, while speaking at the Main Trial, after the Prosecution presented their evidence, the Accused changed his account of developments after his visit to Commander Ališpago in Tarčin, saying that from Tarčin he went to Bradina to get some rest and stay in a room where was resting until 16:00 hrs, which is when a soldier came in running and informed him of the arrival of wounded SOPN

members. When he ran out of the room (knowing nothing before that), and found one ambulance and another vehicle, with the wounded man named Samko being in the ambulance, accompanied by Orhan and Edin Džeko.

67. However, these statements of the Accused were not confirmed by the witnesses, above all Dr. Aida Volić who worked at the hospital in Suhodol and admitted the wounded Šemsović, who said that at that time Dr. Cero had not even started working in Suhodol (he came only a few months later) and that the Accused Bojadžić, up to that day, did not come to the hospital in Suhodol, before the arrival of the wounded. Although the Accused no longer mentioned the code names of "rib" and "heart", because they no longer fit the concept of the Defense, it is important to note that at the Main Trial the witnesses confirmed that SOPN used these codes and that from the intersection in Trusina the Accused Nedžad Hodžić reported the news of the wounding of Šemsović and Kokić using these codes.

68. The key Defense witnesses, on whom the alibi of the Accused was built, were witness Elvedin Ibrahimović aka "Ekac," at the time the driver of the Accused (whom the Accused Bojadžić never once mentioned in the investigation, but said, "I went, I drove") and the protected witness "V". Further on in his closing argument, the Prosecutor first analyzed their evidence, then noted all illogical things and inconsistencies with the testimonies of other witnesses and the evidence presented, and analyzed the testimony of Defense witnesses, who, in the opinion of the Prosecutor's Office, are not fit to throw into doubt the Prosecution evidence presented as regards the Accused Bojadžić during the Main Trial.

69. At the end of the closing argument, the Prosecution commented on the objections raised by the Defense during the Main Trial (legality of evidence regarding the application of means for wiretapping interception of the former State Security Service, specifically the measure with the code names of "Zolja" and "Agava", and non-submission of evidence by the Prosecution), arguing that they were groundless and that, as such, they should be dismissed.

70. Taking into account all of the above, the Prosecution moved the Court to find the Accused Salčin, Hakalović, Hodžić and Bojadžić guilty of committing crimes as charged, and sentence them under the law.

71. The Defense for Mensur Memić, in the closing argument, stated that, contrary to the Prosecution's claims, the evidence presented at the Main Trial does not constitute reliable evidence from which to establish beyond a reasonable doubt that the Accused Memić, together with Nedžad Hodžić, Rasema Handanović and other SOPN members whom he knew, under the order of Nedžad Hodžić, took part in the execution of the captured HVO members in the hamlet of "Gaj" on 16 April 1993.

72. The Defense pointed out that the Accused Memić was for the first time informed of the existence of grounded suspicion regarding these actions on 16 September 2009, when he was examined as a suspect, and that he then said that he was not in Trusina at the critical time and that he in no way participated in the perpetration of this crime. He was again examined on the same grounds for suspicion on 20 September 2010, when he again denied involvement in the attack, and explained all the events that are known to him regarding his time in the Zulfikar unit as of 7 April 1993, when he joined the unit, as well as the movement of the unit two to three days before the attack on the Trusina village.

73. Further in the closing argument, the Defense submitted that the Accused Memić testified at the Main Trial as a witness, and that, despite the confusing questions by the Prosecution, the Accused explained the genesis of events before the start of the war, and explained that on 7 April 1993 he arrived at Mt. Igman with his neighbor Orhan Jujić in order to join the Zulfikar unit.

74. The Defense submits that the Accused Memić did not receive approval from the competent command nor made a proper release to join the Zulfikar unit, which were the reasons, according to the official data of the Secretariat of Defense, why he was registered as a member of the 17th Krajina Brigade between 20 October 1992 to 20 June 1993, despite the fact that he joined the Zulfikar unit on 7 April 1993, and his membership in this unit has been officially registered by the Ministry of Defense since that date. Together with him and Orhan Jujić, Sead Fikić also joined the same unit, but was later killed.

75. According to the Defense, upon arrival at Mt. Igman, where the Zulfikar unit was headquartered, the Accused got in the same room together with Jujić and Fikić. Jujić took them, as newly arrived members of the unit, to Mensur Kasumi, who registered their arrival.

76. In the first four to five days the Accused Memić left the room only a few times, and that was for breakfast and snack in the cafeteria, because he did not know anyone. Regarding the formational organization of the unit at the time of his arrival, the Defense contends that it was not organized and did not have a permanent formation, but that, for certain military activities, *ad hoc* groups were organized and conducted individual *ad-hoc* tasks, given that the unit was only a maneuvering unit and had no permanent combat tasks related to a specific territory.

77. After being issued with the military equipment, the Accused Memić spent five to six days mainly in conversation with the acquaintance Jujić, until the moment when one day he came to the room, picked up his gear and said he must go to Konjic urgently. The Accused was for the first time introduced to Bojadžić between 10 and 11 April 1993. The Accused Memić said that he was never a member of the Reconnaissance-Sabotage Platoon in the Zulfikar unit, adding that Rasema Handanović too was not its member, and that at the time he did not know that the Reconnaissance-Sabotage Platoon existed at all, much less who its members were.

78. The Defense referred to a rule in place in the Unit, under which the newly arrived members to the unit did not engage in combat operations until the expiration of the introduction period of up to one month, for which reasons it categorically asserts that the Accused was not called for, nor participated in the operations in Trusina on 16 April 1993.

79. His first participation in combat was in the region of the village of Repovci, carried out several days after they had completed combat operations in the area of the village of Trusina. In fact, only some 20 members of the Zulfikar unit were on Mt. Igman at the time, and the person nicknamed "Mesar" made a lineup of other capable fighters on Mt. Igman and sent them as support to Konjic. The protected witness "X" was lined up at the time, who Memić contends was not a participant in combat operations in the area of Trusina, and therefore the testimony of this witness, regarding his participation in combat operations in the area of Trusina, completely lacks credibility.

80. According to the Defense, the testimony of the Accused Memić presented as a witness is credible and believable, being supported by other Defense evidence and the testimony of certain Prosecution witnesses. His alibi and the assertion that on this day he was not in Trusina was corroborated by the testimony of witnesses Munevera Mujala, Nedžad Lepara, Berdihan Mešić aka Betko, as well as the statements of the Accused

Dževad Salčin and Nihad Bojadžić, whose statements were analyzed and explained by the Defense in the closing argument.

81. Defense Counsel for the Accused added that the Defense had carried out certain activities in an attempt to secure the presentation of evidence from the witnesses Sena Čorbo and Orhan Jujić, who were able to provide useful and credible testimonies: Sena Čorbo about all developments in the area of the Mrazište hotel – the seat of the Zulfikar units –from 7 April 1993 to 16 April of that same year, because, according to the Accused, while speaking as a witness, as well as other witnesses examined, the Accused Memić at that time communicated most frequently with Sena Čorbo.

82. However, with all the understanding of the procedural position of the Accused after raising the Indictment, Ms. Sena said that she could not testify in this case, for fear of possible criminal prosecution of her as a member of the unit, and also of her husband and brother-in-law who were members of that unit, i.e. the ARBH. Also, Orhan Jujić, who was commander of the Reconnaissance-Sabotage Platoon in the Zulfikar unit, who participated in numerous combat operations and who was informed by the prosecuting authorities that an interest in his examination existed, also did not accept to testify in this criminal matter, when summoned by the Defense.

83. Further in its closing argument, the Defense commented on and analyzed the testimony of the Prosecution witnesses about the factual allegations in the Indictment concerning the Accused Mensur Memić, including the protected witnesses "N", "X", "C", "M", "O", "E", "D" and Irfan Masleša, arguing that the Prosecution based its arguments in the Indictment on the statements of witnesses: Rasema Handanović, Ramiz Bećiri, and protected witnesses "A" and "B", whose statements the Defense has also analyzed.

84. In terms of analysis of testimony of witnesses Ramiz Bećiri and Rasema Handanović, the Defense pointed out that these witnesses had specific reasons and interests to testify against the Accused, which represented illicit Prosecution evidence, while in terms of the protected witness "A" the Defense stated that the statements of some witnesses also gave rise to grounds for suspicion that he too perpetrated criminal offenses during combat operations in the area of the village of Trusina. The same arguments apply to the existence of interest in the false testimony of the protected witness "B".

85. The incorrectness of the testimony on which the Prosecution based its arguments regarding corroboration of the factual substratum in the Indictment against the Accused

Memić was particularly evident if, in accordance with the legal obligation, each of those statements is analyzed separately and in their mutual connection, and compared with the testimony of Defense witnesses as well as Prosecution witnesses who denied Memić's involvement in combat operations in the manner and at the time described in the Indictment, but also those who did not speak of those circumstances, which leads to an unequivocal conclusion about the complete arbitrariness and inaccurate statements of witnesses Handanović, Bećiri, and protected witness "A" and "B".

86. For these reasons, the Defense said that all the Prosecution statements expressed in the final arguments were just a failed attempt at establishing non-existent facts, based on the non-existence or false evidence, in order to maintain this false Indictment.

87. The Defense based the assertions on the unfounded charges on the fact that the Prosecution has repeatedly, either directly or through his defense counsel, verbally offered the Accused plea agreement for offenses in the Indictment, under the same conditions as set forth in the agreement with Rasema Handanović, which would be extremely favorable conditions for the Accused, because the time he spent in custody would have practically exhausted the sentence he would receive by the plea agreement. However, aware of his innocence, denying any responsibility for this difficult and disgusting crime, and referring to his own conscience, the Accused refused to conclude such an agreement.

88. In the end, the Defense submitted the assertions, not only of the Accused Nihad Bojadžić, but also of many other examined witnesses, on the character of the Accused Memić, who said that he was a moral greatness, an impeccable man, a fighter and a person that could serve as a role model for conduct in the war and in the most difficult situations.

89. In view of the foregoing, the Defense argues that the Prosecution failed to prove that the Accused committed the criminal offense as charged in the Indictment, since the evidence on which the Indictment arguments are based is absolutely untrue, implausible and completely contradictory in the most important elements and in relation to all other ample evidence, which is why it moved the Court to acquit the Accused Mensur Memić.

(iii) CLOSING ARGUMENT OF DEFENSE FOR THE ACCUSED DŽEVAD SALČIN

90. The Defense for Dževad Salčin said in its closing argument that the assertions of the Prosecution agents in the closing argument and also in the evidence presented at the Main Trial did not provide a reliable basis for the conclusion that the underlying criminal offenses took place in the manner as factually described in the Operative Part of the Indictment, and that Accused Salčin in any way took part in these offenses. In addition, the Defense stated that the Prosecutor's Office did not at all prove certain parts of the factual description of the Indictment against the Accused Salčin, while most of them were not proved beyond a reasonable doubt.

91. There is no doubt that on 16 April 1993 the Accused Salčin took part in the attack on the Trusina village, i.e. that together with members of SOPN ŠVK Zulfikar he entered the village of Trusina in the morning hours, came to the hamlet of Gaj, and under the order of Samir Šemsović stayed to guard the captured civilians and HVO members to the end of the campaign.

92. However, the Defense categorically contested the allegations that the Accused repeatedly lined up a group of about 14 civilians, women, children and men and three HVO soldiers who had previously surrendered, along the wall of a house, pointing a gun at them, telling them that he would kill them all, cursed at them, shot at the crucifixes that were found in their homes, keeping them in constant fear and causing them severe mental suffering, while taking from them money, jewelry and other valuables.

93. Although a large number of Prosecution witnesses were examined on these circumstances, the Prosecution in its closing argument tried to give an analysis of their evidence; however, it was a scarce overview of testimonies, full of generalizations, deprived of any individual account as regards the charges against the Accused.

94. The Prosecution tried to camouflage the lack of evidence against the Accused by paraphrasing the testimonies of witnesses, drawing general and abstract conclusions, which is not surprising considering that none of the examined witnesses was charging the Accused Salčin nor bringing him in any kind of context regarding the line-ups, threats to kill them, use of derogatory language, firing at crucifixes, causing severe mental suffering, and robbery.

95. The Defense does not deny that in the area of Trusina, unfortunately, a serious crime took place, however, there was no evidence that Accused Salčin participated in these operations.

96. Further in the closing argument, the Defense analyzed the testimonies of witnesses examined on these circumstances (Milka Drljo, Mara Drljo, Mara Delinac, Ruža Mlikota, Cecilija Šimunović, Jela Ljubić, Mara Drljo and Anica Blažević), and argued that none of them put the Accused in any connection with the offenses charged in the Indictment.

97. Defense Counsel also referred to the testimony of witness Bosiljka Krešo, who the Prosecution alleged has confirmed in her testimony the robbery that was committed on the relevant occasion, especially describing the role of the Accused Salčin who picked up the looted gold and money. However, the Defense argues that the evidence here is just a twisted logic of the Prosecution, so that the Accused Salčin is put in context of the looting of civilians, although the witness Bosiljka Krešo confirmed that he was only ordered to pick up what the other soldiers had seized. In addition, witness Krešo has never in any statement of hers stated that Dževad Salčin took away money and gold from civilians.

98. Therefore, even though none of the examined witnesses mentioned the Accused Salčin as a person who issued threats or mistreated anyone, or seized other people's property, the Prosecution has in any way possible sought to charge him with these actions, despite the fact that witness statements exclude him from the charges.

99. The Defense also referred to the closing argument of the Prosecution, which argued that the witnesses repeatedly cited orders that they heard had been issued to *Struja*, which were related to the treatment of the captured civilians, and emphasized the testimony of witness Bosiljka Krešo, who clearly remembered the orders issued to the soldier named *Struja* to pick up the looted gold, and she saw him doing that, as well as other verbal orders to *Struja* regarding the treatment of prisoners. It is in this context that the Defense argued that the impression is that the Prosecution, in the absence of any evidence to substantiate the charges, twists the logic and rather clumsily pins certain actions on Salčin, which in reality never happened.

100. The Defense remains unclear as to what orders were sent to *Struja*, of which the witnesses allegedly talked, except for the orders to pick up the seized gold, then also what were the orders to *Struja*, which the "*witness Bosiljka Krešo clearly remembered,*" and what were the "*other orders to Struja as regards the treatment of prisoners.*"

101. Without specifying what kind of orders these were, the Prosecution deliberately wanted to worsen the position of the Accused Salčin, because, according to the Defense,

the mere act of executing the orders substantially changes the position of the Accused and brings him in a more favorable position, and even, under Article 33 of the Statute of the International Criminal Court, constitutes grounds for release.

102. Bearing in mind the above, the Defense argues that none of the evidence presented at the Main Trial proved beyond reasonable doubt that the Accused Salčin perpetrated a single incriminating act as charged. Objectified responsibility, declaring a person guilty only based on his presence at a particular location, or based on a functional position, without any evidence of intent to commit the criminal offenses or evidence of the commission of crimes, would lead to an absolute collectivization of guilt, that is, to declaring persons guilty on the basis of association, with no real evidence about the guilt of a person, which would represent but a collapse of criminal legislation.

103. The Defense commented on the general elements of both criminal offenses the Accused Salčin was charged with (Article 173 and 175 of the CC of BiH), and challenged only the 4th element, according to which *"the perpetrator must order or commit a criminal offense,"* and this was done in terms of all criminal offenses which the Accused was charged with (inhuman treatment, robbery, spreading fear and terror).

104. Specifically, in connection with the concept of inhuman treatment, the Defense raises the question of how the actions and conduct of the Accused Salčin reach the threshold of inhuman treatment under international standards, considering that the Prosecution offered absolutely no piece of substantiating evidence.

105. As regards the concept of robbery, the Defense did not exclude a possibility that in the relevant period sporadic cases of confiscation of money or other items of the civilian population did happen, but it does not mean that the Accused participated therein.

106. In fact, all witnesses who mentioned the abduction of their personal belongings or the money they on the critical occasion had on them, do not charge Salčin specifically, but present some generalized, unsupported assertions. It is symptomatic that most of the witnesses stated that they saw members of the Army of Bosnia and Herzegovina seize money and jewelry, but then state that nothing specific was taken from them, nor did the witnesses mention the Accused Salčin in connection with the above, except that Bosiljka Krešo said that Salčin was just ordered to pick up what the other soldiers had already taken away. Therefore, concerning the Accused Salčin, the Prosecution presented no

evidence to corroborate (*actus reus*) the offense of robbery, nor was it able to prove its subjective element (*mens rea*).

107. What is important concerning the criminal offense of application of measures of intimidation and terror is specific intent, or the mental element (*mens rea*). Therefore, the Prosecution is required to prove that the Accused not only accepted the likelihood that terror would arise from unlawful acts, or that he was aware of the possibility that terror would be a result, but that it was exactly the consequence he specifically intended to realize. So, in this case it remains unclear in which actions the Prosecution see the elements of the offense allegedly committed by the Accused Salčin, and how he was creating an atmosphere of fear and terror among the civilians he guarded in the village of Gaj, given that not a single eyewitness in any way brought the Accused in connection with this criminal offense.

108. In accordance with the previous analysis, it is clear that on the basis of the evidence presented in this case and in accordance with the *in dubio pro reo* principle, acquittal is the only viable option.

109. The Counsel pointed out that Defense teams, in almost all cases of war crimes, request the application of substantive law that was in force at the time when the concerned Accused allegedly perpetrated the crimes as charged in the indictment. In light of this, the Defense for the Accused Salčin makes the same argument, while insisting on the fact that the Accused is not guilty of the crimes as charged in the indictment.

110. With regard to the personality of the Accused, the Defense presented a series of circumstances favoring the Accused, i.e. that the Accused had no criminal record, nor was in conflict with the law, that during the relevant period he was an ordinary soldier, he was in pretrial custody as of 17 September 2009, while the Indictment was confirmed no sooner than in early March 2010, during which period he suffered a terrible family tragedy - his son was killed, survived by the wife and a juvenile daughter, with the Accused taking care of them ever since; he is hardly making ends meet, living on a small pension too small even for the basic needs, feeds a family of four by breeding goats, so his constant arrivals in Sarajevo to attend court hearings and the appertaining costs also posed a huge problem for him. In addition, the mental and physical health of the Accused Salčin is visibly impaired, and as a result of long detention he was diagnosed with the *Ganser syndrome*, considered a frequent psychological reaction of prisoners.

111. In view of all the foregoing, the Defense concludes that the evidence of the Prosecution, in terms of quality, lacks the credibility to demonstrate the merits of the allegations stated in the preamble of the factual description of the indictment regarding the actions the Accused has committed. Thus, the Prosecutor's Office of BiH not only failed to prove that the Accused participated in the crime as charged, but their witnesses confirmed the arguments of the Defense, which are the reasons why the Defense moved the Court, under Article 284(1)(c) of the CPC of BiH, to acquit the Accused.

(iv) CLOSING ARGUMENT OF THE DEFENSE FOR THE ACCUSED SENAD HAKALović

112. The Defense of Senad Hakalović said in its closing argument that the described actions charged against the Accused were not unlawful actions, and did not contain the necessary elements of the criminal offense of War Crimes against Prisoners of War.

113. Namely, for a person to be criminally responsible for the given charges, the presented evidence must prove that the person acted in a manner that violates international humanitarian law, with the intent to cause, as a result, the murder or severe pain, or acted against a protected value under the Geneva Convention on the Treatment of Prisoners of War dated 12 August 1949. The Defense pointed out that the presented evidence, in an unambiguous manner, confirmed that Željko Blažević and Zdravko Drljo, at the time of the armed conflict with members of the BiH Army, were members of the other party to the conflict - the HVO, and as such were a legitimate target up to the level of capture, and it was militarily justified and legitimate to capture them at the houses where they were located.

114. However, legitimacy was lost the moment when the said persons were executed as prisoners. The unit that has the authority over the prisoners of war must provide them with the prescribed conditions for life and work under the Geneva Conventions, but obviously this was not the case here. Responsibility for the safety and the fate of the prisoners – soldiers, after their surrender, rests solely on the person who was in direct command of the Zulfikar unit, and the perpetrators - soldiers who carried out the execution.

115. Thus, the subjective relationship and responsibility towards the consequence of the alleged execution or murder of Zdravko Drljo and Željko Blažević, rests with the commanding officer, the leader of the squad-commander of the detachment, who had effective command responsibility and control over the troops who participated in their

murder. Those undoubtedly are Rasema Handanović aka Zolja and witness "E", who were members of another military formation, whereas Senad Hakalović was never a member of that formation.

116. Members of the unit who participated in the attack testified about the absence of any control and command from other military formations over the "Zulfikar" unit in the operations in Trusina. Command over the Zulfikar unit always, in every action, belonged to the superiors and soldiers from that unit, and therefore also the responsibility for the treatment and the fate of the prisoners who were under the control of soldiers from that unit.

117. So, even under the assumption that the Prosecution arguments and the testimony of certain witnesses were true - that Senad Hakalović actively participated in combat operations at the critical time, he cannot be held criminally responsible for the criminal charges, because his behavior showed no acts of international humanitarian law violation.

118. The Defense points out that during the evidentiary proceedings it sought to provide the facts that confirm that Senad Hakalović was subjected to unlawful criminal prosecution on the basis of unlawful evidence, that he was not an active participant in combat operations in Trusina, nor did he participate in the capture of Zdravko Drljo and Željko Blažević, etc. as well as to show the subjective attitude and responsibility for the security and the fate of the prisoners - HVO soldiers after their surrender, and the absence of the subjective elements of the crime in the actions of the Accused Hakalović, all under the assumption that he actively participated in the military action in Trusina.

119. In its closing argument, the Defense also pointed out that it was necessary for the Court to eliminate the unlawful evidence obtained during the criminal proceedings by the Prosecutor's Office and investigative bodies, in terms of standards adopted under the European Convention on Human Rights and Fundamental Freedoms (Article 6(1)), and the Criminal Procedure Code of BiH (Articles 2, 3, 6, 10, 14, etc.), in which the Defense referred to the identification of the Accused by Mato Zeko, and the taking of the suspect Hakalović from custody on the orders of the Prosecutor's Office to be recognized by the Prosecution witnesses, etc. In support of Defense's motion, the Court should note that the following evidence also needs to be eliminated as unlawful, namely that given by Janja Drljo, Bosiljka Krešo, Tomislav Mlikota, Ruža Mlikota, as well as statements and reports on identification drafted in accordance with witness Milka Drljo's testimony.

120. Furthermore, the Defense for the Accused Hakalović has during the proceedings obtained and presented facts in support of the alibi that the Accused was not in Trusina on the relevant occasion. According to the Defense, this fact was confirmed by the testimony of several (groups of) witnesses including Janja Drljo, Luca Krešo, Marija Miškić, Bosiljka Krešo, Cecilija Šimunović, Milka Drljo, Dragan Drljo, Jure Krešo, Nikola Drljo, Mijo Anđelić, etc. The Defense added that the alibi is manifested in two forms: (1) at time of the offense the suspect was seen in a certain place, thus excluding that at the same time he could be in the place of the commission of the offense, and (2) the suspect was not seen at the scene of the crime, although there was an opportunity to be seen and noticed, but he was not.

121. The first form is a clear and categorical proof that excludes it from the actions of the criminal offense, while the second form requires a special testing of a possibility that the suspect was at the crime scene. To support both forms of the alibi, the Defense contends that it has the above evidence: that the Accused was at another location and that he was not seen at the scene of the crime - when the execution took place; the alibi is substantiated by the evidence the Defense tendered in the case file. The alibi is the strongest indication of Senad Hakalović's innocence, which was confirmed and proven before this court.

122. Further in the closing argument, the Defense made an objective overview of the situation in Trusina in the area of responsibility of the 45th Brigade of the Army of Bosnia and Herzegovina and the HVO "Herceg Stjepan" Brigade in the area of Buturović Polje, describing the position of the Trusina village and the surrounding hamlets, stating that each part of Trusina was a legitimate military target for any warring party. This objective view is of importance for the Defense, because the presented evidence, namely the witnesses who were in Trusina on the day in question, in each hamlet – parts of Trusina, confirmed not seeing the Accused on the day in question.

123. Also, the Defense referred to Prosecutor's closing argument, pointing to the uncontested and contested conclusions.

124. Witnesses Enes Bageta, Cecilija Anđelić, "C", Seid Demirović, "M," Irfan Masleša and others confirmed that the conclusions of the Prosecutor's Office in the closing argument were unfounded in terms of the existence of the subjective elements of the crime in the actions of the Accused, under the assumption that he participated in the operations

in Trusina at all. According to the Defense, the evidence showed that the *mens rea* of the Accused neither contains nor includes any elements of the crime as charged, and therefore there is not and could not be any criminal liability, because his consciousness and the status of the victims exclude him from criminal liability, as well as the witness statements, primarily for the Prosecution, as well as witnesses from other military units that participated in the illicit acts.

125. The actions of the Accused, under the assumption that he indeed was in Trusina, do not contain cruelty in treatment as a necessary form that would need to be established if the Prosecution wanted to prove the Accused's guilt in this case. The conduct of the Accused and his fellow members of the 45th Brigade can be objectively justified by military necessity; therefore, they acted out of military necessity to neutralize an enemy's target, and at the critical occasion they did not exceed this necessity: when the enemy laid down their weapons, the Accused Senad Hakalović ceased actions against the captives, and his conduct was in accordance with international and humanitarian law.

126. Considering the point of view of the Human Rights Chamber for Bosnia and Herzegovina in cases No.: CH 96/30, CH 97/59 and 97/69 CH, and the European Court in Strasbourg in *Maktouf* and *Damjanović* against Bosnia and Herzegovina, as well as the views of the Constitutional Court in case No. AP-4613/12, as well as in other similar cases, the Defense established the point that, in the specific legal matter, the Prosecution groundlessly refers to the Criminal Code of BiH, i.e. wrongly incriminates the respective actions under Article 175(c) and Article 180(1) in conjunction with Article 29 of the CC of BiH, because it is the provisions set forth in the Criminal Code of Yugoslavia that apply to the described criminal activities.

127. Finally, the Defense points out that the Accused Hakalović's actions do not have the elements of the criminal offense under Article 144 of the Criminal Code of SFRY applicable to the incriminated acts in the indictment, or any other criminal offense under the Criminal Code of Bosnia and Herzegovina, or any other Criminal Code applicable in Bosnia and Herzegovina as of 16 April 1993 to date, and under those grounds the Defense moved the Court to acquit the Accused Senad Hakalović under Article 284(1)(a) or (c) of the CPC BiH.

(v) CLOSING ARGUMENT OF THE DEFENSE FOR THE ACCUSED NEDŽAD HODŽIĆ

128. Counsel for the accused Nedžad Hodžić submitted that a decision on the guilt of the accused continued to rely on unacceptable, legally questionable actions during the lengthy proceedings against the accused, starting from unacceptable actions in the investigation to the maximum application of all statutory options in relation to the accused, including the pretrial custody and other measures that lasted for the maximum duration permitted by law, which is a rare case in proceedings before this Court with regard to the charges against the accused.

129. Specifically, the evidence on which the Indictment relies is absolutely unreliable in terms of the objective and subjective elements, and the Defense's analysis of crucial Prosecution evidence – the testimony by protected witnesses – suggests that there is not even circumstantial evidence to support grounds for suspicion that the accused committed the offense charged. The charge has not been corroborated by Prosecution's documentary evidence either.

130. The Defense further argued that the Indictment followed a strange path during the preliminary proceedings, because certain persons who should not be were hired and performed certain activities during the investigation. After the Prosecution conducted an examination of the accused's capacity to stand trial, it inappropriately applied measures of surveillance and recording of the accused with a view to refuting the report by the expert that had been hired by the Prosecution itself, the same expert who concluded in his report that the accused is not competent to stand trial.

131. There is no doubt that a serious crime occurred in the territory of Trusina Municipality and the surrounding area, and that the victims of that crime have been experiencing the consequences to this day. However, the victims of those misdeeds would receive no satisfaction if a person who did not, in any objective way, contribute to that tragedy was convicted, while the persons who were direct perpetrators were not prosecuted. The factual results of the evidentiary procedure make it obvious that this case has not been fully resolved. Namely, it is clear that a conviction of the accused Hodžić for these crimes would mean that actual perpetrators would not be held accountable, the ones who desired and intended to commit the crimes, participated in them one way or another, and attempted to prevent the truth about the crimes.

132. The Defense added that the accused Hodžić was an ordinary soldier, without any powers or special privileges within the unit; he was known to everyone and there is no doubt that he was in Trusina.

133. Furthermore, the Defense alleged that as early as during the initial questioning of the then suspect Hodžić on the premises of the Prosecutor's Office of BiH on 16 September 2010, a suspicion arose that he was not capable of standing trial and, accordingly, could not participate in criminal proceedings. In connection therewith, upon orders issued by the Prosecutor's Office of BiH and later by the Court of BiH, several examinations of the accused by teams of neuropsychiatrists were conducted in the meantime, to determine the accused's capacity to follow judicial proceedings and take an active part therein. The Defense has analyzed the reports by the experts who examined the mental capacity of the accused during the trial and his capacity to follow criminal proceedings.

134. The Defense points to the fact that although the reports recommended hospitalization of the accused, and appropriate treatment, re-examination after a certain period of time to determine any changes on the accused and their impact on his mental capacity and capacity to follow proceedings, this fact was not referred to when the decision on pretrial custody of the accused was issued.

135. As early as during the trial stage, the Court violated one of the fundamental principles of criminal proceedings expressed through the provision of Article 388(1) of the CPC of BiH, because the Court did not apply it although it had a duty to do so. The trial against the accused commenced with the confirmation of the Indictment, and throughout the trial Hodžić was held in the Detention Unit despite doctors' opinions that that measure should not be kept in place, because it did not contribute to the improvement of his health condition and could not lead to the improvement of his mental capacity.

136. The Defense also pointed out the fact that the accused Hodžić repeatedly left lengthy trial hearings because his health condition prevented him from following those hearings due to their pace and duration, but the Trial Panel disregarded experts' reports and merely noted that the trial would continue without the presence of the accused Hodžić because he left the courtroom of his own accord. Whether that was the case we saw as the time passed, including the most recent report by expert Kučukalić dated 26 January 2015, given in the criminal trial before this Court in another case (No. S1 1 K 8813 Krl), in

which the expert stated that the accused Hodžić cannot follow the judicial proceedings although that was obvious in terms of formal law in an unsuccessful attempt to validate the omissions in relation to the accused.

137. Even at the end of the trial there were attempts to act in violation of Article 388(1) of the CPC of BiH at any cost, although that is not really necessary, because conducting two very complicated and serious trials involving serious charges before the same court violates a series of rules of the ECHR, domestic positive legislation as well as views taken by courts in BiH on the possibility of conducting two criminal trials simultaneously.

138. Defense counsel also maintained that several examinations were conducted during the trial in relation to the accused Hodžić, and the Defense was never allowed to file a motion concerning the manner and scope of examination or the institution to conduct an examination and, as a result, that evidence has not been proposed as Defense evidence; only two reports by expert Kučukalić – one at the beginning and the other one at the end of the trial in another case – have been admitted as Defense evidence.

139. In the end, the Defense argued that the Panel would have gotten a clearer picture of the accused Hodžić had it not been burdened with hundreds of pieces of evidence that have nothing in common with the charges against the accused. The crucial witness against the accused in this case has been Rasema Handanović aka Zolja who, as a good and honest Prosecution witness, upon concluding a plea agreement with the Prosecutor's Office of BiH, testified that Hodžić, prior to committing the offense with which he is charged in this case, raped a woman in a house close to the place of perpetration, which none of the injured parties or witnesses said.

140. The Defense further added that the accused Hodžić was an ordinary soldier at the time of the incident in question and did not have any command responsibility, arguing that it is indisputable that the accused, after the commander who led the attack was wounded, pulled out the wounded commander under enemy fire and that the rifle remained on the spot where Samko was wounded. As for the weapon that was allegedly used by the accused Hodžić to commit the offense charged, in light of various testimony and lack of proper evidence about the act itself, the **in dubio pro reo rule** must be applied to Hodžić.

141. Finally, the Defense submitted that from the aspect of defense there was no statutory ground to conduct the trial against the accused Hodžić; consequently, the sole

proposal by the Defense is that the Court issue a decision in relation to the accused in terms of Article 388(1) of the CPC of BiH.

(vi) CLOSING ARGUMENT OF THE DEFENSE FOR THE ACCUSED NIHAD BOJADŽIĆ

142. In their closing arguments the Defense for Nihad Bojadžić first of all commented on the issue of lawfulness of the investigation conducted by the Prosecution and due process (on account of violations of the Defense's rights manifested in various forms of conduct by the Prosecution), then moved on to comment on the historical context of events in and around Konjic and Trusina area as legitimate military targets (expounding on facts of common knowledge relating to command responsibility within the SOPN and direct command), and at the end focused on the incident covered by the Indictment.

143. The counsel submitted that during this trial the Prosecution filed another indictment against the accused Bojadžić and, although only one trial should have been conducted in line with the international standards and a decision by the Constitutional Court, there was no joinder of the proceedings and the accused was in a situation in which he faced two simultaneous trials for the gravest criminal offenses – war crimes against prisoners of war and war crimes against the civilian population, which led to his complete mental and physical exhaustion.

144. Moreover, during the trial the Prosecution violated its obligation to disclose documents to the Defense, which is regulated by Article 47 of the CPC of BiH, so the Defense was precluded from inspecting files and evidence or accessing files pertaining to the investigation into the Trusina incident. This was the Prosecutor's obligation towards the Defense, i.e. the Prosecution was obliged to deliver to the Defense exculpatory and mitigating evidence and, upon filing the indictment, all the available documentation. For these reasons the Defense has sent multiple requests to the Prosecution, seeking disclosure of potentially exculpatory and other relevant evidence. However, notwithstanding the view and instruction given by the presiding judge that the Prosecution was under obligation to disclose to the Defense the evidence benefiting the accused regardless of their origin, such evidence was never disclosed to the Defense.

145. In their closing argument, the Defense also focused on the request for disclosure of statements by, among others, one protected witness, Senad Memić, Mustafa Buturović, Jusuf Hadžajlija and Hasan Hakalović, which all would have benefitted and helped the

accused Bojadžić, but the Defense received them no sooner than towards the end of the evidentiary procedure.

146. Moreover, the Defense argues that during the investigation the Prosecutor grossly violated regulations on independence and impartiality in performing the prosecutorial function, and violated the CPC of BiH primarily by directly involving Mr. Mato Zeko, an employee of the highest executive body in BiH, in the investigation.

147. As the Prosecution never delivered to the Defense a certificate on the involvement of Mato Zeko in the investigation in this case despite the Defense's insistence, defense counsel communicated a request to the Presidency of BiH on 10 January 2012 seeking the information at issue (Exhibit O-V-323). On 13 January 2012 the Defense received a Response by the Secretariat of the Presidency of BiH (Exhibit O-V-323) along with a Decision on Appointment of Mr. Zeko. The Response stated that the said person has been working for the Presidency of BiH since 1 January 2003 and that the Prosecutor's Office of BiH, by letter no. KT-RZ 107/05 dated 21 May 2007, sought consent for involvement of Mr. Mato Zeko in the investigations conducted by the Prosecutor's Office of BiH into allegations on crimes against humanity and values protected by international law, committed in the territory of Konjic and Jablanica municipalities in 1993. Consent for the involvement of Mr. Mato was given on 23 May 2007. In its closing arguments, the Defense further commented on the personality of Mato Zeko, arguing, among other things, that he was a former officer of SIS /Security and Information Service/ Administration of the MO HR HB /Ministry of Defense of the Croatian Community of Herceg-Bosna/, and that he had information about a mass grave not far from the village of Ahmići.

148. According to the Defense, the accused Bojadžić's rights were also grossly violated when he was in the Detention Unit, because on 27 March 2010 SIPA members, acting on Order of the Court of BiH No. X-KRN-09/786 dated 25 March 2010, searched the prison cell of the accused Bojadžić without informing him of his right to have his attorney present. The accused was handcuffed; a search and inspection of all the documents in the prison cell was conducted without any explanation, and a list of all the documents was composed, thereby violating fundamental rights of defense guaranteed under Articles 6(3), 7(1) and (3), 48, 50(1), 144(5) and 141 of the CPC of BiH, the European Convention on Human Rights and Fundamental Freedoms and Article 5 of the House Rules in Establishments for the Execution of Criminal Sanctions, Detention or Other Measures.

149. Finally, regarding the unlawful conduct of the investigation, the Prosecution did not comply with Article 152(2) of the CPC of BiH stipulating the contents of the minutes (essential information about the course and content of the action taken), i.e. that *"the questions and responses shall be entered in the minutes verbatim"*, or Article 155(1) of the CPC of BiH expressly providing that all actions undertaken during criminal proceedings shall be recorded by audio or audio-visual devices; as a result, this omission questions the lawfulness of investigative statements and, by extension, the fairness of the criminal proceedings.

150. The Defense went on to present a historical context of events (starting from the proclamation of independence of BiH until the beginning of the conflict with the HVO), maintaining that in March and April 1993 there was an armed conflict between the Army of RBiH and the HVO in a wider area of the Konjic Municipality and in and around Trusina where, according to the Defense, the population ratio was "fifty-fifty." The HVO members who manned the lines on Križ carried their weapons and uniforms home after shift rotation (confirmed by numerous witnesses), and a search of the houses in Trusina in which HVO soldiers lived resulted in the discovery of a considerable quantity of ammunition, shells and hand grenades. These facts that were referred to by witnesses at the trial disprove the Prosecution's thesis that unit members, allegedly led by the accused Bojadžić, attacked a village with no military targets, only civilians. The presented evidence (O-V-413, O-V-411, O-V-410 etc.) confirms that civilians were not the only ones in Trusina; there was military staff there as well as soldiers who have been accorded the status of civilians in this case without foundation.

151. The Defense also commented on ICTY's case law regarding the status of civilians, submitting that certain persons who are accorded the status of civilians in the Indictment were in fact soldiers who were in Trusina (Tomo Drljo, Andrija Drljo, Ivan Drljo, Smiljko Krešo, Velimir Krešo, Ivan Krešo, Stipo Mandić, Milenko Mandić – there are certificates stating that they got killed on 16 April 1993 as HVO members), and that there were other persons there, acknowledged by the Prosecution to have been soldiers (Stipo Ljubić, Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević and Franjo Drljo). Bearing that in mind, the Defense claims that the objective of the operation (16 April) was to move the line and gain more ground for the Army of RBiH and not to attack a civilian population, adding that the village of Trusina was a legitimate military target.

152. The Defense confirms that the presented evidence suggests that the accused was Deputy Commander of SOPN “Zulfikar” at the relevant time period. However, the Defense added that a deputy commander cannot be held responsible for the criminal acts of his subordinates when the commander (his superior) is present and gives orders. The Defense drew that conclusion based on the fundamental principle of command responsibility, whereby a superior cannot be held responsible for the acts of his subordinates unless he possessed effective control over his subordinates who committed a crime.

153. To that end, the Defense cited relevant case law, elaborating on the position of commander in a unit, important segments of command and the principles of unity of command and resubordination. To that end, the Defense argues that the Trial Panel has not seen an order or any document, nor is there any report suggesting that the accused Bojadžić was given an assignment to be in command in Trusina. Furthermore, there is no other document showing that Ališpago was absent from the area of responsibility *tempore criminis*. The Defense also alleged that intercepted conversations confirm that Zulfikar Ališpago led the operation in the village of Trusina and accordingly exercised effective control (O-V-364).

154. Furthermore, the Defense commented on the means of communication possessed by the “Zulfikar” unit in that period, arguing that they were rather poor, that Motorola as an unreliable radio device had the range of 3-5km of visibility, that one could communicate using radio stations only via relay stations that the Army did not have, and that the range of and possibility of communication using Motorolas were also affected by the situation on the ground.

155. As for Motorola GP 300 (possessed by the accused Bojadžić at the relevant time, as claimed by witnesses), the evidence shows that on 16 April 1993 no unit had it, the accused included. It is true that the accused used the code name “Blek” in communication, but only in a subsequent period, and added that it was not standard practice for one person to use the same code name in several operations. Finally, the Defense added that none of the intercepted conversations by the HVO indicates that a person with the code name “Blek” participated in this operation.

156. In its closing argument, the Defense additionally analyzed the preamble of the Amended Indictment against Bojadžić reading that the accused perpetrated the said acts

in capacity of Deputy Commander of *“...Special-Purpose Detachment attached to the Supreme Command Staff of the Army of the Republic of Bosnia and Herzegovina “Zulfikar” ..”* but the evidence shows that the Special-Purpose Detachment was not part of the structure of the Supreme Command Staff of the Army of RBiH at the relevant time. To that end, the Defense produced a series of evidence, which is analyzed in the closing argument.

157. Furthermore, the Defense maintained that the accused Bojadžić neither ordered nor performed any act that contributed to the commission of the crime in Trusina. The Prosecutor alleged in his closing arguments that there were two groups of victims: *“the first group comprised 15 civilians, mostly elderly persons who were killed during the operation of capturing the village.”* However, the Defense argues that those persons did not have the status of civilians, and adds that the Prosecution failed to offer a single piece of evidence of the perpetrators of the killings, or that the SOPN members killed those persons; rather, the Prosecution merely alleged the fact that those persons were killed during the operation of capturing the village.

158. In its closing argument, the Defense analyzed the evidence pertaining to the deaths of the aforementioned persons, maintaining that there is no proof as to who killed those persons and how. Furthermore, the presented evidence suggests that members of the SOPN were not the only ones who committed crimes in Trusina, considering that other units participated in the operation as well.

159. Consequently, in the Defense's view, this fact negates not only the Prosecution's contention that members of the SOPN executed 15 civilians and wounded four, but also the contentions that it was *“a well-prepared and previously planned attack”* and that the attack was carried out *“....without discriminating between civilian and military targets”*, considering that this operation was the first time that the SOPN members came to that area and that during the operation and mopping up the terrain (i.e. search of the houses) they had guides from the 45th Mountain Brigade. The participation and role of other units in the operation is also confirmed by the fact that there was an improvised infirmary in the Gostovići village formed by the 45th Mountain Brigade.

160. In addition, the Defense submitted that the Prosecution failed to prove that the accused *„ordered his subordinate members... to attack the village of Trusina...”*, that he did that pursuant to *„...a previously prepared plan...”*, and that he ordered that *„...no one in*

the village can remain alive,...“ „ although „...he was aware that there were civilians in the village...“, and that „ ... on the same day, from an elevation overlooking the village of Trusina, he led the attack using a means of communication...“, „...without discriminating between civilian and military targets...“ and „...upon the end of the attack he ordered Nedžad Hodžić to execute the captured HVO members...“.

161. On that subject, the Defense notes that members of the SOPN “Zulfikar” were not subordinated to the accused Bojadžić and that the accused did not order an attack on the Trusina village on 16 April 1993 because he was neither in Parsovići nor in Trusina that day. To that end, the Defense analyzed the movement of SOPN members from Igman to Bradina, arguing in the process that the presented evidence about the time, manner and the persons who told SOPN members to advance on a combat operation from Igman is contradictory. Moreover, the Defense alleged that the evidence showed that incorrect information was entered in the War Log and that one could not rely thereon to determine beyond a reasonable doubt that Nihad Bojadžić was on Igman at the time when the unit moved out, that he lined up the unit and that he ordered the unit to move out towards Bradina.

162. Specifically, the presented evidence shows that members of the SOPN were divided in two groups in Bradina, and that one group, led by Samir Šemsović aka Samko, set out towards Parsovići; Samko was the real authority within the unit and was one of the most experienced senior officers and combatants in the unit. The witnesses examined indicated that the unit members were quartered in the Elementary School in Parsovići, where the barracks of the 45th „Neretvica“ Brigade was located.

163. The Defense maintains that the witness testimony concerning the lineup, the place and time of the lineup, as well as alleged orders for the operation in Parsovići, is absolutely contradictory: some witnesses claimed that there was no lineup in Parsovići at all, some said that the accused Bojadžić lined them up, while others maintained that someone else lined them up. The discrepancy in the witness testimony is also evident in terms of the place where the unit members lined up and who gave the order to attack Trusina.

164. The Prosecution attempted to prove the thesis that the accused Bojadžić led the operation and that he ordered that “... *no one can remain alive in the village...*“ by relying on the testimony of extremely unreliable witnesses (protected witnesses “A” and “O”, and Rasema Handanović); not only did those witnesses fail to corroborate that particular

allegation from the Indictment but also their testimony was mutually contradictory, being based on personal interpretation and conclusion on something that Bojadžić allegedly said. The Defense also commented on the thesis in the Indictment charging the accused that he “...upon the end of the attack gave an order to Nedžad Hodžić to execute the captured HVO members...”, which is closely related to the allegation that the accused was leading the attack using a means of communication.

165. Aside from a rather poor quality of the communications system at the time, the Defense recalls the fact that many members of “Tigers”, the 45th Mountain Brigade, men from Vakuf and SOPN members had Motorolas on the said day. The Defense analyzed alleged communication by means of communication between the accused Bojadžić and protected witness “L” (the latter, according to the Prosecutor, was on Sijerkovača in the early morning hours), the communication with Nedžad Hodžić regarding the wounding of Samko and Kokić at the crossroads in Trusina, as well as alleged communication between Hodžić and Bojadžić from Gaj when, according to the Prosecutor, he was ordered to execute the captured HVO members.

166. Likewise, the Defense analyzed witness testimony corroborating Defense's contention that the accused Bojadžić was not in Parsovići, Gostovići or Trusina on 16 April 1993: accordingly, he did not line up the unit or issue orders on the unit's deployment to combat operations that took place on 15 and 16 April 1993.

167. Further in its closing argument, the Defense, among other things, explained the movement of the accused Bojadžić, i.e. that the accused attended a meeting in Bradina on 15 April 1993; the accused came to the meeting having spent the night at his then girlfriend's place in Pazarić, and it was his driver Elvedin Ibrahimović aka Ekac that drove him to Bradina. The testimony by the accused Bojadžić that he went from Bradina to Pazarić to see imam Aljević and ask him to recite a prayer on the occasion of the anniversary of his mother's death (on 16 April) is corroborated by numerous witnesses as well as documentary evidence. The accused's driver Ekac drove the accused to Pazarić to see imam Aljević, and in the early evening, on Commander Ališpago's orders, he returned to Bradina (again driven by his driver). In the night of 15/16 April 1993, the participants of the meeting in Bradina, including the accused, decided to send a request to the Supreme Command Staff to take measures in that area, and the evidence shows that the accused wrote the letter late at night (15/16 April), signed it together with Dr. Ćibo, Esad Ramić and Commander Ališpago and gave it to his driver Ekac to take to the communications center

so it can be forwarded to the Supreme Command Staff. The letter was received by the Supreme Command Staff at 02:38 hours on 16 April 1993 through package communication.

168. The Defense claims that when the meeting ended at around 03:00 hours on 16 April 1993 Bojadžić returned to his girlfriend's place in Pazarić; he spent the night there and was there until around noon on 16 April 1993. The accused again visited imam Aljević on 16 April 1993 to bring him a gift for reciting a prayer for the accused's late mother; before that the accused was at his girlfriend's house in Pazarić.

169. When he received a report that some members of his unit were wounded, Bojadžić was in Bradina; he came to the checkpoint and found two members of the SOPN (Edin Džeko and Orhan Jujić) and several members of the 45th Mountain Brigade with the wounded Samko and Kokić. The evidence confirms that the accused Bojadžić, together with the wounded men, went to the Wartime Hospital in Suhodol where they were received by medical staff; Safet Haketa, Enver Mujala and Elvedin Ibrahimović testified on these circumstances. The Defense submitted that the Prosecution's presented evidence did not question Nihad Bojadžić's alibi.

170. In the closing argument, the Defense referred to the credibility of the examined witnesses ("O", "E", "X", "L", "A", "R", "B", Rasema Handanović, Ramiz Bećiri, Vahidin Čomor).

171. At the end of the closing arguments, the Defense adduced facts pertaining to the personality of the accused Bojadžić, adding that it is clear that numerous letters of commendation and thanks would not have been bestowed upon the accused if he had displayed any signs of nationalism or acted anything but professionally during or after the war.

172. Therefore, it is the Defense's view, upon assessing all the pieces of evidence individually and in combination with the other evidence, that the Prosecution failed to prove a single allegation from the Indictment, i.e. a single act by the accused Bojadžić that would constitute a characteristic of the criminal offense charged, or any other criminal offense for that matter, and accordingly petitions the Court to acquit the accused of the charges.

IV. PROCEDURAL DECISIONS

(i) EXCEPTIONS FROM THE DIRECT PRESENTATION OF EVIDENCE – USE OF WITNESS

STATEMENTS IN ACCORDANCE WITH ARTICLE 273(2) OF THE CPC OF BIH

173. The Prosecutor's Office of BiH filed a motion at the hearing of 13 July 2012, in accordance with Article 273(2) of the CPC of BiH, to read out a statement given by witness Jasmin Guska who has meanwhile died; the examination of this witness was proposed in the Indictment dated 15 June 2010 (the Indictment in relation to the accused Zulfikar Ališpago).

174. The defense teams did not oppose the reading out of this witness's statement.

175. Paragraph 2 of Article 273 of the CPC of BiH, relating to exceptions from the direct presentation of evidence, provides as follows: *“records of statements given during the investigative phase, and if the judge or the Panel of judges so decides, may be read or used as evidence at the main trial only if the persons who gave the statements are dead, affected by mental illness, cannot be found or their presence in Court is impossible or very difficult due to important reasons.”*

176. As the Death Certificate for Jasmin Guska⁵ made out to the witness's name has been tendered in the case file (wherefrom it ensues beyond doubt that the said person has died and could not give evidence at trial), the Court granted the Prosecution's motion to read out the late witness's statements at the hearing on 13 July 2012: (T-11) Record of Interview of Witness Jasmin Guska no. 17-04/2-5-04-2-283/10 dated 21 May 2010 and Record of Interview of Witness Jasmin Guska no. 17-04/2-5-04-2-310/10 dated 28 May 2010, composed by the State Investigation and Protection Agency.

177. Furthermore, the Prosecutor's Office of BiH filed a motion at the hearing of 6 August 2012, in accordance with Article 273(2) of the CPC of BiH, to read out a statement given by witness Šime Krešo who has meanwhile died; the examination of this witness was proposed in the Indictment dated 15 June (in relation to the accused Zulfikar Ališpago) as well as in the Indictment dated 10 March 2010 (in relation to the accused Mensur Memić *et al.*).

⁵ **T-10** – Death Certificate for Jasmin Guska no. 09-15-3-12173/11 of 4 October 2011, entered under no. 142, issued by Konjic Municipality.

178. The defense teams did not oppose the reading out of this witness's statement.

179. As a Death Certificate for Šimo Krešo⁶, made out to the witness's name, has been tendered in the case file (wherefrom it ensues beyond doubt that the said person has died and could not give evidence at trial), the Court granted the Prosecution's motion and, in accordance with the previously cited provision of Article 273(2) of the CPC of BiH, issued a decision to have the (T-14) Witness Interview Record no. KT-RZ-107/05 dated 3 June 2009 (composed on the premises of the Cantonal Prosecutor's Office of Mostar) read out at trial.

(ii) DECISION ON PROTECTIVE MEASURES FOR PROSECUTION WITNESSES

180. The Prosecutor's Office of BiH filed Submission no. KT-RZ-107/05 of 18 March 2011, petitioning the Court, in accordance with Articles 9 and 13(2) of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses (Law on Protection of Witnesses), to grant additional protective measures to protected witnesses "A", "B", "C", "D", "J", "K", "L", "N", "M", "O", "R" and "V" by allowing the witnesses to testify behind a screen/other room or utilizing electronic distortion of the voice and image by using technical means for transferring image and sound, and by maintaining the protective measure of pseudonym granted to the witnesses (during the investigative stage) in accordance with Article 13(1) of the Law.

181. Under the same submission, the Prosecutor petitioned the Court to extend the protective measure of pseudonyms, granted to protected witnesses "E", "F", "G", "H", "I", "S", "X" and "Z", by a decision of the Preliminary Proceedings Judge, in accordance with Article 13(1) of the Law on the Protection of Witnesses.

182. For the purpose of taking a decision on the requested additional protective measures for **protected witness "M"**, and in order to become acquainted with the reasons behind the request, the Court, with the consent of the parties and defense counsel, pursuant to Article 235 of the CPC of BiH, excluded the public from a portion of the trial held on 28 March 2011.

183. Expounding on the motion, the Prosecution noted that the witness said in his investigation interview that in the event of filing of an indictment he wished to testify under

⁶ T - 13 - Death Certificate for Šimo Krešo, no. 04/1-VI-15-3-179/10 of 7 October 2010, issued in Buna.

full protection on the ground that the persons who were being investigated about the events in the village of Trusina were capable of endangering his life and the lives of his family members. The witness further alleged that Nihad Bojadžić contacted him on one occasion, whereupon they met by chance, which is when Bojadžić asked him if he too was brought in. Bojadžić told him that someone falsely blamed him for everything that happened in Trusina, that he had a way to solve that and that the investigation conducted by the Prosecutor was useless. SIPA's Witnesses Protection Department, acting on orders from the Prosecutor, contacted the protected witness "M" and composed an Official Note dated 14 June 2010; the note states that the witness wishes to testify from a separate room with a distorted image and voice for his own safety as well as the safety of his family.

184. The Defense for Memić opposed additional protective measures, submitting that nothing that was said suggested that the witness was previously under any threat or blackmail or that he was endangered. In the Defense's view, the proposed additional measures would render the exercise of the accused's right to defense more difficult, making the motion unfounded. The Defense for Salčin and the Defense for Hakalović joined the submissions. The Defense for Hakalović added that no single action or act can be linked to any of the accused, denying that the accused attempted to endanger the safety of this witness or any other witness for that matter; as a result, the arguments advanced by the Prosecution are baseless, and the measures that have already been granted to the witness are sufficient for his safety and protection. The Defense for Hodžić joined the submissions, arguing that the reasons adduced by the Prosecution do not contain anything concrete; there is not a single piece of evidence or at least circumstantial evidence suggesting that this witness received any specific threats.

185. Counsel for the accused Bojadžić added that the Defense views witness protection the same as the International Convention on the Protection of Human Rights, guaranteeing the accused the right to a fair trial. Not a single threat ensues from the witness's statement; what does ensue, however, is that the witness talked to Bojadžić. Similarly, the Defense for Ališpago argued that the motion for additional protected measures is founded on the witness's impressions but there are no factual indications (or they have not been presented), and on that ground the Defense submits that there are no reasons for the proposed protective measures.

186. Protected witness "M" pointed out that he sought additional protective measures for the reason that he did not wish for his name and face to be in any way identified or

associated with the events he would testify about, thus ensuring avoidance of possible pressure by accused's acquaintances or other persons. In the witness's opinion, protection of his personal details (pseudonym) and his testimony from a separate room, coupled with image distortion, would constitute measures allowing him to give his evidence freely; no voice distortion was necessary.

187. When asked by the Court whether he received any threats, the witness said that there were no overt threats, perhaps in the course of conversations – indirectly, but he did not receive any specific threats.

188. After the witness stated his position, the Defense for Bojadžić and the Defense for Hakalović proposed that protected witness “M” testify from a courtroom in closed session, considering that the reasons advanced by the witness involve the public and not the accused.

189. The Court, having found that the situation in question included a witness for whom there is reason to fear that his safety as well as the safety of his family would be endangered as a result of the witness' testimony in this case, determined that circumstances justifying the protective measures granted to witness “M” by Court's Decision no. X-KRN-09/786 dated 6 November 2009 continue to exist. Moreover, pursuant to Article 13 of the Law on the Protection of Witnesses, additional protective measures are granted to witness “M”: the witness will testify from a separate room in relation to the accused; the parties will hear the witness's undistorted voice during the witness's testimony; the witness's image will be distorted utilizing a device for image distortion, but the Trial Panel will be able to see the witness's undistorted image.

190. At the trial of 11 April 2011, in order for the Prosecution to explain the motion for **protective measures for witness “B”** and in order to hear the witness, the Court, pursuant to Article 235 of the CPC of BiH, excluded the public from a portion of the trial.

191. Expounding on the motion in relation to this witness, the Prosecution submitted that in addition to the pseudonym it also proposed additional protective measures, on the grounds that this was an eyewitness to the incident who requires protection because, according to the witness, the persons who took part in the incident are dangerous and capable of doing anything, and he is sure that they would be capable of endangering his life as well as the lives of his family if he were to testify in open session without protection. Furthermore, as alleged by the Prosecutor, the witness stated on record to the State

Investigation and Protection Agency on 14 June 2010 that he received direct threats from unknown persons.

192. Protected witness “B” pointed out that he was in an unpleasant situation when on one occasion he was approached by an unknown young man who told him that he was being threatened, that the accused “Zuka” had information on protected witnesses and that his head and the head of another member of “Zulfikar” was estimated at 30,000.00 KM.

193. The defense teams agreed that the prohibiting measures (pseudonym) granted to this witness should remain in effect, but they opposed additional protective measures finding that they are not necessary as they restrict the accused's rights as rights that are above all other rights protected by law.

194. The Court has found that the situation in question included a witness for whom there is reason to fear that his personal safety and the safety of his family would be endangered if he were to testify without additional protective measures. For those reasons, the Court, pursuant to Article 13 of the Law on the Protection of Witnesses, decided to continue the protective measures (pseudonym) granted by Court's Decision no. X-KRN-09/786 dated 19 October 2009. Additionally, witness “B” will testify at the main trial from a separate room, his voice and image will be distorted, but the Trial Panel will be able to see the witness's undistorted image and hear the witness's undistorted voice. The personal details of the witness shall remain confidential for a maximum period of 30 years after the decision becomes final.

195. On 13 June 2011, the Court, in accordance with Article 235 of the CPC of BiH, for the purpose of protecting the interest(s) of **protected witness “L”**, excluded the public from a portion of the trial in order to allow the Prosecutor to adduce reasons in support of the proposed additional protective measures.

196. To that end, the Prosecutor maintained that during the investigation the witness was adamant about being granted full protection, on the grounds that he was a member of the unit that took part in the attack on the village of Trusina, and that the persons who were in charge and held sway (primarily the accused Bojadžić) are capable of endangering his life and the lives of his family members. For those reasons the witness did not wish his face or name to be associated with the events in Trusina, i.e. he did not wish the general public to know his name. For all the reasons mentioned above, he did not wish to be in the same room with the accused during his testimony.

197. The Defense for the accused Memić did not oppose the motion, whereas counsel for the accused Salčin argued that it was an assumption made by the witness in relation to the accused Bojadžić and that there was no proof that someone could influence him, failing to see the reason why the witness could not testify in the presence of the accused. Counsel for the accused Hakalović maintained that the Prosecutor failed to advance a single argument to justify the protective measures and that this situation involved the witness's subjective feeling and his wish to protect himself from being discredited; the witness's request is not a result or fruit of possible threats. The defense teams for the accused Hodžić, Bojadžić and Ališpago opposed the additional protective measure for the reasons stated above.

198. Protected witness “L” stated at a closed hearing that he did not receive any threats up to that point, but he did not wish the public to know that he gave evidence in this case or that he be associated with the accused, all that in order to prevent his brother's children from having problems. Although no one caused any problems to them up to that point, the witness does not know what could happen once he gives evidence. Finally, the witness added that he “expects” problems from some of the accused persons “*..because I know what kind of people they are. What, what, what they are capable of*”⁷, referring to Mr. Bojadžić, to exact revenge in some way.

199. Taking into account the aforesaid, the Court found that the witness had reason to fear that, because of his testimony in this case, the safety of at least his family (and possibly his own safety) would be endangered. Consequently, the Court, in accordance with Articles 3, 9 and 13 of the Law on the Protection of Witnesses, decided that the protective measures granted by Court's Decision no. X-KRN-09/786 dated 6 November 2009 (the pseudonym, the personal details of the witness to remain confidential for a maximum period of 30 years after the decision becomes final) shall remain in effect. Additionally, during his testimony, the witness will be in a separate room in relation to the accused, and the witness's image will be distorted utilizing an appropriate device, but the parties will hear the witness's undistorted voice. The Trial Panel will see the witness's undistorted image.

200. At the trial hearing held on 10 October 2011, when the Prosecutor was explaining the motion to grant additional **protective measures to witness “A”**, the Court, in

⁷ Transcript of trial hearing S1 1 K 003369 10 Krl, 13 June 2011, page 13.

accordance with Article 235 of the CPC of BiH, decided to exclude the public from a portion of the trial.

201. Expounding on the motion for protective measures for witness “A”, the Prosecutor submitted that he was an eyewitness to the incident for which the accused are charged and, bearing in mind the gravity of the crime committed in Trusina and the persons who participated in it (two of the accused persons were his commanding officers and three of them were members of his unit and fellow fighters), the witness's testimony in open session would endanger his safety as well the safety of his family. The witness was willing to testify under a pseudonym, from a separate room with distorted image and voice.

202. Protected witness “A” confirmed that he did not receive any threats up to that point, but he sought additional protective measures for his own safety and the safety of his family, because he has a job and is in constant motion and he believes that he would have problems if his image was seen by the public.

203. The defense teams opposed the motion, arguing that the witness openly stated that he never received any threats, maintaining he would not experience any problems as a result of his testimony. This is a blanket request, considering that the witness himself could not explain why he sought additional protective measures. Accordingly, the defense teams submit that statutory requirements for granting protective measures have not been met and such measures would violate the right to a defense as the witness would not be in the same room with the accused.

204. Having considered the motions and the parties' submissions, the Court has gained an impression that the witness did in fact feel fear for his safety and the safety of his family, and that he has continuously (from the first encounter and first testimony) insisted not only on basic but also on additional protective measures. For those reasons, the Court finds that the Prosecution's motion is justified and, in accordance with Articles 3 and 13 of the Law on the Protection of Witnesses, decides that circumstances justifying the protective measures granted to witness “A” (Court’s Decision no. X-KRN-09/786 dated 19 October 2009) continue to exist. Furthermore, the witness is granted additional protective measures: during the testimony the witness will be in a separate room, the witness's image and voice will be distorted utilizing an appropriate device, while the Trial Panel will receive the witness's undistorted image. The personal details of witness “A” shall remain confidential for a period of 30 years.

205. Pursuant to Article 235 of the CPC of BiH, the Court decided to exclude the public from a portion of the trial, to allow the Prosecutor to explain the motion for granting additional **protective measures to protected witness “C”**.

206. The Prosecutor submitted that the witness was afraid of testifying in public because he feared for his safety as well as the safety of his family, and he did not wish his testimony in this case to be associated with his image and voice, considering that he himself participated in the attack on the Trusina village as a unit member. For those reasons, additional protective measures are proposed in order for the witness to give his testimony freely and without any pressure.

207. The witness himself confirmed that although he did not feel endangered or afraid he did not wish his name to be mentioned in public or that the public becomes aware thereof, in order to prevent his name from being linked to the relevant incident and events. Although the witness was not afraid, when asked by the Court, he stated that he thought that he could experience consequences in the future as a result of his testimony, which is why he felt some fear. The witness knows that defense counsel have his personal details, but he did not wish to testify from the courtroom but from a separate room.

208. The defense teams opposed additional protective measures, arguing that statutory requirements have not been met considering that the witness did not provide valid arguments. According to the defense teams, granting protective measures required specification of facts for which the witness's personal safety or the safety of his family was endangered, which was not the case here. As the witness participated in the events in the Trusina village, the only thing that he could fear is meeting the accused face to face if he were to testify from a courtroom because he too participated in those events, and not because his safety is endangered.

209. The Court adopted a decision finding that circumstances justifying the protective measures granted to witness “C” by the Preliminary Proceedings Judge (Decision of the Court of BiH no. X-KRN-09/786 dated 19 October 2009) continue to exist. Additionally, protected witness “C” will testify as follows: during his testimony he will be in the courtroom behind a screen; the public will not see his image, but they will hear his undistorted voice. Issuance of audio and video recording of his testimony to any electronic or printing media is prohibited.

210. Pursuant to Article 235 of the CPC of BiH, the public was excluded from a portion of the trial held on 2 April 2012 when the Prosecutor was adducing reasons in support of the motion for granting **protective measures to witness “X”** as well as during the submissions by the defense teams.

211. The Prosecutor submitted that the witness expressed his willingness to testify from the same room as the accused. However, considering that the witness participated in the attack, the Prosecutor finds that for the reasons mentioned above the witness could be exposed to unpleasant and unsafe situations. Accordingly, it is proposed that the witness testify behind a screen, with the protective measure ordered in the decision of the Preliminary Proceedings Judge during the investigation remaining in effect, and that issuance of video recording from the trial be prohibited.

212. The defense teams did not oppose the motion to grant additional protective measures to protected witness “X”, so the Court, on the basis of Articles 3 and 13 of the Law on the Protection of Witnesses, adopted a decision finding that circumstances justifying the protective measures granted to this witness under Decision no. X-KRN-09/786 dated 19 October 2009 (pseudonym, the personal details of witness “A” to remain confidential for a period of 30 years) continue to exist. Additionally, the witness will testify behind a screen; the public will not see his image but will hear his undistorted voice. Issuance of video recording of the witness's testimony to any electronic or printing media is prohibited.

213. The Court adopted the decision to exclude the public from the hearing held on 21 May 2012 pursuant to Article 235 of the CPC of BiH, when the Prosecutor explained the motion for granting additional protective measures to **witness “N”**.

214. The witness did not have a problem testifying in the same courtroom as the accused, but he did not wish his image to be known to the public considering that he was a member of the SOPN ŠVK Zulfikar and he did not wish to be associated in any way with the crimes committed in Trusina. The witness also expressed his concern about his professional career should his image be available to the public.

215. The defense teams did not oppose additional protective measures for the witness, leaving the issue to the Court's discretion.

216. Pursuant to Articles 3 and 13 of the Law on the Protection of Witnesses, the Court adopted a decision finding that circumstances justifying the measures granted to witness “N” (Decision no. X-KRN-09/786 dated 6 November 2009 - pseudonym, the personal details of witness “A” to remain confidential for a period of 30 years) continue to exist. Additionally, the witness will give evidence at the main trial as follows: he will be in the courtroom, behind a screen, and the public will not see his image but they will hear his undistorted voice. At the same time, the Court prohibited issuance of video recording of this witness's testimony to any electronic or printing media.

217. At the hearing at which the examination of **protected witness “R”** was planned, the Court, prior to taking a decision on additional protective measures for the witness and with no objections from the parties, excluded the public from a portion of the hearing in accordance with Article 235 of the CPC of BiH.

218. Expounding on the motion for additional protective measures, the Prosecutor submitted that he had contacted the witness several times, and the witness requested that he testify at trial from a separate room with image and face distortion. The reason for that was that over the past 20 days he received several telephone calls from different telephone numbers (land lines and cell phones) and every time the same person answered and told him “traitor, be careful what you say, you can be executed, and what is worse your child can be executed.” Although he was told to report that to the appropriate authorities, the witness did not wish to do that because he (referring to the accused Bojadžić), regardless of being in pretrial custody, had his people at liberty and in the police who were doing that. Taking that into consideration, as well as the fact that the witness eye-witnessed the incident in Trusina, and wishing to give a testimony without any pressure, he does not wish to look at the accused and he does not wish that they see him. Finally, the Prosecutor maintained that the witness spent several years in the unit in which Nihad Bojadžić was first the deputy and then the commander since January 1994; the witness knows what the accused is capable of doing. For all those reasons, the witness first of all fears for the life of his child and then for the lives of all members of his family.

219. Commenting on the motion for additional protective measures from a separate room, witness “R” reiterated that over the past 15-20 days he received threats over the telephone (“traitor to the Bosniac people, be careful what you say, you have a child, we know where you live, we know where your wife lives”). He did not recognize the voice because it was always different, and he cannot identify the telephone numbers that dialed

his number (they were different) because he deleted them. He told no one of this except the Prosecutor. Referring to the number of those telephone calls, he said that during the past 20 days he received three or four calls; the voices were different, names of the accused were not mentioned. He added that he did not think that he was called by any of the accused, but they may have contacted someone and then that person threatened him. For all those reasons, the witness felt fear due to the threats that he received in connection with his testimony.

220. The defense for the fifth accused Bojadžić argued that such contentions were raised repeatedly. However, in this case it was a serious matter that could have been easily checked, and it should have been checked right away. For that reason, the Defense is against granting protective measures to the witness and he should not testify pending an investigation into his allegations. The accused Bojadžić claimed that none of his family or anyone else associated with him contacted this witness or anyone else for that matter. The Defense for Memić endorsed this motion, alleging that there were no serious reasons to grant protective measures to some other previous witnesses, which was the case here as well. The other defense teams joined these submissions.

221. Pursuant to Articles 3 and 13 of the Law on the Protection of Witnesses, the Court adopted a decision finding that circumstances justifying the protective measure granted to witness “R” (Decision no. X-KRN-09/786 dated 10 March 2010) continue to exist. Additionally, protected witness “R” will testify as follows: during his testimony he will be in the courtroom, behind a screen; the public will not see his image but they will hear his undistorted voice. At the same time, issuance of video recordings of this witness's testimony to any electronic or printing media is prohibited. The personal details of the witness shall remain confidential for a period of 30 years from the date of finality of the decision. In the Court's view, the witness's interests would be protected if the witness testified under such measures because one cannot disregard the fact that this is a witness under threat considering what the Prosecutor said. Furthermore, the Court finds that this decision does not violate the accused's right to a defense.

222. At the hearing held on 9 July 2012 the Prosecution expounded on the motion for granting additional **protective measures to protected witness “J”** (pseudonym granted under Decision no. X-KRN-09/786 dated 19 October 2009), submitting that the witness sought those measures for the reason that making his image available to the public could pose a threat to him and his family. This witness eye-witnessed the events in Trusina;

when giving a statement he named persons who had participated in the killings. For those reasons he felt fear for his safety and the safety of his family.

223. The defense for the first accused Memić and the defense for the accused Hodžić opposed any new protective measures for the witness, arguing that there was no reason for that considering that the persons the witness referred to in his statement have been convicted before this Court. The Defense for Bojadžić too opposed the Prosecutor's motion on the grounds that an augmentation of the protective measures needs to be linked to actions of the accused and a threat to the witness linked to the case, which was not the case here. The fact that the witness was in Trusina and saw what happened is of particular interest to the public; otherwise, no witness should testify in open session, especially not the victims.

224. Counsel for the accused Salčin and Ališpago deferred the issue to Court's discretion, whereas the Defense for Hakalović did not oppose additional protective measures.

225. The Court, on the basis of Articles 3 and 13 of the Law on the Protection of Witnesses, adopted a decision finding that circumstances justifying the protective measures granted during the investigation continue to exist. Additionally, when giving evidence at trial the witness will be in the courtroom, behind a screen; the public will not see his image but they will hear his undistorted voice. At the same time, the issuance of video-recordings of this witness's testimony to any electronic or printing media is prohibited, and the personal details of the witness shall remain confidential for a period of 30 years after the decision becomes final.

226. In the case in question, the Court has found that there is reason to fear that the witness and his family could be in danger, probably as a result of his testimony, and finds that additional measures as well as the fact that his identity will not be disclosed to the public would allow the witness to testify without fear, while not affecting the accused's rights as the witness will be in the courtroom.

227. At the hearing held on 27 August 2012, the Prosecution put forward and explained a motion for granting additional **protective measures to witness "Z"** (pseudonym granted under Decision no. X-KRN-09/786 dated 8 June 2010), submitting that the witness sought to testify from the courtroom, but behind a screen, in the presence of all the accused. Although the witness did not receive any threats up to this point, testifying in public and

associating his image with his testimony could have, i.e. make him feel uneasy and bring about some consequences – danger, considering his role in the war in BiH.

228. The defense teams for the accused Memić, Salčin, Hakalović and Hodžić did not oppose additional protective measures, leaving the issue to the Court's discretion. The Defense for Bojadžić argued that the presented arguments do not constitute reasons for granting additional protective measures. The Defense for Ališpago joined these submissions.

229. In accordance with Articles 3 and 13 of the Law on the Protection of Witnesses, the Court adopted a decision finding that circumstances justifying the protective measures granted to the witness during the investigation continue to exist. In addition, witness “Z” will testify in the following manner: during the testimony he will be in the courtroom and testify behind a screen; the public will not see his image, but they will hear his undistorted voice. At the same time, issuance of video recordings of this witness's testimony to any electronic or printing media is prohibited, and the personal details of the witness shall remain confidential for a period of 30 years after the decision becomes final.

230. The Court adopted the decision having found important to allow the witness to testify freely, taking into consideration the witness's view that he could have real problems on account of his testimony in this case. The Court holds that the protective measures in no way endanger or violate the accused's right to a defense.

231. At the hearing held on 3 September 2012 the Prosecutor explained the motion for additional **protective measures for witness “O”** (pseudonym granted under Decision of the Preliminary Proceedings Judge X-KRN-09-786 dated 19 October 2009), submitting that the witness sought protective measures because of “very dangerous people who are capable of endangering my life and the lives of my family members.” The Prosecutor further submitted that the suspect Nihad Bojadžić phoned the witness several days ahead of the accused's initial arrest and asked him *“how many people did you kill in Trusina, where did you hide those Chetniks on Igman, the ones you killed on Zuka’s orders..”, “I’ll kill your children and wife, and then I’ll kill you”, “... I know that Zuka gives you money, I can give you whatever you need.”* Bearing that in mind, the Prosecutor maintains that the witness does not wish to testify without additional protective measures, adding that the witness does not fear for himself but for his underage children, and that recognizing his

image would facilitate the implementation of the said threats towards him and his family members, the threats that the witness takes seriously.

232. The Defense for Memić opposed the Prosecution's motion on the grounds that in this way the interests of the defense and the need for a direct examination of the witness stand in collision.

233. The Defense for Salčin too opposed the additional protective measures, arguing that the reasons presented were previously known to the Prosecutor, so there are no reasons to augment the granted protective measures. The Defense for Hakalović opposed additional measures on the same grounds, adding that the Prosecutor failed to offer a single piece of documentary evidence, a relevant fact, which could justify additional protective measures. Also, the witness interview records do not contain the words allegedly stated by the witness to the Prosecutor. Therefore, the presented arguments and facts are not true and cannot be trusted. It is obvious that this witness advances arguments as suits him best. Counsel for the accused Hodžić joined the submissions.

234. The Defense for Bojadžić further added that even if all the presented reasons were correct (and the Defense claims otherwise) they were not new and additional reasons that were allowed under law for the augmentation of protective measures. The Defense reiterates its request for an investigation to be conducted into the allegations of this sort, because the accused never contacted this witness, which can be checked.

235. The accused Bojadžić joined the submissions of his counsel, adding that he stated at the first hearing that this witness wanted to kill him, and the Court will see for themselves the reasons behind that. The Defense for Ališpago too opposed the additional measures, arguing that it is very important for the defense to observe the witness when putting questions to him, to be able to see his reaction, which is of particular importance to the Trial Panel in assessing whether the witness is telling the truth or not.

236. Protected witness "O" confirmed that he received threats from the accused Bojadžić, i.e. prior to the arrest *"Nihad Bojadžić called me on the phone, threatened to kill my wife and children, and me in the end."* He had two contacts with the accused Bojadžić; first time it was a physical contact, which is when there were no threats but only his raised voice. The witness further alleged that he did not fear for himself but for his children and family. During his testimony he said he did not wish to meet or face the accused Bojadžić.

237. Pursuant to Articles 3, 9 and 13 of the Law on the Protection of Witnesses, the Court adopted a decision finding that circumstances justifying the measures granted to the witness continue to exist. In addition, the witness will testify at trial in the following manner: during his testimony he will not be in the same room with the accused; during his testimony his image and voice will be distorted utilizing a device for image and voice distortion; the Trial Panel will see undistorted image of witness "O". The personal details of the witness shall remain confidential for a period of 30 years after the decision becomes final.

238. In the Court's view, witness "O" is a witness under threat because he has a justified fear that the safety of his family would be compromised if he were to testify without additional protective measures. For those reasons the Court holds that it is necessary to allow the witness to give his testimony without pressure and unease; that will be achieved by having the witness testify from a separate room with image and voice distortion. Furthermore, the Court finds that this manner of examination of the witness will not jeopardize the accused's right to a defense, because they will be given an opportunity to cross examine the witness, thus ensuring the right to a defense and observing the principle of direct presentation of evidence as well as the principle of accessibility to the public.

239. At the hearing held on 1 October 2102, pursuant to Article 235 of the CPC of BiH, after hearing Prosecutor's motion to which the defense teams did not object, the Court adopted the decision to exclude the public from a portion of the man trial in order for the Prosecutor to explain the motion for additional protective measures for witness "S".

240. On the subject of additional protective measures for this witness, the Prosecutor submitted that the witness lost his family members in Trusina, he is an elderly person of poor health, and he has been traumatized by the circumstances surrounding the commission of the crime. Ever since the witness was served he has become upset, he has been unable to sleep, and he does not wish to see in the courtroom the persons who are accused of the events in Trusina and who are consequently responsible for the deaths of his family members. In addition, the witness spends part of the year in Sarajevo and he fears that his testimony could endanger the lives of his children. As a result, the witness does not wish to be in the courtroom with the accused, but his image and voice need not be distorted.

241. The Defense for Memić did not oppose the motion for the additional protective measure for the witness, whereas the defense teams for the accused Salčin, Hakalović, Hodžić, Bojadžić and Ališpago opposed the motion, maintaining that the arguments put forward by the Prosecutor were not arguments that can serve as the basis for granting protective measures.

242. Pursuant to Articles 3, 9 and 13 of the Law on the Protection of Witnesses, the Court adopted a decision finding that circumstances justifying the measures granted to witness “S” (pseudonym granted under the Court's Decision no. X-KRN-09/786 dated 10 March 2010) continue to exist. Furthermore, the witness is granted additional protective measures as follows: when giving his testimony the witness will be in a separate room, during his testimony his voice will not be distorted but his image will be distorted utilizing a device for image distortion; the Trial Panel will see undistorted image of the witness. At the same time, issuance of video recordings of this witness's testimony to any electronic or printing media is prohibited, and the personal details of the witness shall remain confidential for a period of 30 years after this decision becomes final.

243. The Court has found that this witness has been seriously mentally traumatized by the circumstances surrounding the commission of the crime, i.e. he has been traumatized by the events and because of that he must be allowed to testify from a separate room to avoid additional traumatization, so that this witness's testimony is admissible.

244. Prior to the commencement of trial scheduled for 15 October 2012, the Court informed the parties that **protective measures for witness “E”** (pseudonym) were granted by Decision of the Court of BiH no. X-KRN-09/786 dated 19 October 2009. However, in order for the Prosecutor to explain the motion for additional protective measures, the proposal was to exclude the public from a portion of trial. As the defense teams did not oppose the motion, the Court, on the basis of Article 235 of the CPC of BiH, decided to exclude the public from a portion of trial.

245. Reasons for additional protective measures lie in the fact that witness “E”, starting from 2001 when the investigation was still not launched, has been exposed to threats and pressure, and after the witness was interviewed in 2009 the threats and pressure on the families by the accused Hodžić, Bojadžić and Ališpago intensified; because of that the witness was forced to leave his residence for safety reasons and move to another country. The witness lived in the same place where the accused come from, and the families of the

accused persons live there, some of whom are wealthy. Even after he went to live in another country the witness was exposed to threats, more precisely, he was physically assaulted by a man who was from Sandžak, and the words 'Bosnia' and 'Zuka' were mentioned during the attack. Moreover, the witness told the Prosecutor that a member of his family talked on the phone with a family member of one of the accused, requesting him to influence witness "E" into changing his testimony in its entirety and shift the blame onto late Samir Šemsović aka Samko. For those reasons, the witness sought to testify from a separate room with image and voice distortion.

246. The Court examined the witness on those circumstances as well. The witness confirmed all of the above, with an additional explanation of the reasons for the said protective measures (a brother of one of the accused approached the witness's table in one establishment and started explaining that if something were to happen to his brother if they gave statements against him...). The witness inferred that this was a reference to him because the word 'statements' was mentioned (before this the witness had given a statement to the accused Zulfikar). There were even threats after the witness gave a statement to the Prosecutor in 2009. Namely, in that same place a brother of one of the accused and another person would look at the witness day after day and whisper something to each other. After that the witness left that area and went to another country (where he currently lives) but in that country too he experienced an inconvenience when he was assaulted by a man and his son. The witness knew that man from before, from his birth place; they were not on speaking terms and he was Zulfikar's and Nedžad Hodžić's neighbor. Finally, the witness added that his brother told him that Nihad's brother had come to see him and told him what the witness should say, that Samir Šemsović was in charge that day, for which he would be rewarded. For all those reasons the witness felt fear for himself and his family.

247. The Defense for the accused Memić opposed additional protective measures because the physical assault on the witness is in no way linked to the incident in question or reasons for additional protective measures in this case; those were incorrect perceptions of some events that are not connected with reasons for granting protective measures, and added that the interests of defense by far outweigh the interests of any witness. Counsel for the accused Hakalović also opposed additional protective measures, arguing that pseudonym "E" was used in relation to this witness long before the Court's Decision dated 19 October 2009, and added that the witness directly participated in the acts of perpetration of the criminal offense of war crime in Trusina, by way of murders, and

that this was his way of trying to bargain for his freedom. The allegations that he was assaulted in a third country (where he currently lives) by third persons should have been corroborated by documentary evidence, but such evidence is non-existent. The defense teams for the accused Hodžić, Bojadžić and Ališpago joined the submissions.

248. It is clear to the Court that the witness believes that there is reason to fear that his personal safety and the safety of his family would be compromised as a result of his testimony. Accordingly, the Court, on the basis of Articles 3, 9 and 13 of the Law on the Protection of Witnesses, adopted a decision finding that circumstances justifying the protective measures granted to protected witness “E” (during the investigation) continue to exist. Additionally, during the testimony the witness will not be in the same room with the accused; during his testimony his image and voice will be distorted utilizing a device for image and voice distortion, but the Trial Panel will see the witness's undistorted image. At the same time, issuance of video recordings of this witness's testimony to any electronic or printing media is prohibited, and the personal details of the witness shall remain confidential for a period of 30 years after the decision becomes final.

249. The Court finds that these measures will allow the witness to testify freely and without pressure, and at the same time they do not preclude the right of the defense to examine the witness.

(iii) DECISION ON MEASURES OF PROTECTION FOR WITNESSES OF THE DEFENSE FOR THE ACCUSED

MENSUR MEMIĆ, SENAD HAKALOVIĆ, NEDŽAD HODŽIĆ AND NIHAD BOJADŽIĆ

250. The Court, on a motion by the defense teams, pursuant to Article 235 of the CPC of BiH, excluded the public from the hearing held on 6 May 2013 in order to hear protected witness “D” about potential additional measures of protection.

251. Commenting on the aforesaid, the witness stated that he did not seek additional measures of protection and that he was happy with the protective measures that were granted to him by the Decision of the Preliminary Proceedings Judge upon a motion by the Prosecutor's Office of BiH. In view of the aforesaid, the Court notes that circumstances justifying the protective measures ordered by the Court's Decision No. X-KRN-09/786 of 19 October 2009 continue to exist, and the witness's personal details will be protected for a period of 15 years running from the date of finality of the decision.

252. The public was also excluded from the hearing held on 8 July 2013 so that protected witness “K” could state his position regarding potential additional measures of protection.

253. Commenting on the aforesaid, the witness stated that he maintained the protective measures that were granted to him upon a motion by the Prosecutor's Office of BiH by the Decision of the Preliminary Proceedings Judge No. X-KRN-09/786 of 19 October 2009 (a pseudonym), adding that he did not want his image to be shown in public.

254. The Prosecutor's Office and the defense teams did not oppose this motion, and the Court, pursuant to Article 13 of the Law on the Protection of Witnesses, issued a Decision finding that measures of protection of the personal details (a pseudonym) remain in effect; this measure will last for a period of 15 years from the date of finality of the decision, and publication of the witness's photograph in any electronic or printed media is prohibited.

255. At the hearing held on 15 September 2014 the Court informed the parties that under the Decision of the Preliminary Proceedings Judge X-KRN-09/786 of 26 April 2010 protected witness “V” was granted protective measures (protection of the personal details – a pseudonym) for a period of 30 years from the date of finality of the decision.

256. The Defense for Bojadžić proposed additional measures of protection for this witness by allowing the witness to give his testimony at the hearing in closed session on the grounds of the nature of his testimony and his personal situation, since, according to the Defense, his testimony is peculiar and sensitive, and directly affects his personal situation and may have incalculable detrimental consequences for the witness as it involves intimate and personal details from the witness's life. Consequently, the Defense proposed that the witness be examined in closed session, that he testify from a separate room and that the witness' photograph should not be published.

257. The Prosecutor's Office of BiH did not oppose the motion that the witness give his testimony in closed session, but it did find the measure of testifying from a separate room or from behind a screen to be too strong. The other defense teams did not oppose additional protective measures for Witness “V”.

258. Taking into account the aforesaid, the Court decided, pursuant to Article 235 of the CPC of BiH, to exclude the public from a part of the hearing – specifically during direct and

cross examination of protected witness “V” who gave his testimony in the courtroom, as well as during potential questions by the Court, for the purpose of protecting the interests, personal and intimate life of this witness.

259. Upon a motion by the Defense for Senad Hakalović, the Court, pursuant to Article 235 of the CPC of BiH, issued a Decision on 15 July 2013 to exclude the public from a part of the hearing at which protective measures for Defense witnesses “O-III-2” and “O-III-3” would be discussed.

260. Counsel for the accused Hakalović, presenting arguments in support of the motion for protective measures at the main trial, pointed out that the witnesses are residents of the area where the incident that is the subject of the criminal proceedings occurred, they belong to a third ethnic group and they are willing to testify in this case, but they feel fear and have misgivings about their testimony in relation to potential reactions by the injured parties and potential suspects in connection with the relevant incident. In view of the aforesaid, counsel proposed that the witnesses be granted measures of protection of their personal details (pseudonyms), that they give their testimony from behind a screen and that their images are not made available to the public.

261. Witness “O-III-2”, for whom measures have been proposed, said he was living in a community with numerous ethnic groups and that he intends to continue living there, but he believes that his testimony in this case could cause problems for him, and for those reasons he stood by the proposal to testify from behind a screen under a pseudonym.

262. Witness “O-III-3” too said that he was living in a mixed-ethnicity village, he belongs to a third ethnic group, but he is on good terms with Muslims and Croats alike, and he would prefer that his identity and the fact that he testified in this case remain undisclosed. He does not expect any particular problems, but, fearing he may face problems as a result of his testimony, he supports the motion that he be assigned a pseudonym and that he testify from behind a screen.

263. The Prosecutor's Office of BiH opposed the motion to order protective measures for the witnesses, submitting that neither the Defense nor the witnesses adduced a single specific reason in support of measures. The other defense teams endorsed the motion by the Defense for Hakalović.

264. After hearing the parties to the proceedings, defense counsel and the witnesses, the Court, pursuant to Articles 3 and 13 of the Law on the Protection of Witnesses, issued a Decision whereby all the personal details of the witnesses for whom protection is sought are declared confidential, and the witnesses are assigned the pseudonyms “O-III-2” and “O-III-3” respectively. Furthermore, the witnesses will testify in the courtroom, from behind a screen, and the public will not be able to see their images but will be able to hear their voices. The measure will be in effect for a period of 30 years after the date of finality of the decision. At the same time, it will be prohibited to publish photographs of the witnesses in any electronic or printing media.

265. Upon a motion by the counsel for the accused Senad Hakalović to grant protection of witness O-III-1’s personal details (pseudonym) and that he testify from behind a screen, the Court, with the consent of the Prosecutor's Office and other defense teams, in accordance with Article 235 of the CPC of BiH, issued a Decision to exclude the public from a part of the hearing on 23 September 2013 to allow the Defense to expound on the motion for granting protective measures to the witness, followed by hearing from the witness, the Prosecutor's Office and the defense teams about the said motion.

266. Commenting on defense counsel's motion, witness “O-III-1” stated that he was not of the same ethnicity as the accused, that people misinterpret that fact, and that people already know that he would testify and there are rumors that his child should not be allowed to work in this country. He personally did not receive any threats, they were saying this behind his back, but he does not want his family to be upset in any way because of his testimony in this case.

267. The Prosecutor's Office did not oppose the measures of protection of the identity and testifying from behind a screen, adding that the protection of the witness's personal details and prohibition of publication of the witness's photographs/pictures or audio recordings of his testimony can achieve the purpose sought by the witness. The other defense teams, with the exception of the Defense for Ališpago, did not oppose the motion by the Defense for Senad Hakalović.

268. After hearing the Prosecutor's Office, the defense teams and the witness, the Court has found that the witness needs to be granted the said protective measures for his personal security as well as the security of his family as, in the Court's view, their security would be endangered if the witness's personal details were to become known. That being

said, pursuant to Articles 3 and 13 of the Law on the Protection of Witnesses, the Court issued a Decision whereby the personal details of the witness for the Defense for Senad Hakalović are declared confidential so that, during the trial before the Court of BiH, the witness will be referred to by the pseudonym “O-III-1”. Furthermore, the witness will testify from inside the courtroom, but he will be behind a screen; the public will not see his image but they will hear his undistorted voice. At the same time, the Court prohibits issuance of video recordings of this witness's testimony to any electronic or printing media. The witness's personal details shall remain confidential for a period of 30 years after the date of finality of the decision.

(IV) DECISION TO RESCIND PROTECTIVE MEASURES GRANTED TO PROTECTED WITNESSES

269. Acting upon a motion by the Prosecutor's Office, and at the request of witnesses, the Court, pursuant to Article 12(7) of the Law on the Protection of Witnesses⁸, at the trial hearings held on 30 May 2011, 14 November 2011, 9 December 2011 and 25 June 2012, issued decisions revoking the Decision of the Court of BiH No. X-KRN-09/786 of 19 October 2009 in the part pertaining to the protective measures granted to witnesses “G”, “H”, “F” and “I”. The rest of the Decision remained unaffected.

270. In view of the aforesaid, protected witnesses “G”, “H”, “F” and “I” were examined at the main trial in open session without protective measures.

(iv) DECISIONS TO EXCLUDE THE PUBLIC

271. The Court issued the decision to exclude the public from a part of trial hearings held on 7 February 2011, 28 March 2011, 11 April 2011, 16 May 2011, 13 June 2011, 10 October 2011, 14 October 2011, 10 February 2012, 13 February 2012, 30 March 2012, 2 April 2012, 21 May 2012, 11 June 2012, 15 June 2012, 27 August 2012, 14 September 2012, 1 October 2012, 15 October 2012, 22 October 2012, 29 October 2012, 6 May 2013, 8 July 2013, 15 July 2013, 26 July 2013, 23 September 2013, 13 January 2014, 12 May 2014, 26 May 2014, 9 June 2014 and 16 June 2014 – when, among other things,

⁸ Article 12 of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses provides: “ (1). *In exceptional circumstances, if revealing some or all of the personal details of a witness or other details would contribute to identifying a witness, and would seriously endanger the witness under threat, the preliminary proceedings judge may, upon the motion of the Prosecutor, decide that some or all of the personal details of a witness may continue to be kept confidential*”

protective measures for witnesses were discussed and when the witnesses were asked questions that could reveal their identity – and on 15 September 2014 when protected witness “V” was giving evidence, in accordance with Article 235 CPC of BiH.

272. The parties and defense counsel did not oppose the exclusion of the public from (a part of) the hearing.

273. At the times when the public was excluded, the Panel, upon consideration of the case law suggesting that it was not always possible to foresee and have full control over the dynamics of positions on legal and factual issues, decided to exclude the public from a part of the hearing at which the said issue was to be discussed.

274. Prior to excluding the public from a part of the hearing, the Panel informed the parties about the reasons to exclude the public in open session and publicly announced the decision that was adopted at the part of the hearing closed for public.

(v) DECISION TO HOLD THE TRIAL WITHOUT THE PRESENCE OF THE ACCUSED NEDŽAD HODŽIĆ

275. Under the Indictment issued by the Prosecutor's Office of BiH No. KT-RZ-15/10 of 12 March 2010 (confirmed on 17 March 2010 and consolidated on 24 November 2014), the accused Nedžad Hodžić was charged with committing the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a) and (c) of the CC of BiH and the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Article 180(1), Article 29 and Article 53(1) thereof.

276. Moreover, the accused Hodžić, by Decision of the Court No. X-KR-09/786-2 of 26 March 2010, due to his failure to comply with the imposed prohibiting measures, was again ordered into pretrial custody on the grounds of Article 132(1)(a) and (b) of the CPC of BiH. The custody lasted until 19 March 2013 when it was terminated by Decision of the Court No. S1 1 K 003369 10 Krl and the accused was released.

277. The need to evaluate the state of health of the accused Hodžić, his competency to stand trial without consequences for his health and actively participate in the proceedings arose on several occasions during the proceedings, and a team of experts consisting of

after the indictment is issued (7). Upon the motion of the Prosecutor, the Court shall revoke the decision referred to in paragraph 1 of this Article.”

Senadin Ljubović, MD, Marija Kaučić- Komšić, MD, and Omer Ćemalović, MD, concluded in their report dated 28 June 2010 that the accused was not fit to participate in judicial proceedings (main trial) and that he was temporarily incompetent to stand trial, and that it is to be expected that(.....) would start withdrawing and that in about three months it would be realistic to expect significant positive changes, at which time a new evaluation, with appropriate documentation, should be conducted.

278. Given the aforesaid, the Court issued an Order on 7 July 2010 calling on the aforementioned experts to perform an evaluation and state their opinion on the state of health of the accused Hodžić, i.e. if he is medically fit to stand trial without consequences for his health and if he can actively participate in judicial proceedings. Attached to the Order issued to the team of experts, in addition to the accused's medical documentation, was a submission by attorney Midhat Kočo, counsel for the accused Hodžić, containing all the defense's comments on the findings and opinion in the Team Evaluation Report dated 28 June 2010.

279. Acting on the Court's Order, on 17 August 2010 a team of experts in neuropsychiatry, among other things, made a finding that during the psychiatric examination conducted on the premises of the Zenica KPZ /Correctional Facility/ (where the accused was held at the time) the accused Hodžić displayed *“vividly malingering behavior in attempting to present himself as a feeble-minded person with a bodily injury. Such behavior is not associated with any mental disorder”*⁹. The expert further alleged that the delivered documentation *“clearly suggests normal social and family functioning of the accused after the injury and before the pre-trial custody was ordered, again confirming that the said behavior in pre-trial custody is clearly malingering”*¹⁰, and there are not enough arguments to confirm that the character and level of impairment of mental capacity, as a consequence of the brain damage caused by an injury, render the accused incompetent to stand trial. However, in light of certain indisputable organic damage to the mental capacity, primarily mental fatigue, the experts are of the opinion that *“the length of time to follow the trial is limited and that there should be more breaks during the main trial”*¹¹.

⁹ S-4 - Report by a team of experts of 18 August 2010, p. 3.

¹⁰ S-4 – Report by a team of experts of 18 August 2010, p. 3.

¹¹ S-4 - Report by a team of experts of 18 August 2010, p. 3.

280. At the hearing held on 8 September 2010, the presiding judge informed the accused Hodžić that in the context of his medical competency and ability to stand trial the Court will be guided by the experts' report dated 17 August 2010, that it was his procedural right to attend the trial and follow it and that, if he should decide not to attend trial hearings to which he was properly summoned, there are no legal obstacles to hold the hearings even without his presence.

281. After a break in the trial during which the accused had a possibility, in line with the announced procedural consequences, to consult with his attorney, the accused did not appear in the courtroom when the hearing resumed, and the Court decided on the same day that the main trial against the accused Mensur Memić, Dževad Salčin, Senad Hakalović, Nedžad Hodžić, Nihad Bojadžić and Zulfikar Ališpago would be held even without the presence of the accused Hodžić in cases when he unjustifiably refuses to appear at a scheduled hearing to which he was timely and properly summoned and informed about; the decision is without prejudice to the accused's right to appear before the Court at any point during the main trial; and the accused's counsel will attend the main trial hearings conducted without the presence of the accused. In addition, the Court will promptly inform the accused about the course of the trial by providing audio recordings from each trial hearing as well as written records after they are composed.

282. The Court will periodically re-examine this decision throughout the proceedings and assess its further application.

283. When issuing the said decision the Court was mindful of the fact that the provisions of the CPC of BiH do not envisage a situation in which an accused refuses to appear at a scheduled hearing to which he was properly summoned, nor is there a special provision preventing the Court in such situations to resume the trial even without the presence of the accused.

284. It is a fact that Article 247 of the CPC of BiH explicitly provides that “*an accused may never be tried in absentia.*”

285. When one interprets the cited provision, the impression is that the expression “*in absentia*” refers to situations involving total absence of an accused from proceedings, whether it be because it is impossible to secure his/her presence in the proceedings, or because of the unavailability of the given accused to the law enforcement agencies, because of his unawareness that proceedings are underway against him/her, or because

there are other difficulties to inform him/her about the proceedings or to secure his/her presence. Any other action is inconsistent not only with the national procedural legislation but also the international standards stipulating that an accused is entitled to be tried in his presence (Article 14(3)(d) of the International Covenant on Civil and Political Rights).

286. However, the Court holds that it is necessary to distinguish between two procedural situations that may ensue from the aforesaid: trial *in absentia* and trial *without the presence* of an accused. The essential difference lies in the reasons that can lead to such procedural situations. Specifically, a trial *in absentia* involves objective circumstances on the part of an accused, whereas a trial without the presence of an accused implies the existence of certain subjective reasons on the part of the accused (the accused can be present, but he/she does not want to).

287. In the case in question, the accused attended several hearings (the motion to continue the prohibiting measures following the confirmation of the Indictment, the plea hearing, the status conference (in part), opening of the main trial (until the break)), so it is his free will that is evidently the reason to have the trial resumed even without his presence, which he manifested when failing to appear when the trial resumed after a short break on 8 September 2010.

288. Consequently, standard procedure would be not to resume the trial without the presence of the accused. However, being guided by the interests of fairness, the fact that in this case in addition to the accused Hodžić there are five more accused persons who are, in terms of the right to a fair trial (Article 6(1) of the European Convention on Human Rights, ECHR), entitled to a hearing within a reasonable time and to duly respond to Court summonses and appear at each scheduled hearing, and taking into account the fact that the Court duly informed the accused Hodžić about procedural consequences of his potential default although being properly served with court summonses, the Court decided to resume the proceedings without the presence of the accused Hodžić; otherwise the accused could deliberately try to obstruct attempts by the Court and the Prosecutor's Office to do their job and complete the case.¹²

289. Opting to resume the trial even without the presence of the accused Hodžić, the Court was also mindful of the criteria laid down by the European Court of Human Rights.

¹² This is in line with the guidelines elaborated by the Council of Europe, Committee of Ministers Resolution (75) 11 of 21 May 1975 on the criteria governing proceedings held in the absence of the accused.

Based on the fact that the accused answered court summonses on several occasions and was served with the confirmed indictment of the Prosecutor's Office, the Court found that *the accused has been informed about the proceedings*; next, his *decision not to appear at trial hearings is a result of his free will, which has been determined beyond a doubt*, and *the accused's right to legal representation by his attorneys will be ensured in the course of the proceedings*.

290. Consequently, as all the necessary procedural guarantees of the right to a fair trial will be ensured for the accused during the proceedings, his right to actively participate in the proceedings will not be denied solely because he is not physically in the courtroom. This decision of the Court will not affect the accused's right to appear before the Court at any moment.

291. In the Court's opinion, the interests of fairness support not only the accused's right to a fair trial but also have a broader scope. Specifically, the Court must also take into consideration the interest of the Prosecutor and all the consequences that his functional position as a party to the proceedings entails (obligation of criminal prosecution, representation and burden of proof etc.), as well as the interests of the victims and other witnesses planned to be examined in this case (in the Court's view, postponing the trial on account of accused's choice not to appear at trial would re-traumatize the victims and witnesses). Moreover, such conduct of the Court aims at prevention of other circumstances beyond the witness's control, which would undoubtedly occur as a result of uncertainty related to trial resumption (death, illness, leaving the country etc.).

292. For all the reasons mentioned above, the Court, exercising its discretion, resumed the proceedings without the presence of the accused Hodžić, which, ultimately, is not considered as a trial *in absentia* in terms of Article 247 of the CPC of BiH, nor is it in violation of Article 6 of the ECHR; the procedural interests of the accused will be adequately ensured in the manner as specified in the operative part.

293. After the said decision was adopted, the accused Nedžad Hodžić failed to appear at trial hearings held on 11 November 2010, 15 November 2010, 23 November 2010, 14 February 2011, 14 March 2011, 11 April 2011 and 18 July 2011, while during at least 74 trial hearings¹³ the accused left the courtroom even before the hearing commenced or

¹³ According to the records of main trial hearings/transcripts in Case No S1 1 K 003369 10 Krl Mensur Memić *et al.*, the accused Nedžad Hodžić left the courtroom before the hearing commenced or before it was completed on the following

before the hearing was completed. However, pursuant to the Court's decision, the principal and/or co-counsel appointed *ex officio* was/were present in those situations.

(vi) THE ACCUSED NEDŽAD HODŽIĆ' COMPETENCE TO STAND TRIAL

294. As noted above, the Defense argued on several occasions during the main trial that the accused Nedžad Hodžić is not fit to stand trial. This was the reason why the Prosecutor's Office (during the investigation) and the Court (during the main trial) conducted a series of evaluations into those allegations. The Court, relying on those evaluations, concluded beyond a doubt that the accused Nedžad Hodžić is competent to stand trial, and, accordingly, resumed the conduct of the criminal proceedings, adopting a decision as stated in the operative part hereof.

295. During the trial, the Defense referred to the Report by expert Prof. Abdulah Kučukalić of 14 January 2009 (Court Exhibit S-1¹⁴), composed during the investigation at the Order of the Prosecutor's Office of BiH. In that report, the expert, among other things, notes that the accused Hodžić was suffering from (occurred after a blasting injury to his head in 1995), that he has and (.....), and that on the psychological plan he hasand In view of all the aforesaid, the expert concluded that the examinee is not competent to participate in judicial proceedings, follow judicial proceedings and provide adequate answers to the questions put to him. The expert further noted that the injury the accused had sustained has had lasting consequences (definitive state) and that no improvement and recovery could be expected. Towards the end of the report the expert added *"if one wants to evaluate his current state of health one must perform a neuropsychiatric examination by a team involving a psychiatrist, a*

days: 8 September 2010, 28 September 2010, 4 October 2010, 8 October 2010, 12 October 2010, 26 October 2010, 1 November 2010, 2 November 2010, 9 November 2010, 6 December 2010, 10 December 2010, 21 December 2010, 17 January 2011, 24 January 2011, 4 February 2011, 7 February 2011, 21 February 2011, 28 February 2011, 11 March 2011, 21 March 2011, 25 March 2011, 28 March 2011, 1 April 2011, 4 April 2011, 8 April 2011, 18 April 2011, 22 April 2011, 9 May 2011, 16 May 2011, 23 May 2011, 30 May 2011, 3 June 2011, 13 June 2011, 17 June 2011, 20 June 2011, 1 July 2011, 11 July 2011, 8 August 2011, 2 September 2011, 5 September 2011, 19 September 2011, 26 September 2011, 3 October 2011, 10 October 2011, 14 October 2011, 17 October 2011, 24 October 2011, 31 October 2011, 14 November 2011, 28 November 2011, 5 December 2011, 23 December 2011, 6 January 2012, 30 January 2012, 13 February 2012, 20 February 2012, 27 February 2012, 12 March 2012, 11 May 2012, 21 May 2012, 29 June 2012, 22 October 2012, 18 February 2013, 4 March 2013, 18 March 2013, 6 May 2013, 1 July 2013, 18 October 2013, 18 November 2013, 30 December 2013, 13 January 2014, 27 January 2014, 3 February 2014 and 10 February 2014.

¹⁴ **S-1** – Forensic-psychiatric report for Nedžad Hodžić, Psychiatric Clinic Prof. Abdulah Kučukalić, Sarajevo, 14 January 2009;

neurophysiologist and a clinical psychologist. The tests to be conducted should include a magnetic resonance imaging (MRI), EEG, psychological testing.”

296. Bearing in mind the aforementioned unclear and indefinite conclusion by expert Kučukalić, who at one point found that the accused is not competent to stand trial and that that was a permanent condition that cannot be remedied, whereas at another he gave recommendations with regard to further evaluations and additional tests to assess the current state of health of the accused, on 13 October 2009 the Court issued an Order for an evaluation of the accused Nedžad Hodžić by a team of experts; the team included Prof. Abdulah Kučukalić, Marija Kaučić-Komšić, MD, and Zorica Lazarević, MD.

297. However, upon a detailed analysis, the experts could not agree on a joint conclusion as to the competency of the accused Hodžić to stand trial, and the Court received a Report of 25 December 2009 (Court Exhibit S-2¹⁵ - attached to the Report was a Psychological Report of 10 November 2009¹⁶), with a separate opinion of Prof. Abdulah Kučukalić.

298. According to experts Kaučić-Komšić and Lazarević, the mental status of the accused is dominated by symptoms..... of the condition.....
..... as a temporary mental disorder and behavioral disorder that can to the maximum extent be understood as a reaction to an objectively exceptionally burdening life situation he is in, and that his prison behavior includestypical of persons with head and brain traumas; it should be noted that..... is conscious on the part of the examinee and very close to malingering. The experts also alleged that the accused did not receive treatment for a lasting or temporary mental disease prior to the ordering of pretrial custody or while in pretrial custody, and that regarding his therapy he receives only..... medications for a serious..... disease
..... as well as consequences.....injury..... Based on the aforesaid, it was concluded that the examinee was “temporarily not competent on account of prison behavior, i.e. temporary mental disorder, and not a lasting or temporary mental disease.”

¹⁵ **S-2** – Report by a team of experts on the mental health of Nedžad Hodžić and his competency to stand trial of 25 December 2009;

¹⁶ **Psychological Report of 10 November 2009** Mr.Sci. Elvedina Dervović, graduate psychologist, **Conclusion:** Case history, test data and behavioral indicators suggest that the person has cognitive dysfunctions and, as a result thereof, experiences visible difficulties in communication. An analysis of realized achievements suggests organic origin of the dysfunctions, which is consistent with structural CNS changes and the underlying illness. The level of realized achievements in cognitive tasks suggests a serious degree of damage.

299. In contrast to the said conclusion, Prof. Kučukalić stated in his separate opinion that the accused Hodžić is suffering from
, organically conditioned and.....
 that the disorders were a result of damage..... which caused.....
 damage to mental functions, and the disorders are permanent - permanent.....
 disease organically conditioned so one cannot expect improvement of the existing state;
 for those reasons, in the expert's opinion, the examinee is not competent to participate in
 and follow the trial and to provide adequate answers to questions put. Finally, the expert
 proposed that the examinee be sent to undergo treatment in a psychiatric institution,
 whereupon an evaluation would be repeated and his mental capacity assessed.

300. The next evaluation of the accused Hodžić by a team of experts was conducted pursuant to Court's Order of 16 June 2010, and the Court has received a forensic – psychiatric team's report for the accused Hodžić of 28 June 2010 (Court Exhibit S-3¹⁷). In that Report the experts alleged that during a detailed observation at the time of the conducted psychiatric examination they noted representing a peculiar mixture offound, and conscious malingering, and that the accused's behavior was verging on caricature, i.e. that the accused behaved in a way in which a lay person would imagine a serious mental patient. The experts also added that the accused's behavior cannot be a result of a traumatic lesion because it essentially does not match any element of an organically conditioned mental disorder. The conspicuous and almost caricature-like, Ganser-like, malingering behavior precluded any assessment of the accused's mental incapacitation as a result of a traumatic brain lesion sustained, so no such assessment could be done. Considering....., the experts are of the opinion that the accused is not currently competent to participate in judicial proceedings (main trial), he is temporarily not competent to stand trial, but it is to be expected that the psychogenically conditioned..... will start withdrawing, so it would be reasonable to expect significant positive changes in about three months.

301. However, in the next team evaluation of the accused Hodžić, conducted on 17 August 2010 (Court Exhibit S-4¹⁸), the experts merely reiterated the previously given

¹⁷ **S-3** Forensic-psychiatric report by a team of experts/ examination of the accused Nedžad Hodžić of 28 June 2010, in which Senadin Ljubović, MD, Marija Kaučić Komšić, MD, and Omer Čemalović, MD, took part.

¹⁸ **S-4** Forensic-psychiatric report by a team of experts / examination of the accused Nedžad Hodžić of 17 August 2010, conducted by Senadin Ljubović, MD, Marija Kaučić Komšić, MD, and Omer Čemalović, MD;

finding and opinion, i.e. the report reiterates that throughout the psychiatric examination the examinee displayed visibly malingering behavior with attempts to present himself as a feeble-minded person with bodily damages; this behavior is not associated with any mental disorder and is not manifested in persons with damaged brain substance regardless of its scope and localization, so the clinical picture is absolutely dominated by the malingering component. The experts also pointed out that under the circumstances of drastic malingering the basic conditions for a clinical assessment of actual mental damage, as well as application of a complete psychological treatment, were not met; the experts noted that the professional psychiatric books list head traumas as the most frequent basis for aggravation (increase of existing symptoms) and malingering. The experts included in their conclusion that the examinee was uncooperative and that it was not possible to assess the actual degree of mental damage, and that the submitted documentation pointed to proper social and family functioning of the accused after his head trauma and prior to the ordering of pretrial custody, suggesting and confirming that the behavior of the examinee in pretrial custody is clearly malingering in nature. Manifesting the said persistent malingering behavior (on the conscious and unconscious level) requires appropriate mental potential that allows a person to assume all the gravity and danger of the situation he/she is in and then activate his/her defense mechanisms. Consequently, the team of experts concluded in the report that the accused was malingering; however, in light of undisputed organically conditioned damage to mental abilities, primarily....., they alleged that the examinee can follow judicial proceedings for a limited period of time and that there should be more breaks during the main trial.

302. A team evaluation was repeated several months later and on 9 January 2011 the Court received a written Expert Report (Court Exhibit S-5¹⁹) in which the experts reiterated that during the psychiatric examination the accused Hodžić again displayed malingering behavior, but in an evidently milder form when compared to the previous examination; the behavior and all other psychopathological manifestations are not typical of changes displayed by a person with organic brain damage of any kind and do not have psychotic character. The experts again stated that a series of indisputable facts about his life functioning prior to the issuance of the indictment and detention indisputably indicate that the nature and intensity of the mental changes do not preclude adequate participation in

judicial proceedings, and that his altered behavior represents a feigning of a mental disease and disability. For those reasons, the experts were of the opinion that the accused Hodžić is fit to participate in judicial proceedings (with more frequent breaks).

303. At the trial held on 24 January 2011, on the subject of circumstances referred to in the report, the Court heard expert Omer Ćemalović – neuropsychiatrist. The expert stated that in addition to the report delivered to the Court on 9 January 2011 reflecting an evaluation conducted at the state-level Detention Unit in January he evaluated the state of the accused two more times (in June and August 2011 at the Zenica KPZ). The expert stood by the conclusions made by the team of experts in the Reports that were delivered to the Court in entirety. The expert clarified that (similar to syndrome) is in fact prison psychosis – which is a reaction that occurs in certain personality structures; it is an unconscious – mental maneuver by a person with a goal of escaping from an utterly unfavorable and threatening situation, which is not a conscious behavior. However, the accused showed elements of both conscious and unconscious behavior, i.e. because of massively pronounced symptomatology it is impossible to distinguish between malingering and unconscious activity. When expounding on the second report, the expert argued that the brain traumas of the accused cause certain mental difficulties, but the quantity and quality of those changes can vary. They were, however, unable to determine it because it was masked by massive malingering symptomatology (his answer to basic, simplest questions was “I don't know”), and on the other hand there is information that the person behaved differently in his social setting in life, and the advantage is always given to such insight. The expert confirmed that the accused Hodžić was malingering and that the accused's conduct is simply not typical of any mental disease, adding that the accused, in the expert's opinion, is fit to participate in and follow the trial, but trial hearings should have more breaks. The accused does not have the Ganser syndrome but displays elements of that syndrome. Due to his malingering, it was not possible to determine the degree of mental damage of the accused Hodžić, but the expert did add that, based on what they had they considered, the degree of the mental damage was not of such a degree so as to render the person incompetent to stand trial. The reduced malingering is the only improvement that the experts found on the accused.

¹⁹ **S-5** Forensic-psychiatric report by a team of experts / examination of the accused Nedžad Hodžić of 9 January 2011, and Senadin Ljubović, MD, Marija Kaučić Komšić, MD, and Omer Ćemalović, MD, took part in drafting this report.

304. When asked by the defense teams whether the interview was the sole method used to arrive at the conclusion that the accused is competent to stand trial, the expert replied affirmatively and that no psychological tests to differentiate between the Ganser syndrome and malingering were conducted for the reason that they believed that that was unnecessary because all the psychological tests that were conducted previously were incomplete. The finding did note changes on the accused for the better, but the expert did not know whether the accused would end the malingering because in the end the accused was malingering.

305. The malingering of the accused Hodžić is also discussed by Alma Bravo-Mehmedbašić, MD. In her report, Ms. Bravo-Mehmedbašić, upon a Court's approval and an urgent request by a prison doctor, examined the accused Hodžić at the state-level Detention Unit on 11 May 2012. The delivered Psychiatric Examination (Court Exhibit S-6²⁰) states that during the examination the accused Hodžić manifested signs of conscious malingering, manipulative behavior, but also partly unconscious malingering (Ganser syndrome) representing a dissociative (conservative disorder) characterized by giving the so-called approximate answers and developing into situations and circumstances suggesting psychogenic etiology of disorders such as penal conditions. The document further alleges that it was not possible to test the degree of potential damage to mental functions by organic type because the examinee was uncooperative and had a tendency to portray his difficulties to be much harder, with elements of malingering and, in part, Ganser syndrome.

306. Similar to the previous reports is a Report by a team of experts composed in April 2013 (Court Exhibit S-7²¹) in which the experts reiterated that again the accused Hodžić was visibly malingering, that the malingering tendency was entirely fixed over a long time period, that his behavior (at times) had caricature-like elements and is in keeping with the perception of an uninitiated person about how "a serious mental disorder" is manifested. In this context, the experts point out the fact that for a person to decide to feign a mental disease they must be aware of the seriousness and danger of the situation they are in (as is the case with the accused), which requires certain preserved cognitive capacity. The report additionally states that the accused's behavior precluded any analysis of his objective mental abilities, including organic damage as a result of the brain trauma caused

²⁰ S-6 Psychiatric examination of the accused Nedžad Hodžić of 11 May 2012.

by a blasting injury, and that the presented CD recordings did not show any external aspect indicating difficulties in the behavior and posture of the recorded person (the accused), which is inconsistent with his behavior during all the previous psychiatric interviews.

307. On 9 December 2013 the Court heard expert Alma Bravo Mehmedbašić, MD, who examined the accused Hodžić on 11 May 2012 in connection with his suicidal behavior (on that occasion the accused was not examined regarding his mental state, there was no order to examine him with regard to his criminal mental capacity or competency to stand trial but only with regard to suicidality). The expert stated at the man trial that the accused's medical file does not list seizures (which does not mean that the accused did not have any, only that they have not been entered in the file).

308. At the trial the expert stood by the allegations in the written document, noting therein that the examinee manifested signs of conscious and unconscious malingering – The expert further pointed out that she was a part of a team evaluating the accused's state, and that the report states everything that was stated in the previous report in which the same experts (Ljubović and Čemalović) participated. The examinee was interviewed, they described his behavior and then wrote conclusions that the examinee was behaving in a visibly malingering way (he did not know some basic things but knew some complicated things, which suggests malingering elements) and because of the scope of malingering it was not possible to determine the scope of damage. The expert submitted that if the accused could be observed over an extended time period under clinical terms, if relevant psychodiagnostics (magnet etc.) could be done to determine the degree of neurocognitive damage and the degree of malingering, a malingering profile could be determined. The expert added that a deeply demented person does not have the capacity to malingering. Dementia is a chronic irreversible damage that cannot be improved.

309. When asked by the Court about the impression that she as the expert had of the accused Hodžić, the expert replied *"my subjective impression is that he deliberately wanted to show that he was more ill than he actually was and that he understood some things but denied understanding them, and that he wanted to show that he was more demented than he actually was ... "* (when asked how many legs he had he first did some thinking and then pointed in the direction of his legs and counted, he knows the amount of

²¹ **S-7** Forensic-psychiatric report by a team of experts / examination of the accused Nedžad Hodžić of 10 April 2013 in

his disability allowance and that he has no pension; when asked about the difference between a car and a bicycle he says that a car has wheels and a bicycle doesn't), they had the impression that the examinee understood what he was being asked, he did some thinking and then replied that he did not know or did not understand or said something like a completed demented person.

310. On 25 October 2013 the Defense for Nedžad Hodžić too delivered to the Court a Team Forensic – Psychiatric Report of 29 September 2013 (Court Exhibit S-8²²), ordered by the Court in Case No S1 1 K 008978 13 Krl. The report, among other things, states that the behavior of the accused Hodžić is clearly malingering in nature and that his behavior effectively masks his actual state in a way that precludes any analysis of his objective mental abilities, including the scope of organic damage to mental functions as a result of a brain trauma. This report too states that the malingering tendency has become fixated over an extended period of time, so one cannot see a possibility or way to end the malingering behavior to create necessary conditions for a valid psychological – psychiatric exploration in order to determine the accused's realistic-objective mental abilities. Finally, the experts pointed out that feigning a mental disease required that a person be aware of and recognize the seriousness and danger of the situation he/she is in (as is indisputably the case with the accused) and possess preserved certain mental capacity, especially the cognitive one.

311. On 10 December 2013 the Court issued Order no. S1 1 K 003369 10 Krl ordering that the accused Hodžić be committed to the Psychiatric Clinic of the Banja Luka Clinical Center, where the accused was examined by a team of experts for the purpose of giving a final evaluation of the accused's competence to follow and participate in judicial proceedings. The Report by a team of experts (Court Exhibit S-9²³) was delivered to the Court on 30 January 2014. The Report, *inter alia*, reads that a psychiatric examination did not reveal signs of a lasting mental disease in terms of presence of a psychotic disorder, signs of serious damage to the mnemonic and intellectual functions or signs of temporary mental disorder and disease. The intellectual achievement is within the framework of

which Alma Bravo Mehmedbašić, MD, Senadin Ljubović, MD, and Omer Čemalović, MD, participated.

²² **S-8** Forensic-psychiatric report by a team of experts / examination of the accused Nedžad Hodžić of 29 September 2013 performed by experts Omer Čemalović – neuropsychiatrist, Senad Pešto – internist and Enra Suljić, MD – neuropsychiatrist.

²³ **S-9** Team evaluation of the accused Nedžad Hodžić of 30 December 2013 by Nera Zivlak Radulović, MD – specialist in psychiatry, subspecialty forensic psychiatry, Višnja Banjac, MD – specialist in psychiatry and Mirjana Vukić – specialist in medical psychology. The accused Hodžić was on the Neuropsychiatry Clinic of the Banja Luka Clinical Center in the period 18-24 December 2013 and the evaluation was conducted there.

....., with present changes at the personality level, with a dominant problem in the affective sphere. Based on all the aforesaid, the experts are of the view that the examinee can participate in judicial proceedings, but with more frequent breaks and his shorter presence at trial hearings.

312. On 17 February 2014 the Court heard expert Nera Zivlak-Radulović, MD (this expert was part of the team of experts that examined the accused Hodžić at the clinic in Banja Luka) and she said they examined the examinee's competency to stand trial. They had medical documentation pertaining to his injury as well as post injury, and the medical documentation from the Detention Unit. Due to a warning by the examinee's wife that the patient had shrapnel in his brain and that he was claustrophobic, the MRI was not used (and it would anyway not have substantially changed their opinion), but a brain CT scan was performed instead. The expert said that the Ganser syndrome, as a transient condition that lasts for a certain period of time and is not a lasting mental disease possibly present in the examinee, no longer exists. The accused has organic injuries as a result of a head trauma. The expert confirmed that the examinee was malingering, as noted on page 5 of the Report, where it says that the examinee “... *emphasizes pain in his head, and manipulatively*”, and adds that epilepsy is incompatible with the Ganser syndrome, and also that it is logical that a person who had an organic damage could have epileptic seizures but the examinee did not have any during the observation at the Clinic. The expert explained that the examinee was diagnosed with code 6 – certain instability, impulsive discharge, cognitive deficit leading to mental fatigue, which is why they suggested more frequent trial breaks. Additionally, mild retardation is a result of organic damage and below-average intelligence that is not at the level that would entirely exclude his competency to stand trial.

313. Consequently, according to the numerous delivered reports by (a team of) experts, which is not disputable, the accused Nedžad Hodžić sustained a serious head trauma that injured the brain, and such injuries have mental and neurological consequences to a certain extent, that, according to medical documentation, the accused is under anti-epileptic therapy, and the said condition on its own requires a certain caution in case of mental exertion.

314. However, all the reports (with the exception of that of Prof. Kučukalić given on two occasions) indicate that the examinee - the accused Nedžad Hodžić, is of a malingering character (Exhibit **S-2** “*..the examinee’s behavior includes an aggravation typical of*

persons with head and brain traumas; it is conscious and very close to malingering ..”, **S-3** “..symptomatology represents a peculiar mixture of Ganser psychopathology syndrome and conscious malingering... the accused’s behavior on the verge of caricature ... the accused behaves in a way in which an uninitiated person imagines a serious mental patient..”, **S-4** “...the clinical picture is absolutely dominated by the malingering component .. an attempt to present himself as a feeble-minded person with bodily damage .. behavior not associated with any mental disorder .. appropriate mental potential is required for manifestation of the said persistent malingering behavior..” **S-5** “... continues to malingering... altered behavior represents feigning of mental disease and disability...” **S-6** “... displays signs of conscious malingering, manipulative behavior and, in part, unconscious malingering (Ganser syndrome)...” **S-7** “ .. the malingering tendency was entirely fixated over a long time period, that his behavior (at times) had caricature-like elements and is in keeping with the perception of an uninitiated person about how “a serious mental disorder” is manifested” and **S-8 report delivered by the Defense** “behavior is clearly malingering in nature... his behavior masks his actual state ... malingering tendency is entirely fixated...”).

315. In the reports evaluating the accused's competency to stand trial, considering that according to the reports (Court Exhibits S-6, S-7 and S-8) it was not possible to examine the degree of potential organic damage to mental functions because the examinee was uncooperative and had the tendency to show his difficulties as substantially harder, none of the conclusions given was in terms of evaluation that the present case involved a person that was not competent to stand trial. Finally, the Court finds that it is necessary to reiterate that no signs of permanent or temporary mental disorder or disease were found after the clinical examination of the accused (Court Exhibit S-9), followed by a conclusion that the examinee can participate in judicial proceedings. Besides, even in situations in which the accused was temporarily incompetent to stand trial, the reports never state that the reason for that is a temporary or lasting mental disease, rather the reports state that the examinee is “temporarily incompetent due to prison behavior, i.e. temporary mental disorder and not a lasting or temporary mental disease” (Court Exhibit S-2), or that “the accused is temporarily incompetent to stand trial... it is realistic to expect substantial positive changes in about three months” (Court Exhibit S-3).

316. Prof. Kučukalić gave a dissenting opinion in the 2009 report (Court Exhibit S-2) and in principle stood by the report of 14 January 2009 (Court Exhibit S-1), arguing that the

examinee has permanent disorders and one cannot expect improvement of the existing state, which is why the examinee is not competent to participate in and follow the trial.

317. On 2 December 2013, at the motion by the Defense for Hodžić, the Court heard expert Prof. Abdulah Kučukalić with regard to the report dated 14 January 2009 (in the report the expert gave his opinion that the accused's state cannot be improved, that the patient needs to be monitored and treated, and that he cannot participate in judicial proceedings). The expert said his opinion was related to the accused's state at the time, adding *"miracles are possible, even the slightest chance should be checked to see if there was improvement or expected deterioration of his state"* and that he knew that the accused was evaluated several times after that report and he believed that his colleagues checked all that and gave relevant findings on the objective state of the accused at the time of the examination. Answering a Defense's question, the expert explained the Ganser syndrome²⁴ and added that it was a short-lasting syndrome (not longer than six months) and that it was possible to distinguish between conscious malingering and unconscious malingering in terms of the Ganser syndrome because time is one of the factors confirming that it is not the Ganser syndrome. In the expert's opinion, one cannot diagnose the Ganser syndrome if the examinee has serious organic brain damage. The expert added that one of the diagnostic procedures to determine an accused's competency to stand trial is a magnetic resonance imaging (3 Tesla as the most sensitive one), an EEG, an examination by a clinical psychologist etc. During cross examination, the Prosecutor asked the expert how he could give an opinion on two occasions that the accused Hodžić was not competent to stand trial when no necessary tests were conducted, the expert replied that all the necessary tests were conducted at the time and that it was possible that the disease progressed. Answering a Defense's question, the expert alleged that it is not serious on the part of any expert to make a finding that the accused is malingering and added that a *"the margin of error is broad, especially if it is determined that there is malingering, because organic changes exclude malingering."*

318. When asked by the Court in connection with the report dated 25 December 2009 stating that the accused's disorder is ***"permanent in nature, a lasting mental disease organically conditioned, and that one cannot expect improvement of the existing***

²⁴ The expert states that the Ganser syndrome *"is a mental disorder that is most often associated with persons in detention who face a realistic possibility that they would be punished, that a harsh sentence would be imposed, usually a prison sentence for a criminal offense. In order for this syndrome to be diagnosed, certain key symptoms for the appearance of this syndrome must be confirmed as well; mere exposure to a possible sentence does not suffice."*

state, and, in connection therewith, whether it is necessary to conduct any further tests and determine the competency to stand trial if a person has a permanent mental disease,” the expert replied that there are diseases that are lasting mental diseases but, *“depending on the damage to mental functions, that cognitive damage can sometimes be of a lower degree and so, or depending on the region where the pathoanatomical process is located, i.e. damage in a particular part of the brain, in this case we have a serious damage to that frontal-parietal temporal region, which has been confirmed, and that region cannot be regenerated and that part of the brain is permanently damaged. It is chronic..”*. The Court reiterated the question *“..but you said ‘lasting mental ‘disease, and no improvement can be expected, how is that reflected on the proceedings?’”* The expert replied and said that the accused cannot be expected to *“clearly and precisely say and answer questions related to the criminal offense, his possible involvement in proceedings and his cooperation in judicial proceedings and reality of answers that he would give are impossible to take as a relevant and objective parameter,”* which means that in the state in which the expert saw him he could not give or participate in judicial proceedings. When asked by the Court to comment on the part pertaining to the fact that no improvement can be expected and whether that meant that a lasting mental disease would always be present, the expert replied that a lasting mental disease is present and that at the moment he is *“a mentally incompetent person, if he were to commit a criminal offense now in my estimate he would not be accountable for his acts.”*

319. The Court asked the expert to clarify paragraph 4 of the report that, among other things, stated that the examinee is not competent to participate in judicial proceedings, and that he should be referred to undergo treatment in a psychiatric institution for a period of six months, followed by a re-evaluation of his competency to stand trial; more precisely, whether this is inconsistent with what was said about no improvement. The expert replied ***“in medicine you should never say it is over... I am saying, in terms of percentages, it is my opinion that there is no recovery, at least 80% certainty in this case.”***

320. The Court’s conclusion that the accused is not incompetent to stand trial, that he is not a mentally incapable person and that his state is not permanent as claimed by expert Prof. Kučukalić, is also supported by Defense exhibits, as follows: Forensic Psychiatric Report for Nedžad Hodžić (O-IV-1²⁵ - composed pursuant to Court's Order in Case S1 1 K

²⁵ **O4-1** Forensic-Psychiatric Report for Nedžad Hodžić; Prof. Abdulah Kučukalić, specialist in neuropsychiatry, Prof. Azra Alajbegović, specialist in neuropsychiatry, clinical psychologist Senadin Fadilpašić; Sarajevo, 23 January 2015.

008978 13 Krl) stating, among other things, that *“the examinee is not **currently** competent to participate in and follow the judicial proceedings... i.e. he is currently mentally incapable”*, while the Psychological Report of 20 January 2015 (also Defense Exhibit O-IV-2), albeit stating that the tested cognitive abilities of the examinee have generally weakened and that because of the patient’s lack of cooperation and fatigue it was not possible to testologically examine the characteristics of his personality or the presence of other forms of psychopathology, concludes that *“for the reasons stated above, the examinee is **currently** incompetent to stand trial.”*

321. In light of the aforesaid, the Court was not in a dilemma with regard to the competency of the accused Nedžad Hodžić to stand trial. There are numerous reports, composed by experts and teams of experts, based on which the accused's competency to stand trial has been reliably determined. The Court places full confidence in those reports due to their agreement, consistency and credibility. The reports state that the accused's behavior is malingering in nature and on the verge of caricature, and his behavior reveals a person who believes that that is the behavior of a mentally ill person.

322. The Court does not accept the explanation provided by Defense expert Prof. Abdulah Kučukalić regarding the accused's competency to stand trial, or his finding and opinion on that fact, considering that they contradict other opinions and findings as well as that they are internally contradictory. The expert's explanation given at the main trial lacks conviction, considering that the expert persistently avoided answering the Court's question in a clear and decisive manner as to why it would be necessary to determine the accused's competency to stand trial after a six months' treatment, knowing that the expert repeated in his report and at the main trial that the accused had a lasting mental disease without the possibility of improvement; finally, the witness stated that miracles can happen in medicine *“in medicine you should never say that it is over.”* In his last report (Defense Exhibit O-IV-1, the Report originates from another case conducted against the accused before this Court), even this expert no longer refers to permanent incapacitation but momentary incapacity (*“the examinee is **currently** not competent to participate in and follow the judicial proceedings ... i.e. he is **currently** mentally incapable”*). The Court finds this finding blanket and lacking objectivity and as such it is not acceptable in this case, taking into consideration a series of expert evaluations and the ensuing reports on the accused's mental capacity that have been discussed in detail.

323. At the hearing held on 16 April 2012, during the re-direct examination of protected witness “X”, the accused Dževad Salčin was disruptive and violated peace and order in the courtroom, so the Court removed him from the courtroom.

324. Similarly, at the main trial hearing held on 20 October 2014, during the examination of Prosecution witness (rebuttal) Ćazim Ćibo by the accused Dževad Salčin, the accused was disruptive and continued in the same manner notwithstanding a warning by the presiding judge, and was then removed from the courtroom.

325. In the situation in question, the presiding judge, in order to protect the right to a fair and public hearing, maintain dignity and unimpeded trial, acted in accordance with the provisions of Article 242(2) of the CPC of BiH²⁶ and, as a result of a disruptive conduct, removed the accused from the courtroom.

326. As the accused Dževad Salčin’s counsel was present at both hearings, the trial resumed without delay.

(viii) VISIT TO THE CRIME SCENE

327. In order to become better acquainted with the structures and roads, locations and villages in Trusina, referred to by the witnesses in this case, the Panel decided to visit the crime scene on 6 June 2011. All the defense attorneys were allowed to visit the territory of Trusina and the surrounding hamlet of Gaj, the Marevac and Križ hills, the Elementary School in Parsovići etc.

(ix) DECISION ON THE COMPLAINT BY DEFENSE TEAMS REGARDING NON-DISCLOSURE OF EVIDENCE AND PARTICIPATION OF MATO ZEKO IN THE INVESTIGATION

328. The Defense for Nihad Bojadžić, joined by other defense teams, on several occasions (at the hearings held on 20 September 2010, 14 November 2011, 19 December 2011, 13 April 2012 etc. as well as in written submissions to the Court on 29 January 2013, 13 August 2013 etc.) stressed that their right to a defense was violated during the

²⁶ Article 242(2) of the CPC of BiH reads as follows: “The judge or the presiding judge may order that the accused be removed from the courtroom for a certain period if the accused persists in disruptive conduct after being warned that

proceedings as a consequence of non-delivery and non-disclosure of numerous documentary pieces of evidence (documents, statements, official notes) composed during the giving of witness statements, amounting to a gross breach of the right to a fair trial and the obligation of the Prosecutor's Office of BiH to disclose to the defense teams all the evidence pursuant to the provision of Article 47(3) of the CPC of BiH.

329. In that context, on several occasions at the hearings (6 January 2012²⁷, 23 March 2012²⁸, 13 April 2012²⁹ etc.) the Court ordered the Prosecutor's Office of BiH to deliver to the defense teams all exculpatory evidence or evidence that benefits the accused in any way and from any case, which, according to the Prosecutor's Office, was done. Moreover, the Prosecutor's Office informed the Court in writing that they again reviewed the case files and did not find evidence insisted on by the Defense. The Court did not have information or anything else indicating that the Prosecutor's Office possessed a piece of evidence that was not made available to the Defense.

330. Towards the end of the trial, the Prosecutor's Office delivered to the defense teams the respective statements given by the suspects Senad Memić, Jusuf Hadžajlija and Hasan Hakalović (against whom an investigation has meanwhile been terminated) and witness Mustafa Buturović, the statements that, according to the Defense, benefitted the accused Bojadžić. Although the Defense claimed that these pieces of evidence were

such conduct may result in his removal from the courtroom. The judge or the presiding judge may continue the proceedings during this period if the accused is represented by the defense attorney."

²⁷ Transcript of trial hearing of 6 January 2012, p. 64; **Judge:** "The defense for the fifth accused filed a motion pursuant to Article 14, in conjunction with Article 47(3) and (4) of the CPC of BiH, and we have had several motions here... this Panel ordered the Prosecutor's Office on several occasions to disclose to the defense all the prior statements of witnesses, but I will now reiterate the ones that are in possession of the Prosecutor's Office, which, in this Panel's view, is in accordance with Article 47 and is not in opposition to Article 14, because the defense teams, if they cannot obtain and if they have knowledge of prior witness statements, they will petition the Court and the Court will mediate in obtaining such statements, as was done for the defense for the third accused, and the Ministry of Defense for other accused persons, including the defense for the fifth accused..... **I will again order the Prosecutor's Office to disclose any and all exculpatory evidence to the defense teams regardless of the case of origin. But please note the following. We have received a letter from the Prosecutor's Office stating that they have reviewed the case files again and did not find exculpatory evidence.** And another point, we acknowledge that the obligation of disclosure, also from the case law of the international court, that the obligation of disclosure on the part of Prosecutor's Office may include all the materials and not just the ones that are admissible as evidence, all the materials that could help defense conduct an investigation. We believe that that is in the interest of justice, fairness and is, after all, common sense"

²⁸ Transcript of trial hearing of 23 March 2012, p. 58; **Judge:** "**I ordered the Prosecutor's Office to disclose all the documents ... in which this person is mentioned in any context... the Prosecutor told us that she has fulfilled her obligations...** We therefore maintain that all the documents, all that mention Mato Zeko in this case, be disclosed. The Prosecutor's Office said that it fulfilled its obligation and that is it. Next, we heard the Prosecutor... there is no audio recording of interview of Rasema Handanović, that means that I cannot order that something that does not exist be handed over to you."

²⁹ Transcript of trial hearing of 13 April 2012, p. 15; **Judge:** "..... for the umpteenth time we entertain this issue, this problem has arisen several times before this Panel. The Panel has already taken a stand regarding evidence from other investigations, specifically we are dealing with a statement by witness "X" given in another investigation. I will reiterate what we already said, repeatedly, and this is the view of this Panel. **All the evidence in favor of the accused, regardless of their origin, it is the duty, the Prosecutor's Office has a duty to disclose to the defense teams, but I**

“exculpatory” for their client, at the hearing held on 12 January 2015³⁰ the Defense, after being explicitly asked by the Court to state if they proposed examination of those persons (and the Court would grant that motion), did not propose summoning and examination of all or some of those persons as Defense witnesses, but rather tendered documentary evidence (only) to demonstrate unlawful conduct of the Prosecutor's Office, i.e. the fact of existence of evidence and the time when it was delivered to the Defense.

331. Furthermore, the Court notes that Hasan Hakalović was examined as a Defense witness, and the same goes for Nusret Avdibegović aka Beg (the Defense obtained his statement). Taking into consideration that those persons were being investigated in the same case, i.e. those are statements of suspects (with the exception of the statement by witness Mustafa Buturović), the Court holds that the non-disclosure of those statements did not affect or otherwise violate the accused's right to a defense.

332. Furthermore, the defense teams argued that during the investigation the Prosecutor seized of the case grossly violated the regulations on independence and impartiality in discharging his prosecutorial function, as well as provisions of the CPC of BiH, by, first of all, directly involving in the investigation an employee of the highest body of the executive branch of government, Mr. Mato Zeko. This ensues from the Response by the Secretariat of the Presidency of BiH dated 13 January 2012, stating that the said person has been an employee of the Presidency of BiH since 1 January 2003, and that on 21 May 2007, by letter No. KT-RZ 107/05, the Prosecutor's Office of BiH requested consent for retaining his services in investigations conducted by the Prosecutor's Office of BiH for criminal offenses against humanity and values protected by international law committed in the territory of the municipalities of Konjic and Jablanica in 1993. The consent for Mr. Mato Zeko was given on 23 May 2007.

333. The Court found that this complaint by the defense teams is unfounded and too broad, taking into consideration that the defense teams, other than alleging, among other things, “...that Mato Zeko was involved in all the investigations of the Prosecutor's Office of

also said and I will reiterate, the burden of that rests on the Prosecutor's Office. The Prosecutor's Office or the Prosecutor has an obligation to determine what evidence is in favor of the accused.....”

³⁰ Audio recording of their trial hearing of 12 January 2015, 5:55 – 6:57; **Judge:** “defense, you proposed tendering of documentary evidence that you subsequently received from the Prosecution... the evidentiary procedure is not completed. Do you perhaps want to propose examination as witnesses of persons listed here?” **Defense counsel:** “We will not propose examination of these witnesses, we did not propose from the viewpoint of truthfulness but from the viewpoint of legality of procedure of non-disclosure of exculpatory evidence for our client; you are aware that on at least five occasions before this Panel and from this Panel we petitioned that we be delivered, and finally it was delivered to us

BiH in the territory of municipalities of Konjic and Jablanica in relation to the events from 1993, that this was unlawful conduct of the Prosecutor and interference of the executive branch of government, whereby he also grossly violated the principle of a fair and impartial trial, and that the Prosecution never submitted to the Defense (although the Defense requested it) proof of engagement of Mato Zeko in the investigation in this case...”, do not specify how Mato Zeko endangered the investigation or how the procedure was violated to the detriment of the accused, i.e. the Defense failed to specify the consequences arising from the participation of Mato Zeko in the investigative actions.

(X) DECISIONS ON REBUTTAL AND REJOINDER, PROPOSED EVIDENCE ON THE AMENDED INDICTMENT, ADDITIONAL EVIDENCE AND COMPLAINTS AGAINST THE AMENDED INDICTMENT

a) Decision on rebutting evidence and evidence in rejoinder

334. On 8 September 2014, the Prosecutor's Office of BiH, pursuant to Article 261(2)(c) of the CPC of BiH, proposed presentation of evidence challenging Defense's allegations (rebutting evidence) by examining witnesses Salko Gušić, Vehid Čaušević, Nusret Điver, Ćazim Ćibo, Nusret Pintul and Ragib Podrug, and tendering 19 pieces of documentary evidence.

335. At the hearing held on 20 October 2014 the Court issued a decision refusing to accept presentation of rebutting evidence, as follows: examination of witness Vehid Čaušević. This witness was proposed to testify about the writing of the wartime logbook of the SOPN ŠVK unit for the period 7-17 April 1993, and about which members of the unit remained on the Igman on 14 April 1993. Considering that the writing of the wartime logbook of the SOPN Unit and which members of the unit remained on Igman on 14 April 1993 are issues raised by the Prosecution when presenting their evidence – issues not arising out of Defense's evidence but out of Prosecution's evidence – the Court accordingly takes the view that this witness should have been examined as part of the evidence of the Prosecution and not the rebutting evidence. The same applies to exhibits no. 24 and 25: Orders by the Commander of the Supreme Command Staff of 16 June and 15 May 1993 respectively.

15 days ago... we will not because we do not use them from the viewpoint of documentary evidence but as confirmation of evidence pointing to unlawful procedure.”

336. The Court further refused examination of witness Nusret Pintul. This witness was proposed to be examined about the alleged beating of captives of Croat ethnicity in Donja Jablanica in November 1993 by members of the Zulfikar SOPN ŠVK, finding that the examination of this witness would imply exploring facts and circumstances pertaining to another case, and would raise the issue of responsibility and determination of responsibility of persons not tried in this case, which is not the purpose of this trial.

337. Finally, the Court refused the motion for examination of witness Ragib Podrug. This witness was proposed to testify about the origin of Defense Exhibit (O-V-396)³¹. The Court has found that the examination of this witness is unnecessary, and the same applies to Exhibit no. 10 (Google Earth – photographs of the Bradina-Parsovići road).

338. The Court accepted the remainder of the Prosecution's motion, finding that the other proposals are limited to issues arising out of Defense evidence and do not pertain to key Prosecution theses that were supposed to be presented as part of the evidence of the Prosecution and not the rebutting evidence.

339. Lastly, regarding the evidence also marked as rebutting evidence (no. 12³², 13³³ and 14³⁴) the Court finds that it consists of records that were used during cross examination so the Court does not regard them as rebutting evidence. The Court, however, admits them into evidence as they were used as evidence in cross examination.

340. On 5 November 2014 the Defense for Nihad Bojadžić submitted a final list of evidence in rejoinder, proposing the examination of witness Arnes Kašić, and tendering of four exhibits. The other defense teams did not propose presentation of evidence in rejoinder.

341. At the man trial hearing held on 10 November 2014, the Defense for Bojadžić informed the Court that it withdraws the motion to examine the proposed witness in rejoinder, and that it had no further witnesses, and presented the proposed documentary evidence.

³¹ **O-V-396** – Part of the wartime logbook of the SOPN unit for 9 November 1993 and 11 November 1993.

³² **T-358** – Record of Interview of Witness “D”, Bosnia and Herzegovina, Ministry of Security, State Investigation and Protection Agency, War Crimes Investigation Center, no. 17-04/2-04-2-1234/08, dated 5 November 2008.

³³ **T-359** - Record of Interview of Witness Ređo Poturović, Bosnia and Herzegovina, Ministry of Security, State Investigation and Protection Agency, War Crimes Investigation Center, no. 17-04/2-04-2-158/08, dated 13 November 2008.

³⁴ **T-360** – Statement by Witness Edin (Smail) Čolak, Konjic, 31 October 2009.

342. At the hearing held on 1 December 2015, the defense teams for Mensur Memić and Dževad Salčin stated they did not plan to present evidence relative to the Amended Indictment, whereas the Defense for Nedžad Hodžić, stressing that under the Amended Indictment some persons that used to have the status of civilians are now given the status of soldiers, and that it would propose the examination of some witnesses who have already been examined, failed to submit a motion of evidence to that effect within the set deadline.

343. Defense for Senad Hakalović commented that the Amended Indictment changed the status of certain people, i.e. the expression “HVO members out of combat operations” has been introduced. The Defense proposed to examine witness Vahid Karavelić on this matter to clarify that the expression “*soldier out of combat operations*” did not exist, and to order an additional evaluation by expert Asim Džambasović to explain this expression from the professional viewpoint and in which circumstances it can appear. With this the Defense wishes to refute the Prosecution's claim that there were soldiers out of combat operations and, if they did exist, they were legitimate military targets. Furthermore, the Defense proposed re-examination of protected witness O-III-3 on the aforementioned circumstances, as well as the identification of the accused Senad Hakalović.

344. By letter dated 8 December 2014, the Defense for Nihad Bojadžić proposed in relation to the Amended Indictment to examine witness Hasan Hakalović – on the subject of “previously prepared attack” as added in the Amended Indictment, presence of the accused Bojadžić in Bradina, and the possibility of functioning of communications in Trusina, since it was added in the Amended Indictment that the accused Bojadžić “gave an order to Nedžad Hodžić to execute the captured HVO members.” The Defense further proposed the examination of Mirsad Čaušević – on the subject of Army of R BiH fighting strategy in connection with the allegations, also added in the factual account of facts in the Amended Indictment, about the alleged existence of a previously prepared attack on the village of Trusina. Finally, the Defense proposed the tendering of two documentary exhibits³⁵.

³⁵ **O5-446** Platform for the activities of the Presidency of Bosnia and Herzegovina during the State of War, published in the *Official Gazette of R BiH* on 2 July 1992, and **O5-447** Plea Agreement between the Prosecutor's Office of BiH and

345. At the hearing held on 15 December 2014 the Court accepted all the proposed evidence of the Defense for Nihad Bojadžić, but refused the motion by the Defense for Senad Hakalović, finding that the expression “*soldier out of combat operations*” (who those soldiers were and what their legal status was) has been sufficiently clarified by the presented evidence, which the Court will assess and rely on to make a legal finding.

c) Proposals of additional Prosecution and Defense evidence

346. On 26 December 2014, the Prosecutor's Office of BiH submitted a letter proposing as additional evidence the examination of witness Zoran Barun (on the subject of scope and limitations of electronic reconnaissance conducted by the HVO on the relevant day). By examining this witness the Prosecution wishes to refute the testimony by Defense witness Mirsad Čaušević who said that the only notable communication between members of units of the Army of RBiH on that day was that they had two wounded men and that there was no other notable communication by radio, especially no notable order during the attack, because the HVO from Zlatar could intercept such an order and register it in their report. Prosecution further proposed re-examination of protected witness “E” about the events in Trusina on 16 April 1993, the presence of Defense witness Berdihan Mešić in the village of Trusina and the mentioning of witness “E” by Berdihan Mešić. As for the documentary evidence challenging witness credibility, the Prosecution proposed a review of criminal record for witness Berdihan Mešić.

347. Regarding the said motion, the Court accepted the examination of witness Zoran Barun as part of Prosecution's additional evidence, and the tendering of proposed documentary evidence. As for re-examination of protected witness “E” about events in Trusina as additional evidence, the Court refused this proposal as the witness has already been examined and the Court finds that there are no reasons for his re-examination. At any rate, the Court will assess all the evidence (Prosecution and Defense alike) as it was presented at the main trial.

348. The Defense for Mensur Memić, in addition to examination of witness Berdihan Mešić, which has been granted by the Court, also proposed as additional evidence the reading of the Record of Examination of the Accused Edin Džeko as a witness in the case conducted before the Court of BiH No. S1 1 K 010294 12 Krl of 10 December 2013 (pp.

Rasema Handanović no. T20 0 KTRZ 000 2955 12 of 2 March 2012, and the operative part of the Judgment of the Court

18-57), considering that the accused Džeko, in connection with the events in the village of Trusina, as claimed by the Defense, maintained in his testimony that the accused Memić did not take part in combat operations as a SOPN member.

349. However, the Court did not grant the Defense's motion to read and tender (as additional evidence) the transcript of the testimony by the accused Edin Džeko, given as a witness in a case conducted before this Court against him, as there were no grounds for that, and the Defense had the means and opportunity to examine this person as its witness.

350. The Defense for Dževad Salčin did not propose presentation of additional evidence.

351. With regard to identification of the accused Senad Hakalović, the Court accepted re-examination of protected witness O-III-3 and the tendering of two exhibits³⁶ as additional evidence of the Defense for Hakalović.

352. The Defense for Nedžad Hodžić filed a motion to conduct an evaluation of the accused by a team of experts (expert Prof. Abdulah Kučukalić would lead the team that he himself would form) with respect to the accused Hodžić's mental capacity to stand trial, as additional evidence, arguing that multiple evaluations that have been conducted have not determined with reliability and certainty whether the accused possesses the required mental capacity to stand trial. The Court refused the Defense's motion, with the explanation that several evaluations of the accused Hodžić have been conducted and, in the Court's view, the issue of the accused's mental capacity to stand trial has been sufficiently clarified.

353. The Defense for Nihad Bojadžić petitioned the Court, with respect to a gross violation of the obligation to disclose evidence to the Defense by the Prosecutor's Office of BiH, to admit as additional evidence the tendering of a number of exhibits (O-5-449³⁷), records of questioning of suspects Hasan Hakalović, Senad Memić, Jusuf Hadžajlija,

of BiH no. S1 1 K 009162 12 Kro of 30 April 2012 for Rasema Handanović.

³⁶ **O-3-58** Official Note SIPA, War Crimes Investigation Center, no. 17-04/2-04-2-173/10, of 8 February 2010 and **O-3-59** Official Note SIPA, War Crimes Investigation Center, no. 17-04/2-04-2-4/10 of 31 December 2009.

³⁷ **O-5-449** Record of Questioning of Suspect Hasan Hakalović, Prosecutor's Office of BiH, no. KT-RZ-107/05 dated 23 March 2010; Record of Questioning of Suspect Hasan Hakalović, Prosecutor's Office of BiH, no. KT-RZ-107/05 dated 19 April 2010; Record of Questioning of Suspect Senad Memić, Prosecutor's Office of BiH, no. KT-RZ-107/05 dated 12 May 2010; Record of Questioning of Suspect Jusuf Hadžajlija, Prosecutor's Office of BiH, no. KT-RZ-107/05 dated 15 December 2009; Record of Interview of Witness Mustafa Buturović, State Investigation and Protection Agency, War Crimes Investigation Center, no. 17-04/2-04-2-1061/08 dated 22 October 2008; Redacted Record of Interview of Witness, Prosecutor's Office of BiH, no. KT-RZ 107/05 dated 16 March 2010.

witness Mustafa Buturović and a protected witness) that were delivered to the Defense no sooner than towards the end of the criminal proceedings, notwithstanding repeated requests from the Defense to the Prosecutor's Office and the fact that the records were originally made in Case No KT-RZ-107/05 in the period between 2008 and 2010.

354. The Court granted this motion by the Defense in its entirety, so the said documentary evidence, discussed above, was admitted as additional evidence.

d) Objections to the Amended Indictment

355. On 24 November 2014, the Prosecutor's Office of BiH, pursuant to Article 275 of the CPC of BiH, filed an Amended Indictment to the Court, charging **the accused Mensur Memić and Senad Hakalović**³⁸ with the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Article 180(1) and Article 29 thereof, **the accused Dževad Salčin**³⁹ with the criminal offense of War Crimes against Civilians in violation of Article 173(1)(c), (e) and (f) and the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1), 29 and 53(1) thereof, **the accused Nedžad Hodžić**⁴⁰ with the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a) and (c) and the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1), 29 and 53(1) thereof, and **the accused Nihad Bojadžić**⁴¹ with the criminal offense of War Crimes against Civilians in violation of Article 173(1)(a), (b) and (c) and War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 29 and 180(1) of the CC of BiH.

356. On 26 November 2014, the defense for third accused Senad Hakalović submitted comments on the Amended Indictment, stating therein that the case in question did not involve a consolidated indictment but a completely new indictment because the current

³⁸ (Initial) Indictment no. KTRZ 107/05 of 10 March 2010 **charged the accused Mensur Memić and Senad Hakalović with** the criminal offenses of War Crimes against Civilians in violation of Article 173(1)(c) and War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1) and 29 thereof.

³⁹ (Initial) Indictment no. KTRZ 107/05 of 10 March 2010 **charged the accused Dževad Salčin with** the criminal offenses of War Crimes against Civilians in violation of Article 173(1)(c) and (f) and War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1) and 29 thereof.

⁴⁰ (The second) Indictment no. KTRZ 15/2010 of 12 March 2010 **charged the accused Nedžad Hodžić with** the criminal offenses of War Crimes against Civilians in violation of Article 173(1)(a) and (c) and War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1), 29 and 53(1) thereof.

Indictment, as alleged by the Defense, contains a completely new account of acts of the criminal offense changing the character of relations between the armed forces in conflict in that territory, the number and status of victims and the military status of victims at the moment of their capture as viewed in connection with the actions of the accused Senad Hakalović, simultaneously qualifying the same act in terms of another criminal offense. Consequently, the Defense submits that the consolidated text of the Indictment radically changes the factual account of the act of the criminal offense by placing the accused on an unequal footing as during the stage of presentation of evidence in the proceedings hitherto he was not in a position to refute particular elements of the act that in the consolidated text of the Indictment constitute elements of the criminal offense, a new offense compared to the one given in Indictment No. KT-RZ-107/05.

357. The Defense for Nihad Bojadžić submitted comments on 26 November 2014, stating therein that the Amended Indictment exceeded the scope of Article 275 of the CPC of BiH as it contained facts that do not ensue from the evidence presented at the main trial. For that reason, the Defense petitioned the Court to refuse the Indictment in relation to the accused Bojadžić.

358. The Court held a hearing on 1 December 2014 at which the Prosecution's Amended Indictment was discussed.

359. The defense teams for the first accused Mensur Memić and the second accused Dževad Salčin did not object to the Prosecution's Amended Indictment.

360. The defense for the fourth accused Hodžić finds that the amendments are not consistent with the factual results of the evidentiary procedure and they are not particularly relevant with regard to the remarks made by the Defense for Hodžić during the trial, i.e. complaints that the trial commenced although the accused Nedžad Hodžić was not mentally competent to stand trial, so they objected to the Amended Indictment for those reasons.

361. The defense teams for the third accused Senad Hakalović and fifth accused Nihad Bojadžić maintained the objections made in the submission filed; the Defense for Bojadžić

⁴¹ (The third) Indictment no. KTRZ 23/10 of 26 April 2010 charged **the accused Nihad Bojadžić** with the criminal offenses of War Crimes against Civilians in violation of Article 173(1)(a), (b) and (c) and War Crimes against Prisoners of War in violation of Article 175(1)(a) of the CC of BiH, in conjunction with Articles 180(1), 29 and 53(1) thereof.

added that the amendments have been proposed even though the Prosecution did not present any evidence in that regard.

362. The Court accepted the Amended Indictment, considering that it does not aggravate the procedural position of the accused, having found that the Amended Indictment is still within the bounds of the objective and subjective identity.

V. EVALUATION OF EVIDENCE

363. When conducting the trial, as well as assessing the evidence, the Court was guided by the principle of legality,⁴² and the requirement that no innocent person be convicted, and that a perpetrator of an offense receive a criminal sanction in legally prescribed proceedings under the conditions provided by the Criminal Code of BiH (Article 2(1) of the CPC of BiH).

364. Article 3 of the CPC of BiH introduces the presumption of innocence, determining that an accused shall be considered innocent of a crime until guilt has been established by a final judgment. For that reason, the burden of proving the guilt of an accused rests on prosecution, and it is the prosecution that must prove it beyond a reasonable doubt; in the event of any doubt with respect to the existence of facts composing characteristics of an alleged criminal offense, the matter shall be decided in a manner that is the most favorable for the accused (Article 3(2) of the CPC of BiH), in line with the principle of *in dubio pro reo*.

365. Finally, the Court is bound to objectively study and establish with equal attention facts that are exculpatory as well as inculpatory for the accused (Article 14 of the CPC of BiH).

366. In accordance with the principle of free evaluation of evidence, the Court has considered all the evidence, Prosecution's and Defense's alike, making sure to give an assessment of the conflicting evidence and advancing arguments with regard to the proved facts. At the same time, in accordance with Article 6(1) of the European

⁴² Article 2(1) of the CPC of BiH provides as follows: "The rules set forth in this Code shall provide for an innocent person to be acquitted and for a perpetrator of an offense to be pronounced a criminal sanction in legally prescribed proceedings under the conditions provided by the Criminal Code of Bosnia and Herzegovina and other laws of the State of Bosnia and Herzegovina that prescribe criminal offenses".

Convention, the Court made sure to “give sufficient reasons for its decision”⁴³ and provide understandable reasons without being required to give a detailed answer to every question, but if a fact or piece of evidence is of essential importance to the outcome of the case, in that case the court must address it in its judgment.⁴⁴

367. Whilst acknowledging the domestic judicial authorities' prerogative to assess what is relevant and admissible, Article 6(1) of the European Convention places national courts under a duty to conduct a proper examination of the submissions, arguments and evidence adduced by the parties⁴⁵. In this connection, the courts must address and clarify any major inconsistency in the statements of parties to proceedings, indicate if any impugned evidence should be declared inadmissible and, if so, on what grounds.⁴⁶

368. When assessing the testimony given by the examined witnesses, the Court endeavored to consider their testimony in entirety, meaning both the content of the testimony and the body language and behavior of the witnesses when giving the testimony. Credibility of witnesses depends not only on the extent of their knowledge of the incident that they testify about, but also on their sincerity, reliability as well as awareness that by taking an oath before the court they undertook to tell the truth.

369. The sincerity of a witness's testimony is not the only thing that is important; what is also important is that the testimony is reliable. The Court was mindful of the fact that the reliability of a witness's testimony depended on his/her knowledge of facts, and that the reliability of a testimony may be largely influenced by the passage of time, inconstancy of human perception and the traumatic nature of the incident the witness is testifying about. In that context, the Court compared the facts the witnesses testified about to the facts established by other witnesses, as well as to documentary evidence, in order to determine whether they were corroborated or refuted by other evidence in this case.

370. The Court also examined the tendered documentary evidence in order to make a ruling on its reliability and probative value.

⁴³ Judgment of the European Court in Strasbourg in the Case of *Van de Hurk v. The Netherlands*, 19 April 1994, paragraph 61.

⁴⁴ Judgment of the European Court in Strasbourg in the Case of *Van de Hurk v. The Netherlands*, 19 April 1994, paragraph 61.

⁴⁵ *Van de Hurk v. The Netherlands*, 19 April 1994, paragraph 59.

⁴⁶ *Khamidov v. Russia*, 2 June 2008, paragraph 173.

371. The Court examined the witness interview records admitted in the case file on the grounds of Article 273(1) of the CPC of BiH insofar as there was a discrepancy with the witness's main trial testimony, in the part pointed out either by the Prosecution or the Defense.

372. According to Article 15 of the CPC of BiH, the Court has the right of free evaluation of evidence. The Panel has carefully assessed all the presented evidence, individually and in correspondence with the other evidence, and the Court will give the evaluation of the evidence (particularly the evidence that the Court relied on in its decision) in the section of the Judgment explaining the factual and legal analysis of the charges against the accused.

373. The evidence that was not specifically referred to in the reasons adduced for the Judgment, in the Court's view, was not legally relevant for the establishment of facts and, as such, has not been specifically addressed.

VI. APPLICABLE LAW

374. The Court has considered the application of substantive law, primarily taking into account that it ensued from the Amended Indictment that the accused committed the acts charged on 16 April 1993, hence in the period when the Criminal Code of the Socialist Federal Republic of Yugoslavia (CC of SFRY) was in effect; this Code has been adopted on the basis of the Law on the Application of the Criminal Code of the Republic of Bosnia and Herzegovina and the Criminal Code of SFRY.

375. As to the substantive law and the legal qualification of the criminal offense, the Court was mindful of the principles laid down in Articles 3 and 4 of the CC of BiH, Article 7(1) of the ECHR, Article 15(1) of the International Covenant on Civil and Political Rights (ICCPR) and Article 24(2) of the Rome Statute of the International Criminal Court (Rome Statute), and, by applying the cited articles, found that the accused Mensur Memić and Nedžad Hodžić committed the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY, while the accused Nihad Bojadžić committed the criminal offense of War Crimes against Prisoners of War in violation of Article 144 and War Crimes against the Civilian Population in violation of Article 142 of the CC of SFRY, in the manner as prescribed by the said Code.

376. Specifically, Article 3 of the CC of BiH prescribes the principle of legality as one of the fundamental principles of criminal procedure, reading as follows:

“1. Criminal offenses and criminal sanctions shall be prescribed only by law.

2. No punishment or another criminal sanction may be imposed on any person for an act which, prior to being perpetrated, has not been defined as a criminal offense by law or international law, and for which no punishment has been prescribed by law.”

377. Furthermore, Article 4 of the CC of BiH prescribes the principle of time constraints regarding applicability, reading as follows:

„1. The law that was in effect at the time when the criminal offense was perpetrated shall apply to the perpetrator of the criminal offense.

2. If the law has been amended on one or more occasions after the criminal offense was perpetrated, the law that is more lenient to the perpetrator shall apply.”

378. Similarly, Article 7(1) of the ECHR provides:

“No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offense was committed.”

379. Article 15(1) of the ICCPR provides:

„No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offense was committed. If, subsequent to the commission of the offense, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.”

380. Article 24(2) of the Rome Statute:

“In the event of a change in the law applicable to a given case prior to a final judgment, the law more favorable to the person being investigated, prosecuted or convicted shall apply.”

381. It ensues from the cited provisions that, as a rule, the law that was in effect at the time of commission of the offense applies to the offender (*tempus regit actum*).

382. The quoted provision of Article 4(2) of the CC of BiH allows departure from this fundamental rule of criminal law only when that is in the interest of the accused, i.e. when it is found that the criminal code that entered into force subsequent to the commission of a criminal offense is more favorable to the accused. Moreover, the issue of assessment of a more lenient law is an issue that needs to be decided in each specific case, and a proper decision requires an analysis of several criteria in the procedure of comparison of the old and the new code and their application *in concreto*, meaning the application in a concrete case (the principle of concreteness).⁴⁷

383. However, with regard to the provision of Article 4(2) of the CC of BiH, it should be noted that this is a principled provision, i.e. the Code does not define standards that would eliminate any vagueness in terms of application.

384. A simple comparison of the texts of the laws to a specific case can provide a reliable answer only if the new law decriminalized something that was a criminal offense under the previous law, making the new law evidently more lenient. In any other situation when, as is the case with the criminal offenses of War Crimes against Prisoners of War and War Crimes against the Civilian Population, we have similar criminal offenses with effectively identical characteristics, and both offenses are criminal under both codes, it is necessary to analyze all the circumstances that can be of relevance to the assessment of and finding on the more lenient law for the accused in the case in question.

385. The said circumstances primarily include penalty provisions, meting out of punishment, i.e. mitigation (which law is more favorable), warning measures, possible accessory punishments, new measures applied as a substitute for harsher penalties (e.g. community service), security measures, legal ramifications of a conviction, whether the new law specifies a ground for exclusion of unlawfulness, criminal responsibility or punishability etc.

⁴⁷ Commentary on the Criminal Codes of BiH, Council of Europe, 2003, page 66.

386. However, it takes more than a finding as to which law provides more possibilities for a more favorable judgment; it needs to be determined which law allows a more favorable outcome in a concrete case for a concrete perpetrator⁴⁸. This clearly ensues from the quoted provisions of Article 4(2) of the CC of BiH that the law “more lenient to the perpetrator” shall apply. Therefore, it remains a possibility that a law with a harsher penalty is ultimately more favorable for a perpetrator because the application of other provisions of that law would bring about a more favorable solution for the perpetrator⁴⁹.

387. In the case in question, both the code that was in effect at the time of commission of the criminal offense (CC of SFRY) and the code currently in effect (CC of BiH) prescribe criminal acts for which the accused Mensur Memić, Nedžad Hodžić and Nihad Bojadžić were found guilty as the criminal offenses of War Crimes against Prisoners of War and War Crimes against the Civilian Population. Given the aforesaid, it is clear that statutory requirements for conducting the criminal proceedings against the perpetrators of the said criminal offenses and their punishment have been met.

388. The issue of retroactive application of criminal code is an exceptionally important legal issue that has been analyzed and assessed in several decisions of the Constitutional Court and the European Court of Human Rights (European Court); those decisions have direct implications on the actions of the Court of BiH in war crimes cases, considering that they constitute binding national and international case law.

389. Given the aforesaid, and taking into consideration the views of the Constitutional Court of BiH departing from the case law of the European Court as they do not foresee that application of the more lenient law is examined on a case-by-case basis but clearly provide that in all cases in which both codes prescribe the same criminal offense the CC of SFRY will apply to the perpetrator, the Court applied this Code to the case in question since the view of the Constitutional Court of BiH is binding on the Court of BiH.

390. As the criminal offense of War Crimes against Civilians in violation of Article 173 of the CC of BiH and the criminal offense of War Crimes against Prisoners of War in violation of Article 175 of the CC of BiH (with which the accused are charged in the present case) were prescribed by, respectively, Articles 142 and 144 of the CC of SFRY, based on the foregoing and in line with the case law of the Constitutional Court of BiH, in terms of

⁴⁸ Ibid.

⁴⁹ Ibid, page 67.

application of substantive law it is necessary to apply the CC of SFRY as the law that was in effect at the time of commission of the criminal offense and as the law that, according to the Constitutional Court of BiH, is more lenient to the accused.

**VII. GENERAL ELEMENTS OF THE CRIMINAL OFFENSES OF WAR CRIME
AGAINST THE CIVILIAN POPULATION IN VIOLATION OF ARTICLE 142 AND WAR
CRIME AGAINST PRISONERS OF WAR IN VIOLATION OF ARTICLE 144 OF THE CC
OF SFRY**

391. Under the Amended Indictment, the Prosecutor's Office of BiH charges the accused Mensur Memić and Nedžad Hodžić that they, by the acts described in the Indictment's factual account, committed the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a), in conjunction with Articles 180(1) and 29 of the CC of BiH, while the accused Nihad Bojadžić is charged with War Crimes against Civilians in violation of Article 173(1)(a), (b) and (c) and the criminal offense of War Crimes against Prisoners of War in violation of Article 175(1)(a), in conjunction with Articles 180(1) and 29 of the CC of BiH.

392. However, on the basis of all the presented evidence, the Court has found that the acts of the accused Mensur Memić and Nedžad Hodžić satisfied essential elements of the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY, while the acts of the accused Nihad Bojadžić satisfied essential elements of the criminal offenses of War Crimes against the Civilian Population in violation of Article 142 and War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY, and the Court has accordingly found them responsible and guilty, for the reasons adduced in the part of the Judgment relating to the application of substantive law.

393. Article 142 of the CC of SFRY provides that:

“Whoever in violation of rules of international law effective in time of war, armed conflict or occupation, orders an attack against civilian population, settlement, individual civilians or persons unable to fight, which results in the death, grave bodily injuries or serious damaging of people's health, an indiscriminate attack without selecting a target by which civilian population gets hurt; that civilian population be subject to killings, tortures, inhuman

treatment, biological, medical or other scientific experiments, taking of tissue or organs for the purpose of transplantation, immense suffering or violation of bodily integrity or health; dislocation or displacement or forcible conversion to another nationality or religion; forcible prostitution or rape; 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; forcible labor, starvation of the population, property confiscation, pillaging, illegal and self-willed destruction and stealing on large scale of a property that is not justified by military needs, taking an illegal and disproportionate contribution or requisition, devaluation of domestic currency or the unlawful issuance of currency, or who commits one of the foregoing acts,

shall be punished with a sentence of imprisonment for not less than five years or by the death penalty."

394. Article 144 of the CC of SFRY provides that:

"Whoever, in violation of rules of international law, orders murders, tortures or inhuman treatment of prisoners of war, including therein biological, medical or other scientific experiments, taking of tissue or organs for the purpose of transplantation, causing of great sufferings or serious injury to the bodily integrity or health, compulsive enlistment into the armed forces of an enemy power, or deprivation of the right to a fair and impartial trial, or who commits some of the foregoing acts,

shall be punished with a sentence of imprisonment for not less than five years or by the death penalty."

395. Consequently, the following general elements of the criminal offenses of War Crimes against the Civilian Population and War Crimes against Prisoners of War ensue from the quoted statutory provisions:

- The perpetrator's act must be committed in violation of rules of international law,

- The violation must be committed in time of war, armed conflict or occupation;
- There must be a nexus between the perpetrator's act and the war, armed conflict or occupation;
- The perpetrator must order or commit the crime.

396. Existence of the cited criminal offenses requires that acts of perpetration of an offense constitute a violation of rules of international law, suggesting a blanket character of the criminal offense. These violations are prohibited under the Geneva Conventions and Protocols thereto, while the basis for criminal offenses relating to war crimes ensues from the Conventions.

397. In light of the said provisions, it is not required (it is not a condition for the offense) that the perpetrator knows that he/she is violating or has intention to violate an international norm (it is not required that the perpetrator has knowledge that he/she is violating a blanket regulation); it suffices that his/her conduct objectively constitutes a violation of rules of international law, whereas in terms of concrete, individual acts of perpetration the *mens rea* element on the part of the perpetrator must by all means be assessed, and the Court will do that when addressing particular acts of perpetration in relation to specific counts of the Indictment.

398. Consequently, in order for the accused's acts to satisfy elements of the criminal offense of a war crime it is necessary to determine or, on the basis of presented evidence, make a conclusion on the existence of the aforesaid general elements or, more precisely, fulfilment of elements of the criminal offense in question. As noted above, the general conditions/elements are identical to both criminal offenses; the provision set forth in Article 144 of the CC of SFRY, however, does not require a finding that there was a war, an armed conflict or an occupation, although they are assumed given the nature of a war crime. This is also suggested by the protected category of "prisoners of war" in terms of the criminal offense under Article 144 of the CC of SFRY; it should be noted that the said criminal offense can be committed not only in time of war or armed conflict but thereafter as well, when prisoners of war are still under the control of the power that captured them.

Namely, prisoners of war enjoy the status of protected persons under international law until repatriation.⁵⁰

399. When one considers the legal descriptions of the criminal offenses in question, it becomes clear that the existence of those offenses is not conditioned by the definition of the nature of an armed conflict (international or non-international) because that issue does not constitute a substantive element of each of the criminal offenses under Articles 142(1) and 144 of the CC of SFRY; though, in terms of applicability, i.e. protection afforded by the Geneva Conventions and Protocols thereto, the nature of the conflict must be determined unless the accused is charged with violating common Article 3 of the Conventions, which applies to international and non-international armed conflicts alike, or if the charge involves a violation of a provision of the Conventions that has acquired the status of customary international law in any case, i.e. regardless of the nature of the conflict in question.

400. Bearing in mind the aforesaid, in the case in question, the accused's knowledge of the existence of factual circumstances determining the nature of the conflict is not a condition⁵¹; in this case a finding that the accused had knowledge of existence of an armed conflict⁵² is sufficient, which will be explained in more detail in the text below.

401. In that regard, the Court finds that the accused Mensur Memić and Nedžad Hodžić, by the acts described in the operative part hereof, in violation of rules of international law, during the war and conflict between the Army of BiH and the HVO, on 16 April 1993, together with Rasema Handanović aka Zolja and other members of the Special-Purpose Detachment of the Army of R BiH "Zulfikar" known to them, took part in the murder of lined up prisoners of war (members of the Croat Defense Council) Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević and Franjo Drljo, thereby committing the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY, in conjunction with Article 22 thereof.

402. Furthermore, the Court finds that it has been proved that the accused Nihad Bojadžić, by the acts described in the operative part hereof, in violation of rules of international law, in time of war, on 16 April 1993, albeit knowing that there were civilians in the village, ordered his subordinate members of the Special-Purpose Detachment of the Army of R BiH "Zulfikar" to attack the village of Trusina and leave no one alive in the

⁵⁰ A group of authors: Commentary on the Criminal Code of SFRY, Novi Sad, 1978, page 504.

⁵¹ ICTY Trial Judgment in *Strugar*, January 2005, para. 216.

village; the accused was on an elevation above the village of Trusina and, using a Motorola, led the attack, which resulted in the deaths of civilian persons (para. 431) and a prisoner of war Stipe Ljubić (para. 424); when the attack ended he ordered the accused Nedžad Hodžić to execute prisoners of war/members of the Croat Defense Council (para. 424), thereby committing the criminal offense of War Crimes against the Civilian Population in violation of Article 142 and the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY.

403. Having assessed the elements of the criminal offenses of War Crimes against the Civilian Population and War Crimes against Prisoners of War – that the perpetrator's act must be committed in violation of rules of international law, the violation must be committed in time of war, there must be a nexus between the perpetrator's act and the war and the perpetrator must order or commit the crime – the Court has determined that all the elements have been satisfied by the accused Mensur Memić, Nedžad Hodžić and Nihad Bojadžić.

(i) The perpetrator's act must be committed in violation of rules of international law

404. It is therefore necessary to determine the application of international rules in the relevant period. The ICTY Appeals Chamber judgment in *Tadić* reads that “*International humanitarian law applies from the initiation of armed conflicts and extends beyond the cessation of hostilities...*”

405. Article 3(1)(a) of the Geneva Conventions (I-IV), in its relevant part, reads as follows: “*In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:*

1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth or any other similar criteria. To that end, the following acts are and shall remain

⁵² Judgment of the Court of BiH no. S1 1 K 010295 12 Krl (*Edin Džeko*).

prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

406. The said Article 3 of the Convention is considered a provision of customary law and is binding on all parties to a conflict (international or non-international), and this provision was therefore valid at the time and in the place of the events with which the accused is charged. The said article is common to all the Geneva Conventions, i.e. it has been incorporated in all four Geneva Conventions of 12 August 1949. In essence, this article, in addition to being applicable to all types of conflict (international and non-international), guarantees certain rights to all persons taking no active part in hostilities; it guarantees humane treatment and prohibits the actions listed in the paragraphs of Article 3 of the Convention.

407. In order to find a violation of rules of international law, it is necessary to determine who the perpetration was directed against, i.e. whether the offense was directed against a particular category of persons protected by Article 3(1) of the Convention.

a) Status of prisoners of war (convicting part of the Judgment in relation to the accused Memić, Hodžić and Bojadžić)

408. In the case in question, the Court has found that the existence of an armed conflict between the HVO and the Army of RBiH in the territory of Konjic and Jablanica in 1993 undoubtedly ensues from the presented evidence, to be discussed in more detail in the section that deals with demonstrating that a violation must be committed in a time of war, armed conflict or occupation.

409. The Court concludes that according to Article 144 of the CC of SFRY, as previously noted on several occasions, the existence of an international conflict is not a prerequisite for the application of that article. In broad terms, a person captured in a time of war can be regarded as a prisoner of war in terms of Article 144 of the CC of SFRY regardless of whether he meets the strict criteria required for a prisoner of war status embedded in the Geneva Conventions.

410. Furthermore, the Court was mindful of the case law of the courts in the region, whereby the status of prisoner of war is primarily accorded to persons who are under control of one of the High Contracting Parties at war.

411. However, such a status can also be accorded to persons in a conflict not of an international character if such a conflict is an armed conflict with organized armed formations in conflict, if the intensity of the conflict makes it possible to distinguish the conflict from short-lived rebellions and riots, and if both parties to the conflict have manifestly demonstrated willingness to treat as prisoners of war the persons who take part in the conflict fighting for one party to the conflict and have fallen into the power of the other party to the conflict.

412. Consequently, norms of humanitarian law are to apply to such non-international armed conflicts and they protect the categories of persons they refer to, specifically prisoners of war. Following the same practice, the fact that a non-international conflict later grew into an international conflict has no bearing on the status of persons that already acquired or were in the process of acquiring the status of prisoners of war, and does not question the application of the provisions of the third Geneva Convention to the persons who have fallen into the power of one of the parties to the conflict following a change in the nature of the conflict.⁵³

413. Having analyzed the evidence regarding the status of the injured parties, the Court has found that the victims Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević, Franjo Drljo and Stipe Ljubić were HVO members, i.e. that they had the status of prisoners of war, which ensues from the testimony given by the examined witnesses (Croat residents of the village of Trusina and members of the SOPN of the Army of R BiH, participants in the operation) and the documentary evidence tendered in the case file.

414. Numerous witnesses spoke about the residents of the village of Trusina who were HVO members in 1993, i.e. in the village of Trusina, on Križ, where they were on guard duty and manned those military posts. Witness **Jure Krešo** stated that in addition to him the following men manned the post on Križ: Ivan Drljo, Pero Krešo, Nedeljko Krešo, Željko Blažević, Zdravko Drljo aka Bosanac and Stipe Ljubić. Witness **Nikola Drljo** recalled the names (of some) of HVO members: Zdravko Drljo, Nedo Krešo, Ivan Drljo, Pero Krešo, Stipe Ljubić. This testimony was also corroborated by witness **Tomislav Mlikota** who

stated that Pero Krešo, Ivan Drljo aka Crni, Željko Blažević, Nedo Krešo, Zdravko Drljo and Stipe Ljubić were soldiers who had weapons and all of them used to man the post on Križ, whereas witness **Mara Drljo** said in her testimony that her husband Franjo Drljo, who was in the hamlet of Gaj that morning, “*went in the evening up there with them to be on guard duty.*”⁵⁴

415. Moreover, in her testimony **Jela Ljubić** spoke about the status of murdered residents of the village of Trusina. She pointed out that Pero Krešo, Nedeljko Krešo, Ivo Drljo, Željko Blažević and her husband Stipe Ljubić, all of them HVO members, were among the persons who were killed that day. On the morning of 16 April 1993, at 06:00 hours, her husband went to Križ where he was on guard duty with other HVO members. Witness **Mara Drljo** stated that the group of soldiers who surrendered that morning included Nedeljko Krešo, Franjo Drljo, Stipo Ljubić, Pero Krešo, Ivan Drljo, Željko Blažević and Zdravko Drljo, which was further corroborated by, among others, witnesses Mara Delinac⁵⁵, Cecilija Šimunović⁵⁶ etc.

416. According to the testimony given by witness **Milka Drljo**, the surrender of the HVO soldiers on the day in question occurred when the soldiers who attacked the hamlet of Gaj sent her to tell the soldiers manning the post on Križ to surrender or their women and children would be killed. The witness described her arrival at Križ when she was approached by her son Ivan Drljo, then Pero Krešo and Nedeljko Krešo, and the three of them, when she told them about the people captured in the village, went with her to Gaj (“*I was at the helm, and I was followed by my late Ivo and Pero Krešo and Nedeljko Krešo and Stipe Ljubić....*”) and were killed thereafter.

417. **Ilija Drljo**, Milka Drljo’s son, corroborated this at the main trial and said that he was on Križ that morning together with Nedeljko Krešo, Pero Krešo, while his brother Ivan Drljo came to the post when shooting started in the village; then came their mom Milka who told them to surrender or the others in the village would be killed. His brother Ivan Drljo, Nedeljko Krešo and Pero Krešo surrendered. These allegations were further corroborated by witness **Nikola Drljo** in his testimony. He said that on the morning of that day he went

⁵³ Judgment of the Appellate Court of Montenegro, no. KŽ-S 24/2012 of 6 July 2012.

⁵⁴ Transcript from the main trial no. S1 1 K 003369 10 Krl of 16 December 2011, page 13.

⁵⁵ The witness stated that her husband Tadija Delinac, her sister's husband **Željko Blažević**, Nikola Drljo, Zvonko Drljo, **Zdravko Drljo**, **Ivan Drljo**, **Pero Krešo**, **Nedo Krešo** and **Stipe Ljubić** were on guard duty on Križ.

⁵⁶ The witness stated that, in addition to her relative **Ivan Drljo**, members of the HVO included young Croats from Trusina; she remembered **Nedjeljko Krešo**, **Pero Krešo**, **Stipe Ljubić**, **Zdravko Drljo**, she was not sure about **Željko**

to Križ and found Nedeljko Krešo, Pero Krešo, Ivan Drljo and Stipe Ljubić there. Soon thereafter Milka Drljo came to Križ and told them to surrender, which the said HVO members did; he abandoned the Križ post and went towards Buturović Polje.

418. Ivan Šogolj and Jure Krešo (the witness returned to the Križ post that morning, just like the victim Ivan Drljo) gave similar evidence. They were on Križ that morning and they claim that Milka Drljo came for Ivan who was supposed to surrender, adding that Ivan Drljo, Pero Krešo and Nedeljko Krešo surrendered and were later executed in the village (Željko Blažević and Zdravko Drljo aka Bosanac who were in their houses in the hamlet of Kreše at the time of the attack were also executed). Witness Jure Krešo further added that his guard shift on Križ ended that morning and that the men on his guard shift included, among others, Ivan Drljo, Zdravko Drljo aka Bosanac and Željko Blažević, while they were relieved by Nedo Krešo, Pero Krešo and Stipe Ljubić.

419. In his testimony, witness **Dragan Drljo** (Milka Drljo's son) also spoke about the surrender of the HVO members from Križ and their arrival in Gaj, alleging that members of the Army sent his mom to Križ to get his brother, whereupon the witness saw her and his brother Ivan (carrying a rifle) coming to Gaj. **Mara Drljo** pointed out that Ivan Drljo was on guard duty on Križ that morning and that upon searching the civilians the soldiers sent Milka Drljo to go to Križ and tell HVO members to surrender. **Cecilija Šimunović** saw her relative Ivan Drljo, an HVO member who was militarily engaged on Križ, that day in Gaj when he was brought to the village; Pero Krešo and Nedeljko Krešo were also brought in on that occasion.

420. That Franjo Drljo was a prisoner of war ensues, first of all, from the respective testimony given by witnesses **Mara Drljo and Dragan Drljo** – eyewitnesses to the events. They stated that Franjo Drljo was captured in his family house in Gaj, wearing civilian clothes on that occasion. Franjo Drljo's military engagement is confirmed by his wife Mara Drljo who said that her husband did not possess a weapon but was militarily engaged, i.e. *“he would go and was on guard duty.”*

421. The witnesses further claimed that Zdravko Drljo and Željko Blažević were militarily engaged as HVO members. **Anica Blažević**, the wife of the victim Željko Blažević, stated that her husband was an HVO member and that he came home from the guard post on the

Blažević because he came from Konjic. They were HVO members, stationed in their houses and from there they would go man the lines.

morning of 16 April 1993. Shooting started soon thereafter and Ivan Drljo came for him and told him that he needed to surrender, whereupon her husband got ready and left with him.

422. This was further entirely corroborated by witness **Mara Delinac**. She testified at the main trial that Željko Blažević was an HVO member and that he came that morning after being on guard duty; Ivan Drljo came for him to surrender, whereafter both of them went to get Zdravko Drljo and then went towards Gaj. **Protected witness “S”** stated that Zdravko Drljo was also a member of the HVO armed forces, that he had a uniform and that he was on guard duty on Križ. The witness further confirmed that on that morning Zdravko Drljo, together with Ivan Drljo and Željko Blažević, went towards Gaj in order to surrender.

423. Moreover, documentary evidence – military records for Franjo Drljo (Defense Exhibit O-V-414⁵⁷) and Zdravko Drljo (Defense Exhibit O-V-415⁵⁸) and a certificate on the circumstances surrounding the death of Željko Blažević (Defense Exhibit O-V-248⁵⁹) – indubitably confirms that those three persons were HVO members: Franjo Drljo and Zdravko Drljo from 6 April 1993 until the date of their death, and Željko Blažević from 20 September 1991 until 16 April 1993 (i.e. the date of his death).

424. Consequently, it indubitably ensues from the aforesaid that Franjo Drljo, Zdravko Drljo and Željko Blažević were members of the Croat Defense Council, but out of combat operations and unarmed at the moment of their murder: Zdravko Drljo and Željko Blažević were in their houses when Ivan Drljo came for them and told them to surrender, as well as Franjo Drljo who was taken out of the house and lined up just before he was killed.

425. When analyzing the said circumstances under which the injured parties fell into the power of the other party to the conflict, the Panel was also mindful of ICTY judgments, specifically in *Prosecutor v. Dario Kordić and Mario Čerkez*⁶⁰ in which the Chamber took the view that members of the armed forces resting in their homes in the area of the conflict, as well as members of the TO residing in their homes, remain combatants whether or not they are in combat, throughout the period of time while they are armed.

⁵⁷ **O-V-414** Certificate for Franjo (Ilija) Drljo, Ministry of Defense, HR Herceg-Bosna /Croatian Republic of Herceg-Bosna/, VP /army Post Office/ 1719, confidential 035-01/96-02/01, Ljubuški, 22 November 1996.

⁵⁸ **O-V-415** Certificate for Zdravko (Ivan) Drljo, Ministry of Defense, FBiH, HVO, confidential 035-01/97-02/01, Ur.no. 1719-07-97-462, Ljubuški, 28 May 1997.

⁵⁹ **O-V-248** Certificate, Federation of BiH Ministry of Defense, Mostar Defense Administration, Konjic Defense Section, no. 22-07-49-884/04-01, of 14 December 2004, for Željko (Slavko) Blažević; certificate on the circumstances surrounding the death of Željko (Slavko) Blažević; 56- D-P- “Herceg-Stjepan” Konjic confidential (illegible), Ljubuški, 24 January 1996.

Furthermore, in *Prosecutor v. Tihomir Blaškić*⁶¹ the Chamber took the view that the specific situation of the victim at the time when the crime is committed may not be determinative of his civilian or non-civilian status, and if he is indeed a member of an armed organization, the fact that he is not armed or in combat at the time of commission of crimes does not accord him civilian status.

426. As part of the analysis, the Court also took into consideration reports by the HVO⁶² in the territory of Konjic describing the incident that occurred on 16 April 1993, as well as other reports⁶³ stating that 15 civilians were killed that day with “7 executed soldiers” who were HVO members, with some documents even mentioning the names of the executed persons with the status of soldiers.

427. All the witnesses – participants in the operation on the village of Trusina testified about the capture and murder of the HVO members (to be discussed in more detail in the text below). Among others, witness **Enes Gagula** (a guide during the operation) stated that in the hamlet of Gaj he saw a woman returning from Križ with about six or seven HVO members wearing camouflage uniforms; they had HVO insignia and were armed. Protected witness “**B**” pointed out that in Gaj, by a house wall, he saw lined up “... 6, I think, HVO members who were captured”, some were wearing uniforms and others were not. Protected witness “**M**” saw some killed people in Gaj, he does not know how many exactly (four or five), some were wearing camouflage uniforms while others wore a mixture of civilian and camouflage clothes. Protected witness “**J**” found the lined-up soldiers and captives in Gaj, wearing civilian clothes and military uniform.

⁶⁰ ICTY Appeals Chamber Judgment in *Prosecutor v. Dario Kordić and Mario Čerkez* of 17 December 2004, para. 51.

⁶¹ ICTY Appeals Chamber Judgment in *Prosecutor v. Tihomir Blaškić* of 29 July 2004, para. 114.

⁶² **T-41** Report by the Information and Investigation Department of the Medical Staff Headquarters of the HVO no. 02-5/1-42/93 of 4 May 1993 stating a chronology of events in the territory of Konjic in connection with the dead and wounded HVO soldiers and Croat civilians ERN No. 01504401 – 01504402; **T-61** Report by the HVO Konjic Municipal Council no. 01-251/95 of 13 March 1995 ERN No. 01575145 – 01575152; **T-63** Information on war crimes committed in the territory of municipalities of Jablanica and Konjic, SIS /Security and Information Service/ Center Mostar no. 02-08-2-282/96 of 5 February 1996 ERN No. 01571162 – 01571173; **T-65** Report on genocide against the Croat population in the territory of Konjic Municipality composed at the Herceg Stjepan Brigade Konjic and logged on 25 April 1993 in HVO GS /Main Staff/, stating and describing, among other things, the crime in Trusina ERN No. 01032198 – 01032199;

⁶³ **T-66** A brief chronology and survey of war crimes committed by members of the Army of BiH in the territory of municipalities of Mostar, Konjic, Jablanica and Prozor, composed by the War Crimes Commission HR HB, no. 27/95 of 30 March 1995, stating and describing, among other things, the crime in the village of Trusina ERN No. 00302925 – 00302946; **T-73** Letter from the Konjic Municipality Public Services Office no. 17-X.76/94 of 21 October 1994 with information on killed civilians and soldiers in the village of Trusina on 16 April 1993 ERN No. 00302911 – 00302912; **T-74** Public Statement by the Information Office of the Command of the Srednja Bosna OZ /Operations Zone/, Vitez IZM /Forward Command Post/ no. 08-5-191/93 of 8 May 1993 referring to, among other things, the attack on the village of Trusina ERN No. 01020689 – 01020690; **T-76** Press release by the IPD /Information and Propaganda/ of the HVO Rama Brigade, HZ HB, of 2 May 1993.

428. Consequently, having analyzed the cited evidence presented at the main trial, the Court found beyond doubt that Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević, Franjo Drljo and Stipe Ljubić were HVO members in the territory of the village of Trusina and that at the moment of their murder they were entitled to the protection of the other party to the conflict which had power over them; more precisely, Ivan Drljo, Nedeljko Krešo, Pero Krešo and Stipe Ljubić acquired the status of prisoners of war at the moment of their surrender from Križ to Gaj and thereby enjoyed protection prescribed by Article 3 of the Geneva Convention, whereas Franjo Drljo, Zdravko Drljo and Željko Blažević were protected by the same article on the ground that they were out of combat operations and unarmed at the moment of their murder.

b) Civilians (convicting part of the Judgment in relation to the accused Nihad Bojadžić)

429. With regard to the convicting part of the Judgment's operative part relating to "civilians", the Court has concluded beyond doubt that the criminal acts for which the accused Nihad Bojadžić has been found guilty were indeed perpetrated against civilians.

430. In order to find a violation of rules of international law, it is required to determine who the perpetration was directed against, i.e. whether the crime was directed against a particular category of persons protected by Article 3(1) of the Convention, those being "*persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause.*" Consequently, the purpose of the provision of common Article 3 is that a civilian is a person "*taking no active part in the hostilities*" and not a member of armed forces, i.e. not a combatant.

431. To have a better understanding of the definition of "*civilians*" given in common Article 3 of the Conventions and a better understanding of the notion of "*direct part in the hostilities*", the Court refers to the case law of the ICTY defining the said syntagm. To take direct part in hostilities means to engage in acts of war which "*by their nature or purpose, are likely to cause actual harm to the personnel or matériel of the enemy armed forces.*"⁶⁴

⁶⁴ ICTY Trial Chamber Judgment in *Dragomir Milošević*, para. 947.

432. Article 4(1) of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) provides that *"All persons who do not take a direct part or have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honor and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors"*, while paragraph 2(a) provides that the following acts against those persons shall remain prohibited: *"violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment."*

433. Article 13 of Protocol II too prescribes protection of civilian population, providing that the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations, and *"shall not be the object of attack acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited"*, and they shall enjoy protection unless they take part and for such time as they do not take direct part in hostilities.

434. "The protection of civilians in time of armed conflict is the bedrock of modern humanitarian law.... Attacks, even when they are directed against legitimate military targets, are unlawful if conducted using indiscriminate means or methods of warfare, or in such a way to cause indiscriminate damage to civilians." (ICTY Trial Chamber Judgment in *Kupreškić et al*, para. 524).

435. On the basis of the presented evidence, i.e. testimony by examined witnesses Cecilija Šimunović, Milka Drljo, Mara Drljo, protected witness "S" etc. whose testimony will be referred to in more detail in the reasons adduced for the Judgment, taking into consideration the sex, age as well as the fact that those persons were killed / wounded in their houses or just outside the houses they were living in or where they took refuge during the attack⁶⁵, and the death certificates for the said persons, the Court has unequivocally found that **the victims** Tomo Drljo (1926), Andrija Drljo (1947), Kata (Ivan) Drljo (1937), Kata (Mićo) Drljo (1918), Ivan Drljo (1939), Branko Mlikota (1925), Smiljko Krešo (1940), Velimir Krešo (1934), Ivica Krešo (1935), Ilija Ivanković (1926), Anđa Ivanković (1936),

⁶⁵**T-70** - Crime committed against the Croats in the village of Trusina, Žitače parish od 15 April 1993, with a list of persons who were murdered and locations where their bodies were buried;

Jure Anđelić (1926), Stipo Mandić (1928), Anto Drljo (1936), Milenko Mandić (1961), **and seriously wounded** Mara Krešo (1942), Anđela Šagolj (1969), Arijana Krešo (1988) and Mario Krešo (1991) were all civilians, hence a category enjoying protection pursuant to common Article 3 of the Geneva Conventions of 12 August 1949 and Articles 4 and 13 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

436. The Defense for Nihad Bojadžić challenged the status of a certain number of persons, maintaining that the persons who the Prosecution claimed have been wearing civilian clothes and were civilians at the moment of their death were in fact HVO members, i.e. that the status of civilians has been unfoundedly accorded to Tomo Drljo, Andrija Drljo, Ivan (Petar) Drljo, Smiljko Krešo, Velimir Krešo, Ivan (Jure) Krešo, Stipe and Milenko Mandić. In that regard, the Defense tendered certificates on circumstances surrounding the deaths of those persons, submitting that at the time of their death the injured parties were members of the HVO.

437. However, the Court did not accept the Defense's objection, primarily on the grounds of the age of those persons (injured party Tomo Drljo was born in 1926, Stipo Mandić in 1928, Velimir Krešo in 1934, Ivica Krešo in 1935) as well as because that is not consistent with the testimony given by numerous witnesses who have first-hand knowledge and who have testified about these circumstances.

438. To wit, witness Jure Krešo, an HVO member, does not mention that the said persons were unit members⁶⁶ and claims that his father Ivan Krešo was not militarily engaged. Witness Nikola Drljo, who spoke in some detail about who at that time was on guard duty and was manning the post on the Križ Hill⁶⁷, does not mention those persons as HVO members in his testimony either, and claims that his father Tomo Drljo was not militarily engaged; witnesses Tomislav Mlikota⁶⁸ and Ilija Drljo⁶⁹ also do not mention that

⁶⁶ The witness testified that 18 of them from Trusina would go man the lines on Križ, the lines facing Gostovici and Marevac, only to be relieved after six hours. The others who were with the witness included Krešimir Krešo, Tihomir Ivanković, Ilija Drljo, Ivan Drljo, Marko Grgić-Ivanković, Pero Krešo, Nedeljko Krešo, Stipe Ljubić, Željko Blažević, Zdravko Drljo a.k.a. Bosanac, Nikola Drljo, Ivica Šogolj, Zdravko Krešo.

⁶⁷ The witness stated that the HVO members who were on guard duty with him on Križ included Šagolj, Zdravko Drljo, Nedo Krešo, Ivica Drljo, Pero Krešo, Stipe Ljubić.

⁶⁸ The witness confirmed at the main trial that Ivan Šagolj aka Majstor, Nikola Drljo aka Šugo, his brother Zvonko Drljo, Pero Krešo, Dragan Krešo, Tihomir Ivanković, his brother Milenko Ivanković, Ilija Drljo, Marijan Krešo, Jure Krešo aka Juka, Krešimir Krešo, Milenko Mlikota, Ivan Drljo aka Crni, Željko Blažević, Stipe Ljubić, Nedo Krešo, Pero Krešo, Zdravko Drljo, Tihomir Grgić, Mije Bojičić were soldiers who had weapons and went to man Križ position.

those persons were HVO members. Furthermore, witnesses Cecilija Šimunović⁷⁰ and Ruža Mlikota⁷¹ spoke about the names of members of the HVO in their testimony and they, same as the previous witnesses, did not mention that the persons whose status of civilians is challenged by the Defense were among them.

439. Furthermore, the Court also took into consideration reports by the HVO⁷² in the territory of Konjic describing the incident that occurred on 16 April 1993, as well as other reports⁷³ stating that 15 civilians were killed that day, with “7 executed soldiers,” who were HVO members, with some documents even mentioning the names of the executed persons with the status of soldiers.

(ii) Violation must be committed in time of war, armed conflict or occupation

440. According to international case law, an armed conflict “exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring

⁶⁹ The witness stated that Ivan Šagolj aka Majstor was HVO commander, while the members were Nikola Drljo, Zvonko Drljo, Ivica Drljo, Pero Krešo, Tihomir Ivanković, Milenko Ivanković, Jure Krešo, Dragan Krešo, Krešimir Krešo, Ivan Drljo, Živko Blažević, Stipe Ljubić, Nedeljko Krešo, Pero Krešo, Zdravko Drljo aka Bosanac, Zdravko Krešo aka Dapa.

⁷⁰ Witness Cecilija Šimunović testified at the main trial that in addition to her relative Ivan Drljo other young Croat neighbours from Trusina were HVO members, the witness recalled Nedjeljko Krešo, Pero Krešo, Stipe Ljubić, Zdravko Drljo, she was not sure about Željko Blažević because he came from Konjic. She thinks that Nikola Drljo aka Šugo was also an HVO member; Tihomir Ivanković, Miljenko Ivanović, Marijan Krešo, Jure Krešo, Dragan Krešo, Krešimir Krešo, Ivan Šagolj, they were all HVO members.

⁷¹ The witness pointed out that the HVO members who were in Trusina and whom she saw in uniforms included Nikola Drljo aka Šugo, Ivica Drljo aka Crnota, Pero Krešo, Dragan Krešo, Tihomir Ivanković.

⁷² **T-41** Report by the Information and Investigation Department of the Medical Staff Headquarters of the HVO no. 02-5/1-42/93 of 4 May 1993 listing a chronology of events in the territory of Konjic in relation to the dead and wounded soldiers of the HVO and Croatian civilians ERN No. 01504401 – 01504402; **T-61** Report by the HVO Konjic Municipal Council no. 01-251/95 of 13 March 1995 ERN No. 01575145 – 01575152; **T-63** Information about war crimes committed in the territory of municipalities of Jablanica and Konjic, SIS Center Mostar no. 02-08-2-282/96 of 5 February 1996 ERN No. 01571162 – 01571173; **T-65** Report on genocide against the Croat population in the territory of Konjic Municipality composed at the Herceg Stjepan Brigade Konjic and logged on 25 April 199 u GS HVO stating and describing, among other things, the crime in Trusina ERN No. 01032198 – 01032199;

⁷³ **T-66** A brief chronology and list of war crimes committed by members of the Army of BiH in the territory of municipalities of Mostar, Konjic, Jablanica and Prozor composed by the War Crimes Commission of the HR HB, no. 27/95 of 30 March 199 stating and describing, among other things, the crime in the village of Trusina ERN No. 00302925 – 00302946; **T-73** Letter from the Konjic Municipality Public Services Office no. 17-X.76/94 of 21 October 1994 with information on killed civilians and soldiers in the village of Trusina on 16 April 1993 ERN No. 00302911 – 00302912; **T-74** Public Statement by the Information Office of the Command of OZ Srednja Bosna, IZM Vitez no. 08-5-191/93 of 8 May 1993 stating, among other things, the attack on the village of Trusina ERN No. 01020689 – 01020690; **T-76** Press Release by the IPD of the HVO Rama Brigade, HZ HB, of 2 May 1993.

States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.”⁷⁴

441. When considering and making a ruling that there was an armed conflict at the relevant time, the Court first of all took into account that at the trial the defense teams did not refute the fact that at the time of the incident(s) covered by the Amended Indictment there was an armed conflict between the Army of R BiH and HVO, or the fact that the clashes were particularly intense in the territory of Konjic and Jablanica.

442. The said fact that there was a state of war at the time when the criminal offenses were committed is further supported by Decision of the Presidency of the Republic of Bosnia and Herzegovina of 20 June 1992 – the decision on proclaiming a state of war (published in the *Official Gazette of R BiH* 7/92⁷⁵), while the state of war was abolished also by Decision of the Presidency of R BiH on 22 December 1995 (published in the *Official Gazette of R BiH* 50/95⁷⁶).

443. Moreover, this fact is additionally corroborated by witnesses who gave evidence at the trial (witnesses Mijo Anđelić⁷⁷, Tomislav Mlikota⁷⁸, Fikret Muslimović⁷⁹, Vahidin Čomor⁸⁰ etc.), with the Prosecutor's Office of BiH and the defense teams tendering in the case file a number of orders and reports⁸¹ referring to combat operations by armed groups

⁷⁴ Tadić, Decision on Jurisdiction, para. 70. See also *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, Judgment of 17 December 2004, para. 341.

⁷⁵ **T-16** Decision by the Presidency of the Republic of Bosnia and Herzegovina on Proclaiming a State of War (*Official Gazette of R BiH*, no. 7/92 of 20 June 1992).

⁷⁶ **T-17** Decision by the Presidency of the Republic of Bosnia and Herzegovina on Abolishing the State of War (*Official Gazette of R BiH* no. 50/95 of 28 December 1995).

⁷⁷ The witness states that prior to the attack on Trusina there was an open armed conflict between the Army and HVO, there were rumors about a conflict between the Army and HVO because they received information about events in Prozor in October 1992 and in January 1993, as well as in Donji Vakuf etc. the first clash between the Army and HVO in that territory was in March 1993 (Gostovići and Seonice).

⁷⁸ The witness confirmed that he knows that in late 1992 there was a serious clash in Prozor between the Army and HVO, that the victims were Muslims and that they were expelled. He further alleged that the inter-ethnic relations in Buturović Polje in March 1993 were very bad, considering that the distance between Trusina and Buturović Polje is two kilometers, Trusina was not isolated from all these events in March 1993.

⁷⁹ The witness states that the Army, the Supreme Command Staff, the Presidency and the president himself made every effort to prevent conflict with the HVO, however, notwithstanding the aforesaid, as early as October 1992, the HVO attacked Prozor, expelled the Bosniac population, while the Army was doing everything in its power to defuse the conflict. A clash, i.e. an attack by the HVO occurred again in January 1993, in the territory of Gornji Vakuf, and it spread to Central Bosnia and the Neretva River valley.

⁸⁰ The witness testified at the main trial that the clashes in that area commenced in October 1992 with clashes between the HVO and the Army in Prozor, which had a direct impact on the zone of the 45th Brigade, which was followed by attacks by the HV /Croatian Army/ and the HVO in Vakuf, and in March clashes broke out in the area surrounding Konjic etc.

⁸¹ **T-20** Order by the Supreme Command Staff of the Armed Forces of RBiH no. 02/607-1 of 10 June 1993 ordering cessation of all combat operations with the HVO units in RBiH, **T-21** Letter from the Chief of Staff of the 4th Corps no. 02/1-966-92/93 of 27 March 1993 warning that Zuka's unit has a Croat village surrounded in the vicinity of Konjic ERN No. 0129-8532; **T-27** Combat Report by the Commander of the Igman OG /Operations Group/ no. 03-592/8 of 19 April

of the HVO and the Army of BiH in the territory of municipalities of Konjic and Jablanica. Relying on that, the Court has found beyond doubt that at the time of the armed conflict between the HVO and the Army of BiH in the territory of Konjic Municipality, on 16 April 1993 there was an attack on the village of Trusina by members of the Special-Purpose Detachment “Zulfikar”, which ensues from documents⁸² tendered by the Prosecutor's Office of BiH. The Court finds that this element has thus been proved beyond any reasonable doubt.

(iii) There must be a nexus between the perpetrator's act and the war, armed conflict or occupation

444. The third requirement of both articles (142 and 144) of the CC of SFRY is that there must be a nexus between an accused's act and the armed conflict, but *“the armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator's ability to*

1993 on the escalation of conflict between the HVO and ARBiH in the Jablanica-Konjic area ERN No. 01832916; **T-28** Daily Combat Report by the Commander of Igman OG no. 03-592/10 of 21 April 1993 on clashes between ARBiH and the HVO in the area of Konjic ERN No.: 01832919; **T-29** Daily Combat Report by the Commander of Igman OG no. 1-20/8 of 22 April 1993 on clashes with the HVO in the areas of Konjic and the Neretva River valley ERN No. 01832920 - 01832921; **T-30** Assessment of situation and a proposal of measures by Assistant Commander for Intelligence Affairs, 44th Mountain Brigade no. 06/70-1-11/93 of 23 May 1993 on armed clashes with the HVO in the area of Grabovica with the participation of units of SOPN Zulfikar ERN No. 04036133 – 04036134; **T-31** Attack Order IZM /Forward Command Post/ OZ Northwest Herzegovina no. 01-459 of 11 May 1993 stating that Kostajnica and the Neretvica valley are in a horrible situation and that around 10,000 Croats are in encirclement ERN No. 03641778 – 03641780; **O-III-17** Report on the situation in BiH issued by the IV Corps Command no. 03-3109/93 of 16 April 1993; **O-III-18** Regular Combat Report by the Command of the 44th Mountain Brigade, Jablanica, no. 02/70-1-68/93 of 14 April 1993; **O-III-19** Letter from the IV Corps Command of 14 April 1993; **O-III-20** Interim Report by the IV Corps Command no. 02-2560-15-2/93 of 15 April 1993; **O-V-44** Daily Combat Report delivered to the 1st Corps Command, strictly confidential no. 03-592/4, of 16 April 1993; **O-V-260** Notification by the Supreme Command Staff about the situation in the Neretvica area, strictly confidential no. 02/503-1 of 16 April 1993, signed by Jovan Divjak, Deputy Chief of Staff of the Supreme Command, sent to the 4th Corps Command; **O-V-261** Armed Forces Supreme Command Staff, Report on the course of combat operations in the territory of R BiH for a 24-hour period on 15 April 1993, confidential no. 02/1-106 of 16 April 1993; **O-V-262** Armed Forces Supreme Command Staff, Report on the course of combat operations in the territory of R BiH for a 24-hour period on 16 April 1993, confidential no. 02/1-107 of 17 April 1993.

⁸² **T-34** Daily Combat Report by the Igman OG Commander no. 03-592/4 of 16 April 1993 on clashes with the HVO in the area surrounding Konjic and deployment of Zulfikar Unit therein, ERN No. 01832910; **T-35** Collective report for 16 April 1993 by the HVO Main Staff of 17 April 1993 stating that there was an attack on the village of Trusina ERN No. 06172036 – 06172039; **T-36** Daily Intelligence Report by the HVO Main Staff no. 03-442/93 of 20 May 1993 stating that the clashes between the ARBiH and HVO were ongoing in the territory of Konjic Municipality ERN No. 04200883-04200885; **T-37** Daily events bulletin for 18 April 1993 HVO Military Police Administration no. 02-4/3-02-971/93 of 19 April 1993 stating that the clashes between ARBiH and the HVO in the area of Neretvica were ongoing and that there is information about a massacre in Trusina ERN No. 01544499 – 01544501; **T-38** Letter from the Assistant Commander of the Brigade for Information and Propaganda, Herceg Stjepan Brigade Konjic, no. 01/322 of 25 April 1993 stating that there was fighting in the area of Turije-Zabrđā-Zaslivlja in Konjic and at the Zlatar facility in Konjic Municipality ERN No. 01528830; **T-39** Report by the Commander of OZ of Southeastern Herzegovina no. 01-2900/93 of 15 May 1993 on fighting in the area around Croatian settlements in the Neretvica valley ERN No. 01518832; **T-40** Report by the Commander of the Herceg Stjepan Brigade Konjic of 16 April 1993 about serious clashes between the HVO and ARBiH in the village of Trusina and a massacre of civilians in the village of Trusina ERN No. 01516484.

*commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed.*⁸³

445. The ICTY Trial Panel in *Dragoljub Kunarac et al.* held that: “Humanitarian law continues to apply in the whole of the territory under the control of one of the parties, whether or not actual combat continues at the place where the events in question took place. It is therefore sufficient that the crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict. The requirement that the act be closely related to the armed conflict is satisfied if, as in the present case, the crimes are committed in the aftermath of the fighting, and until the cessation of combat activities in a certain region, and are committed in furtherance or take advantage of the situation created by the fighting...”⁸⁴

446. In determining whether or not the act in question is sufficiently related to the armed conflict, one may take into account, *inter alia*, the following factors: the accused's position; the fact that the perpetrator is a combatant; the victim's nature; the fact that the victim is a non-combatant; the fact that the victim is a member of the opposing party; the fact that the act may be said to serve the ultimate goal of a military campaign; and the fact that the crime was committed as part of or in the context of the perpetrator's official duties.⁸⁵

447. Accordingly, the status of the accused Mensur Memić, Nedžad Hodžić and Nihad Bojadžić at the time of commission of the crime – i.e. the fact that the accused were members of the military formation of Special-Purpose Detachment of the Army of R BiH „Zulfikar – and the participation of that formation in the attack on the village of Trusina, are all decisive facts, which undoubtedly had an impact on the accused's ability to commit the crime, the manner in which it was committed and the purpose for which it was committed.

448. The Court's indisputable finding that the accused Memić, Hodžić and Bojadžić were members of the said military formation rests on the testimony given by the examined witnesses and the documentary evidence tendered in the case file during the proceedings (to be explained in detail in the Judgment's convicting part in relation to each of the accused persons), wherefrom it ensues that the accused perpetrated the criminal acts as members of the Special-Purpose Detachment “Zulfikar,” and the accused Bojadžić as Deputy Commander of the said unit; those positions enabled them to commit the said

⁸³ *Prosecutor v. Kunarac et al.*, Case No. IT-96-23 & IT-96-23/1-A, Judgment of 12 June 2002, para. 58.

⁸⁴ ICTY Trial Panel Judgment in *Dragoljub Kunarac et al.*, para. 568.

crimes (murders of prisoners of war and civilians) in the place and at the time referred to in the operative part hereof, while their actions were directly related to the existence of war and armed conflict.

(iv) The perpetrator must order or commit the crime

449. Finally, the fourth general element of the criminal offenses under Articles 142 and 144 of the CC of SFRY is that the perpetrator committed or ordered the commission of an unlawful act. To that end, the Court, having assessed the relevant evidence, found that this element of the criminal offense has been satisfied, considering that the accused committed the crime in the manner described in the Judgment.

450. The Court elaborated on the existence of this element in the text below, relative to each paragraph of the operative part, with identification of relevant evidence, listing the substance of evidence, correlating various pieces of the evidence and, finally, evaluating the evidence.

VIII. FACTUAL FINDINGS

a. Establishment and activities of the Special-Purpose Detachment of the Army of RBiH “Zulfikar”

451. Upon analysis of the presented evidence, the Court has found beyond doubt that the unit SOPN ARBIH “Zulfikar” was established by a Decision of the National Defense Council at a meeting held on 10 June 1991 under the name “Detachment for Innate and People’s Rights R BiH Sandžak and Kosovo – Zulfikar”, and that the Special-Purpose Detachment commenced its combat operations on 6 April 1992, which ensues from a piece of documentary evidence – Letter from the 4th Corps of the Army of R BiH - Special-Purpose Detachment no. 04-10-2303/94 of 19 August 1994 providing information on the anniversary of the unit (Exhibit T-119). By Document of the Staff of the Supreme Command of Armed Forces of R BiH no. 86-2 of 5 February 1993, the unit was assigned designation T-30372 and military unit No. 5683 (Exhibit T-120).

452. In January 1993, the unit was given the name “Special-Purpose Detachment Staff of the Supreme Command of the Army of R BiH Zulfikar”, which ensues from a piece of

⁸⁵ ICTY Appeals Chamber Judgment in *Kunarac et al.*, para. 59.

documentary evidence - Order by the Chief of the Supreme Command Staff of the Armed Forces of R BiH 05/7-39 (1.K) of 22 January 1993 (Exhibit T-140), further confirmed by documentary evidence – Establishment and Wartime Record of the Special-Purpose Detachment Staff of the Supreme Command “Zulfikar” no. 1-10-212/93 of 4 December 1993 (Exhibit T-147), and Order 86-1 of 22 January 1993 (Exhibit T-120).

453. The Commander of the SOPN at the relevant time was Zulfikar Ališpago aka Zuka, while the accused Nihad Bojadžić was his deputy. This is confirmed by Order of the Supreme Command Staff of ARBiH no. 13/37-39 of 4 March 1993 (Exhibit T-121), which the accused themselves did not dispute.

454. In early 1993, the unit's HQ was on Mt. Igman, at the *Mrazište* Hotel.

455. The Defense for Nihad Bojadžić maintained at the trial, as well as in their closing arguments, that on 12 April 1993 the SOPN ŠVK was resubordinated to the 1st Corps of the Army of R BiH and subsequently to the 4th Corps, which, in the Defense's view, meant that the SOPN no longer operated under the command of the Supreme Command Staff.

456. The Court did not address this issue in particular, finding that it was not necessary to determine in the present case whether the SOPN Zulfikar Unit was attached to the Supreme Command Staff of the Army of R BiH at the relevant time. Specifically, the Court holds that it has not been of decisive importance to find whether this unit was subordinated to anyone and, if so, who it was subordinated to, considering that it was part of the Army of BiH and that it operated (took part) in the attack in the said area, which the Court found beyond doubt. For that reason, the Court omitted the affiliation of the unit with the Supreme Command Staff from the facts in the Judgment's operative part.

457. Testimony by examined witnesses (“B”, “C”, “D”, “M”, “N”, “O”, “R”, “X”, Rasema Handanović, Ramiz Bećiri) confirm that a part of the SOPN Zulfikar Unit arrived in Parsovići via Bradina in April 1993 and were quartered in the classrooms of the local school (the Command of the 45th “Neretvica” Mountain Brigade was there).

458. What was determined with certainty, which no one refuted, is that the attack commenced on the morning of 16 April 1993, that one part of the SOPN Zulfikar Unit participated in the attack, that 22 persons of Croat ethnicity were killed in the attack, that four were wounded, two of whom were children. Numerous witnesses gave detailed and clear accounts of the course of the attack, from the commencement (descent to the village

of Trusina from at least two directions) until the completion of the attack when they, having executed HVO soldiers in Gaj, withdrew from the village and went to Parsovići, the place from which they set out in their attack, to be discussed in more detail in the text below.

(1) COURT'S FINDINGS REGARDING THE ACCUSED MENSUR MEMIĆ

459. According to the charges, on the morning of 16 April 1993, in the hamlet of Gaj, village of Trusina, municipality of Konjic, together with Nedžad Hodžić, Rasema Handanović aka Zolja and other members of the Special-Purpose Detachment of the Army of R BiH „Zulfikar“ known to him, after Nedžad Hodžić ordered “*firing squad, open fire*”, the accused Mensur Memić took part in the murder by executing the lined-up soldiers of the Croatian Defense Council Ivan (Andrija) Drljo born in 1971, Nedeljko (Marinko) Krešo born in 1953, Pero (Smiljko) Krešo born in 1961, Zdravko (Ivan) Drljo born in 1963, Željko (Slavko) Blažević born in 1965 and Franjo (Ilija) Drljo born in 1942.

460. The Defense argued that the accused, as a new combatant who joined the unit on 7 April 1993, remained on Mt. Igman and was not present in Trusina when the crime was committed.

461. A number of witnesses examined at the main trial clearly and convincingly refuted the Defense's argument successfully. The witnesses are the accused's former fellow-soldiers and the Court did not find a single (convincing) reason for which they would make baseless accusations against the accused, and they all agree on important facts in terms of the incident itself, the participation of not only the accused Memić but also some other members of the SOPN “Zulfikar” in the commission of the crime, and all the facts and circumstances pertaining to the events, i.e. broad context of events in the village of Trusina on the day in question.

462. Having assessed the presented evidence, the Court finds beyond doubt that the accused Mensur Memić was a member of SOPN “Zulfikar” at the relevant time, and the accused himself did not deny this when testifying at the main trial as a witness. The point at issue was the time when the accused joined the said unit and whether he, as “a new combatant”, took part in the operation at the village of Trusina on 16 April 1993. In addition to the accused, the following persons testified about the said circumstances: witnesses Rasema Handanović, Ramiz Bećiri, Mujo Pirušić, Irfan Masleša, protected witnesses “A”,

“B”, “R”, “L”, “X”, “N” and “M”, as well as Defense witnesses Munevera Mujala, Elvedin Ibrahimović, Berdihan Mešić, Nedžada Lepara, and protected witness “D”.

463. The accused, as noted above, claims that he joined the unit on the evening of 7 April 1993, and that before that he was with the 17th Krajiška Brigade. He came to Mt. Igman at the urging of Orhan Juić whom he knew from before and who was a member of the SOPN “Zulfikar” unit. His leaving the Brigade was not entirely legal, so he did not let anyone know that he was leaving. He explained that it happened that men went from one unit to another (looking for a better solution for themselves), which is what he too did. After the war he was issued a certificate stating that he was in the 17th Krajiška Brigade from 20 October 1992 until 20 July 1993, although he arrived at Mt. Igman on 7 April 1993. Sead Fikić arrived there together with him. Orhan took them to see Mensur Kasumi, who he later heard was like a security officer. That person admitted them into the unit and registered them. Orhan Juić had his own room at the *Mrazište* Hotel; with him in the room was protected witness “N” and so the four of them were accommodated in that room. Zuka and Nihad (Commander and his deputy), Džeko, Nedžad, Popara and foreigners were also accommodated in the hotel, but other combatants were not quartered in the hotel.

464. He did not leave the room during the first four or five days, he may have gone out to have breakfast, he did not know anyone. On the second or third day he met Zolja; she came to introduce herself. He also met Kenet, Popara, Džeko, most of the guys who were at *Mrazište*, and as girls brought lunch to the rooms (one did not need to go to the mess hall) he did not have a chance to get to know everyone. No one ever explained to him the composition of the unit formation-wise, later on they were just told what group to join, but at that time there were no activities whatsoever, not even exercises. This was the case until the beginning of 1994 when real activities in terms of formational composition began, when the unit became part of the 4th Corps; until then it was random, when we were going somewhere a group leader would be selected and then he would choose the men to go with him. He was in those rooms until 16 April 1993, and five or six days following their arrival Orho gathered his equipment and said that they were going to go to Konjic.

465. On the other hand, the examined witnesses testified that the accused joined the unit much before the said date.

466. Witness Irfan Masleša testified that Memić (nicknamed 'Menta') joined the unit in late 1992 or early 1993; however, when asked by the Defense, he stated that it is possible

that he came in April 1993. The witness clarified and said that a group from Krajina came in late December 1992 and that it was because of that that he said that Menta came with them, but he allowed that he could be wrong and ultimately he could not specify when the accused came exactly.

467. Protected witness “A” cannot recall the exact date when he met Mensur, but he knows that they met on Mt. Igman, it was before Trusina, and, the same as witness Irfan Masleša, he thinks that it was in late 1992 or early 1993, he remembers that they were on Igman and that it was winter when he met him (December or January), there was snow. Orhan joined the unit before the witness or he came together with Menta, he is not sure exactly, he knows that he met him on Igman. As compared to Memić, the witness does not know when “Zolja” (Rasema Handanović) came. Mensur was an ordinary soldier in the unit, he does not know what specific company he belonged to or who his commander was.

468. As far as he can remember, protected witness “B” saw Menta for the first time on Igman, he does not know when exactly, but perhaps three or four days prior to the conflict in Trusina.

469. Furthermore, witness Mujo Pirušić, who, according to his own account, became a member of the unit on 26 June 1992 and remained there until the end, stated that during the first four months of 1993 he performed the duty of leader of the 1st Platoon (i.e. Reconnaissance-Sabotage Platoon) whose members in the first four months of that year included Muhidin Fazlagić, Edin Gagula, two foreigners, Orho, Menta. He alleged that Mensur Memić aka Menta was a member of the “Zulfikar” unit and that he became its member on Igman in 1992, but he cannot recall the date.

470. Protected witness “R” stated that he did not know when 'Menta' joined “Zulfikar” unit, he saw him for the first time on Igman in 1993, he cannot recall the month. He thinks 'Menta' is from Prijedor, he knew his name, but now he cannot recall.

471. Witness Rasema Handanović – 'Zolja' also testified about the time when 'Menta' joined the unit. She said that in early April 1993 she moved to Mt. Igman and there she was under direct command of “Zulfikar,” which is when she met most of the men who were members of the unit. She had, as she put it, the position of a scout, and with her were Memić, Fiko, Askó – all men from Krajina. She fond Mensur Memić when she joined the unit (in April). They were members of the reconnaissance platoon or squad, whose

commander was Orhan Jujić, and there were also a mortar squad, armored and tank squad.

472. Protected witness “N” stated that 'Menta' became member of the unit prior to the conflict with the HVO, a few days ahead of Trusina; in fact the witness says that Memić arrived a few days ahead of the second conflict with the HVO, which he said took place on 9 April 1993, when Mostar was attacked.

473. Protected witness “X” also testified about the arrival of the accused Mensur Memić in the unit, stating that Memić was from Prijedor; he thinks that Orhan brought him sometime in January 1993 (before or after an altercation with Juka).

474. In light of the witnesses' testimony, it is obvious that although most of the witnesses do not agree with the accused Memić on the date of his arrival, they cannot recall the exact time when the accused Memić joined the unit, which in the Court's view is understandable, considering that it is very difficult to expect from witnesses to remember such a detail that is irrelevant to them, especially bearing in mind the passage of time.

475. Finally, the documentary evidence (Exhibits T-176⁸⁶ and T-117⁸⁷) confirms that the accused Memić joined the unit on 7 April 1993.

476. However, the extent of reliability of wartime records as a reliable indicator of someone's unit membership is shown by the fact that the accused, according to his own statement, was registered as a member of his former unit until 20 July 1993, which means also during the period when he was already a member of the “Zulfikar” unit for some time, from at least 7 April 1993.

477. The date of accused's joining the “Zulfikar” unit is important to the Defense as they rely on the accused's claim that, as a new combatant, he could not have taken part in the attack on Trusina because he did not know anyone, he was in the room with Orhan Jujić, witness “N” and Sead Fikić. He was in the rooms until 16 April 1993; some went to have breakfast and others didn't, lunch the same; the girls would sometimes cook and take the meals to the rooms, one need not go to the mess hall, and he did not have a chance to get

⁸⁶ **T-176** Original notification by the 4th Corps VJ /military unit/ 5683 no. 04-10-2284/95 of 2 December 1995 that Mensur Memić was a member of unit 5683 from 7 April 1993 until 30 October 1995 when he was transferred to the 5th Corps Bihać.

to know everyone. No one specifically told him that there was a rule in the unit that new combatants do not take part in operations immediately upon their arrival.

478. As for the practice of sending new soldiers into action during a subsequent period, as alleged by the accused, all those who were new did not go anywhere during the first few days, especially not to do reconnaissance or take part in any operation, for at least a month, because they did not know one another and they needed to get to know one another *"because they were from the same composition, from the same story"*, and, bearing in mind that, as the accused says, he and Fikić were new, they did not fraternize with anyone, they spent time in the room, they only met Sena, the Court observes that the accused's statement is inconsistent and internally contradictory, because they could hardly get to know other members of the unit if they spent all of their time in a room.

479. Besides, the accused Memić could not have met the other members of the unit before 17 April 1993 (the day after the attack on Trusina), when, according to his account, 'Mesar' (Elmedin Čaušević) lined them up and said that they would provide assistance in Konjic, and then on the 18th or the 19th of the same month he took part in the Repovac operation. In early July he went to Jablanica and met almost 95% of the unit.

480. The aforesaid manifestly contradicts not only the accused's defense and the reasons for which, according to his claim, he could not have possibly taken part in the Trusina operation (until one meets the fellow-soldiers) but also contradicts the testimony by other Defense witnesses who said that one could not take part in an operation immediately upon joining the unit (Nedžad Lepara – *"the unit's tradition was that new soldiers would not be sent to the first one or two operations"*, Munevera Mujala – *"it was not practice in the unit to send new guys into action"*, Berdihan Mešić, protected witness "N" and "D", as well as the accused Nihad Bojadžić who gave evidence at the main trial as a witness).

481. It is therefore obvious that the date of the accused's joining the unit is not of decisive importance in terms of his participation in the attack on the village of Trusina on 16 April 1993. In that context, the Court is mindful of the testimony by witness Mujo Pirušić who maintained that he was assigned to the "Zulfikar" unit when the war began (to be

⁸⁷ **T-117** Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 01/2-41-32/09 of 12 November 2009 providing authenticated photocopies of military records for Mensur Memić, Dževad Salčin, Nedžad Hodžić and Senad Hakalović.

more exact, on 26 June 1992) and that he remained there until the end, and that during the first four months of 1993 he performed the duty of leader of the 1st Platoon (i.e. Reconnaissance-Sabotage Platoon), whose members, among others, included 'Menta'. The witness clearly says that those who were new to the platoon would be deployed to combat operations *"immediately, as necessary."* Similarly, protected witness "A" maintains in his testimony that several days after he joined the unit he took part in his first combat operation.

482. Defense witnesses Nedžada Lepara and Munevera Mujala claimed that, in addition to the accused Memić, Sead Fikić, also a new combatant in the unit, remained on Mt. Igman at the *Mrazište* Hotel during the said period. Witness Munevera Mujala stated that on or about 15 April 1993 she saw Menta' for a while, perhaps even a few days after the 15th, it was brief. Of the new soldiers, she saw a young boy with 'Menta', they called him Fiki, the two of them were friends, they were together, and on 15-16 April 1993 Fiki was with 'Menta' in the hotel. Similarly, witness Nedžada Lepara claimed that 'Menta' was on Igman on 16 April 1993, and late Fiki was with him the entire time. These contentions have also been corroborated by the accused Nihad Bojadžić in his testimony as a witness.

483. However, the testimony by the said witnesses is called into question by Prosecution Exhibit T-147 – Establishment and Wartime Record of the Special-Purpose Detachment with the Supreme Command Staff "Zulfikar" no. 1-10-212/93 of 4 December 1993 (Chapter XV), reading that Sead Fikić was wounded on the same day when Trusina was attacked, specifically during the operation at Homolj (where a part of "Zulfikar" unit was also deployed), wherefrom it ensues that the witnesses were not telling the truth.

484. The accused Mensur Memić's participation in the attack on the village of Trusina on 16 April 1993 has been confirmed by witnesses Ramiz Bećiri, Rasema Handanović, protected witnesses "X", "A", "B", "R", as well as protected witness "L" who provided second-hand information about that fact in his testimony.

485. Witness Ramiz Bećiri testified that he was a member of the "Zulfikar" unit/Anti-Aircraft Defense Platoon (as he put it, PAMs /anti-aircraft machine-gun/, PATs /anti-aircraft gun/) – he joined sometime in mid-January 1993. According to his own account, he took part in the attack-operation at Trusina in mid-April 1993. He explained that they set out from Bradina and reached Parsovići, with him came a part of the unit, "about 40 men."

They were quartered in the elementary school where, according to the witness, “men from the 45th Mountain – that is, Haso Hakalović’s unit” were quartered.

486. They set out early in the morning – around 05:00 hours, they were divided in groups and were given guides, he explains that those were local inhabitants who knew the ground because they had no such knowledge. He further stated that all three groups came to a hill (at its foot) and then they split. With him in the group were protected witnesses “M” and “D”, Džeko, Kokić, he thinks Zolja as well, and Senad Čorbo. His group was going right down the middle, one group went to the right, as he put it, “all the way up there, a hill, a peak, where a trench was located,” and that group included Orho, he thinks 'Menta' as well, he cannot recall the others. He thinks that 'Menta' was wearing a black uniform, the same as Džeko, 'Džoni' (Nedžad Hodžić) and Popara. The last group went to the left.

487. The full name of the person he referred to as 'Menta' is Mensur Memić and he claims that that person was in Trusina on that day. The last time he saw him that day was when they parted.

488. Finally, the witness said that the name of Safet Medošević is familiar to him, he is an attorney, he came to his house to talk and have coffee, they talked, and as the witness understood “... *to add a statement, to change it a bit, he is 'Menta's' attorney, most likely, if he was his attorney, to, to make something favorable for him.*” He said that he did not agree to the attorney's proposal.

489. All the defense teams refused to cross examine this witness, arguing that his testimony is absolutely unreliable, distrustful and untrue, that his credibility has been undermined, all for the reason because the witness, at one point, when asked by the first accused Mensur Memić's counsel, answered that he did indeed seek immunity but at the end he actually refused it. The Prosecutor denied this and said that no immunity has been granted to the witness.

490. In the Court's view, such a position by the defense teams does not constitute a reason to distrust the witness with regard to the facts that he testified about, holding that the issue of immunity has not challenged the witness's credibility in any way, especially because the witness himself obviously does not understand what immunity means exactly.

491. The issue of immunity is relevant to the witness and his potential criminal responsibility, but the Court does not have the impression that the witness, for the purpose

of covering up his potential acts in the operation on the village of Trusina, would accuse others of that, specifically the accused in this case. On the contrary, it is the Court's view that the testimony given by this witness is clear, convincing and consistent, and the Court finds no reason to distrust this witness's testimony with regard to the participation of the accused Mensur Memić in the attack on the village.

492. In the context of the aforesaid, the Court took into consideration an attempt by the counsel for the first accused to influence the witness in terms of his testimony. The counsel did not deny this and, when that failed, an issue of immunity was raised in order to call into question the witness's testimony.

493. Besides, witness Ramiz Bećiri is not the only one who testified about the accused's participation in the operation on the village of Trusina on the relevant day.

494. Protected witness "X" testified that Mensur Memić went with them, set out from Igman to Parsovići, although he did not see him between Parsovići and Trusina or on the way back; as the witness put it, "I do not have that man in my memory."

495. However, the accused was seen in Trusina by protected witness "R" who, when listing the members of the "Zulfikar" unit who arrived with him in Parsovići, mentioned Orhan, Džeko, Džoni, 'Zolja', 'Menta', Dževad Salčin, Samko (the latter he said was the group leader). He knew Menta's name at the time, but he could not recall it now (the accused Mensur Memić himself said that that has been his nickname his whole life and that 95% of people in the unit knew him by that nickname); he claims that he saw him during the operation at Trusina. When asked by the Defense if he could confirm that he did not see the accused in the school in Parsovići, in the evening, before the operation, the witness, quite reasonably, answered *"I do not recall, sir; that was a long time ago, I am telling you what I saw in Trusina, I said what I remembered, what I saw in Trusina, whether Menta was with us on Bradina or whether he came subsequently to Trusina, he and Zolja, I have no idea, I only know that he was with us that morning in Trusina."*

496. The witness further stated that they were divided in two groups: Samko led one group and Džoni the other one. Explaining the events in the hamlet of Gaj, he said that Džoni ordered that the people be killed, executed, explaining *"he even called me, I did not want to do that."* One person, as the witness put it, tried to escape, he describes him as a young man, he was wearing a blue turtleneck of some sort, bullets hit him in the back. As for the others who were lined up there, he says *"There were immediately, when that guy*

was done with, they were immediately killed, and the firing squad included 'Džoni', 'Menta', 'Zolja', Džeko", that is as far as he can remember.

497. The witness reiterated this during cross examination. Answering defense attorneys' questions, he claimed he clearly saw who was shooting, and added that he could not recall who shot the young man who tried to escape except that it was someone from the firing squad. When asked about the connection between 'Džoni' and the execution and the firing squad, he replied *"There is a connection, he ordered that the people be killed, and he too was in the firing squad and was giving orders while in the firing squad."*

498. Protected witness "A" too stated that the accused Mensur Memić was in Trusina, and explains that with him were Orhan, 'Menta', protected witness "O", Ramiz Bećiri, Ahmet Kokić, Fikret Kruščica. According to the witness, 'Menta' is Mensur Memić.

499. Having described the attack on the village of Trusina and what was going on in the village prior to the execution in the hamlet of Gaj, the witness stated that he crossed a meadow, towards a top of the village, where he heard other members and where the women and children were gathered in front of a house. He says he also saw *"HVO soldiers who were there"*, he did not suspect anything, he thought that they would be captured and brought along. He further stated that the HVO soldiers were lined up *"by that house while in the upper part, behind the soldiers, there were Mensur Memić, Zolja, Orho and Kalkan."* According to the witness, at one point Nedžad Hodžić came running and said *"firing squad, Samko has died, shoot, open fire."* At that moment the shooting started and he saw those soldiers fall to the ground.

500. The witness also stated that immediately upon arrival at that location he noticed a young man with blond hair, he was wearing a camouflage uniform and he, when Nedžad came running and said "firing squad", started running, a little to the left of the house where the women and children were gathered, and where there was a wall. The witness says that he heard a shot and *"I reckoned that he, that he fell"*, but when he looked down from that wall, he saw that the young man was hit, but he did not see or know who shot him.

501. According to this witness, Nedžad, Mensur Memić, Rasema aka Zolja and Kalkan were shooting at the lined up people. The witness said that Orho was there as well, but he did not see him, he is not sure if he too was shooting.

502. Moreover, the witness stated that the first time he saw Mensur Memić in Trusina was *"when those soldiers were executed and when the shooting started, he is sure that he*

was shooting.” The witness further states that it can be concluded that Nedžad gave the order and claims that there was no one unknown to him in the group that was shooting at the captives, they were all members of the “Zulfikar” unit.

503. Witness Rasema Handanović also testified about the execution of captives in the hamlet of Gaj. She says that in early April 1993 she came to Igman to join the “Zulfikar” unit; the unit was quartered in *Mrazište* and there she met most of the men from that unit: Nedžad, Džeko, 'Menta', Fiki, Orhan, Deba, 'Samko', Popara, Nihad Bojadžić, Zuka, Vejsil, Mujo, the Čorbo brothers and protected witness “R”. She said that in the Handžar unit (her previous unit) she was given the nickname of 'Zolja', and that is how they called her in Zuka's unit as well.

504. She further stated that Nedžad and Samko led groups in Trusina, she was in Nedžad's group, they were going through the village, searched houses, took people and put them in a house in order to keep them in one place. 'Struja' (Dževad Salčin) was guarding the captives. After Samko was wounded near a local shop, they returned towards the village center where some men were lined up in front of a wall, about five or six of them, she was not sure exactly, some were in uniforms, others in a combination of camouflage and civilian clothes, there were women and children there. She further alleged that Nedžad said “firing squad”, there were a few local inhabitants - guides there, 'Menta' was there, 'Struja' was down by a retaining wall, Džeko, Pile, Popara, Nedžad and she were there too.

505. She explains that they had situations before when the words “firing squad” were uttered, but no one was executed. However, there was a young man there who had blond hair and tried to escape, he started running towards one end of the wall, Nedžad shouted “*fire!*” Shooting started, some were shooting at the young man, others were shooting at the other persons, it was a matter of seconds, everyone around her was shooting: 'Menta' (Mensur Memić), Nedžad, Popara, Džeko, there were other persons as well, and she too was shooting. At the end, Nedžad told her to finish them off (by shooting in the head those who were executed), but she accidentally discharged a burst of fire close to her leg. She tried to carry out the order, but Popara pushed her away, took a pistol and shot everyone in the head.

506. Describing the events in the hamlet of Gaj, protected witness “B” states that next to a house or barn “*persons were facing, hands on a wall, as well as heads, 6 I think, HVO members were there, who were captured.*” He states that there was noise there, cursing

“the woman who was called ‘Zolja’, she said that she would avenge ‘Samko’, the wounding of ‘Samko’ and Kokić, there was cursing.” He explains that at some point a young man who had a slightly long hair started running and all of a sudden 'Menta' (Mensur Memić), Hodžić (Nedžad Hodžić) and 'Zolja' (Rasema Handanović) fired at him and then they *“fired at the other 5 members.”* The witness said that 'Struja' was shooting as well; Kalkan was there, but the witness does not know if he too was shooting. Regarding the six persons lined up against a wall, he said that some of them were in uniforms and he thinks that some of them were not.

507. When cross examining this witness the Defense insisted that the witness, in his investigative statements (20 November 2008 and 5 December 2008 – not tendered into evidence), did not say that Memić was a member of the Reconnaissance-Sabotage Platoon, but stated so at the main trial. The witness explained that he mentioned Memić when he was talking about the incident in Trusina, but he does not know why he did not mention him in the investigation; to use the witness's words “I may have left him out.”

508. In addition, also during the investigation, when referring to who was shooting at the captured HVO soldiers, the witness stated that it was 'Zolja' and Nedžad aka Džon Vejn. Similarly, during the investigation before the Prosecutor's Office on 11 December 2008, he stated that he saw 5 persons lined up in Gaj, holding their arms in the air. He saw his unit members Nedžad Hodžić, Menta, Zolja, and, he was not sure, the fourth or fifth in line were protected witness “A” and ‘Struja’ – Dževad Salčin.

509. The witness cannot explain why he mentioned only two persons (Hodžić and Zolja) during the initial interview, but at the trial he stated that he was sure that Hodžić, Zolja, Menta and Struja were all shooting.

510. Finally, in his third investigative statement of 21 October 2009 he stated that he was sure, with 100% certainty, that just before the execution of those soldiers Nedžad Hodžić and 'Zolja' were holding their rifles at the ready and he is sure they were shooting. At that time he was not sure about the position of the rifles of 'Menta', Salčin and Kalkan, i.e. he was not sure whether they too were shooting.

511. It is a fact that this witness's statement is somewhat confused, (partially different) to a certain degree. However, it is a fact that, with the exception of the initial statement, without hesitation, he referred to the accused Memić as a person who was in Gaj, which he maintained at the main trial. The fact that he did not say during the investigation that

Memić was a member of the Reconnaissance-Sabotage Platoon is not relevant to the present case, considering that (non-)membership of the Reconnaissance-Sabotage Platoon does not mean that he could not take part in the operation in Trusina, considering that no one said that only members of the Reconnaissance-Sabotage Platoon took part in the attack on Trusina.

512. This witness's testimony is consistent in essential points with the testimony given by other witnesses who testified about the accused and his role in the events in the village of Trusina (hamlet of Gaj), as well as that on that day, just like other unit members, he was armed with an ordinary automatic rifle. Thus, the Court does not question this witness's credibility in the context of other testimony because they all gave a similar account of the events in Gaj.

513. The fact that this witness stated that Dževad Salčin aka Struja was among the persons who fired at the captured HVO members, not confirmed by any other examined witness who was present in Gaj on that occasion, in the Court's opinion, does not diminish the credibility of the testimony by this witness with regard to the participation of the accused Memić, considering that the relevant occasion involved an extremely stressful and tense situation in which the events unfolded at great speed, and it is therefore no wonder that this witness's perception in one segment (relating to the accused Salčin) was different from that of the other witnesses, who saw the accused Salčin 'Struja' on the scene, but did not say that he too was shooting at the lined up HVO captives.

514. At this juncture, the Court finds that it is important to refer to the testimony given by protected witness "E". This witness, when describing the events in Gaj, stated that 'Džoni' (following a conversation over Motorola) shouted *"firing squad"*, whereupon a young man wearing a uniform, he thinks he had blond hair, perhaps even a ponytail, jumped off of the wall where the captives were standing and then Popara opened fire at him. According to this witness, Popara was the first one to open fire and then everyone started shooting. *"I watch Nedžad shooting, I watch Džeko, 'Zolja',"* and then the witness repeats *"someone else was shooting too, I did not see who it was, someone else was shooting too."*

515. The testimony given by this witness is important for the reason that he describes the events in the hamlet of Gaj similarly as the other witnesses, i.e. the very act of execution of the lined up soldiers and an attempted escape by one of them, with a description of his appearance, thus corroborating their testimony about the incident. It is the Court's impression that the witnesses who testified about this are still under the

impression of the events that transpired on that day. The fact that the witness did not mention the accused Memić as a shooter does not question the testimony by witnesses who testified seeing that, considering that, in the Court's view, one cannot expect that all witnesses will see things in the same way; their perception in such a situation is expected to be different. Besides, at no point did this witness deny the accused's presence; Mensur Memić's name was not familiar to him, but he is sure that someone else was shooting too.

516. Protected witnesses "O", "M", "D" and Berdihan Mešić did not see the accused in Gaj. Protected witness "O" states that he knows 'Menta', he was a member of the unit, the first time when he saw him was on Mt. Igman, he did not see him in Trusina: *"I'm not aware of him being there at all. I could even claim that he was not there, but, that is your job."* Furthermore, protected witness "M" points out that he could not recall seeing the accused in Trusina on that day, but at the same time he could not explicitly claim that he was not present there (he just could not remember seeing him), whereas protected witness "D" claims he did not see the accused Memić either in Parsovići or in Trusina all day long, and it is most likely that Memić was not in Trusina also because he, in the witness's opinion, joined the unit just a few days ahead of the operation in Trusina.

517. Only witness Berdihan Mešić, who claims to have participated in the Trusina operation, points out that the accused Memić was not in any of the trucks that arrived in Bradina, that the last time he saw him was in *Mrazište* when he was exchanging greetings with Orhan. He did not see Memić between the departure from Bradina to Trusina and back, he saw him again on *Mrazište* when they returned.

518. Finally, protected witness "N", who did not take part in the Trusina operation but was on Homolj at the time, could not say where the accused Memić was on that day, but assumed that he was on Mt. Igman together with Sead Fikić because they joined the unit at the same time. At this juncture the Court recalls Prosecution Exhibit T-147, discussed under paragraph 483.

519. Consequently, the Court cannot rely on such testimony to conclude that the accused Memić was not involved in the operation at the village of Trusina and that he did not take part in the execution of captured HVO members. More precisely, the Court finds that the testimony lacks conviction (especially because protected witnesses "M", "O" and "N" did not claim with certainty that the accused was not present in Trusina) and is partial to the accused. Such testimony does not in any way challenge the truthfulness and

credibility of testimony by witnesses who saw him in Gaj and who do not leave room for doubt that the accused Mensur Memić perpetrated the acts charged.

520. Moreover, as a kind of confirmation of testimony given by witnesses who testified about the accused's perpetration in the attack on the village of Trusina is the testimony given by witness Elmedin Čaušević aka Mesar, who too was a member of the “Zulfikar” unit since, according to him, September 1992. He explained that he was on Mt. Igman on the day when the Trusina incident occurred, they were getting ready for an operation, alleging that 'Menta' was the nickname of a member of the unit and that he was not with them when they were preparing this operation on Mt. Igman. This contradicts the testimony by the accused himself that on the following day (the day after Trusina) he was lined up together with others and that he set out towards Konjic.

521. Finally, protected witness “L”, albeit testifying at the main trial that he heard a lot about the operation from unit member Ahmet Kokić who told him that in Trusina *“some civilians were killed, some soldiers, that money was taken from those civilians and soldiers and gold as well,”* he does not recall Kokić telling him anything about Mensur Memić. However, after he was shown the investigative statement (KT-RZ – 107/05 of 29 October 2009), the witness confirmed that he did say on that occasion that Ahmet Kokić told him that Mensur Memić indeed was in the attack on Trusina.

522. The Defense notes that the witnesses themselves committed crimes in the village of Trusina and for that reason they incriminate others in order to avoid being called to criminal account.

523. However, in the case in question, the Court finds that such reasons lack conviction and holds that the witnesses would not avoid or diminish their criminal responsibility in that way, designating without hesitation the accused Mensur Memić as a person who was in the firing squad and who took part in the execution. What is even less acceptable is the contention by the accused that all those witnesses practically hate him when they can state something like that, but he fails to give at least an indication of the reason for such contention.

524. The Court finds that it is necessary to point out at this juncture that it found beyond a reasonable doubt that Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević and Franjo Drljo were executed on the day in question during the attack on the village of Trusina.

525. Numerous witnesses – residents of the village of Trusina and members of the SOPN unit who took part in the attack – testified on these circumstances. Their testimony on the execution of the captured HVO members is already referenced in the paragraphs above.

526. Witness Milka Drljo who went to the Križ hill that day and called the HVO members who were on guard duty to surrender – among whom were her son Ivan Drljo, Stipe Ljubić, Pero Krešo and Nedeljko Krešo – states that they, with the exception of Stipe Ljubić, were lined up against a wall of a house immediately upon arrival in Gaj. Thereafter, her son Ivan was sent to the village to get Zdravko Drljo and Željko Blažević, and when they all gathered “they were lined up as if to be executed against Marko’s house”; the women and children were moved away and then bursts of fire were heard. The witness saw the bodies of victims there *“her son Ivan Drljo, Franjo Drljo, Željko and Pero, and Nedeljko. Only Zdravko Drljo was not there.”*

527. Witness Cecilija Šimunović also confirmed that Pero Krešo, Stipe Ljubić and Nedeljko Krešo came from the Križ hill to Gaj with Ivan Drljo. She stated that Zdravko Drljo and Željko Blažević were brought to the village thereafter, and then they were all lined up *“....we were separated from the men, they remained lined up, and they were executed there.”* The witness added that her father Franjo Drljo too was lined up there and killed, and as for Stipe Ljubić she later heard *“that he was killed up there in our house.”*

528. Witness Ruža Mlikota too spoke in her testimony about the surrender of HVO members, i.e. how Ivan Drljo was sent for Blažević and Zdravko Drljo who were at home at the time. Zdravko Drljo was killed outside Tomo's house; she does not know whether he attempted to escape or not. In relation to Stipe Ljubić, the witness claims that he was killed in Andrija Drljo's house as soon as he came from Križ with Nedeljko Krešo, Pero Krešo and Ivan Drljo. Regarding the very act of murder of lined up people, the witness states *“they immediately started separating us from the men. ...And as soon as we were above the house they immediately started shooting, and killed them.”*

529. Witness Dragan Drljo testified about the murder of captured HVO members as well, alleging that he heard shots and bursts of fire and saw four or five men shooting at the persons lined up against a wall. On that day his brother Ivan, uncle Franjo, Pero Krešo, Nedeljko Krešo and Željko Blažević were lined up against a wall and executed. Zdravko Drljo was a relative of theirs, he saw him too lined up against a wall but he did not see his

dead body that day. However, he did eventually see his bullet-riddled body lying on some branches by the road when he went to Gaj on the following day, as well as the bullet-riddled bodies of his brother and uncle Franjo, Nedeljko Krešo and Pero Krešo, Željko Blažević. As for Stipe Ljubić who surrendered on the same day as his brother, he saw his dead body in his house.

530. Mara Drljo confirmed that her husband Franjo (he was on guard duty in the evening and came home when the attack began), Nedeljko, Pero, Ivan, Željko, as well as Zdravko who *“attempted to escape but was killed,”* were all executed on that day.

531. Witness Bosiljka Krešo stated that upon her arrival in Gaj from Kreše she saw, among others, the bodies of Zdravko Drljo – Bosanac as well as “5 of them lined up (Nedeljko Krešo (the witness's husband), Pero Krešo, Željko Blažević, Ivan Drljo, Franjo Drljo), against Marko Drljo’s old house.” Someone from among the group of soldiers said that they should line up and the civilians be separated, *“then there was a burst of fire and then I saw 4 soldiers, 3 in black uniforms and one in a camouflage; one of those in black uniforms was the female soldier, she took part in the execution with the three men.”*

532. Jela Ljubić, the wife of victim Stipe Ljubić, upon her arrival in Gaj, just by the road (“he was in underbrush, in thorny bushes”) saw the dead body of Zdravko Drljo and then, by the wall of a barn, she saw lined up Željko Blažević, Ivan Drljo, Nedeljko Krešo, Pero Krešo and Franjo Drljo. She described how happy she was that she did not see her husband Stipe Ljubić among the lined up persons, adding that she asked Milka and Mara Drljo where her Stipo was or if anyone saw him, whereupon Milka replied *“he was killed up there in my house.”* As they were standing by the barn *“all of a sudden we heard shots, bursts of fire, they were killed, and then they brought us there to see it...such a grief.”*

533. These allegations are further corroborated by witnesses Mara Delinac and Anica Blažević. Ms. Blažević saw the lined up soldiers, five of them: her husband Željko, Franjo Drljo, Nedeljko Krešo, Ivan Drljo and Pero Krešo. Zdravko was also there, but they told her that he had tried to escape so they killed him.

534. The identity of the executed men has been determined on the basis of testimony by the said witnesses, i.e. it has been found beyond doubt that those persons were Franjo Drljo, Ivan Drljo, Pero Krešo, Nedeljko Krešo, Zdravko Drljo and Željko Blažević, and death

certificates (Exhibits T-107⁸⁸, T-102⁸⁹, T- 100⁹⁰, T-101⁹¹, T-99⁹², T-103⁹³) have been tendered with regard to the circumstances surrounding their deaths.

(2) COURT'S FINDINGS ON THE ACCUSED NEDŽAD HODŽIĆ

535. According to the charges, the accused Nedžad Hodžić, on the morning of 16 April 1993, in the hamlet of Gaj, village of Trusina, municipality of Konjic, together with Mensur Memić aka Menta, Rasema Handanović aka Zolja and other members of the Special-Purpose Detachment of the Army of RBiH “Zulfikar” known to him, ordered: “*firing squad, open fire!*” and took part in the murder by executing the lined up soldiers of the Croat Defense Council: Ivan Drljo, Nedeljko Krešo, Pero Krešo, Zdravko Drljo, Željko Blažević and Franjo Drljo, who had surrendered.

536. The accused Nedžad Hodžić was a member of the “Zulfikar” unit from 25 August 1992 until 22 April 1996, which ensues from a piece of documentary evidence (T-117⁹⁴), and his membership of the unit is additionally confirmed by examined witnesses Rasema Handanović, Ramiz Bećiri, and protected witnesses “E”, “R”, “O”, “A”, “M”, “X”, “B”, “D”.

537. The Court finds that none of the examined witnesses who testified about these circumstances denied the accused's participation in the events in the village of Trusina. On the contrary, all the witnesses, without exception, are consistent in terms of the participation and actions of the accused, specifically in the hamlet of Gaj, where the captured HVO members were executed.

⁸⁸ **T-107** – Death Certificate HNK /Herzegovina-Neretva Canton/ – Konjic Municipality for Franjo Drljo, no. 09-15-3-4310/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Franjo Drljo issued by the Municipal Court of Konjic no. R 529/99 of 10 January 2000.

⁸⁹ **T-102** - Death Certificate HNK – Konjic Municipality for Ivan Drljo, no. 09-15-3-4312/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Ivan Drljo issued by the Municipal Court of Konjic no. R 530/99 of 10 January 2000.

⁹⁰ **T-100** - Death Certificate HNK – Konjic Municipality for Pero Krešo, no. 09-15-3-4311/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Pero Krešo issued by the Municipal Court of Konjic no. R 545/99 of 26 January 2000.

⁹¹ **T-101** - Death Certificate HNK – Konjic Municipality for Nedeljko Krešo, no. 09-15-3-4316/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Nedeljko Krešo issued by the Municipal Court of Konjic no. R 68/00 of 17 April 2000.

⁹² **T-99** - Death Certificate HNK – Konjic Municipality for Zdravko Drljo, no. 09-15-3-4307/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Zdravko Drljo issued by the Municipal Court of Konjic no. R 171/05 of 22 December 2005.

⁹³ **T-103** - Death Certificate HNK – Konjic Municipality for Željko Blažević, no. 09-15-3-4313/08 of 26 December 2008; notarized photocopy of a decision on determination of death of Željko Blažević issued by the Municipal Court of Konjic no. R 8/2000 of 23 February 2000.

538. Witness Rasema Handanović testified that for the operation in Trusina they set out from the school where the Command/HQ of the 45th Neretvica Brigade was located. On an elevation above the village, above a plum orchard, they received final instructions before entering the village, they were told that they had a medic, while a soldier manned a PAM /anti-aircraft machine-gun. Nedžad (Hodžić) was sorting out men to go left and right and he put her into his group, and groups were led by Nedžad and Samko. That does not mean that there were two groups, she does not know how many groups there were, one group went straight towards the village while the other one took a roundabout route, from the upper side of the village. However, she claims that when they entered the village the groups no longer existed, they were all under Samko's group. She described how they went through the village, searched houses, took the people out of their homes and put them all into one house; 'Struja' was guarding the captives. After Samko was wounded next to a local store, she said that Nedžad assumed command in the village and ordered withdrawal; they took some women to collect weapons.

539. Upon arrival in Gaj – she later learned the name of that place, the witness says that they climbed over a retaining wall, there was like a flat surface there, the captives were lined up against a wall, about seven of them, some were in civilian clothes, others in uniforms. Nedžad contacted Nihad to ask him what to do with the captives, and Nihad told him to kill them all.

540. She further described a young man with blond hair who attempted to escape, he started running towards one end of the wall, but she thinks that he did not make it to the wall when he was killed. Nedžad said “*firing squad*”, everyone was shooting, that young man was killed as well as all the men who were lined up against that wall. As she put it, there were many people there – 'Menta', Nedžad, Popara, Džeko, Pile and the guides.

541. She saw 'Menta', Nedžad, Popara and Džeko shooting at the lined up men, and she too was shooting. When that young man started running, Nedžad shouted “fire!”, they remained standing as they were, there was no time for anyone to move or form a line. Nedžad was wearing a black uniform and he had an M16 automatic rifle.

⁹⁴ **T-117** – Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 01/2-41-32/09 of 12 November 2009 delivering authenticated photocopies of military records for Mensur Memić, Dževad Salčin, Nedžad Hodžić and Senad Hakalović.

542. Describing Nedžad Hodžić at the time of the incident in question, the witness states that he was a bit plump, overbearing, full of himself, force, the terror of troops, the same of captives, and added *“Nedžad was an animal, he behaved like an animal to everyone. Everyone who knows Nedžad knows that he mistreated and harassed captives and soldiers alike.”* Never before in any operation did they have an order to execute someone; there were orders to line up *“come on, firing squad, this, that, but nothing ever happened.”*

543. She further stated that Nedžad, Popara, 'Samko' and Džeko had privileges within the unit, they used Jeeps, they had money, the others regarded them as command staff because of the privileges, and because on such occasions they would not be standing in a line as the others, they would be standing like they were command staff. The witness said that Nedžad Hodžić had a nickname of 'Džon Vejn'.

544. Protected witness “E” states that he learned about the Trusina operation an hour and a half before (he did not know much), because he spent the night in Gostovići, which is when Nedžad, 'Samko', Popara, Džeko and 'Zolja' arrived. He too joined the operation, it was early, it was dark.

545. He says Nedžad had an M16 automatic rifle and a pistol with a holster. When they reached a crossroads, Džeko went towards Križ, while they (the witness went with Samir and 'Džoni') went left, crossing an orchard, towards houses on a hill. Seid Padalović went in the direction of Sultići, Seonice.

546. After Samko was wounded by the store, Džoni radioed via Motorola that Samko was wounded, but he does not know who he talked to.

547. He describes the arrival in Gaj, he saw persons standing against a wall, captives, in civilian clothes and in uniforms, he sees 'Džoni' right behind them, Džeko and 'Zolja' are there, two or three more in their vicinity, he does not recall who exactly.

548. 'Džoni' spoke about it via Motorola, he does not know who with and then he just shouted *“firing squad!”*. The witness states that his eyes were fixed on one person, he was turning his head left and right and he realized that something would happen. The witness then testifies about the young man's attempt to escape, his murder (Popara opened fire at him), and how everyone started shooting: *“I see Nedžad shooting, I see Džeko, Zolja’....”* and this witness, the same as witness Rasema Handanović, testifies about “the finishing

off” of the executed persons and cannot say who did that *“whether it was ‘Džoni’, Popara or ‘Zolja’.”*

549. After the operation ended, when they returned to Parsovići, he states that unit members *“were saying that they did a good job, they were talking about the people killed.”*

550. The witness does not know if Nedžad had a rank or if he was privileged, but, as he put it, *“he was ‘Džon Vejn’, he had a Jeep, he had an M16, a vest, a pistol.”*

551. At the Defense’s insistence to say if he saw Nedžad shooting – if he saw smoke rising from the rifle, the witness says *“I saw him”,* and claims *“I guarantee what I am telling you, Popara was shooting, Nedžad was shooting, ‘Zolja’ was shooting, Džeko was shooting, someone else was shooting too, I did not see who it was, but someone else was shooting too.”*

552. The witness saw Nedžad Hodžić after the war, he was seriously wounded, he had speech problems, they talked about Trusina, they talked about the execution. The Defense insisted that even back then Nedžad was not able to reproduce anything, but the witness answers that that *“would not be correct, we talked about that, it was very difficult, but he remembered it, how he killed those executed people.”* The witness states that that may have been in January or February 1996, and two more persons were present there.

553. Witness Ramiz Bećiri too recalls the arrival of the unit in Parsovići; they were quartered in the Elementary School there. On the following morning they set out for the attack, the operation on Trusina. They set out at around 05:00 hours, they split in two groups. He recalled 'Džoni', Džeko and Popara having black uniforms, they had infantry weapons, 'Džoni' and Samko had Motorolas.

554. He says that the full name of the person nicknamed 'Džoni' is Nedžad Hodžić, the last time he saw him in Trusina that day was on the crossroads when 'Samko' and Kokić were wounded, he had the status like a group leader. They did not always have the same leader: sometimes 'Džoni', sometimes Džeko, sometimes Popara.

555. Protected witness “R” testified that they set out from Parsovići towards Trusina while it was still dark. When they arrived near Trusina they split in two groups, he says that one group went to some trenches, that group included 'Samko' and 'Struja', while the witness was in another group with 'Džoni' and Orhan. One group was led by 'Džoni', the other one 'Samko'; they had Motorolas. He says that 'Samko' was in charge of that

operation. They had guides so that they would know which houses were Croat and which houses were Bosniak.

556. After Samko got wounded, they withdrew to the starting position and there he saw two or three HVO members and three or four civilians against a wall of a house and then, in the witnesses' words, "... 'Džoni' ordered that they be killed there, executed." He states that 'Džoni' called him too, but he refused to do that. The same as the previous witnesses, he describes a young man who attempted to escape, but he was shot in the back. According to the witness, the others were immediately killed; when asked who killed them, the witness answers that it was 'Džoni', 'Menta', 'Zolja' and Džeko, as far as he can remember.

557. He further alleges that after Samko was wounded, 'Džoni' took over – "was in command of all members of the Zulfikar unit taking part in the attack" (he says that about 30 members took part in Trusina). He thinks that 'Džoni' contacted someone via Motorola, he does not whom. When asked about the connection between 'Džoni' and the execution, the witness replied "*There is a connection – he ordered that the people be killed.*" At the Defense's insistence that 'Džoni' was not his superior and that he was not obliged to carry out his order, the witness replied that 'Džoni' was his superior as the leader of the group the witness was in.

558. Protected witness "O" too states that in the first half of 1993 he was a member of the "Zulfikar" unit – Special-Purpose Detachment; the unit commander was Zulfikar Ališpago and his deputy was Nihad Bojadžić. According to the witness, Nedžad Hodžić, 'Samko', Edin Džeko and Popara were privileged by the command: they were not required to take part in war operations, they could go wherever they wanted, and they could drive whatever they wanted.

559. Upon his arrival in Trusina he remembers that on the right-hand side, on a hill, he saw a white church, they came (they were brought by a guide) to a location overlooking a village and there was a trench there; there he saw all of their members who had set out, and Nihad was there too. From that location one could see the village and from there they set out in two directions, he went right, he later learned that the name of the place was the hamlet of Gaj, and that is where combat operations were carried out. His fellow-combatants who set out in the attack included protected witness "M", Bećiri, 'Struja', 'Zolja', Nedžad, Džeko, Popara and protected witness "A", and there were also some men

from Haso's unit. In his opinion, 'Samko' was the main leader, Nedžad and Džeko were there, "they were regarded as leaders", they had Motorolas, the witness says "in order to communicate with the superior commander, so he could give them instructions."

560. The witness further spoke about Samko's being wounded by the store and the withdrawal to some houses where some civilians and soldiers were lined up against a barn – 8 to 10 people, in his opinion, two in civilian clothes and the others in military uniforms. Nedžad and 'Struja', 'Zolja' and protected witness "M" were already there, and there were many of their members there. Among the lined-up people was a boy, a child (14-15 years old), the witness led him out and told him to run in between houses, lest he would be killed, and he ran away. He alleges that then they started saying that those people would be executed, he does not know who said that, he heard but did not see it. This witness too describes a boy with blond hair (similarly as the others) who attempted to escape, how they opened fire at him, and says *"... and then everyone got up and started shooting at him and they shot him, then they returned and then shots were fired at the people against the house, bursts of fire."*

561. As to who was shooting, the witness says *"I see Nedžad, I see 'Zolja', I see Džeko, mostly I see 'Zolja', because she, er, she, I think, killed most of them, her rifle, her bullets."*

562. Protected witness "A" testified that he was a member of the "Zulfikar" unit and that the attack on Trusina took part in the spring; he thinks that 35-40 members of his unit took part in the attack. Enis Popara, Edin Džeko and Nedžad Hodžić had a bit more privileged status, they were like some commanders, they were consulted on some matters and they aided Nihad Bojadžić.

563. The witness alleges that Nihad, Nedžad and 'Samko' had Motorolas that morning during the line-up in Parsovići.

564. The witness was in Nedžad's group, they set out down a plum orchard, Nedžad had a black vest and an M16 rifle, as far as he can remember. After they entered the village, they came down a meadow, onto an asphalt road and set out towards Buturović Polje, where they found more soldiers of their unit. There was a store nearby.

565. He explains that Nedžad and 'Samko' had Motorolas because they were senior members of the unit, they were men of confidence and so they were *"like some commanders."* He believes that on that day they had to use Motorolas for communication

with the commander during the operation because the commander (Nihad Bojadžić) was in charge of the operation and at given times called his subordinates to report on the situation on the ground. He states that that was the rule in all the operations in which the witness took part during 1993.

566. He saw the murder of lined up persons and describes it in the following manner: *“when I arrived there they were lined up, by that house, they were facing a wall, I could not assume what would happen, how it would happen... ‘Struja’ was further down in front of the house with the women and, as I recall it, Ramiz Bećiri, and on this upper part, behind the soldiers, were Mensur Memić, ‘Zolja’, Orho, Kalkan.”* The witness alleges that at one point Nedžad Hodžić came running down the road that leads out of the village (through a plum orchard) and said *“firing squad, Samko has died, shoot, open fire...”*. He describes the soldier who attempted to escape at the moment when Nedžad Hodžić arrived; he does not know who shot him. He also saw Rasema Handanović shooting several bullets from a pistol into soldiers who were still showing signs of life. Nedžad, Mensur Memić, Rasema aka Zolja and Kalkan were shooting at the lined up people; he is not sure about Orho. Although he could not see all the people around him, he claims that there was no one unknown in the group that was shooting, they were all members of the “Zulfikar” unit, he was sure of that.

567. Protected witness “M” spoke about a privileged status of some members of the unit as well, he says it was Nedžad Hodžić, 'Samko', Džeko, Popara, and they were on close terms with the command staff.

568. In the first four months of 1993 the witness was in the territory of municipalities of Konjic and Jablanica; as soon as the clashes with the HVO started the focus of the unit was on those offensive operations. He states that in the spring (April) they arrived in Trusina, having set out from Parsovići, from the school, 25-35 of them. He says that they probably lined up ahead of departure.

569. The witness further mentions who else came with him to Parsovići, among others Nedžad Hodžić, 'Samko', Popara, Džeko, 'Zolja', they were lined up in the school, in a corridor, early in the morning. 'Zuka' (Zulfikar Ališpago) and 'Samko' were standing in front of them, as far as he can remember. The witness went with the right group that went up the hill and with him were Džeko, 'Samko', Bećiri, protected witness “O”; the group was led by 'Samko'.

570. After Samko was wounded by the store, everyone withdrew towards the upper part of the village where the captives were standing, and where he heard noise, and Nedžad said something along the lines of *“give the soldiers, take the soldiers, line them up.... and whether to kill them, whether to execute them, whether something, I honestly cannot say.”* Nedžad and 'Zolja' were standing in front of the lined up people, making noise.

571. The witness then entered a house because he did not want to be in a situation to watch or receive an order to do something with them and he did not come out until it was said that they were leaving the village. While in the house he heard shots, short bursts of fire, he saw four or five killed soldiers, the rest were civilians. He does not recall whom he saw when he got out of the house because he was under stress, but there were other people there.

572. Protected witness “X” states that he was assigned to the unit from the second half of 1992 and at that time the unit was called “Detachment for Defense of Innate Rights of Sandžak and Kosovo”, and in early 1993 the unit was given the name SOPN ŠVK. He says that he was a member of the Reconnaissance-Sabotage Platoon (since the spring of 1993).

573. The witness further talks about a privileged status of some members of the unit – 'Samko', Džeko, Nedžad and Popara who, according to his words, were treated like little Buddhas – they did not perform daily duties, they did not undergo training, they slept in suites, and in operations they mostly had the role of group leaders.

574. In Trusina he was in the group with Nedžad Hodžić, protected witnesses “B” and “R”. Nedžad had a nickname 'Džoni' or 'Džon Vejn'.

575. Protected witness “B” says that he was a member of the Reconnaissance-Sabotage Platoon, and he too speaks about a privileged status of Samko, Džeko, Nedžad and Popara who were attached to the command, he thinks that the command staff ensured such status of theirs.

576. Having described the arrival at the school in Parsovići and the departure towards Trusina, he further alleged that the operation commander in the village was Samko, and after he was wounded *“Nedžad Hodžić was in charge.”* Aside from Nihad, 'Samko', Nedžad, Popara and Džeko also had Motorolas during the operation.

577. After Samko was wounded, they were told to withdraw “up there, towards houses”, where he found six, he thinks, HVO members who were captured, he heard noise, swearing, 'Zolja' saying that she would avenge 'Samko', then describes an attempted escape by an HVO member and *“all of a sudden ‘Menta’, Hodžić and that ‘Zolja’ broad opened fire at him and then they opened fire at the other members.”*

578. Explaining how he knew that Hodžić assumed command, the witness points out that Hodžić was in charge up there in Gaj. The four men – Nedžad Hodžić, Enis Popara, Samir Šemsović 'Samko' and Edin Džeko – would most frequently lead them in operations, depending on who was assigned, and he thinks that they were with the command of the “Zulfikar” unit.

579. He believes that Nedžad carried an M-16 rifle, he also had a pistol, he thinks that he was only in a black uniform, he had a vest and possibly a bullet-proof vest. Nedžad had a Motorola in Trusina and, to the witness's knowledge, he was a group leader.

580. Even protected witness “D”, a Defense witness who took part in the attack on the village of Trusina in April 1993, as a member of SOPN, corroborates the testimony by previous witnesses. Specifically, the witness says that while in Trusina Nedžad Hodžić had an M16 rifle, a black uniform, a black vest. He also claims that the accused Hodžić took part in the execution of captives in the hamlet of Gaj: *“unfortunately Džoni took part in that, I am truly sorry, but...”*, he saw him discharging bursts of fire. Zolja and protected witness “A” were also shooting. Protected witness “E” was not shooting, he was sitting on the side.

581. At the Defense's insistence that prior to the shooting no one issued any verbal order, the witness answered *“unfortunately, unfortunately, it was said ‘firing squad’, Džoni said that..”*. The order was given before the young man started running. The witness never said this before because no one had asked him.

582. And finally, the accused Dževad Salčin alleged in his testimony as a witness that he himself heard the words *“firing squad, get ready”*, but he did not recognize the voice.

583. Based on the foregoing, the Court found beyond a reasonable doubt that the accused Nedžad Hodžić, albeit not formally having a command function, as a senior and experienced combatant, was close to the command staff and enjoyed their confidence, and, together with Samir Šemsović aka Samko, Edin Džeko and Enis Popara, had a privileged status in the unit and the four of them were in most cases group leaders in

operations, as confirmed by all the examined witnesses who were members of the unit at the relevant time. Similarly, the testimony by the said witnesses suggest that the accused Nedžad Hodžić was assigned to lead one prong of the attack on the village of Trusina, and that, after Samir Šemsović was wounded, when the operation was nearing its end, he assumed command over the unit in the village, whereupon the unit members withdrew to the starting position and arrived in the hamlet of Gaj where the captured HVO members were executed.

584. The testimony by all the examined witnesses who spoke about the execution in the hamlet of Gaj and the related acts of the accused Nedžad Hodžić are mutually firmly connected, consistent in all important aspects, mutually corroborative and complementary. The Court accordingly had no reason to distrust their testimony and assessed it as truthful and credible, and relied on it to find beyond a reasonable doubt that the accused Nedžad Hodžić perpetrated the acts as described in the operative part hereof, especially because the Defense did not challenge the authenticity of the said testimony in any way whatsoever.

585. The Court adduced reasons on the identity of the HVO members who were executed in the part of the judgment relating to the accused Mensur Memić.

(3) COURT'S FINDINGS ON THE ACCUSED NIHAD BOJADŽIĆ

586. According to the charge, the accused Nihad Bojadžić, Deputy Commander, on 16 April 1993, ordered his subordinate members of the Special-Purpose Detachment "Zulfikar" Army of R BiH, pursuant to a previously prepared plan, to attack the village of Trusina, ordering that no one in the village should be left alive, albeit knowing that there were civilians in the village, and thereupon from an elevation above the village of Trusina, on the same day, used a means of communication to lead the attack by giving orders to his subordinate soldiers attacking the village from multiple directions without giving any regard to discriminating between civilian and military targets, with the attack resulting in the deaths of the following civilians: Tomo (Andrija) Drljo born in 1926, Andrija (Ilija) Drljo born in 1947, Kata (Ivan) Drljo born in 1937, Kata (Mićo) Drljo born in 1918, Ivan (Pero) Drljo born in 1939, Branko (Andrija) Mlikota born in 1925, Smiljko (Mirko) Krešo born in 1940, Velimir (Andrija) Krešo born in 1934, Ivica (Jure) Krešo born in 1935, Ilija (Ante) Ivanković born in 1926, Anđa (Jure) Ivanković born in 1936, Jure (Ante) Anđelić born in

1926, Stipo Mandić born in 1928, Anto Drljo born in 1936, Milenko (Stipe) Mandić born in 1961; the death of Stipo (Pero) Ljubić, born in 1961, a prisoner of war-an HVO soldier who had previously surrendered; and serious injuries of the civilians Mara Krešo born in 1942, Anđela (Vinko) Šagolj born in 1969, Arijana (Pero) Krešo born in 1988 and Mario (Rade) Krešo born in 1991.

587. That at the time of the operation in the village of Trusina on 16 April 1993 the accused Nihad Bojadžić performed the duty of Deputy Commander of the Detachment ensues, first of all, from documentary evidence, i.e. VOB-8 form (Exhibit T-126) to the name of Nihad Bojadžić, stating that Nihad Bojadžić was a member of the SOPN from 6 June 1992, that he performed the duty of Deputy Commander from 4 March 1993, that in early 1994 he was appointed Commander when the unit changed the name to the 4th Reconnaissance-Sabotage Battalion of the 4th Corps of the Army of R BiH.

588. That the accused was Deputy Commander of the SOPN since 4 March 1993 is also confirmed by Order by the Chief of the Supreme Command Staff of the Armed Forces of R BiH no. 13/37-39 of 4 March 1993 (Exhibit T-121) as well as testimony by numerous witnesses examined at the main trial, as additionally confirmed by the accused Bojadžić himself in his testimony.

589. To wit, witness “R” testified that in the first half of 1993 he was assigned to the SOPN “Zulfikar” unit which, according to the witness, was an élite unit, only for combat operations. The unit commander in April was Zulfikar Ališpago – Zuka and his deputy was Nihad Bojadžić.

590. This testimony is also supported by other examined witnesses – at the time unit members Ramiz Bećiri, Rasema Handanović, protected witnesses “O”, “A”, “B”, “X”, “C” and “L”, as well witness Vahidin Čomor, the latter testifying that he knew that the SOPN was a special-purpose unit under the command of Zulfikar Ališpago, with Bojadžić as his deputy.

591. Finally, the accused himself alleged in his testimony that in January 1993 the unit became an independent unit and was henceforth called the Special-Purpose Detachment (SOPN). He explained that the commander of the new Special Detachment was Zulfikar Ališpago, while he (the witness) was proposed to be Deputy Commander, which was ultimately approved. He was later given a document appointing him to that duty (Exhibit T-121) and he continued performing that duty until he was appointed commander of the unit.

592. Numerous witnesses (who took part in the operation) testified about the deployment of a part of the unit to the territory of the municipalities of Konjic and Jablanica in April 1993 because of the conflict with the HVO. They first came to Bradina and then to Parsovići where the operation on Trusina started from; the accused Nihad Bojadžić came there with a part of the unit.

593. Protected witness “R” testified that he too took part in the Trusina operation; they started the operation from Parsovići. On Mt. Igman, before they set out, Commander Zuka lined them up and told them where they were going; he explained to them that a conflict with the HVO had just broken out. Nihad Bojadžić was present there during this address.

594. They arrived in Parsovići late in the afternoon; they rested a bit and then went out to be lined up. He explained that Nihad lined them up in front of the school building and addressed them by saying that Samko – Samir Šemsović would lead them in the operation in Trusina. Describing the accused Nihad Bojadžić, the witness says that on that occasion he was wearing a camouflage uniform, had a pistol, and added: *“he always had a radio on him, a small Motorola.”*

595. During the investigation this witness also stated that after their departure to Parsovići Zuka (Zulfikar Ališpago) went in the direction of Mt. Igman while Bojadžić, allegedly, went with a part of the unit towards Jablanica. In his explanation for this, the witness says *“if that is what I said, then yes”*, and added, *“but we were lined up in Parsovići by Nihad Bojadžić, I do not know how he got there, but he was there.”*

596. Finally, he added that he often thought about Trusina after the war, he is sure that Bojadžić was in Parsovići before the operation, he says that he was there briefly.

597. The accused was also seen in Parsovići by witness Ramiz Bećiri. This witness testified that he, as a member of the SOPN unit (Anti-Aircraft Defense Platoon), was in Parsovići in April 1993 and he was there because of an operation in the village of Trusina: they came to Parsovići from Bradina. He claims that the accused Nihad Bojadžić was present in Parsovići; he said that he lined them up and told them that an operation would begin the next morning. The same as protected witness “R”, he says that the accused Bojadžić was in a camouflage uniform and had a pistol.

598. Witness Rasema Handanović said the same in her testimony, adding that the accused also had a Motorola. This witness too speaks about the presence of the accused

Bojadžić in the school in Parsovići where the Command of the 45th Brigade was quartered, adding that also present there were Zulfikar Ališpago (who told them that there would be an operation in Trusina) and a man from another brigade “Nihad called him ‘Beg’.” They were lined up by Nedžad, Popara and Samko.

599. Same as previous witnesses, protected witness “O” states that when the war with the HVO began they left Mt. Igman and set out for combat operations in the area of Konjic. According to this witness, they were lined up at the school in Bradina. He saw Zuka (Zulfikar Ališpago), Nihad Bojadžić and another man there; he does not know who that man was “*I think it was that Beg guy.*”

600. Zuka addressed them and ordered that no one should harm any civilians or torch any house. They arrived at the school in Parsovići where he saw a Jeep in which Nihad had arrived.

601. Same as witness “R”, he says that they were lined up after a short break and that Nihad told them the direction of activities, that they would get guides from the 45th Brigade, that they were going to the village of Trusina to liberate that terrain.

602. The witness further says that he knows that during the investigation, on 14 October 2009, he said that they were lined up in Parsovići. However, he explains that when he later “replayed the film in his mind” he remembered that that actually happened in Bradina.

603. He also said during the investigation that Commander Zuka (Zulfikar Ališpago) lined up the members and that Nihad Bojadžić was next to him. Zuka told them they were going to take part in a combat operation; they exchanged the battle salute-takbir “Allāhu akbar” with him (witness Rasema Handanović mentioned the same salute in her testimony). The witness explained that the substance of his statement is the same “*I cannot really say, er, whether it was... I think it was in Bradina, but... again I cannot, er, with certainty which school it was; it was a long time ago.*”

604. In addition, protected witness “A” testifies that he took part in the attack on Trusina and that Nihad Bojadžić was in command of members of his unit (SOPN). He knows that because he personally saw him when they left Parsovići and reached a location overlooking the village of Trusina. The same as the previous witnesses, he says that the accused Nihad Bojadžić was wearing a camouflage uniform; he had a pistol and a Motorola. Before they set out from Parsovići they were lined up in the school corridor and

on that occasion Nihad Bojadžić told them they were going to take part in a combat operation. In Parsovići, in front of the lined up members, he saw Samko, Nedžad and Bojadžić, while Beg (Nusret Avdibegović) joined later.

605. Protected witness “B” corroborates the testimony given by the previously mentioned witnesses when he says that they were lined up at the school in Parsovići, Deputy Commander Bojadžić was present there, as were Samko, Padalović, Homeini. He, just like other witnesses, alleges that Nihad had a camouflage uniform, a pistol attached to his belt and a Motorola.

606. Protected witness “X” gives an identical description of the accused. He also sees the accused Nihad Bojadžić in Parsovići, as well as Samir Šemsović – Samko, Seid Padalović and 'Beg'. According to this witness, Nihad was wearing a camouflage uniform; he had a pistol and a Motorola. Around 02:00 hours, this witness heard Nihad telling Nedžad and Samko in the school corridor that they would be going in two groups and how many members they should take, direction village of Trusina.

607. Protected witness “M” testified at the main trial that he, as he put it, *“out of the corner of his eye”* saw the accused in Parsovići in front of the school and that they were about 10 meters apart.

608. Finally, witness Vahidin Čomor testifies that there was a meeting held in Bradina on 15 April 1993, with the participation of senior officers from the 4th Corps, Eso Ramić, some senior officers from the 45th Brigade, Commander of the 3rd Battalion a.k.a. Beg (Nusret Avdibegović), some officers from the operations group, at which certain combat operations in the direction of Jablanica, Konjic were being prepared. Haso Hakalović, Zuka (Zulfikar Ališpago), Nihad (Nihad Bojadžić) and Salko Gušić too were in Bradina. According to this witness, the meeting in Bradina lasted for an hour, whereupon a part of SOPN went towards Parsovići and that platoon was attached to the 1st Battalion of the 45th Brigade. However, the witness also added *“.... Bojadžić escorted, when a unit is being attached, the officer in charge of that unit is obliged to escort that unit and hand it over to the command to which it is attached, which Bojadžić did.”*

609. By correlating the said testimony, what may be inferred beyond a reasonable doubt is that the accused Nihad Bojadžić was definitely in Parsovići on 16 April 1993 before a part of the unit set out for the attack on the village of Trusina, and that he was standing in front of the lined up members in the presence of Nusret Avdibegović aka Beg, considering

that all the mentioned witnesses claimed so clearly and without any hesitation. Having analyzed each testimony individually and in correspondence with the testimony by other witnesses (the witnesses essentially testified the same), the Court had no reason to distrust such testimony. Admittedly, the witness testimony is to some degree inconsistent in terms of the location where members lined up and the persons who were standing in front of the lined up members, but the Court finds that those are not major discrepancies that could lead to a different finding on the fact of presence of the accused in Parsovići on the occasion in question. In fact, in his testimony witness “O” provided a reasonable and acceptable explanation for these discrepancies that, as a matter of principle, apply to all the witnesses who testified about these circumstances. One cannot expect from a witness to provide exactly identical details of their memories when testifying about some circumstances, which also depends on the witness's capacity of perception and recounting, taking into account the passage of time from the incident in question.

610. Moreover, witness Vahidin Čomor testified that Salko Gušić, Commander of the Igman OG, decided that a part of SOPN be attached to the 1st Battalion of the 45th Brigade, but he assumes that he had the approval from the Supreme Command Staff or else he could not command, i.e. the witness says that Salko Gušić could not have given orders to the commander of a unit that was directly subordinated to the Supreme Command Staff (as was the case with SOPN unit, according to this witness's testimony).

611. Similarly, witness Vahidin Čomor testifies that Haso Hakalović was Commander of the Klis Brigade and that that brigade carried out offensive combat operations on the day prior to the meeting in Bradina (14 April 1993) and captured the village of Buščak. Combat operations were to continue on 16 April 1993 and *“what he requested from Assistant Chief of Operations and Training Esad Ramić was to act from two directions.”* According to this witness he heard a plan of combat operations from Haso Hakalović, no details, just that *“Trusina should be attacked, that he will capture Buturović Polje.”*

612. According to this witness, the primary axis of attack was Gostovići-Trusina-Buturović Polje and the commander for this axis was Seid Padalović, Deputy Commander of the 1st Battalion (former commander of “Tigers”). The witness claims to have seen the attack order in writing at the Command/HQ of the 45th Brigade signed by Haso Hakalović and the order said that Seid Padalović would be in command of this axis of attack. SOPN received a specific task from him at the scene.

613. Finally, this witness claimed that the accused Nihad Bojadžić, under army regulations, could not have commanded a unit; the unit could not report to him, neither him nor any other officer from the unit.

614. However, not only did witness Haso Hakalović fail to confirm the testimony by the said witness but all other witnesses who were unit members and who took part in the attack on the village of Trusina also denied it.

615. Specifically, witness Hasan Hakalović (Commander of the 45th Brigade at the relevant time) alleges in his testimony that he did attend the meeting in Bradina, he was invited by Esad Ramić, he thinks it was on the day of the Trusina operation, present were Ramić, Zuka, Nihad, he also saw some troops. Before leaving to attend the meeting, he gave an order to his command in Parsovići that the units be put on alert, there were no attack orders, and after the meeting he went to spend the night in the village of Bale; he returned to the area of his brigade when Zlutar fell, which was on 18 April 1993. This would hardly be the behavior of a brigade commander who gave an attack order in his unit's area of responsibility.

616. Moreover, all the witnesses who testified about these circumstances allege that the only thing that they got from Haso Hakalović's unit were the guides, for they did not know the ground, and no witness confirmed that they were under the command of a person from another unit.

617. Protected witness "R" testifies that they were given three or four guides, but he does not recall anyone else from Haso's unit setting out with them. They arrived near Trusina at around 6 or 7 o'clock in the morning, and were divided in two groups: one group went right towards some trenches, while the other group (his group) entered the village head-on. According to this witness, Samko (Samir Šemsović) was in charge of the operation; on departure Nihad Bojadžić told them that Samko would lead them. He explains that Haso's soldiers could not give orders to Samko for the reason that the SOPN was a separate unit, and goes on to say *"they had nothing to do with us, they were just with us, were going to direct us around the village."*

618. With the help of the guides they knew what houses belonged to Croats and what houses belonged to Bosniaks. As a member of the unit, he was deployed to dozens of operations and it is true that in all of those operations their members were under the

command of someone from among the command staff of their own unit, which he claims was the case in Trusina as well.

619. When testifying about the participation of other units and who the members of their unit receive orders from during the operation, witness Rasema Handanović stated that they did not know that there were people of several ethnicities living in Trusina, they learned that from the guides. The guides told them about the houses *“leave these ones alone, and you can mop up these ones.”* They reached an elevation overlooking the village (above a plum orchard). She says that Nihad Bojadžić was in command of the operation from a secure location and used a Motorola to contact Samko and Džeko; the witness claims that Nihad never took part in any operation.

620. According to this witness, what is also interesting is that a man from another brigade, whom Nihad referred to as Beg (a tall, balding man), remained in a secure location, in command of his brigade that was supposed to attack from the other side, but they never showed up. Her unit was the only one that passed through the village. The position from which the attack was supposed to commence was neither far from nor close to the village; the witness says *“it was close enough to serve as a secure location for Nihad to remain there as the commanding officer.”* The village was in the field of sight and they had a good layout of the village. This witness too says that there were two prongs of the attack, but when they entered the village the groups no longer existed; everything was mixed, it was a small space.

621. They were supposed to converge with Haso's soldiers near a store in the center of the village, as Samko told them, but they did not enter the village. There were only guides and local inhabitants protecting their houses.

622. Testifying about the same circumstances, protected witness “O” stated that after they were lined up in the school corridor Nihad came up and told them they would be given guides from the 45th Brigade. After that they travelled a section of a road in a truck, they reached a hill, he remembers seeing a church, the guide took them to a spot above a village (as was stated by witness Rasema Handanović) and from there they went into action, there was a trench there where he saw members of the unit and Nihad was there; one could see the village from there and all the houses.

623. The witness says that they went in two directions, Samko was the main leader, he had a Motorola, the same as Nedžad, Džeko and Popara, so that, as the witness puts it,

they could communicate with the superior commander and so the commander could give them instructions; the witness claims that the main commander for that direction was Nihad Bojadžić. Similarly as witness Rasema Handanović, this witness too alleges that they operated from two directions, but they converged on a local road. The 45th Brigade was supposed to be their backup, the witness says “like assistance”; they had their own direction of operation, they were supposed to provide cover for them from the right-hand side, but they did not partake because their commander got killed. The guides were showing them which houses belonged to Croats. The witness has no knowledge of his unit being led by any commander from any other unit; as for the relationship between them and Haso's soldiers, the witness says that they were on good terms, the witness alleges “*you could say that they feared us.*”

624. He saw Nihad on a small hill near trenches. During the investigation, on 21 October 2009 (Defense Exhibit O-III-54), he stated that Nihad was the operation leader; from the position where he last saw Nihad prior to the commencement of the attack one could see the entire village, and one million percent from that position he could communicate with Samko and his people. When asked if the guides gave them orders in Trusina, the witness stated “*they were in no position to give orders to us.*”

625. Besides, the witness stated that the same mode of conducting a combat operation was applied in the Vrde operation, one needed to know who was in charge of each prong, and in that operation the witness was in a way accountable to Bojadžić because he was the commanding officer in that operation – his code name was 'Blek'.

626. Finally, the witness states that Nihad was the leader in charge of the attack in Trusina because he was their commander and he was there.

627. In addition, protected witness “A” testifies that Nihad Bojadžić commanded the unit members in the attack on the village of Trusina. He knows that because he saw him (in person) when they set out until they reached the spot overlooking the village of Trusina, i.e. he also saw him in Parsovići and just before that when they came to a hill overlooking Trusina where the assignments for the attack were given. He alleges that there were two or three trenches on a section near the cemetery and above the church-tower.

628. He further explains that Nedžad and Samko had Motorolas, he thinks that they needed to use them for communication with the commander about the course of the operation because, as the witness puts it, the commander was in charge of the operation

and at a given time he calls his subordinates to report about the situation on the ground. That, as claimed by the witness, was a rule in all operations in which he took part in 1993.

629. When describing the Motorolas that Nedžad and Samko had, the witness says that they were black and had the mark GP 300, he saw them and for a while he was even issued with them. He further asserts that the distance between the location where he last saw Bojadžić before setting out for the operation and the store at one end of the village of Trusina is about 600 meters, perhaps a kilometer. Upon their return, they found Nihad Bojadžić at the spot where they had set out from, and Beg tells them to be careful not to hit them because Buturović Polje was close by. He did not know Beg from before, he heard that that was his name and that is why his name is familiar to him; he does not know what role he played at the time.

630. He explains that he had been deployed to many operations prior to the Trusina operation; the orders to destroy targets were given by the commanding officers who were members of the Zulfikar unit, which was the case in Trusina as well.

631. He reiterates that Nihad Bojadžić was in the field, he gave them the order to attack, he is absolutely sure of that and he never had a dilemma about that. He claims that Avdibegović and Bojadžić came with them to the spot where the attack commenced from and they remained there to follow the course of the operation, with Samko commanding the operation. Only members of the Zulfikar Detachment took part in the attack on Trusina, there were no others.

632. During the investigation, on 7 October 2009 (the Defense did not tender the record) he declared under full responsibility that Bojadžić and Avdibegović led the attack on Trusina because Nihad was their commander and Trusina was in the area of responsibility of Nusret Avdibegović aka Beg. He explained this at the trial and said that he did not in fact know whether Trusina was indeed in the area of responsibility of Nusret Avdibegović; he assumed so since Avdibegović was there. At this point the Court finds that it is important to note that, if one excludes the witness's conclusion, the witness is consistent in terms of presence of Nihad Bojadžić and Nusret Avdibegović on a meadow above the village.

633. Finally, the witness once again points out that the commander of the attack on the village of Trusina could only have been Commander Bojadžić because he was their commander, claiming that Samko, Nedžad, Džeko and Popara could not have led an

operation on their own initiative but would need to receive orders from the commander, from Bojadžić.

634. Moreover, protected witness “B” claims that Nihad Bojadžić commanded the operation in Trusina, and, aside from him, Samko, Nedžad Hodžić, Popara and Džeko also had Motorolas. According to the witness, they were given Seid Padalović's guides because they did not know the ground. When they set out for the operation and when a PAM was firing, the guide said that it was an IKM /Forward Command Post/ and *“up there is your commander and Padalović will now go up there as well.”*

635. According to this witness, the person who led the operation in the village was Samko *“as far as I know, he was in charge”*, and, after he was wounded, Nedžad Hodžić was in charge. He alleges that four groups took part in the attack, his group was led by Geza (he thinks), while the others were led by Džeko, 'Samko' and Hodžić respectively.

636. The witness knows that Seid Padalović led the “Tigers” unit, he was there when they arrived in Parsovići, and claims that members of that unit did not take part in the operation - *“they were going behind us, I did not see them shooting”*, but he says that he saw them when 90% of the operation was completed. He claims that they were not under command of anyone from the 45th Brigade, and that Seid Padalović did not give orders to them.

637. Protected witness “X” too testifies that Nihad, Beg and Seid Padalović met them in Parsovići. 'Samko', Džeko, Nedžad and Popara had a privileged status; according to the witness they were persons in Nihad Bojadžić's confidence. In the operations in which the unit took part they were mostly group leaders and, as such and also during the operation, they communicated via Motorola. In Parsovići, it was Nedžad Hodžić, Nihad Bojadžić, Samir Šemsović and Seid Padalović who had Motorolas.

638. In the morning, at around 02:00 hours, he heard Nihad telling Nedžad and 'Samko' in the school corridor that there would be two groups and how many people they should take. The witness was in Nedžad Hodžić's group, so his immediate superior during the attack was Nedžad Hodžić, while Nedžad's superior was Nihad Bojadžić.

639. Explaining the role of the 45th Brigade, the witness says *“they were something like, like guarding our flank, we were supposed to enter the village from two directions and they*

were supposed to guard our flank, to be there if from some direction someone should show up...".

640. Protected witness "M" also testifies that Hodžić, Džeko, 'Samko' and Popara had a privileged status – on close terms with the command staff. This witness says that one could see HVO lines (one could see the trenches) from the hill that they set out from. They were shot at from the direction of holiday cottages that were 400-500 meters away. He later heard that that direction was supposed to be covered by another unit so that that flank is secured, but that unit never set out. They had guides for orientation. When asked about unknown soldiers, the witness says *"well, I probably saw someone, but I did not pay attention to who they were, though I cannot say that I saw many of them."* Two groups were going towards the village, the third one towards Križ.

641. He did not see any member of any other unit giving orders to members of the "Zulfikar" unit. This witness does not know who Seid Padalović is and therefore claims that it is not possible that that person commanded him in that operation; the witness says *"I guess they would have told us."* He cannot recall whether local soldiers took part in the operation as well – if nothing else, probably the guides. He did not see or hear anyone from any other unit giving orders to Samko. He knows that someone from the 45th unit got killed, whether a company commander or battalion commander.

642. Protected witness "E" alleges that "Tigers", Neretvljaci /men from Neretva/, "Zulfikar" unit and Gornjevakufljani /men from Gornji Vakuf/ participated in the combat operations in Trusina. When asked about the role of those units, the witness explains *"Well, we went to operations together, in coordination with Zulfikar's unit and Gornjevakufljani /men from Gornji Vakuf/ who were there, but they were there mostly to cover our line of retreat, our back. When the shooting started, over there in Gaj, they ran down the hill and entered Trusina."* According to the witness, they met with the men from Vakuf when everything was over, *"perhaps there was another murder or two, but everything was already over."*

643. When asked if any unit was the main unit in that combat operation, the witness answers *"all of us who participated in that operation, attacking and that, one should know that Zuka's combatants, that they are amazing guys, brave guys, good guys. And in that regard they are stronger than others... they were better prepared, better trained, they carried out more operations than the others who were there, for example Neretvica or*

Gornji Vakuf, they were battle-hardened combatants, on Mt. Igman, other battlefields, and in that regard they were better, stronger.” Aside from Džoni whom he saw using Motorola on several occasions, Samir, Džeko, Seid and possibly Popara also had Motorolas in Trusina that day.

644. Having considered the cited testimony individually and as a whole, the Court finds that they are consistent on essential points and, what is particularly important, they are authentic and sincere in terms of who commanded parts of the unit in the attack on the village of Trusina. None of the examined witnesses left open a possibility that it could have been someone from another unit, i.e. it clearly and unequivocally ensues from their testimony that the commander of the operation was Deputy Commander Nihad Bojadžić, while Samir Šemsović (Samko) was leading the unit members in the village; after Samko was wounded Nedžad Hodžić took over his role. Similarly, relying on the said testimony, one can conclude beyond doubt that the accused Nihad Bojadžić, in the company of Nusret Avdibegović aka Beg, remained on an elevation above the village from where he had a good view and was able to communicate with the group leaders on the ground, as argued by protected witness “O”; from the position where he last saw Nihad prior to the commencement of the attack one could see the entire village and one million percent from that position he could communicate with Samko and his people.

645. What is also indubitably confirmed by the said testimony is the fact that members of some other units took part in the operation – the 45th Brigade Neretvica, including Seid Padalović (commander of “Tigers”, a unit that was part of the Neretvica Brigade), as well as a number of members of Army units from Gornji Vakuf.

646. However, what additionally indubitably ensues from the said statements is the fact that members of other units did not actively participate in the attack – their participation was reduced to guides who were supposed to indicate what houses belonged to Croats and what houses belonged to Bosniacs (i.e. what houses can be “mopped up” and those that could not be mopped up) and to possibly protect the line of retreat, but it is obvious that they did not do so because, according to witness accounts, *“their commander got killed.”*

647. The relationship between SOPN members and members of those other units is best described in the testimony by protected witness “O”: *“you could say that they feared us.”*

648. As for members of the unit from Gornji Vakuf, their primary role too was to protect the line of retreat, as confirmed by protected witness “E”. The same witness says that they met those unit members in Gaj when everything was already over.

649. Besides, a majority of witnesses, members of the SOPN unit, denied the presence of members of any other unit in the village (except the guides), which will be discussed in more detail in the reasons below.

650. That the accused Nihad Bojadžić commanded the operation from a position on a high ground above the village is undoubtedly corroborated by protected witness “L” as well. This witness testifies that on that day, on the morning of the attack on the village of Trusina, the accused Bojadžić (the witness says “Deputy Commander Bojadžić”), contacted him by radio communication – Motorola, he was ordered to reposition a PAM /anti-aircraft machine-gun/ in order to provide cover for the unit members who were supposed to attack down there in Trusina.

651. This witness, among others, states that only Commander Zuka and Deputy Commander Bojadžić could issue orders; specifically, he was given an order by Deputy Commander Nihad Bojadžić to go to Gornji Sutići because he was supposed to man a PAM.

652. He explains that it was early in the morning and the conversation began *“this is Mr. Blek, he told me to carry it over, I told him that I could not because the PAM was covering the other side and it was fixed, you could not carry it, I could not open fire.”* The witness says that he was later given 'sijač smrti' /M-84 machine-gun/, a member of the 45th Brigade brought it, and with that machine-gun he positioned himself at one end of the village next to a barn so that he could see the HVO position on Križ, but again he could not fire because he would have been shooting at his own people.

653. He learned from Bojadžić that the name of the place is Križ, and Bojadžić ordered him to get there so that their (HVO) PAM does not fire on own members. The witness did not do that because he did not have a range; he briefed Bojadžić about that and abusive language was used *“he told me to go f... myself”*, whereupon, according to the witness, he switched off his Motorola.

654. According to the witness, all this was occurring just before the operation, at around 05:15-05:30 hours, he spoke to Bojadžić twice, he knows that it was him because he

recognized his voice and his code name via Motorola was 'Blek'. He claims that he is 100% sure that it was him.

655. When asked if he was obliged to carry out an order given by Seid Padalović or Haso Hakalović, the witness says *“we had our superior command and we were not obliged to...”*

656. Continuing, the witness said 'Blek' was a code name (encoded) and such names would be assigned ahead of an operation. The names often changed so that the enemy could not discover the identity of the person behind the name.

657. In cross examination, the witness did say that it was possible that he made a mistake about Bojadžić and the order, perhaps it was later. In re-direct examination, the witness said *“believe me, I was quite confused the last time, perhaps it is my mistake about that conversation, Motorola”*, but he reiterates and states explicitly that he talked to Bojadžić and that everything was as he said, he is 100% sure, the conversation was about Trusina and it is not possible that it was some other place. Besides, that was the only time he had an altercation with Bojadžić. He heard from other members that Mr. Bojadžić's codename was 'Blek'.

658. In the Court's view, the testimony by this witness is logical and convincing and does not in any way raise doubts about the credibility of his testimony, because the witness is ultimately confident and consistent in his statement that on the relevant occasion he received orders from the accused Nihad Bojadžić, clearly and precisely indicating the events, linking them to the place, time and actions that he was supposed to carry out on the orders of Deputy Commander, leaving no room for doubt that everything happened as described by the witness.

659. That protected witness “L” was present at the location and at the time described also ensues from the testimony by witness Mustafa Hakalović. This witness stated that a member of the SOPN (the witness says “Zuka's unit” – he knew his nickname) was issued with a 'sijač' and fired towards Križ. This was additionally confirmed by witness Rasema Handanović who said that, as part of the operation, there was a member (she mentions his nickname, she did not know his full name) who was issued with a PAM. There is also protected witness “A” who stated that witness “L” was a member of their unit and that he was in Trusina, he was on a special position, *“he was watching a line of retreat towards the village of Obri”*, and he knows that he manned a PAM. Besides, this witness thinks that

he needed to have some means of communication too, so if PAM needed to be used he could be informed to open fire. Protected witness “X” further claims that witness “L”, whom he referred to by his nickname, was in Trusina, *“he provided support with a PAM above Trusina,”* but he does not know why PAM did not open fire.

660. As noted above, protected witness “L” claims that the accused Nihad Bojadžić introduced himself using the code name 'Blek'. Other examined witnesses confirmed that this was the accused's code name.

661. To wit, witness “R” testifies that *“I think that, while using Motorola, one uses a code name and Nihad Bojadžić’s code name was Blek”*; witness Ramiz Bećiri said pretty much the same thing, explaining that Nihad Bojadžić had that nickname when he used a Motorola *“when we talked we did not call him Nihad but Blek.”* This is further confirmed by witness Rasema Handanović who said that the Deputy Commander in the unit was Nihad Bojadžić – 'Blek', she says that she has heard that somewhere. Similarly, protected witness “O” said: *“Nihad Bojadžić had a nickname Blek, that is how he was called”*, although he could not recall when he heard that code name, but at the same time he could also not recall hearing Nihad Bojadžić talking on a Motorola and using any other code name. Moreover, protected witness “A” testifies that in the period covered by the Indictment Nihad Bojadžić had a nickname Nihko and that for a while they called him 'Blek' (he does not know when exactly), but he says that at the time when he (the witness) was issued with a Motorola (in 1994) he communicated with Bojadžić and the latter mostly used the code name Blek.

662. In addition, protected witness “X” claims in his testimony that the accused Nihad Bojadžić used the names 'Blek' or 'veliki (big) Blek' via Motorola, explaining that he got that code name before the falling-out with Juka Prazina in January 1993 and he used it until the end of the war.

663. Protected witness “C”, answering the question about the commander and the deputy commander of the unit in April 1993, said that Zulfikar Ališpago was commander and Nihad Bojadžić was deputy commander. Regarding Bojadžić, the witness, without being asked, says *“and the deputy was Nihad Bojadžić aka Nihko, or ‘Blek’ on the radio.”*

664. Protected witness “M”, when asked whether the term 'Blek' had any meaning for him, stated *“it was used in some operations as some sort of code name for Nihad Bojadžić, but he did not hear it being used at that time.”* This witness added that it was

common to change a code name, whereas protected witness “D” has heard about the nickname ‘Blek’, but at some later point.

665. Referring to the said nickname, protected witness “Z” says that he heard about it (in connection with Bojadžić) in mid-1993 (summertime) after the fall of Mt. Igman, because he was present when Bojadžić answered the radio as ‘Blek’. This witness also stated that *“as far as I know, everyone from the beginning until the end of the war, whoever was given a name used it until the end. Few people changed their name, that, that name that we used among... in communication and on radios.”* He added that a code name could be changed depending on the need and the operation; someone would take a name for an operation *“but a majority had the same names, I don’t think they changed them.”*

666. Having assessed the aforementioned testimony, the Court found beyond doubt that the nickname (code name) of the accused Nihad Bojadžić during the operation in Trusina was Blek. Admittedly, some of the witnesses were unable to recall when the accused had this code name (according to witness “Z” – it was the summer of 1993). The important thing to be noted here is that none of the witnesses recalled the accused having any other code name except Blek; most of them took part in a large number of operations before and after the Trusina operation, and ‘Blek’ is the first thing that came to their mind when the accused Nihad Bojadžić was mentioned, even when they were not asked about it.

667. Examined witnesses confirmed that the accused Bojadžić led the attack on Trusina from an elevation using a radio communication device, and he used the same means to contact, among others, the accused Nedžad Hodžić (with the group leaders on the ground).

668. It has already been said that, apart from the accused Nihad Bojadžić, Samir Šemsović – Samko, the accused Nedžad Hodžić, and for sure Seid Padalović, Džeko and Popara, all had Motorolas.

669. This was testified about by protected witness “R” – *“aside from Nihad, Samko and Džoni had Motorolas”*, witness Ramiz Bećiri *“the person with the nickname Džoni is Nedžad Hodžić, he had a Motorola, he had the status of a group leader – Džoni, Džeko and Popara would also act as leaders”*, witness Rasema Handanović *“Nihad commanded from a secure position, he had a Motorola and he used it to contact Samko and Džeko,”* protected witness “O”: *“Samko was the main leader, he, Nedžad, Džeko and Popara had Motorolas in order to be able to communicate with the superior command.”* Besides, this

witness stated during the investigation on 21 October 2009 that Nihad (Bojadžić) was the operation leader and one million percent from that position he could communicate with Samko and his people.

670. Protected witness “A” too testified about a privileged status enjoyed by Nedžad, Džeko and Popara: *“they were like some commanders and they were consulted on some matters and they aided Bojadžić”*, and that in Trusina Nihad, Nedžad and Samko had Motorolas (he explains that those were Motorola GP300). The same was stated by protected witness “B”, but this witness additionally listed Džeko and Popara as members of the unit who had Motorolas.

671. The privileged status of unit members – ‘Samko’, Džeko’, Nedžad and Popara is also confirmed by protected witness “X”. This witness added that they were persons of Nihad Bojadžić's confidence and in most cases they were group leaders in operations in which the unit took part; group leaders communicated via Motorola, and Nedžad Hodžić, Nihad, Samir Šemsović and Seid Padalović had Motorolas in Parsovići. On several occasions he heard Hodžić using a Motorola to communicate with Nihad Bojadžić, who had the code name Blek.

672. Moreover, protected witness “C” says that ‘Samko’ and Nedžad had Motorolas as well as a privileged status in the unit. Protected witness “M” testified about that – Hodžić, Džeko, ‘Samko’ and Popara had *“a bit privileged status – on close terms with the command staff”* – he saw that they were obeyed.

673. Finally, protected witness “E” alleged in his testimony that in addition to seeing ‘Džoni’ use a Motorola on several occasions, *“Samir and Džeko and Seid, and possibly Popara also had Motorola in Trusina that day.”*

674. A majority of the said witnesses confirmed that the accused Nedžad Hodžić, after Semir Šemsović ‘Samko’ and Ahmet Kokić were wounded by the store in the village, reported the wounding incident via Motorola using the code term *‘rebro’/rib/*.

675. Protected witness “R” thinks that Džoni contacted someone after Samko was wounded, but he does not know whom; he says it was a bit farther away. Witness “A” thinks that Nedžad and ‘Samko’ needed to use Motorolas for communication with the commander because the commander was leading the operation and at a given time he would call his superiors to report about the situation on the ground.

676. Protected witness “B” says that the commander of the operation in the village was 'Samko', as far as the witness knows Samko was in charge, *“and when he was wounded Nedžad Hodžić was in charge”*. After ‘Samko’ and Kokić were wounded, the witness says that Hodžić used a Motorola, the distance between them was about 10 meters. The witness further alleges that he informed *“most likely deputy commander Nihko”* that 'Samko' was wounded, that there were men wounded. Answering a follow-up question, he explained that he only assumed that Hodžić was talking to the commander – *“whoever was leading the operation, he needed to be informed about everything.”*

677. Just like witness “B”, protected witness “X” too said in his statement: *“Nedžad uses Motorola and says: ‘Samko, ‘rebro”, most likely to Nihad Bojadžić, because I don’t know whom else he would call, and he sent word that Samko was wounded.”* The witness is not 100% sure that it was Nihad's voice, but alleges that on several occasions he heard Hodžić using Motorola to communicate with Nihad Bojadžić.

678. Moreover, protected witness “E” testified that Džoni used a Motorola; he does not who he talked to, to send word that Samir was wounded. According to this witness, Džoni (Nedžad Hodžić) could not have been talking to Džeko, Seid Padalović or Popara, as they were all close by, at a one-meter distance from one another.

679. However, witness Rasema Handanović said very specifically in her testimony that after Samko and Kokić were wounded Nedžad informed Nihad that they were hit and he said: *“rebro”, via Motorola*. The witness says *“Nedžad contacted Blek and everyone nearby was able to hear what he was saying. On that occasion Džon Vejn (Nedžad Hodžić) **told** Blek that Samko and Kokić were ‘rebro”*.

680. Having examined the foregoing testimony, the Court finds that the testimonies are mutually connected, the witnesses corroborate and supplement each other's testimony regarding the fact that they testify about, and indubitably confirm that the accused Nedžad Hodžić, as the person who took over as a leader of the operation in the village after Samko was wounded, contacted the accused Nihad Bojadžić as the commander leading the operation in order to inform him that Samko was wounded.

681. When one takes into consideration that all the persons who had Motorolas in the village were on the same spot at a given time, then it is not logical that Nedžad Hodžić contacted any of them; the sole logical and reasonable conclusion is that he contacted the accused Nihad Bojadžić who was on an elevation overlooking the village in order to inform

him as the commander of that operation about the situation on the ground. Accordingly, the reasoning by protected witnesses “B” and “X” in terms of contact between the accused Bojadžić and Hodžić via Motorola is acceptable to the Court in its entirety.

682. In this regard, the Court is also mindful of the testimony given by protected witness “A” who claims that Samko, Nedžad, Džeko and Popara could not have possibly led an operation of their own initiative, but needed to receive an order from the commander, from Bojadžić.

683. It is true that protected witness “D” claims in his testimony that he led a group in Trusina (although none of the examined witnesses confirmed that) and that Bojadžić was not present there; if he had been present the witness would have had to contact him because he was leading a group.

684. However, this witness's testimony is void of logic, his statement is self-contradictory, because, in addition to asserting that he did not hear and that it was not possible that Nihad Bojadžić gave orders during the operation in Trusina via Motorola, he also said that he turned off the Motorola when the shooting began although it should have stayed turned on to hear if the other two groups finished their parts, wherefrom it ensues that the accused Bojadžić, because Motorola was off, could not contact him. Besides, this is the only witness who claims that at that time the accused Nihad Bojadžić was “a maverick”, which does not ensue from any other presented evidence.

685. Finally, the Defense's contention that radio communication via Motorolas on that ground was not possible due to the distance and the configuration of the terrain is refuted by testimony given by the witnesses referred to above. Those witnesses testified about communication and specified the distance between the village and the accused Nihad Bojadžić, that there were no obstacles hindering or aggravating contact with his subordinates on the ground.

686. In the context of the above, protected witness “L”, whose testimony has been accepted as truthful and consistent in its entirety, claims that when he talked to Bojadžić the line was fine, he could clearly hear his voice. As for the distance to the position where the accused Bojadžić was, witness Rasema Handanović said *“the position from which the attack was supposed to commence was neither far from nor close to the village; it was close enough to serve as a secure location for Nihad to remain there as the commanding officer.”* She further claimed that, concerning the accused and Beg (the latter remaining

with him on that position), *“the village was in the field of sight and they had a good layout of the village.”* Protected witness “A” testified that *“the distance between the location where he last saw Bojadžić before setting out for the operation and the store at one end of the village of Trusina is about 600 meters, perhaps a kilometer,”* whereas protected witness “O” alleged that from the position where he last saw Nihad prior to the commencement of the attack one could see the entire village, and one million percent from that position he could communicate with Samko and his people.

687. That the accused (when giving instructions and orders for the attack on Trusina) said that everyone in the village should be killed has been confirmed by protected witness “O” in his testimony. In light of the manner of his testimony and the consistency in his account, the Court considers this witness's testimony to be truthful and credible.

688. According to this witness's account, upon arrival at the school in Parsovići they were lined up in the school corridor, Nihad (Bojadžić) arrived, told them the direction of operation, that they would get guides, that they were going to Trusina. The witness recalls someone asking what they would do, how they would do it, and that Nihad (Bojadžić) said *“f... Zuka, kill, screw them, don't let, don't let a single ear remain there.”* He explains that Nihad did not say this when the men were lined up, but when they got outside. In that regard, this witness stated that ahead of their departure Commander Zulfikar Ališpagović said that they were not allowed to kill civilians.

689. The Court puts this witness's testimony in the context of the testimony given by protected witness “R” who said that Zuka (Zulfikar Ališpagović) said that they must not mistreat civilians and captives, whereas Nihad Bojadžić, when Zuka was away, tolerated ill-treatment of captives.

690. Witness Rasema Handanović also heard an order along those lines on an elevation above the village (above a plum orchard), where they, as she put it, *“received final instructions, the order was to take care of Trusina so that not even one hen is left alive”*; according to her, it was Nihad who said all that. For her this meant that they had to kill everyone, which was very odd; normally it would be 'go and capture' (the witness says that rules of combat and protection of civilians or captives did not exist).

691. When asked by the Defense, the witness stated that the goal of the operations was not accomplished, their order was not to leave a single hen alive, but many people were left alive, so *“we did not carry out our orders.”*

692. In addition to those two witnesses, the order was also heard by protected witness “A” just before the attack. According to the witness, the accused Nihad Bojadžić did not use fancy words, a few of them were present there; Nusret Avdibegović was present as well, and there were some instructions, and *“at that moment I heard that, that it was said that not a single ear should remain in Trusina. Nihad Bojadžić said that.”* He explains that Nedžad, late Samko, Džeko and Popara were present there, and reiterates that he remembers well when it was said that not a single hen should be left alive in Trusina.

693. The witness further testified that he in fact saw Nihad when they came to a hill overlooking Trusina where the assignments for the attack were given and where they had two or three trenches on a section of the cemetery and uphill from the church-tower. He says he happened to be there together with the members of the unit that he already mentioned; he does not know who else was there, when he heard Nihad saying *“as for this Trusina, not a single hen should be left alive.”* This fully corresponds to the testimony given by witness Rasema Handanović regarding the place where the order was given as well as the words that were uttered and the manner in which they were uttered.

694. However, in response to follow-up questions, at one point the witness says that he was not sure whether Bojadžić said 'ear' or 'hen', he says that the first time he said that not a single ear should remain in Trusina, *“he does not recall mentioning a hen.”* In the Defense’s view, this constituted a manifest reason that this witness was not telling the truth, i.e. that he did not hear the accused saying anything (ear – hen).

695. In the Court's view, the testimony given by this witness, when considered as a whole and in relation to the other two witnesses, does not raise doubts about the truthfulness and credibility of the testimony. There is no discrepancy or inconsistency in their testimony, they are compatible on essential points, the witnesses had an identical understanding of the order that they heard (to use the words of witness “A”: *“to capture the village and kill every living thing in the village”*), while the manner of presentation of their knowledge suggests that the witnesses were sincere; each of the witnesses spoke about their memory of the events they were testifying about from their own perspective and in their own way, while the manner of testifying also largely depends on a witness's ability to give an account. The Court cannot disregard the fact that the witnesses gave similar accounts of things that happened after the order that they heard, which merely confirms the authenticity and sincerity of the testimony, given that the witnesses clearly and

unambiguously described the course of events. Their testimony must be considered in the context of the overall circumstances and events in the village where the order was implemented.

696. It is a fact that not only these three witnesses but also other witnesses, primarily those who were SOPN members and who took part in the attack on the village, testified about the murders and wounding of civilians in the village regardless of their gender, age or status and without any cause or reason, in a situation when no one in the village was offering any resistance, and that is what all the examined witnesses agreed on.

697. As noted above, witness Rasema Handanović and protected witnesses “A” and “O” understood the order in a way that no one in the village should remain alive, and it is obvious that Samir Šemsović, Nedžad Hodžić, Edin Džeko and Enis Popara (the men in the accused's confidence) and other members of the unit had the same understanding considering the fact that 15 civilians were murdered in the village and four were wounded.

698. Referring to the aforesaid, protected witness “R” stated that his group entered the village head-on with the rifles at the ready; they entered houses belonging to Croats, and said *“in all the houses that I entered I found male civilians who were killed.”* Then he corrected himself and said that there was actually only one man dressed in civilian clothes. He also saw the murder of a man – he says that the man was shot in the stomach by a member of Haso's unit, he thinks that he is from Sandžak. He did not see any HVO position in the village or any HVO soldier, no one fired at them from the houses.

699. Talking about the store in the village, the witness alleges that an old man was wounded there, an elderly man, and an old woman, and says *“our men told him to come out, he came out, he was more walking on all fours with his hands on the asphalt that he was able to walk upright, and the woman was supporting him.”* They were probably killed, but the witness is not sure as to who did that. In his testimony he also described a situation involving Zolja (Rasema Handanović) and alleged that there was a Croat there, a refugee from Ilidža. Zolja told him to take off his underpants to see what he was, and then she fired off a short burst at him and killed him.

700. Finally, the witness says that it is a fact that there were no positions in the village except the one on Križ above the village, that there was no fighting inside the village, everything was over in less than two hours and no one put up any resistance.

701. Witness Ramiz Bećiri saw two HVO soldiers coming down a hill; protected witness “O” took a rifle from one of them, he saw a dead man by the store. Among the civilians, near a garage was a little girl who was wounded in a finger and there was a girl who sustained a through-and-through injury to her arm.

702. Upon their return to Parsovići they talked about the operation, some said “*we mopped up everything there,*” and his understanding of the term “*mopped up*” was “*that nothing should remain intact.*” He knows that some of the residents of the village of Trusina were killed, for they talked about it when they came to the school.

703. The same as the previous witnesses, witness Rasema Handanović spoke in her testimony about the murder of civilians in the village of Trusina. She alleges that her unit was the only one that passed through the village. She describes an elderly couple, a man and a woman, civilians, who came by the store in the village. She says that Džeko gunned them down with a burst of fire. On the way back they came to a storage depot, and Džems executed the owner there.

704. She further testified that no one from the Croat houses opened fire at them. Haso's men (Hasan Hakalović) did not enter the village, there were guides and local inhabitants who were protecting their houses and who told them “*don't go here, go there.*” The operation was completed when they reached the end of the village, all members of the group passed through the entire village, they did not meet with Haso's men, and they started returning towards the center.

705. Protected witness “O” described entering the village and alleged that a man opened fire at him from a window in Gaj, whereupon he led a girl (he remembers her name was Cecilija) in the direction in which that man went, took his rifle (a semi-automatic rifle) and put it over his back, and then Džeko showed up and stayed behind with that man.

706. Protected witness “R”, Nedžad and Zolja were standing by the store, there were about 10 of them there, a man and a woman were killed there, he saw some more bodies on the crossroads, he also saw a girl who was wounded in her arm, a little girl who lost her finger as a result of a gunshot injury. He further alleged that he came across a house in which there was an old man under the influence of alcohol, and then a house in which he found a man and a woman – he says that they were dead. He opened fire at the door to the store and found a wounded old man and two women there.

707. He explains that their guide Enes Gagula told them what hamlets they should fire at and what hamlets should not be fired at. According to the witness, murders of civilians were happening as they went, during the mopping up of the terrain, and all of them, members of the Zulfikar unit, were mopping up the terrain.

708. Furthermore, protected witness "A" too testifies about the wounding of a little girl and a girl in the village. He did not see a single HVO member in the village until the order to withdraw was given, only civilians. This witness too maintains that only members of the Zulfikar Detachment took part in the attack in Trusina, there were no others. He does not agree that Križ was the strongest HVO stronghold in that area on that day.

709. Protected witness "B", when describing their entering into the village, alleges that he and Geza went left, they did not go to the trenches where HVO members were deployed, and he thinks that the guide told him that it must be all over with them because they were not shooting. They came across the house where Gezo jumped to the door, fired a few shots and a man was killed in the corridor, while a bullet severed a young girl's thumb. Then he saw two civilians being led behind the house: *"they were immediately killed; as to who killed them, I don't know, honestly."* He says that they were elderly people, civilians, the man was a disabled person.

710. According to this witness, the Tigers unit, led by Seid Padalović, did not take part in the operation: *"they were behind us, I did not see them shooting."* He says that he saw them later, when 90% of the operation was completed.

711. Describing the entering in the village, protected witness "X" alleges that, having entered a house, he found a male body; they took the Croat population out of their homes, looking for money. In his opinion, the reason behind the attack was looting. Going farther into the village he saw dead bodies, they belonged to elderly persons, they were in civilian clothes, about equal number of men and women. He saw Džeko murdering a woman. No one opened fire at them from the houses.

712. According to this witness, breaking the blockade of besieged Konjic was far more important than capturing the village of Trusina.

713. Just like the previous witnesses, protected witness "C" maintained in his statement that no one opened fire at them from the houses as they were walking through the village, while the only time when he saw unknown soldiers was by an improvised infirmary. After

the wounded 'Samko' and Kokić were brought there, he assumes that they were helping tend the wounded.

714. Protected witness “M” testified about Bećiri’s throwing a hand grenade at the upper part of a house, about the surrender of soldiers and a man who had a semi-automatic rifle – he later heard that he was murdered, about seeing a male body in the center of the village, in a yard, but he does not know who killed him because 'Samko' and some others had entered before. He saw Mirso – Sandžaklija /a man from Sandžak/ in the upper part of the village, because a few men who were Vakufljaci /men from Vakuf/ were there. 'Samko' and Kokić were wounded approximately at the time when everything was over, the operation was over.

715. Protected witness “E” maintained in his statement that he could not recall any military positions in Trusina, in the part where the Croats lived. He describes how Džeko mistreated a man and how that man was killed by Seid; the witness describes how he himself shot a man, an unarmed civilian, Seid was there too, and five or six other persons, and one of them shot that man in the head. Before 'Samko' was wounded, he saw a male body by a house on the same location; a woman came out of that house and Zolja killed her. He further alleges that he witnessed a murder of a married couple outside the store: *“I swear to God that Džeko killed them.”* Between the moment when they entered Trusina and the moment when they were returning, as far as he can remember, no one fired at them from the houses belonging to Croats; it was practically the end, they entered houses, and they took things. Upon their return to Parsovići they boasted about how they did a good job, they were referring to the killed people.

716. Protected witness “L” alleges that most of his information about the events in Trusina on that day comes from Ahmet Kokić, and he told him that *“some civilians were killed, some soldiers, that they took money from those soldiers and civilians, and gold.”*

717. Witness Milka Drljo alleges that she overheard soldiers saying that they did not find as much money as they were told they would find, and she remembered Kadira Poturović saying *“God forbid what they did, and they said that they would leave the women alone.”* Witness Abdulah Mašić, at the time a resident of Trusina, saw, as he put it, *“trouble, the scramble started, some guys, unknown persons, some crnokošuljaši /men in black shirts/, there were some wounded people as well.”* For him, they were all unknown troops *“I did*

not recognize anyone”, and those troops left Trusina in a matter of hours. He guaranteed that Haso Hakalović did not know anything about what happened.

718. Finally, witness Ibrahim Turak, Assistant Commander of the 45th Brigade since 15 April 1992, says that he heard about Trusina, but had nothing to do with those events; according to the information that they received, Trusina was liberated by the “Zulfikar” unit.

719. When the testimony by the said witnesses is mutually correlated, i.e. by correlating the contents of the testimony, particularly taking into consideration mutual consistency, not only on important circumstances, the only possible and logical conclusion is that there were no military targets in the village of Trusina (only the position on the Križ Hill – outside the village), only civilians in their houses, which was confirmed by all the witnesses who entered the village on that occasion as members of the “Zulfikar” unit, as well as village residents, that there was no resistance, everything was, as they put it, over in under two hours. They walked through the village, mopped up the Croat houses that were pointed to by the guides from the local unit, by capturing, robbing and murdering civilians, until they reached a location at the end of the village (by the store), when the operation was completed (where Samir Šemsović and Ahmet Kokić were wounded), and upon their return to Parsovići they boasted about what they did in the village – they mopped up everything.

720. As noted above, the only military target (HVO position) was on the Križ Hill, outside the village, which was supposed to be attacked and neutralized, although in the end that was not necessary considering that the soldiers who happened to be on Križ surrendered upon a call from Milka Drlijo, and were later executed in the hamlet of Gaj.

721. There is no doubt that the unit members knew that there were no military targets inside the village and that after the Križ position was captured without any casualties there was no further military justification to enter the village in the manner in which they did. This fact could not have been unknown to them considering that they were given guides; as those guides were from the local unit they must have known exactly which positions the HVO had in that area and where they were, and they must have known that there were no positions inside the village with a mixed Bosniac-Croat population; the guides must also have known how many HVO soldiers manned the position, if any. Besides, the guides were assigned to them precisely for the reason to know which houses to mop up and

which houses not to, i.e. to use the words of protected witness “O” – “*which hamlets we should fire at and which hamlets we should not fire at.*”

722. It is true that HVO members Zdravko Drljo and Željko Blažević, who had stood guard the night before on Križ, were in the village that morning, in their houses, resting. That was obviously known to the members of the local unit who took part in the operation as guides, considering that Ivan Drljo came for the two of them and they all returned to Gaj. It is a fact that Zdravko Drljo and Željko Blažević surrendered themselves without putting up any resistance so their presence in the village did not deprive the population of the village of the status of civilian population.

723. In the context of the aforesaid, one also needs to take into account previous preparations and arrangements for the attack. Specifically, it is a fact, as noted above, that a part of the SOPN unit, due to a conflict between the Army of RBiH and the HVO, arrived in Bradina on 15 April 1993 and remained there until nightfall. A meeting was held in Bradina on the same day at which, among others, Zulfikar Ališpago and Nihad Bojadžić were present. A part of the unit went from Bradina to Homolj, whereas another part set out towards Parsovići; they went to the Elementary School where they received food and accommodation (the Command/HQ of the 45th Brigade was there). They were lined up after a short break and were told they would take part in an attack on Trusina. As they did not know the ground, they had guides in the operation, including Seid Padalović, commander of the Tigers unit that was part of the Neretvica Brigade. Furthermore, they were told that there would be an ambulance and a doctor there, with support provided by a PAM manned by one soldier. In addition, at departure they knew that they would be divided in groups during the attack, who would be in each group and who the leaders of those groups were.

724. All the above supports the fact that the SOPN unit did not arrive in Parsovići without previous preparation, i.e. they did not show up on an elevation above the village where the attack on Trusina set out from without a plan, agreement or anyone's knowledge. Protected witness “E” testified about the preparations; when asked about how he learned about the attack, he alleged that they started talking: “*where, how, who was supposed to go and that...*”. He thinks that Samko and Seid were making arrangements, whereupon they got dressed, he took a bullet-proof vest and a rifle, they did some more talking in front of a house and then they set out for the attack.

725. The fact that the case in question involves an attack on a village implies in itself that there are civilians in the village, and when one additionally considers the presence of the guides and the preparations, it becomes clear to the Court that the accused Bojadžić was aware of the meaning and consequences of his order that “no one in the village should remain alive” – the way in which the unit members understood it and in the end carried it out to a large extent.

726. As it ensues from the testimony by the witnesses who testified about the attack, they all deny any major participation of members of other units in the operation, and claim that the SOPN “Zulfikar” was the only one that passed through the village, describing what occurred as they were passing through. In this context, the Court took note of two final judgments of this Court No. S1 1 K 010294 12 Krl of 6 June 2014 (convicted person Edin Džeko) and No. S1 1 K 009162 12 Kro of 30 April 2012 (convicted person Rasema Handanović).

727. Admittedly, protected witness “E” alleges in his testimony that he shot an unarmed man – a civilian, but that does not diminish the responsibility of the accused Nihad Bojadžić for the murders and wounding of civilians in the village. In that regard, the Court was mindful of the fact that that protected witness “E” was a member of SOPN “Zulfikar”, took part in the attack on the village together with them; he was aware of events inside the village and he referred to that in an open and reliable manner in his testimony.

728. Many witnesses-residents of the village of Trusina testified about the identity of the Croat civilians who were killed and wounded in the course of the attack on the village. Witness Luca Krešo, who was in the house of Bosiljka Krešo (in the hamlet of Kreše) at the time of the attack, stated that on her way to her father-in-law's house she saw the dead body of Veljko Krešo, and in the house she found the body of her father-in-law Smiljko Krešo. The witness continued walking around the village and reached a house where her children, sister-in-law and other captives were hiding. They were all in the house when her father-in-law was killed; they told her that some troops entered, that *“a woman was present there... they opened fire at them and killed grandfather and wounded Arijana.”*⁹⁵ Their daughter Arijana, who was four years old at the time, lost a finger, while also wounded were her mother-in-law Mara Kešo, Anđelka Šagolj and her son Mario.

⁹⁵ Transcript of main trial hearing held on 8 October 2010, page 39.

729. Witness Anđelka Šagolj said that on 16 April 1993, when the shooting started, she moved to Smiljko Krešo's house; in that house were her son and sister, Mara (Smiljko's wife), Anka, Arijana, Irena and Sandra Krešo etc. Soon there was noise, soldiers entered the house and killed Smiljko Krešo in the corridor, whereupon they entered the room and started shooting at them, wounding the witness (in the hand), her son Mario, Mara Kešo and Arijana.

730. The allegations of this witness are corroborated by Anica Krešo (Smiljko Krešo's daughter) in her testimony. On the occasion in question Anica was in the house when the soldiers opened fire, killing her father Smiljko at the house door, and wounding Arijana Krešo, the witness's mother, Anđelka Šagolj and her son Mario.

731. The witness recalls a female person and a male person dressed in black entering the house. Soldiers were leading them towards Sultići, which is when the witness saw the bodies of victims Ivica Krešo and Veljko Krešo, they were lying dead, they were in civilian clothes, they were about 50 years old, as well as other victims on the road (two members of the Mandić family, the Ivankovići).

732. On the day when the shooting started, witness Marija Miškić (resident of the hamlet of Šahići, 1km from Gaj) was hiding in a basement with Milenko Mandić. They were driven out of the basement by unknown soldiers (about 20 of them), lined up against the house and then told to walk down the road. While they were walking down the road, someone told Milenko to stop, whereupon the witness heard a thump.

733. Upon her arrival in the hamlet of Kreše, she saw the dead body of Veljko Krešo on the road, and in one of the houses she found other local residents, she saw Arijana, Anđa and Mara wounded in the arms, they told her that that had happened in the house of Smiljko Krešo and Smiljko was killed in his house. The witness's parents Ilija (1927) and Anđa (1936) Ivanković were killed that day; the witness found their bodies dressed in civilian clothes in front of the house on the following day. On the way to her parents' house the witness also saw the bodies of Stipe Mandić (1936) and his son Milenko Mandić.⁹⁶

734. On that morning soldiers brought Jela Ljubić and Mara Delinac out of her sister Bosiljka Krešo's house to collect weapons; that is when she saw the bodies of Jure (he

⁹⁶ The witness confirms that Tomo Drljo, Andrija Drljo, Kata (Ivan) Drljo and Kata (Mićo) Drljo, Ivan (Pero) Drljo, Branko (Andrija) Mlikota, Ivica Krešo, Jure Anđelić and Ante Drljo were her neighbours who were killed that day.

was 67-80 years old) and Veljko Krešo, both dressed in civilian clothes, and farther down the fence she saw the body of Ivica Krešo, also in civilian clothes. An exchange of civilians was organized on the day after the attack (17 April 1993), which is when the witness saw the bodies of other victims; specifically, she saw the bodies of Anđa Ivanković and Jure Anđelić.

735. Witness Mara Delinac saw dead bodies when she came to the hamlet of Gaj with the other civilians. When passing by Branko Mlikota's house, she peered through and saw his body; he was dressed in civilian clothes.

736. On the following day, when the exchange took place, while walking through Trusina, she saw the bodies of victims Veljko Krešo (1930), Jure Anđelić, both Mandićs, Ilija (1926) and Anđa Ivanković (1930); they were all dressed in civilian clothes.

737. These allegations are also confirmed by witness Anica Blažević who, although not stating the names of the victims that she saw, confirmed that she saw many bodies when the exchange on the road to Buturović Polje took place, while Mara Drljo saw the bodies of victims Veljko and Ivica Krešo and Milenko Mandić by the same road.

738. Witness Bosiljka Krešo saw the dead body of Branko Mlikota (1927) in the hamlet of Gaj, while witness Cecilija Šimunović, when the soldiers were taking her around the village to look for Croat troops, caught a glimpse of her uncle Andrija Drljo behind a haystack; she later saw his body at his doorstep. She also saw unknown soldiers taking away Branko Mlikota; one of the soldiers who *"was rather tall, neat, dressed, clean-shaved"* told her that he had killed him.

739. These allegations are corroborated in the testimony by witness Ruža Mlikota (Branko Mlikota's wife) who described how an unknown soldier pointed a pistol at her husband that day, while another one took her husband away and killed him. This witness too saw the dead body of Tomo Drljo in the hamlet of Gaj. Witness Mara Drljo corroborates the aforementioned allegations by stating that they were lined up in Gaj next to a house: she saw late Tomo Drljo's dead body, and added that *"a guy took a pistol and again fired in his mouth,"* while soldiers took Branko Mlikota to a house and killed him.

740. Witness Milka Drljo, who was hiding in the basement of her house in Gaj that day, alleges that when she got out of the basement she saw two unknown soldiers and the

body of Tomo Drljo (1926); with them was Branko Mlikota whom the soldiers took away and she never saw him alive again.

741. The last time the witness saw her husband Andrija that morning was when she headed for the basement; she was later told (by Ruža) that her husband was killed.

742. On the day after the attack (17 April), on the way from Bosiljka's house to Buturović Polje, she saw the bodies of victims Ante Drljo - Tunjo, his wife (Kata Drljo) and mother (also Kata Drljo); five or six meters away was the body of Ivan Drljo, farther away was the body of Veljko Krešo, close by was the body of Jure Anđelić (1926), uphill from the house was the body of Ivica Krešo, farther downhill was the body of Stipo Mandić, and as they were passing by they saw the body of Anđa Ivanković (1936) in the corridor. They were all dressed in civilian clothes.

743. Witness Dragan Drljo (Milka Drljo's son) also testified about the events in the hamlet of Gaj. During the attack he was hiding in a pigsty and he overheard two soldiers saying that they killed an old man near his house while the wife went to the basement. When the witness got out of the basement, he was captured and taken to houses to serve as a human shield. That is when he saw Tomo Drljo lying dead, and added that two soldiers took Branko Mlikota away and he never returned.

744. He returned to the hamlet of Gaj the day after the attack and saw bodies of people who were executed, as well as the body of his father (Andrija). When they headed for the exchange, he saw the bodies of Ante Drljo – Tunjo, his wife Kata Drljo and his mother. As he was passing through the hamlet of Šahići, he saw the Ivanković family: Ilija Ivanković was about 70 years while the other body belonged to his wife, he cannot recall her name. They were both elderly people, dressed in civilian clothes on that day.

745. Protected witness “S” was driven out of the house that day by unknown soldiers (five or six of them) who took her to a wall where Kata Drljo (the old mother of Ante Drljo aka Tunjo) and his wife Kata were lined up.

746. One of the soldiers signaled them with a rifle to move and they started walking, but Ante and his wife all of a sudden fell down⁹⁷; he was dead on the spot but she wasn't. At

⁹⁷ Transcript of main trial hearing held on 1 October 2015, page 18; **Prosecutor:** “Why did they fall, you say you saw them fall, why did they fall?”, **Witness:** “They fell because those men opened fire... He was dead on the spot, but she wasn't.”

that point one of the soldiers said they should finish them off, whereupon she was shot dead.

747. The witness continued moving and then, at one moment, she saw the body of her husband, she saw three bullets in his sweater, a soldier “in black, shortish” told her to keep moving so she reached a road where she found about 15 women and children; there she saw the body of Veljko Krešo dressed in civilian clothes. Before too long, more soldiers showed up there and told them to go to a Muslim house to which the wounded Rade Šogolj's wife and Mara Krešo's granddaughter had been taken; she does not know their names.

748. The witness spent the night in that house and on the following day she set out to her house; she hoped that she would find Kata Drljo (Tunjo's mother) alive. However, when she got there she saw that Kata too was killed⁹⁸. When moving around Trusina, the witness saw bodies of other victims: Ilija and Anđa Ivanković, Stipe and Milenko Mandić. She also saw the dead body of Jure Anđelić in the garden.

749. It therefore ensues from the said testimony (which the Court finds to be convincing and correct) that a number of civilians of Croat ethnicity were murdered and wounded on the day of the attack on the village of Trusina, which, in addition to the residents of the village, was confirmed in their testimony by numerous examined witnesses-SOPN members who took part in the Trusina operation, as discussed above.

750. Ample documentary evidence, primarily death certificates and other documentation (T-93⁹⁹, T-105¹⁰⁰, T-94¹⁰¹, T-97¹⁰², T-109¹⁰³, T-98¹⁰⁴, T-104¹⁰⁵, T-89¹⁰⁶, T-91¹⁰⁷, T-110¹⁰⁸, T-

⁹⁸ Transcript of main trial hearing held on 1 October 2012, page 23; **Witness:** “She remained by the wall and I thought...”, **Prosecutor:** “How was she, did she have any injuries, did you see?”, **Witness:** “She just a bullet through her head. ... As she was standing against the wall, I guess someone came from the side and put a bullet through her head, she, er, what is the word, I mean, as she was standing, she became numb, then someone came and killed her. Blood (unclear).”

⁹⁹ **T-93** – Report of Fact of Death issued by the Konjic Registry Office no. 2267/94 of 9 November 1994, for Tomo Drljo; photocopy of record of section no. 391/94; photocopy of a burial permit issued by Firule Clinical Hospital Split of 9 November 1994 with a laissez-passer.

¹⁰⁰ **T-105** – Death Certificate HNK – Konjic Municipality for Andrija Drljo, no. 09-15-3-4314/08 of 26 December 2008; authenticated photocopy of decision declaring Andrija Drljo dead issued by the Municipal Court of Konjic no. R 531/99 of 10 January 2000.

¹⁰¹ **T-94** - Report of Fact of Death issued by Konjic Registry Office no. 2651/94 of 9 November 1994, for Kata Drljo; photocopy of record of section no. 378/94; photocopy of a burial permit for Kata Drljo issued by Split Clinical Hospital of 9 November 1994 with a laissez-passer;

¹⁰² **T-97** - Report of Fact of Death issued by Konjic Registry Office no. 2670/94 of 9 November 1994, for Kata Drljo (born in 1932); photocopy of record of section no. 385/94; photocopy of a burial permit for Kata Drljo (born in 1932) issued by Split Clinical Hospital of 9 November 1994 with a laissez-passer;

¹⁰³ **T-109** - Death Certificate HNK – Konjic Municipality for Ivan Drljo, no. 09-15-3-4295/08 of 26 December 2008; authenticated photocopy of decision declaring Ivan Drljo dead issued by the Municipal Court of Konjic no. R 170/05 of 22 December 2005.

111¹⁰⁹, T-113¹¹⁰, T-114¹¹¹, T-83¹¹²) have been tendered with regard to the deaths of all those persons.

751. Similarly, Stipo Ljubić surrendered when the HVO members from Križ surrendered; he was subsequently killed in the village, as confirmed by all the witnesses who testified about those circumstances.

752. Witness Enes Gagula alleges that among the soldiers he recognized Stipe the police officer who worked in Buturović Polje PS /Police Station/ and another one, Crnota was his nickname, he did not know what became of them, and later heard they got killed that day. Witness Milka Drljo said that Stipe Ljubić was among the HVO members that surrendered from Križ upon her call. The accused Dževad Salčin too confirmed that there was a police officer in Gaj on that day; when the accused was giving a statement as a witness he alleged that he was talking to a police officer on that day in the house where the civilians were hiding; the person behaved nicely and made a good impression on the accused. *"I am extremely sorry for what happened to him. He suffered the worst fate. If I had known what would happen to him I would have allowed him to escape if he could, but he could not escape because there were so many soldiers outside the house."*

¹⁰⁴ **T-98** - Report of Fact of Death issued by Konjic Registry Office no. 2658/94 of 9 November 1994, for Branko Mlikota; Photocopy of record of section no. 388/94; photocopy of a burial permit for Branko Mlikota issued by *Firule* Clinical Hospital Split of 9 November 1994 with a laissez-passer.

¹⁰⁵ **T-104** - Death Certificate HNK – Konjic Municipality for Smiljko Krešo, no. 09-15-3-4309/08 of 26 December 2008; authenticated photocopy of decision declaring Smiljko Krešo dead issued by the Municipal Court of Konjic no. R 544/99 of 26 January 2000.

¹⁰⁶ **T-89** - Report of Fact of Death issued by Konjic Registry Office no. 2669/94 of 9 November 1994, for Velimir Krešo; photocopy of record of section no. 381/94; photocopy of a burial permit for Velimir Krešo issued by Split Clinical Hospital of 9 November 1994 with a laissez-passer;

¹⁰⁷ **T-91** - Report of Fact of Death issued by Konjic Registry Office no. 2662/94 of 9 November 1994, for Ivica Krešo; photocopy of record of section no. 380/94; photocopy of a burial permit for Ivica Krešo issued by Split Clinical Hospital of 9 November 1994 with a laissez-passer;

¹⁰⁸ **T-110** - Death Certificate HNK – Konjic Municipality for Anđa Ivanković, no. 09-15-3-4318/08 of 26 December 2008; authenticated photocopy of decision declaring Anđa Ivanković dead issued by the Municipal Court of Konjic no. R 140/02 of 27 April 2004.

¹⁰⁹ **T-111**- Death Certificate HNK – Konjic Municipality for Ilija Ivanković, no. 09-15-3-4317/08 of 26 December 2008; authenticated photocopy of decision declaring Ilija Ivanković dead issued by the Municipal Court of Konjic no. R 139/02 of 27 April 2004.

¹¹⁰ **T-113** - Death Certificate HNK – Konjic Municipality for Juro Anđelić, no. 09-15-3-4287/08 of 25 December 2008; authenticated photocopy of decision declaring Juro Anđelić dead issued by the Municipal Court of Konjic no. R 363/98 of 1 October 1998.

¹¹¹ **T-114** – Letter from HNK, Prozor-Rama Municipality, Gračac Registry Office no. 37/99 of 17 February 2009 with the original Death Certificate HNK – Prozor Rama Municipality for Stipo Mandić, no. 8/09 of 12 February 2009 and original Death Certificate HNK – Prozor Rama Municipality for Milenko Mandić, no. 9/09 of 12 February 2009.

¹¹² **T-83** - Report of Fact of Death issued by Konjic Registry Office no. 2663/94 of 9 November 1994, for Ante Drljo; photocopy of record of section no. 383/94; photocopy of a burial permit for Ante Drljo issued by Split Clinical Hospital of 9 November 1994 with a laissez-passer.

753. With regard to the murder of Stipe Ljubić in the village of Gaj, witness Cecilija Šimunović alleged that she later heard *“that he was killed up there in our house.”* Similarly, witness Ruža Mlikota, in connection with the HVO member Stipe Ljubić, claimed that he, as soon as he came down from Križ with Nedeljko Krešo, Pero Krešo and Ivan Drljo, was killed in Andrija Drljo's house.

754. Witness Dragan Drljo, who eye-witnessed the execution of the lined up HVO captives, said he saw the body of Stipe Ljubić, who surrendered on the same day as his brother (Ivan Drljo), in his house on the following day.

755. Jela Ljubić, the wife of victim Stipe Ljubić, described at the main trial how happy she was when she arrived in Gaj and did not see her husband among the lined up people; she asked Milka and Mara Drljo where her Stipo was and if anyone saw him, whereupon Milka replied *“he was killed up there in my house.”*

756. Consequently, it has been found beyond doubt on the basis of the testimony by the said witnesses that Stipe Ljubić was murdered in the hamlet of Gaj on the day in question, and documentary evidence (T-96¹¹³, T-116¹¹⁴ etc.) on the circumstances surrounding his death has been tendered.

757. That the accused Nihad Bojadžić, upon the termination of the attack, gave an order to Nedžad Hodžić to execute the captured HVO members ensues primarily from the testimony by, respectively, witness Rasema Handanović and protected witness “E”.

758. As explained above, the Court, in the section of the Judgment relating to the accused Memić and Hodžić, found that on 16 April 1993, in the hamlet of Gaj, village of Trusina, after the operation was completed, six HVO members who surrendered were executed, as also discussed above.

759. Witness Rasema Handanović, whose participation and role in the events in the hamlet of Gaj was addressed above, testified that upon her arrival in Gaj she found the lined up people – captured Croats, and heard Nedžad (Hodžić) calling Nihad (Bojadžić) to ask what to do with the captives, and Nihad told him to kill them all. The conversation was

¹¹³ **T-96** - Report of Fact of Death issued by Konjic Registry Office no. 2671/94 of 9 November 1994, for Stipo Ljubić; Photocopy of record of section no. 389/94; Photocopy of a burial permit for Stipo Ljubić issued by Split Clinical Hospital of 09 November 1994 with a laissez-passer.

conducted via Motorola, the witness says that she was standing in Nedžad's vicinity while he was talking to Nihad, and she assumes that Ramiz Bećiri could overhear the conversation since he was there. When the conversation ended, Hodžić shouted "firing squad!", which was followed by the execution of the captives; the witness says that she, Mensur Memić, Edin Džeko and Nedžad Hodžić took part in the execution.

760. That Nedžad Hodžić talked via Motorola in Gaj prior to the execution of the captives was also confirmed by protected witness "E" who alleged that "*Džoni was talking via Motorola about it,*" whereupon he shouted "firing squad!" Admittedly, this witness says that he does not know who Nedžad was talking to, but he does know that Džeko and Popara were present in Gaj at that moment (both had Motorolas) and Nedžad could not have been talking to them because they were close by.

761. Witness Milka Drljo talked about the conversation via Motorola in Gaj as well, alleging that the person talking was a tall soldier in a black uniform; she did not know him.

762. Protected witness "E" does not recall Seid Padalović (who also had a Motorola) being there. Protected witness "O" recalls Seid Padalović's presence and says that he saw him at the very end in Gaj, before they left Trusina. Witness Milka Drljo also saw him there and she says that when they set out from Gaj carrying weapons, she saw Seid Padalović near a barn, among the soldiers who were there, and she thinks that he too had a Motorola.

763. In light of Court's prior findings that the SOPN numbers did not take orders from any member of the local brigade, Seid Padalović included, the only logical conclusion is that Nedžad Hodžić was talking to Nihad Bojadžić via Motorola and that the accused Bojadžić, as the commander of the operations on the village, gave the order that the captured HVO members be executed. In saying so, the Court considers this order in the context of a previous order "*that no one should remain alive in the village.*"

764. In its decision on the responsibility of the accused, the Court has carefully assessed the witness testimony, primarily the testimony by witness Rasema Handanović, which the Court considered not only in relation to the events in the hamlet of Gaj. In contrast to

¹¹⁴ **T-116** – Letter from Široki Brijeg Municipality- Biograci Community Office no. 200-1/21 of 8 January 2009; Original death certificate HNK- Široki Brijeg Municipality for Stipe Ljubić no. 202-1/21 of 8 January 2009; Registration for Entry in the Death Register for Stipe Ljubić, Široki Brijeg Municipality, no. 02 of 7 February 1995.

Defense's attempt to undermine the credibility of the witness and her testimony, the Court has given credence to this testimony, finding it to be clear, unequivocal and consistent.

765. Besides, this testimony has been corroborated (albeit indirectly) by the testimony of protected witness "E" who also heard the accused Nedžad Hodžić talking via Motorola just before the execution. The Court had no reason to distrust this witness, finding that he gave a sincere testimony in relation to all the events in Trusina village, corroborated by other witnesses as well, as discussed above.

766. Having analyzed the testimony by the said witnesses individually and as a whole, as well as in combination with all the events in the village on that day, the Court has accepted the testimony as being reliable, gave them credence and relied on them to find that the Prosecution's claim that the accused Nihad Bojadžić gave the order to execute the captured HVO members has been proved.

767. Besides, the Court finds it important to reiterate that the accused Nedžad Hodžić had talked to the accused Nihad Bojadžić before, prior to the events in the hamlet of Gaj, as discussed above, and that contact continued as they were leaving the village with the civilians (women and children). Witness Rasema Handanović testified about that too; she said that Nedžad Hodžić, after they were out of range of the HVO, again called Nihad and asked him what to do with the women and children, and Nihad told him to let them go.

768. Witness Bosiljka Krešo confirmed that a soldier was talking via Motorola when they left the village: *"as we were going towards Marevac, carrying ammunition, a soldier broke off on a hill and was talking via Motorola, and then he said "Struja, I was told that the civilians must return."*

769. In light of the Court's previous finding that the accused Nedžad Hodžić, after Samir Šemsović was wounded, assumed command over the unit in the village and that the accused Nihad Bojadžić commanded the operation from an elevation above the village, the only logical and possible conclusion is that the accused Hodžić called the accused Bojadžić to ask him what to do with the civilians, which merely corroborates the Court's conclusion that the accused Bojadžić gave the order to execute the captured HVO members in Gaj.

770. In his defense, the accused Nihad Bojadžić maintained that he, on 14 April 1993, toward the evening, on the order of Commander Ališpago, went to a meeting in Bradina where Esad Ramić was permanently deployed. Also present there were Salko Gušić (Commander of the Igman OG) and some command staff, as well as the Lisin Battalion Commander Nusret Avdibegović aka Beg. Ramić requested from Salko Gušić to give him a part of forces as assistance: a part of the SOPN unit, *Crni labudovi* /Black Swans/, 9th Mountain Brigade, MUP /Ministry of Interior/ Tarčin and means of communication. On the following day he saw that communication was established via a communications center that was established by Salko Gušić in Bradina.

771. On 15 April 1993 the accused was visiting his girl in Tarčin and then went to pick up Commander Ališpago so they could go to Bradina together because a part of the unit would be there and they wanted to be present. Members of the unit, Samir Šemsović, Jusuf Hasanbegović, *Crni labudovi*, members of the 9th Mountain were there too. He did not see Memić and Fikić that morning because they were newly arrived combatants and could not go to combat operations, and he also saw them on Igman when the body of late Samko (16 April) was brought – they were the first to approach to carry him outside.

772. Hasan Hakalović, Salko Gušić, doctor Ćibo and Esad Ramić (the latter showing late Samko where to go) were also present in Bradina. Juka was the first to leave with some of the men towards Podorašac, next was Samko who led his men towards Neretvica. After they left, the accused, with Ališpago's permission, went to Pazarić to see imam Aljević because he wanted to organize what the religion required for the anniversary of his mother's death – 16 April, with an obligation to return to Bradina in the evening. After he made all the arrangements with the imam, he went to visit his girlfriend. He remained with his girlfriend until early evening; it was already dark when he returned to Bradina; Ališpago, Gušić, Esad Ramić and doctor Ćibo were there. On that morning Haso Hakalović (Commander of the 45th Brigade) went in the same direction as members of the SOPN. They received reports through the Igman OG communications center (part of that center was in Bradina).

773. During the night they decided to draft a document – a letter to the Supreme Command Staff, to take some measures so they could receive help from neighboring units, i.e. corps; the letter was delivered to the Chief of Staff via packet switching, signed by Dr. Ćibo, Ramić, Ališpago and the accused. He gave that document to his driver to take it to the communications center that was about 10-15 meters away. Halilović and Šećo

Elezović were operators in the center, the document was sent via packet switching (exhibits O-III-22, O-V-105).

774. On 16 April 1993, at around 2 or 3 o'clock, he and Ališpago went to Igman. He claims that he did not lead members of the unit towards Parsovići that day, he was not at the school in Parsovići; if someone were to claim otherwise, he would intentionally tell a lie. The first time he heard about Trusina was when Samko was brought to Bradina, and he heard about it from Orhan Jujić and Edin Džeko. He has never been to Trusina or Gostovići in his life and he had no knowledge of that village. He knows Nusret Avdibegović well, but during the war the two of them were never together in any combat activity or on a meadow above the village, above Gostovići, and he was never in the company of Seid Padalović.

775. He further alleged that only a sick mind can say that he ordered that no one should remain alive in the village of Trusina; only a person covering up for his crimes or a person who has been rewarded or bribed would say that. On the morning of 16 April he first went to visit his girlfriend in Pazarić from Bradina. Later on he had some obligations to the imam; after that he went to see Commander Ališpago in Tarčin and then he went to Bradina – driver Elvedin Ibrahimović aka Ekac was driving him all that time (which Ibrahimović confirmed).

776. He arrived in the afternoon, had some rest and then around 4 o'clock a soldier came in and said that some wounded men and members of his unit were at the checkpoint. When he got out he saw two four-wheel drive vehicles – he approached the vehicle that late Samko was in; Samko grabbed his arm and told him “brother” and that was the last thing – he lost consciousness. Vehicles formed a line and they headed for the hospital in Suhodol – Ekac was driving him.

777. Samko was pronounced dead in the hospital (Dr. Volić), there he recognized Nuta whom he knew from before. From Suhodol they went to Igman. On 17 April he went to Bradina to see what was going on with the part of the unit that was deployed to the area of Konjic. While in Bradina, he also saw other members of the unit who went in the direction of Konjic with Jusuf Hasanbegović; he saw Masleša, Sarajlić.

778. Neither the unit nor he had any GP 300 (Motorolas). Referring to a codebook, he said that they were made by a superior command; it was not standard practice for one person to use the same code name in several operations because his identity could be

revealed. He did not use the code name 'Blek' at that time; it was used by Jusuf Hasanbegović Juka. The witness used it later on in operations in the villages of Grabovica and Vrda in September 1993.

779. After he was shown his investigative statement (T-213) where he said that on 16 April 1993, at around 11:00 hours, he went to see Zuka and the latter told him that there were wounded members of the unit in Konjic and that he should go to Suhodol hospital and make the necessary arrangements, he explains that he was in shock when he was told that he was charged with the death of 22 people. The Defense pointed to discrepancies relating to the encounter with doctor Ibrahim Cero whom he said was in charge of the hospital in Suhodol, whereupon he went to Bradina where he met commander Nusret Avdibegović Beg – he told him that he had contact by KT /short wave radio link/ and that there was one 'srce' – which meant one dead person and one 'rebro' – one wounded person; an hour later two ambulances arrived: Samko was in one and a wounded member of Haso's unit in the other.

780. When called upon to account for the discrepancy, he alleged that his main trial testimony was the truth and he again explained that he was in shock; he could not recall all the things.

781. Referring to the establishment of a communications center in Bradina, witness Salko Gušić, Commander of the Igman OG at the time, alleged that he ordered the establishment of an IKM in Bradina on 22 April 1993; at that time they did not have packet switching, which was set up after the order to establish an IKM, it was sometime in early May – they could not set it up before due to technical reasons. According to the witness, if something needed to be sent by packet switching prior to 22 April, it could only be done through Igman.

782. In that context, after he was shown a letter (by SOPN) dated 15 April 1993 and signed by Esad Ramić, Safet Ćibo, Zuka and Nihad (to which the accused referred), the witness alleged that that was a document sent by packet switching, but the sender could not see such a document; the shown document is a letter that can be seen for the first time on the computer on which it is typed. As claimed by the witness, the document does not state who "processed" it, i.e. who originally authored the document, only the initials of the person who typed the document – Šećo Elezović.

783. As argued by the witness, there was no way that the document originated in Bradina because at that time there were no computers in Bradina, so it could only be sent from Igman, and communications officer Šećo Elezović sent it at 02:38 hours.

784. The witness also stated that the journey from Bradina to Igman lasted at least two hours, sometimes even longer (he said sometimes as long as 10 hours), especially at night when one did not dare turn the lights on.

785. The witness's testimony is corroborated by documentary evidence: Combat Report of 17 April 1993 signed by Esad Ramić (T-144) stating that he was sending his dispatch notes from Igman and that he requested that dispatch notes be sent to him there, as well as Order by the Commander of the 4th Corps (T-42) on continuation of combat operations against the HVO, also referring to lack of packet switching.

786. In addition, witness Nusret Avdibegović, at the time commander of the Lisin Battalion headquartered in Bradina, (although attempting to secure an alibi for the accused) maintained in his testimony that the Igman OG established an IKM in Bradina. He does not know when Salko Gušić set up a communications system in Bradina, but he and Fazlić were the first to arrive there and were looking for premises, one for their stay and one for the communications center, which may have been on 20 or 22 April 1993.

787. Regarding the presence of the accused in Bradina on 15 April 1993, witness Nusret Avdibegović, in his attempt to secure an alibi for the accused, gave an illogical and unconvincing testimony that even contradicts the accused's defense. The witness claimed that the accused Nihad Bojadžić did not leave Bradina at all that day, considering that on the same day there was a meeting that started in the morning and lasted for a long time, until after midnight, when Zuka, Nihad, Ramić and Ćibo stayed behind even after the meeting in order to compose a document to be sent to the Supreme Command Staff.

788. The accused claimed in his defense that he found members of the unit in Bradina when he and Zuka arrived there; Samir Šemsović and Jusuf Hasanbegović were there; Esad Ramić was showing Samko where he was supposed to go to. Witness Avdibegović claims that Samko came with the unit later that day, he asked the witness about a direction to Parsovići and he and his soldiers left in a truck at around 12:00-13:00 hours.

789. The accused also claims that Haso Hakalović (Commander of the 45th Brigade) was also in Bradina and that he left that morning in the direction taken by the SOPN members.

790. However, witness Hasan Hakalović, when testifying about his presence in Bradina, said that the meeting in Bradina was in the afternoon, that it lasted for about an hour, he saw troops in Bradina, he says there were more than one hundred. The witness further claims that the meeting took place after the events in Trusina: he then went to the village of Bale and spent the night there.

791. As for Salko Gušić who, according to the accused's testimony was also in Bradina on 15 April, he claims that it was the Day of the Army and that he was on Igman where they held a modest ceremony. He remembers that on that occasion he gave a "Zlatni ljiljan" /Golden Lily/ medal to a police officer from Hadžići; he remembers this because it later turned out that the witness was not authorized to give medals.

792. Finally, protected witness "V", the girlfriend of the accused Bojadžić at the relevant time, testified about the accused's whereabouts on 15-16 April 1993. She stated that he was with her the night before the anniversary of his mother's death, that he stayed overnight and that on the following day (the anniversary) he was in the house all day long, sad and indisposed; in the afternoon Ekac (Elvedin Ibrahimović) came to pick him up and they went away.

793. In fact, this witness - whose testimony is confusing, unclear and at times contradictory, claims that she remembers the event, but kept repeating in her testimony that she could not remember the date and generally did not remember dates – she says that that was her flaw. She could not recall the date of anniversary of death of (Nihad's) mother; she only knows that it was in April.

794. Witness Hasan Hakalović too remembered that Bojadžić, after the meeting, was talking about an anniversary, he thinks it was the death of Bojadžić's mother, and he said he would go to Tarčin or Pazarić. However, this witness claims that the meeting in Bradina took place after the operation in Trusina, i.e. after 16 April 1993.

795. In his defense, the accused further alleged that a soldier entered on 16 April 1993 at around 16:00 hours and said that wounded members of his unit were at the checkpoint.

796. Witness Sead Ćosić, who said that he was assigned to the Traffic and Transport Service with the Neretvica Brigade (the 45th Brigade), testified about this fact. He recalls it was the spring of 1993 when they were transporting some wounded men to the hospital in Suhodol (they called him 'Samko'). There were two Niva vehicles and, as far as he can

remember, an ambulance; he was in both those vehicles because sometime during the ride he swapped places with Safet Haketa and moved to the other vehicle. Enver Mujala, MD, was in that vehicle.

797. The witness claims that the wounded person did not reach Bradina alive; he died when they were in the vicinity of Bradina.

798. Furthermore, witness Himzo Hondo, also with the 45th Brigade and assigned to the duty of a driver, says that on one occasion he was present when they were transporting a wounded man; Sead Ćosić and Enver Mujala, MD, were present there as well. The wounded person was Samko and he died en route to the hospital. He was with the wounded man in the vehicle the entire time, and he also remembered the guy who was escorting the wounded man saying "*here comes Nihko*" when they arrived in Suhodol.

799. Witness Safet Haketa, who was a medical orderly in the 45th Brigade at the relevant time, recalled that in the spring of 1993 he was transporting some wounded men from the Command/HQ in Parsovići to Suhodol and he said that in front of him was a Jeep operated by Sejo; at some point before reaching Bradina they swapped places and he moved to the vehicle where the wounded 'Samko' was. 'Samko' died en route, just outside Drežnica.

800. He saw Nihad Bojadžić in Suhodol; at that time he did not know his name but learned it later on. He described him, "he was broad-shouldered, balding, blond; he had a camouflage uniform, a pistol and a Motorola."

801. Witness Enver Mujala alleged that during the war he was assigned to the 45th Brigade, in the medical corps; he recalled escorting a wounded man from "Zulfikar" unit to Suhodol in April 1993. The wounded person died half way to the destination.

802. What can be inferred from the cited witness testimony, without doubt, is the fact that the witnesses were escorting the wounded Samir Šemsović to the hospital in Suhodol, that they did not stop at any checkpoint in Bradina – none of them mentioned any checkpoint, no one said that the accused Bojadžić approached a vehicle in Bradina and that the wounded 'Samko' (who, according to the witnesses died before reaching Bradina) spoke to him and said "brother", whereupon he lost consciousness.

803. Nihad Bojadžić, even if they saw him that day, was seen upon arrival in Suhodol.

804. Taking into consideration the accused's defense and the cited witness testimony, it is obvious that they do not corroborate the accused's statements regarding his whereabouts on 15 and 16 April 1993.

805. In this context, the Court takes into account the fact that the accused, in his investigative statement (T-213), presented a different defense when compared to what he testified at the main trial.

806. During the investigation the accused stated that on 16 April, at around 11:00 hours, he went to see Zuka, who told him there were wounded members of the unit in Konjic and that he should go to the hospital in Suhodol and make the necessary arrangements.

807. Further discrepancies were pointed out in connection with the encounter with Ibrahim Cero, MD, who he said was in charge of the hospital in Suhodol (according to Aida Volić, MD, Ibrahim Cero came to the hospital in Suhodol after the incident). After that, he went to Bradina where he met with Commander Nusret Avdibegović Beg; Commander Avdibegović told him that he had contact by short-wave radio link, that there was one "srce" – which meant one dead person, and one "rebro" – which meant one wounded person. Two ambulances arrived an hour later: 'Samko' was in one and a wounded member of Haso's unit in the other.

808. When called upon to account for the discrepancy, the accused Bojadžić claimed that his main trial testimony was the truth, explaining that at the time when he was giving his statement during the investigation he was in shock after he was told that he was charged with the death of 22 people, he could not come to his senses, he could not recall all the things.

809. With regard to the portion of the investigative statement where he said that he and Nusret Avdibegović Beg were together in Bradina, he testified at the main trial that he confused Beg with Brko (the person who told him in Bradina that an ambulance transporting wounded men had arrived), and so Beg was not with him on 16 April 1993.

810. The Court cannot accept the accused's explanation because the discrepancies in the statements do not concern unimportant and less important facts, which would be acceptable if the accused was in the state that he described (which might have prevented him from recalling all the things), but rather important and decisive facts that substantially determine the accused's criminal responsibility.

811. The Court finds that the accused's main trial testimony is in fact an attempt to adjust his testimony to the testimony given by some of the witnesses who testified at the main trial.

812. Taking into consideration the testimony by witnesses who testified about the presence of the accused in Trusina, which were accepted in their entirety by the Court on the grounds of their sincerity, objectivity, consistence and mutual compatibility, and the testimony by witnesses Salko Gušić, Hasan Hakalović, Sead Ćosić, Himzo Hondo, Safet Haketa, Enver Mujala and Nusret Avdibegović Beg, which all contradicted what the accused said in his defense, the Court does not accept the accused's defense and finds it calculated to avoid criminal responsibility.

813. Consequently, the Court has not accepted the testimony given by witness Elvedin Ibrahimović who corroborated the accused Bojadžić's defense in its entirety; Ibrahimović was the accused's driver at the relevant time and because of that he knew the accused's movement, he would always wait for him. The witness said that he drove Bojadžić in the early evening of 14 April 1993 to a meeting in Bradina; present there were Esad Ramić, Beg and Salko Gušić. That evening a fairly large group of members of the unit led by 'Samko' and Juka came to Bradina.

814. On the second day (15 April) he again drove Bojadžić to Bradina and on that occasion he saw that members of the unit were ready to move – a group led by 'Samko' went towards Parsovići while another one went towards Konjic. He drove Bojadžić from Bradina to Pazarić where they remained until the end of the day. In the evening, at around 20:00 hours, they again went to Bradina, to a meeting that lasted well into the night, until about 02-03:00 hours.

815. After he was shown a letter dated 15 April 1993 (Exhibit O-V-105) the witness claims to have seen the document, because Nihad gave him that paper to take it to the communications officer in the communications center. The name of the communications officer was Šećo, he thinks his last name was Elezović, he says that he gave the document to him, and the sending time referred to in the letter matches the end of the meeting.

816. First of all, it is illogical that the witness recalled the very document that the accused Bojadžić gave him, and even recalled the names of person(s) who signed the document; when this testimony is compared to that of witness Salko Gušić on the meaning of the time

stamp on the letter and, in particular, that a communications center did not exist in Bradina at the time (as confirmed by witness Nusret Avdibegović – Beg), the Court could not accept this testimony as being credible.

817. This is even more so because this witness claims that in the afternoon hours he drove the accused Bojadžić to the wartime hospital in Suhodol where, among others, medical orderly Nusret Đelilović – Nuta was on duty at the time when the wounded 'Samko' and Kokić were brought there; Đelilović is a close relative of Bojadžić's and he too was examined at the main trial.

818. When asked whether he would see Ekac, a close relative of his, in front of the hospital in Suhodol if he was there, witness Đelilović was initially reluctant to answer the question (*"I am not inclined to answer that question"*). At the Court's insistence, the witness said that he found answering this question problematic and that he did not want "the boy" to be a subject discussed by this Court because they were relatives; when again asked by the Court, he replied *"I would probably see him"*, which additionally questions the truthfulness of the testimony by witness Ibrahimović.

819. As noted above, witness Nusret Avdibegović – Beg too supports the alibi of the accused Bojadžić and claims that he was not together with the accused on 16 April 1993 above the village of Trusina during the attack (it would be a blatant lie if someone were to claim that he was with Nihad in Trusina).

820. However, in light of testimony by witnesses who confirmed to have seen him that day in the company of Nihad Bojadžić – and the Court did not find a single reason for which those witnesses would not tell the truth about his presence in Parsovići and on the elevation above the village wherefrom the "Zulfikar" unit set out for the attack – the Court could not accept this testimony as truthful and credible.

821. In the closing arguments the Defense for Bojadžić analyzed the testimony given by the examined Prosecution witnesses and challenged their statements, arguing that the witnesses in question lack credibility and that no decision on the responsibility of the accused Bojadžić can rely on their testimony, i.e. they cannot be given credence.

822. Specifically, for most of the witnesses the Defense submits that they have a personal interest in giving false accounts of events in Trusina in order to avoid criminal prosecution because they themselves took part in the operation in Trusina and/or took part

in the murder and ill-treatment of civilians in Donja Jablanica (protected witnesses “O”, “E”, “A”, “R”, Ramiz Bećiri, Rasema Handanović), they are persons with a criminal record, they spent time in prison and they were brought up for disciplinary action in the unit (protected witnesses “O”, “R”), they are persons prone to drinking alcohol (protected witness “A”), persons who were in contact with terrorist organizations (protected witnesses “O”, “A”), or persons who did not receive help from the accused Bojadžić so they resent him for that (protected witnesses “O”, “A”).

823. The Defense further submits that Prosecution witnesses told lies in their testimony: more precisely, their testimony does not match the other presented evidence (protected witnesses “E”, “L”, “A”, “B”, Vahidin Čomor etc.). As for witness Rasema Handanović, the Defense argues that her testimony has been contaminated with statements by other witnesses (previously delivered to her), that she is motivated and has a personal interest in incriminating the accused as she herself committed the crimes the accused is charged with (she took part in the execution, she committed many other murders not only in Trusina), and with a false testimony she bought herself freedom for the countless misdeeds that she committed. Moreover, witness Handanović concluded a plea agreement whereby she undertook to testify in this case about the acts the accused is charged with, and for that reason she did not testify under oath.

824. The Defense denies that protected witness “X” was even in Trusina on that day. Regarding the witness Ramiz Bećiri, the Defense noted that as the witness stated that he was granted immunity from criminal prosecution a cross examination of the witness would be unnecessary considering that the credibility of the witness's testimony has been *a priori* refuted by the Prosecution, and for that reason the defense teams did not cross examine this witness at all. As for witness Vahidin Čomor, the Defense argues that no person who attended the meeting in Bradina in mid-April 1993 (the witness claims to have attended that meeting) confirmed his presence in Bradina when a part of the SOPN unit set out to Parsovići, nor does that ensue from any other evidence.

825. With regard to the Defense's allegation challenging the credibility of witness Ramiz Bećiri, the Court already presented its view on this witness's testimony so it will not address this issue again at this point (see paragraphs 489-492).

826. Moreover, in contrast to Defense's attempts to point to numerous discrepancies in the testimony by the cited witnesses to argue that in fact the witnesses are responsible for

the acts with which the accused is charged, i.e. that they have a personal interest in giving false accounts of events in the village of Trusina in order to avoid criminal prosecution, the Court finds that those allegations do not challenge the credibility of the witnesses and their testimony and, in the Court's view, those allegations by nature do not question factual findings. The Court gives credence to the witnesses who were members of the unit, who were in Trusina during those events, finding that their testimony is clear, reliable, logical and consistent, as well as mutually compatible in terms of decisive and important facts.

827. Furthermore, the Court has not gained the impression that witnesses made baseless accusations against the accused, holding that there is not a single relevant reason for which the witnesses would falsely say that the accused Bojadžić led the attack on Trusina. Additionally, the Court fails to see in which manner the witnesses, by falsely accusing the accused Bojadžić, could exempt themselves from criminal responsibility for any act they may have perpetrated on that day.

828. In the closing arguments the Defense challenged the credibility of some witnesses on the grounds that some of them were problematic, prone to drinking alcohol, brought up for disciplinary action in the unit/had prior convictions, that they were in contact with terrorist organizations and that they resented the accused Bojadžić for not helping them. However, the Court holds that those aspects are not relevant; more precisely, they were not relevant to the decision on admitting their testimony as credible, and those facts, by themselves, do not exclude the possibility of giving a true testimony.

829. The Defense's thesis that protected witness "X" was not in Trusina at all that day is unacceptable to the Court and that thesis is given little weight as it remains unclear why would anyone describe his participation in an operation together with members suspected of war crimes unless he did in fact take part in that operation.

830. Finally, in contrast to Defense's contentions that the witness Rasema Handanović cannot be given credence and that a conviction cannot rely on her statements because she is a witness who concluded a plea agreement with the Prosecution and has accordingly "bought her freedom," the Court finds that the truthfulness of her testimony was not brought in question by the fact that she is a witness who confessed to the offense and who concluded a plea agreement whereby she undertook to testify in trials related to the criminal incident in question.

831. Specifically, the Court of BiH has considered these issues in a number of cases (Radomir Vuković *et al.*, Saša Zečević *et al.*).

832. Moreover, in a number of cases the Constitutional Court has considered the issue of probative value of testimony by a witness who concluded a plea agreement. The Constitutional Court, upon an appeal filed by M.Š.¹¹⁵ – in which the appellant alleged a violation of the right to a fair trial under Article 6(1) of ECHR, because the decision on his guilt was to a large extent based on the statement of a person against whom criminal proceedings were conducted for the same offense as the appellant (and who concluded a plea agreement with the Prosecutor's Office) – found as follows: *“As to the testimony of the mentioned witness (who gave a statement after concluding an agreement confessing his guilt), even though such witnesses may often be unreliable, it in itself is not a reason for not having faith in the statement of such witness,”*¹¹⁶ adding that reasons need to meet the requirement of a careful and conscientious evaluation of evidence, and that the truthfulness of the court's conclusion must be real, reasoned and based on objective facts.

833. This issue was also considered in the case of the appellant Nihad Vlahovljak who, among other things, claimed that the Supreme Court of FBiH to a large extent based its judgment against the appellant on the statement of a witness who concluded a plea agreement. The Decision notes the following: *“In the view of the Constitutional Court, basing a decision on the statement of a witness who concluded a plea agreement must be assessed on a case-by-case basis and no rule can be established, save that in such cases the accused must be given an opportunity during proceedings to challenge such statement and give a plausible explanation.”*¹¹⁷

834. Consequently, with regard to the “quality” of the information provided by witness Rasema Handanović, i.e. whether that information can be regarded as reliable, the Court has concluded that at the main trial, as explained above, the witness gave a detailed and comprehensive testimony corroborated by other evidence, i.e. other witness testimony, and for those reasons the Court had no doubts about the credibility of her testimony and gave her full credence.

¹¹⁵ AP 661/04 of 22 April 2005.

¹¹⁶ M.Š., AP-661/04, Constitutional Court of BiH, Decision on Admissibility and Merits, 22 April 2005, para. 37 (emphasis added).

¹¹⁷ Nihad Vlahovljak, AP 3896/08, para.17.

IX. ACQUITTING PART

1. The accused Dževad Salčin

835. As for the charge that the accused Dževad Salčin, as a member of the SOPN, on 16 April 1993, in the hamlet of Gaj, village of Trusina, on several occasions lined up a group of about 14 civilians – women, children and men, and three soldiers of the Croat Defense Council who had previously surrendered, against a wall of a house, pointing rifles at them, telling them that they would all be killed, using abusive language, shooting at the crucifixes that they found in their houses, thereby keeping them in constant fear and inflicting on them serious mental suffering, while taking their gold and other valuables, the Court acquitted the accused of those charges on the grounds that the Prosecution failed to prove beyond a reasonable doubt that the accused perpetrated the acts charged under the Amended Indictment.

836. With regard to these circumstances, the Court examined, among others, the witnesses who were in the hamlet of Gaj on the day in question: Bosiljka Krešo, Jela Ljubić, Mara Delinac, Anica Blažević, Milka Drljo, Ruža Mlikota, Mara Drljo, Cecilija Šimunović, Dragan Drljo and protected witness “X”. Furthermore, the accused Dževad Salčin gave evidence as a witness.

837. Witnesses Bosiljka Krešo, Jela Ljubić, Mara Delinac and Anica Blažević, who were in the hamlet of Kreše on 16 April 1993, gave consistent accounts of the events of that morning and how unknown soldiers took them to the village of Gaj.

838. Witness Bosiljka Krešo alleged that upon their arrival in Gaj they saw people lined up against a wall of an old house and then they too were lined up; some time later the civilians were separated and the lined up people executed. According to this witness's testimony, at that point a female soldier said that if anyone should cry *“they’ll be shot in the head”* and pointed her rifle at her elder son and said *“this one should be shot on sight, he will be an Ustasha five years from now.”*

839. There were 30 or 40 soldiers in Gaj; they were not uniformly dressed. Those soldiers, after killing the lined up people, “crammed” us into Marko Drljo's house where I heard the order *“... to turn over money and gold onto a table, everything what we had to*

show... And just at that moment I heard someone saying 'Struja, come on, do this, collect.'"¹¹⁸

840. The witness described 'Struja' by saying that he *"had dark complexion, a beard, a long curly hair..."*¹¹⁹ When asked how she knew that it was 'Struja', i.e. how she knew that that was a reference to the soldier that she described, the witness said that *"... she was fixed on him, when I saw him collecting all that, when he was taking all that we put in front of us..."*¹²⁰, and added that money and gold were collected on that occasion.

841. In her testimony the witness explained that Mara Drljo, Anica Blažević, Jela Ljubić, Ruška Mlikota, Ruža Drljo, Mila Drljo, and their children were there, there were 20-30 people there, and that after they were taken to Marko Drljo's house some of them entered the house, some remained just outside the room, while the others remained outside where those people were executed.

842. When asked to describe the soldier who ordered them to hand over everything - money and gold, onto a table, the witness answered that she could not recall, again describing the person she referred to as 'Struja' and saying that he *"had curly hair, **blond**, a beard, with dark complexion"*¹²¹, and added that it is possible that some other soldier who was there also had a beard, but she did not look; she just remembered the name of 'Struja' and his image. The witness did not say that anything was taken from her.

843. In connection with the events of 16 April 1993, witness Jela Ljubić first spoke about how soldiers searched her sister Bosiljka Krešo's house, whereupon they were taken to Gaj to Marko Drljo's house and were told that the house would be torched and they would be killed. After that, they were taken out of the house and brought to where the soldiers were lined up (Željko Blažević, Ivo Drljo, Nedeljko Krešo, Pero Krešo, Franjo Drljo).

844. They were brought in and out of Marko Drljo's house several times. When asked how many soldiers brought them in and out of Marko Drljo's house, the witness answered *"well, there were... two men, then three, then... you simply could not tell any more, they kept coming in, going out"*¹²² and added *"they did not do anything to us, they only*

¹¹⁸ Transcript of main trial hearing S1 1 K 003369 10 Krl of 9 November 2010, page 23.

¹¹⁹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 9 November 2010, page 23.

¹²⁰ Transcript of main trial hearing S1 1 K 003369 10 Krl of 9 November 2010, page 24.

¹²¹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 9 November 2010, page 49.

¹²² Transcript of main trial hearing No. S1 1 K 003369 10 Krl of 14 November 2011, page 19.

*threatened to set us on fire, they took whatever people had, money, gold, money, 'give everything here', people gave whatever they had...*¹²³

845. The witness did not have a purse on her so she did not have anything to give, whereas the other women gave whatever they had on them, they had to give: *"Give or we'll kill you."*¹²⁴ According to the witness, the soldiers who brought them in and out and taking valuables addressed one another; *"I was not paying much attention to that, there were voices, there were altercations. Then someone said 'Struja', 'Zolja'... I do not know if those were names, persons, whether that was... I had no idea."*¹²⁵

846. The witness heard the name Struja while she "was wandering" around the village of Gaj, *"... it sounded as if someone said 'Struja', I do not know what that 'Struja' meant, I do not know who that was all about."*¹²⁶ The witness cannot describe, because she cannot recall, the soldiers who were entering and exiting the house, and said *"there were all kinds of soldiers, in camouflage and black alike, and with some earrings and chest chains."*¹²⁷

847. In her testimony witness Mara Delinac too first described the events in the hamlet of Kreše, in her brother's house where she lived with her sister Anica Blažević, specifically how unknown soldiers ransacked and looted the house, how a female soldier said that they should pour gas on us and light us up. After that, they were taken to Bosiljka Krešo's house and then all of them (the witness, her sister – Anica Blažević, Bosiljka Krešo, Jela Ljubić with children) were taken to Gaj. There they found Ruža Drljo, Milka Drljo, Cecilija Šimunović, Ruška Mlikota, Mara Drljo and Kata Bojičić; there were men there lined up against a wall of an old house¹²⁸ as well as a lot of soldiers.

848. The witness further alleged that the women and children were told to go behind the house where the lined up men were standing; they heard bursts of fire soon thereafter. After that, they were led into Marko Drljo's house where they were requested to hand over money and gold, whatever they had. She gave 100 German marks to a soldier; the soldier gave the money back to her only to return after a while and tell her that he had to take the money. The witness does not know whether any member of the Army of BiH was guarding them as civilians while they were behind the house, just before or during the execution.

¹²³ Ibid.

¹²⁴ Ibid, page 20.

¹²⁵ Ibid.

¹²⁶ Ibid, page 35.

¹²⁷ Ibid, page 40.

849. Witness Anica Blažević also described how soldiers ransacked the house in which she was living with her sister Mara Delinac, whereupon she and her sister were taken towards Bosiljka Krešo's house; as they were walking they were told that *“gas should be poured onto them and then they should be set on fire... in a few years everyone will be, including the children, everyone will be Ustashas.”*¹²⁹ The soldiers insulted them and told them all sorts of things on the way to Gaj as well.

850. Upon her arrival in Gaj, the witness saw five soldiers who were lined up (the witness's husband Željko, Franjo Drljo, Nedeljko Drljo, Nedeljko Krešo, Ivan Drljo, Pero Krešo and Zdravko), and also there were Milka Drljo and the witness's mother Ruža Drljo. After they went behind the house, the lined up people were killed by bursts of fire, while they were led into Marko Drljo's house where they *“...were robbed of whatever they had - valuables, gold, money. [They took] nothing from me as I was holding a baby in my arms...”*¹³⁰

851. With regard to the circumstances referred to in this Count of the Indictment, the Court also examined witnesses Milka Drljo, Ruža Mlikota, Mara Drljo, Cecilija Šimunović and Dragan Drljo – who were in the hamlet of Gaj throughout the attack.

852. Witness Milka Drljo maintained in her testimony that, as soon as she and the other local residents¹³¹ got out of the basement, soldiers took them away and lined them up against a wall of Marko Drljo's old house, and started *“cursing Ustasha's mother, that they would mop up Trusina and Buturović Polje, that there would be no more Croats anywhere...”*. Thereupon, the soldiers took knives and a cleaver out of Marko Drljo's house and told them that they would slash them up, throw them around and then land them on a knife; they were frisked during the time they were lined up against the wall and the witness was robbed of her money (500-600 German marks and 3,000-4,000 Croatian dinars). The witness also maintained that a son of Zaim's demanded money from Branko Mlikota and that Branko gave him some shillings, while a soldier took a ring from her brother-in-law (Franjo Drljo). The witness further testified that she went to Križ and that upon her return to

¹²⁸ The witness stated that she saw Pero Krešo, Nedeljko Krešo, Željko Blažević, Ivan Drljo, Andrija Drljo and Franjo Drljo lined up.

¹²⁹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 9 December 2011, page 14.

¹³⁰ Ibid, page 17.

¹³¹ The witness stated that Franjo and Mara Drljo, their daughter Cecilija Drljo, Ruža Drljo and Kata Bojčić, the witness and her daughter Andrijana got out of the basement.

Gaj she saw lined up people behind Marko Drljo's house.¹³² According to the witness's testimony, all the lined up people were then "crammed" into the house, only to be driven out soon thereafter. They were brought in and out of the house several more times: on one occasion when they were being led into the house they were told that they would all be killed if something happened to their soldier. After that, some of the soldiers went to the lower side of Marko Drljo's house, with 10-15 unknown soldiers staying behind to guard them (civilians) and the soldiers from Križ. One of the soldiers guarding them had a Motorola, he kept entering and exiting the house "... *he was not the only one, others were entering the house as well, not just him, he was in a black uniform.*"¹³³ She cannot recall if he said that they should all be killed because everyone was saying that. Thereafter, they were led out again and lined up against Marko's house; a female soldier showed up and said that they should all be "*killed, gas poured on them and then set on fire.*" The other women came from the hamlet of Kreše¹³⁴.

853. The soldiers who were lining them up were armed; some of the soldiers pointed their weapons at them. The witness stated that the soldiers who were guarding them talked to one another. When asked how they addressed one another, the witness answered: "... *they said, before that and while they were there, they said 'Struja', 'Mrav', 'Tito',...*"¹³⁵. The women and children were then separated to go behind Marko Drljo's house while the lined up people were executed. After that, they were told not to cry or they would be killed, and they were again brought into Marko Drljo's house. "Those" women (the witness did not specify) were requested to hand over what they had on them, money and gold; they took whatever those women gave.

854. The witness pointed out that when she came to Marko Drljo's house for the first time there were many members of the Army guarding them; two or three would enter while the others were outside the house. One of them had dark complexion, was a bit thin, with shoulder-length hair; she cannot recall the others. When called upon to look around and see if any of the soldiers who were in Marko Drljo's house are now in the courtroom, the witness answered that she thought that the person sitting in the front row (the first accused

¹³² The witness sees Franjo Drljo, Mara Drljo, Kata Bojčić, Ruža Drljo, Ruška Mlikota, her children and Cecilija, whereafter the three men who surrendered from Križ (Ivan Drljo, Pero Krešo and Nedeljko Krešo) were also lined up.

¹³³ Transcript of main trial hearing S1 1 K 003369 10 Krl of 3 June 2011, page 15.

¹³⁴ Anica Blažević, Jela Ljubičić, Bosiljka Krešo, Mara Delinac and children came from Kreše on that occasion. The witness states that when they arrived there were 15-16 people in Marko Drljo's house (the witness, Andrijana and Dragan Drljo, Mara and Cecilija Drljo, Ruža Drljo, Ruška Mlikota, and the women from Kreše Jela Ljubičić and two children, Bosiljka Krešo and her two children, Mara Delinac and her two children and Anica Blažević with her child).

¹³⁵ Transcript of main trial hearing S1 1 K 003369 10 Krl of 30 May 2011, page 27.

Mensur Memić) was there, but she was not sure, adding that she had not been previously asked to identify the persons who were in the house.

855. Witness Ruža Mlikota, who was with her husband in the basement at the time of the attack, also alleged that upon leaving the basement she saw several soldiers wearing camouflage and black uniforms; the soldiers took her to Drljo's house where the other civilians were held. The witness then said that one of the soldiers placed a pistol against her husband Branko's ear and demanded money; Branko gave him some shillings, whereupon Branko was taken to their house and murdered. When Ivan Drljo and the others who were on Križ surrendered, they were all gathered and brought into Marko Drljo's house. They were guarded in there by a soldier, only to be brought out again. When the other women and children came (the witness did not specify which ones), they were separated from the men and moved to the upper side of the house. After that, the men were killed while they were returned to Marko Drljo's house, only to be brought out again soon afterward. When asked if she recognized any of the soldiers in Marko Drljo's house, the witness answered that there was an unknown soldier there who was not from the village and who kept provoking them, while another soldier was guarding them. At that time, a man with the last name of Hakalović entered and turned drawers in the kitchen upside down.¹³⁶ The witness left Marko Drljo's house for the first time before the execution took place; after that they were again led back into the house and then taken out again and marched towards Gostovići. When asked about what transpired in Marko Drljo's house, i.e. whether any of the soldiers who remained with them took something from the civilians, the witness answered: *"I don't know, I don't know, I cannot recall..."*¹³⁷

856. Witness Mara Drljo also said that soldiers whom she did not recognize (except one of them, Zaim's son) drove them out of the basement¹³⁸ to a place behind a barn, whereas the men were executed. After that, they were taken to a house and told *"... give us, do you have money and gold; no one had anything, I do not know if they found anything on*

¹³⁶ Transcript of main trial hearing S1 1 K 003369 10 Krl of 14 March 2011, page 29: **Prosecutor:** *"All right, now tell me this. Of the soldiers who were present there while you were in, in Marko Drljo's house, did you recognize any of those soldiers?"* **Witness:** *"Well, no, there was one foreign, I don't know, he was not, I mean, foreign, but he was not from the village. He was provoking, how far they would go, what they would do, what, one was guarding us. ... One was guarding us. At that moment one Hakalović entered. And he went to the pantry and turned drawers upside down. ..."*

¹³⁷ Ibid, page 76.

¹³⁸ The witness was in the basement with her sister-in-law Milka Drljo and her two children (Andrijana; Dragan was brought in there subsequently), husband Franjo and daughter Cecilija. Ruža Mlikota and Ruža Drljo came later.

anyone.”¹³⁹ They were again forced out of the house where those people were killed, whereupon they were given their weapons to carry towards Gostovići.

857. The soldiers were armed and they called each other: “*‘Struja’ and what else, ‘Mrav’, and there was something else... I cannot remember all that because I am old... and this happened many years ago.*”¹⁴⁰ The witness stated that after they got out of the basement a search was carried out: unknown soldiers were taking money, money was taken from her sister-in-law and a ring from her sister-in-law's husband (someone peeled the ring off his finger because he could not take it off). One of the soldiers who was talking to Andrijana remained with them and entered the house with them when it started raining: he was constantly standing at the door and allowed them to light a fire. While that soldier was there no one interfered with them, no one said a bad word to them.¹⁴¹

858. When the Court asked her about the appearance of the soldier who was in the house, the witness answered: “*Struja ... He expressed that it was him*”¹⁴² (by “expressed” the witness was referring to the fact that during the cross-examination of the witness the accused Salčin said that he was with them in the house), but when asked by the Court if she knew that it was him - ‘Struja’, before he “expressed” himself, the witness answered “*No, I didn’t, I do not know him, I would have never recognized him had he not said it himself...*”¹⁴³. The witness cannot recall how long ‘Struja’ was in that room or if he was there the whole time, or if he left the house together with them, but she thinks that that soldier was no longer with them when they were behind the house.

859. Cecilija Šimunović testified that when she got out of the basement she saw many troops in camouflage and black uniforms, and that those soldiers (a female soldier and another soldier) “*...were taking her to a house to give gold any money...*”¹⁴⁴, whereupon she and the other captives were lined up by the old house “*... we were standing there and they were provoking us and telling us all sorts of things... one... took a cleaver and carried it towards me, while the woman... was the worst of them all in terms of behavior.*”¹⁴⁵ When Ivan Drljo and the others surrendered, they were all lined up. After that, she and the others

¹³⁹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 December 2011, page 14.

¹⁴⁰ Ibid, page 19.

¹⁴¹ Ibid, page 25; **The accused:** “*Did anyone interfere with you when I was? I was there.*”, **Witness:** “*No, no one, I will not speak what is not true, we were left alone.*”, **The accused:** “*Did anyone, because I, I was the one who was there, tell me if I said a bad word to you.*” **Witness:** “*No, no one, no one told us anything on that occasion, but I don’t know what people were thinking.*”

¹⁴² Transcript of main trial hearing S1 1 K 003369 10 Krl of 19 December 2011, page 46.

¹⁴³ Ibid, page 46.

¹⁴⁴ Ibid, page 12.

were forced into Marko Drljo's house. One of the soldiers told her to light a fire, but she could not do it, and added *"some of them yelled at us and then I heard via Motorola, ... they were saying that if one of them got killed they would kill all of us. They told us to hand over what we had, money and gold, whatever we had, people gave what they had."*¹⁴⁶

860. They were detained there for a while. Then they were brought to the old house where the women were separated from the men and then the men were executed, and were then again brought back into Marko Drljo's house. The soldiers who were in Gaj addressed each other as 'Struja' and 'Zolja', although her memory is vague.¹⁴⁷ When asked about where she was when she heard the nickname of Struja, the witness answered: *"I was lined up there. Lined up, we were all lined up by an old house (where those people were executed), and when they called each other I happened to hear that and remembered it. It was a long time ago, I think if that happened before, perhaps I would have remembered more of those nicknames, but I remember someone mentioning 'Struja' and 'Zolja'"*¹⁴⁸, and added that she could not recall who the person referred to as 'Struja' was.

861. Witness Dragan Drljo testified at the main trial first about the threats made by soldiers (*"what's up, Ustashas, mother f..., you want Herceg-Bosna, here is Herceg-Bosna, if something happens to their men, we'll kill you all"*) who caught him when he got out of pigsty he was hiding in, how a soldier pulled a gold ring off his uncle Franjo's finger, and how Branko told one of the soldiers that he knew him and that he would give them some money, whereupon he left with two soldiers.

862. Other soldiers frisked the women (inspected the bags and took the money) and found his brother's military card in his mother's bag. After that, the soldiers took the witness to his house and to Andrija Drljo's house (where they were looking for something), and they were later taken to Marko Drljo's house. Women and children came from Kreše after a while, they were lined up against a wall, the women were separated and taken behind the house, whereupon the lined up people were executed. The witness stated that the women were lined up against a wall as well; some were on the lower and others on the upper side of the house. The soldiers that she referred to were wearing camouflage

¹⁴⁵ Ibid, page 13.

¹⁴⁶ Ibid, page 16.

¹⁴⁷ Transcript of main trial hearing S1 1 K 003369 10 Krl of 11 March 2011, page 21.

¹⁴⁸ Ibid, page 83.

uniforms, while one of them was in a black uniform, they were all armed; the witness did not know them, he had never seen them.

863. The accused Dževad Salčin, while giving evidence as a witness, did not deny that he was in the village of Trusina on 16 April 1993 and that because of his leg injury he was moving slowly so he was the last one to arrive in the hamlet of Gaj. When he came to the first house, he already saw the lined-up civilians-women and children; Samko was there and told him *“Struja, come on, check the shopping bags for weapons (some shopping bags were thrown on a pile below)”*¹⁴⁹. The accused added that civilians from Gaj, not from Trusina, were there, and that there were about 10 women there and as many shopping bags; he checked two shopping bags and thought if something had been there it was already taken away, so he told Samko that there was nothing in there.

864. According to the accused, unit member Samir Šemsović 'Samko' told him to remain with the civilians, while they would go farther (downhill). Soon it started raining and one of the captured civilians suggested that they find shelter, whereupon they went to someone's house. The accused alleged that he was standing outside the house door the whole time and that he gave them a lighter to light a fire. After a while the accused heard a voice saying that Samko was wounded and that *“he should take those people out of the house”*¹⁵⁰. The accused went outside with them and saw *“a group of women, up there, standing by the side of a house. Those women are not the ones that were with me, I do not know where they were brought from”*¹⁵¹, an unknown voice telling him *“men over here, and you, ‘Struja’, take the women behind the house”*¹⁵². The accused reiterated that Samko had told him to check the shopping bags, that he inspected two shopping bags and then stopped, *“I did not come to take anything, because I knew that there were no weapons there.”*¹⁵³

865. Consequently, based on the foregoing, the Court finds beyond doubt – not contested by the accused and additionally ensuing from Prosecution's exhibit (T-188)¹⁵⁴ – that the accused Dževad Salčin was a member of the Special-Purpose Detachment on the occasion in question and that during the attack on the village of Trusina he was present in

¹⁴⁹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 15 April 2013, page 47.

¹⁵⁰ Ibid, page 51.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid, page 75.

¹⁵⁴ **T-188** Original military card issued to Dževad Salčin no. 3964318 of 21 September 1994, stating that the accused Salčin was a member of SOPN from 18 July 1992 until 4 May 1996.

the hamlet of Gaj where he was guarding the captives on the orders of Samir Šemsović - Samko. Furthermore, the Court also finds beyond doubt that at the relevant time, in a wide area of the village of Trusina, i.e. in and outside the hamlet of Gaj, the soldiers who participated in the operation robbed the population of their property and valuables, which ensues from the testimony by all the witnesses who were examined regarding these circumstances: the witnesses who were in the hamlet of Gaj at the time of the attack (*Milka Drljo, Ruža Mlikota, Mara Drljo, Cecilija Šimunović, Dragan Drljo*) as well as the witnesses who were in the hamlet of Kreše when the attack commenced and only later came to the hamlet of Gaj (*Bosiljka Krešo, Jela Ljubić, Mara Delinac and Anica Blažević*) – describing how the troops, upon entering their houses in the hamlet of Kreše, carried out searches, ransacking and looting.

866. The said finding of the Court is also corroborated by the participants of the operation; specifically, protected witness “X” who stated that “the merit of the attack on the village of Trusina was looting.” He explained that immediately upon their arrival in Parsovići they were told that Trusina was a very rich Croat village, and that on the way to the village the guides told them which houses belonged to people who worked abroad and who had the latest-model car, adding “*everyone who was there... No one left Trusina without taking something.*”¹⁵⁵

867. Similarly, in his testimony protected witness “E” gave a detailed account of looting of the population that began following the murder of the Ivankovići¹⁵⁶; protected witness “O” described that houses near the store were being mopped up, meaning that houses were entered into to see what people had inside each house; the witness – injured party Milka Drljo overheard two soldiers in Gaj saying that “*they did not find as much money as they were told they would find there.*”¹⁵⁷

868. Moreover, in their testimony the examined witnesses gave consistent and credible accounts of how they, at the relevant time in the hamlet of Gaj, were brought in and out of Marko Drljo's house on several occasions and lined up against a wall of the old house (*Jela Ljubić, Milka Drljo, Ruža Mlikota, Mara Drljo, Cecilija Šimunović, Dragan Drljo*).

¹⁵⁵ Transcript of main trial hearing of 16 April 2012, page 103.

¹⁵⁶ Transcript of main trial hearing of 15 October 2012, page 51; **Witness:** “... looting started, entering houses, this, that. ... When we were approaching from the lower side of the house, **Tito** grabbed an elderly woman dressed in black and demanded money from her, money, quickly the money, give it, harassed them, you know... it was already, er, the end of, er, that operation, it was over, they entered houses, took things. ... I even remember someone bringing a transparent bag, er, with gold and, as I recall it, it was given to Nedžad. Nedžad kicked it, he did not want to take, as far as that is concerned. ... everything was scattered all over the asphalt...”

According to witness Milka Drljo' testimony, weapons were pointed at them on those occasions; the witness stated that the soldiers who lined them up were armed and some of the soldiers pointed their weapons at them.

869. At the trial the examined witnesses also spoke about the soldiers threatening them and using abusive language, en route from the hamlet of Kreše to the hamlet of Gaj (witnesses Mara Delinac and Anica Blažević stated that on the way to Bosiljka Krešo's house they were told that gas should be poured on them and then they should be set on fire; according to witness Blažević the insults continued on the way to Gaj) and also in the hamlet of Gaj (witness Milka Drljo – a female soldier said that they should all *“be killed, gas poured on them in a house and then set on fire”*). Cecilija Šimunović maintained that while they were lined up they were provoked and told that they would all be killed, that one of the soldiers took a cleaver and moved it close to the witness, that the female soldier was the worst in terms of behavior etc. According to witness Dragan Drljo's testimony, the death threats if something should happen to one of the soldiers and the provocations began from the moment of capturing of residents of Gaj and continued in Marko Drljo's house in which the soldiers were impertinent to them. These allegations are further corroborated by protected witness “X” who said that “as one was passing through the village one could see mistreatment and people being taken out of their houses at every turn.”

870. However, the Court could not rely on the cited testimony to infer beyond a reasonable doubt that the accused Dževad Salčin perpetrated the acts referred to in the factual account of the Amended Indictment.

871. It is true that some of the witnesses, in the context of events in the hamlet of Gaj, asserted that they heard one of the soldiers being called by the nickname of Struja, which is the nickname of the accused Dževad Salčin, and the accused himself does not deny being present at the said location, but none of those witnesses linked the accused with those events in a credible manner, which would convince the Court that it was the accused who perpetrated those acts.

872. When referring to the nickname that they heard, the witnesses did not specify the actions of the person nicknamed Struja (except witness Bosiljka Krešo), and when

¹⁵⁷ Transcript of main trial hearing S1 1 K 003369 10 Krl of 30 May 2011, page 28.

referring to the mistreatment, threats and looting they mentioned that a number of soldiers did that, emphasizing the conduct of a female soldier.

873. On the contrary, witness Mara Drljo said in her testimony that one of the soldiers who was talking to Andrijana remained with them and entered the house with them when it started raining; he was constantly standing at the door and allowed them to light a fire; while that soldier was there no one interfered with them and no one said a bad word to them. This witness's testimony is consistent with the defense given by the accused Dževad Salčin in its entirety.

874. Furthermore, the allegation from the Indictment that a group of civilians and three HVO soldiers who surrendered were “lined up” by the accused Salčin “against a wall of a house on several occasions pointing rifles at them” has not been corroborated by any of the examined witnesses, including witnesses Bosiljka Krešo, Mara Delinac and Anica Blažević who had been brought there by soldiers from the hamlet of Kreše. They maintained that upon their arrival in Gaj they saw a number of unknown soldiers (Bosiljka Krešo says 30-40) and lined up people (men and civilians). After that, the women and children were separated from the men, the lined up men were executed, while they were taken into Marko Drljo's house, only to be later brought out of the house and marched towards Gostovići.

875. These allegations are further corroborated by Jela Ljubić who said that upon their arrival in Gaj they were first taken to Marko Drljo's house, then taken out of the house and brought to the location where the soldiers were lined up. According to this witness, they were brought in and out of Marko Drljo's house several times; when asked how many soldiers brought them in and out of the house, the witness stated “*two men, then one, then three.*” Witness Milka Drljo testified that many (10-15) unknown soldiers were guarding them in Marko Drljo's house, that two or three soldiers would enter the house while the others remained outside, that they were brought in and out of the house several times, that the soldiers who lined them up were armed and some of them pointed their weapons at them. Witness Cecilija Šimunović asserted that when she got out of the basement she saw many troops that lined them up by the old house and brought them in and out of Marko Drljo's house several times. These allegations (that the civilians were brought in and out of Marko Drljo's house several times) are additionally corroborated by the testimony of witnesses Ruža Mlikota, Mara Drljo and Dragan Drljo, but none of the witnesses examined

on these circumstances mentioned the accused Salčin as the individual who perpetrated those acts.

876. Similarly, none of the examined witnesses confirmed or said in their testimony that the accused Salčin *“said that he would kill them, using abusive language.”*

877. On the contrary, witness Jela Ljubić alleged that sometimes one, sometimes two, three soldiers entered Marko Drljo's house, “some of them threatened to set us on fire.” Witness Milka Drljo claimed that the soldiers who lined them up against a wall “cursed their Ustasha mother... they told them that they would slash them up, throw them around and then land them on a knife.” This was also confirmed by witness Cecilija Šimunović who said that soldiers lined them up by the old house, *“we were standing there and they were provoking us, they were telling us all sorts of things, one of them took a cleaver and pointed it at me, while the female person was the worst in terms of behavior,”* and added that in Marko Drljo's house “some yelled at them and said if one of them got killed they would kill everyone.” Threats made by the female soldier are further corroborated by the testimony of witness Bosiljka Krešo who stated that the female soldier pointed her rifle at the witness's elder son and said “this one should be shot on sight; he'll be an Ustasha five years from now.” Consequently, the Court could not rely on the cited witness testimony to infer that the actions referred to in the Amended Indictment were carried out by the accused Salčin.

878. Regarding the allegation from the Amended Indictment that the accused Salčin *“took money, gold and other valuables,”* it is true that witness Bosiljka Krešo maintained in her testimony that 'Struja' (the nickname of the accused Salčin) was the one who collected money, gold and other valuables following an order.

879. However, the Court could not rely on this witness's testimony to make a determination on the criminal responsibility of the accused Salčin as this testimony has not been corroborated by any other witness despite the fact that everyone was present in Marko Drljo's house where, according to witness Bosiljka Krešo, this occurred.

880. It is also true that (nickname/name) Struja, in addition to witness Bosiljka Krešo, was also heard by other witnesses on the day in question, but none of the examined witnesses corroborated the said witness's assertion and none of them heard *“Struja, come on, do this, collect”*, as was heard by this witness.

881. Specifically, the witness maintained in her testimony that the soldiers who brought them in and outside the house and took valuables called each other “but she cannot recall, there were voices and altercations, then she heard ‘Struja’, ‘Zolja’”, adding that when she “**was wandering**” around the village and Gaj she heard a call, “it sounded as if someone said ‘Struja’”. That the soldiers called one another 'Struja', 'Mrav' and 'Tito' is also corroborated by witnesses Milka Drljo, Mara Drljo and Cecilija Šimunović, the latter saying that she heard the name Struja when she was lined up by the old house. In the Court's view, all this but confirms an indisputable fact that the accused Dževad Salčin was in Gaj on the day in question.

882. In addition to not hearing (someone mentioning the name Struja) or seeing (that person taking gold and money that were on the table), the witnesses who were together with witness Bosiljka Krešo in Marko Drljo's house cannot describe the persons who were with them inside the house. Specifically, Jela Ljubić stated that she cannot describe the soldiers who were entering and exiting the house because “*there were all kinds of soldiers, in camouflage and in black...*”; witness Milka Drljo's description of one of the soldiers (two or three of them entered the house) is different from that of witness Bosiljka Krešo, and she said that that soldier had “dark complexion, was a bit thin, had shoulder-length hair”, whereas Cecilija Šimunović stated that she could not recall who the person who was referred to as Struja really was.

883. Naturally, with regard to these circumstances, in terms of identification of the accused Salčin, the Court could not take into consideration the testimony by witness Mara Drljo who “identified” the accused Salčin in the courtroom, considering that the witness recognized the accused only after the accused confirmed/said during the cross examination that he was in Gaj, whereupon the witness answered that she would not have identified the accused as Struja if he had not “expressed” that himself. Besides, this witness clearly claimed that on that occasion, while that soldier was there, no one interfered with them or said a bad word to them.

884. Therefore, none of the examined witnesses, save witness Bosiljka Krešo, said that they heard this name in Marko Drljo's house or that it was Struja who collected money and valuables following an order, as claimed by this witness.

885. In contrast to this witness's allegations, the Court took into consideration the testimony by protected witness “X” who talked about looting on that day and that everyone

was looting in Trusina; however, when specifically asked by the Court to clarify that and whether he saw the accused Salčin taking anything, he replied that he gave a blanket answer and that *“I did not see Salčin taking anything.”*¹⁵⁸

886. Finally, the Court took into consideration the fact that all the witnesses who were examined with regard to this circumstance stated that they were told to hand over money and gold, but a majority of them stated that they did not have anything on them at the time. Specifically, Mara Drljo said *“no one had anything, I don’t know if they took anything from anyone.”* Jela Ljubić said that nothing was taken from her because she did not have her purse on her; Anica Blažević pointed out that money and gold were taken, but nothing from her because she was holding a baby in her arms, whereas witness Ruža Mlikota stated that she was *“not aware, cannot recall that any of the soldiers who remained with them in Marko Drljo’s house took anything from the civilians.”*

887. The aforementioned is not corroborated by witness Cecilija Šimunović either; this witness, despite talking about the looting of population of the hamlet of Gaj and that they were told in Marko Drljo's house to “hand over whatever they had, money and gold, and whoever had something gave it away”, failed to specify whether anything was taken from her or someone else on that occasion. Witness Milka Drljo, who said that a certain amount of money was taken from her, stated that that happened before the witness came to Marko Drljo's house, more precisely immediately after coming out of the basement in which she was hiding; some shillings were taken from Branko Mlikota there as well as a gold ring from her brother-in-law.

888. Ruža Mlikota (Branko Mlikota's wife) confirmed that a soldier took a certain amount of money from Branko Mlikota and that that happened before they were taken to Marko Drljo's house; she maintained that this occurred before Ivan Drljo and others surrendered from Križ. Dragan Drljo stated that one of the soldiers removed a gold ring off of her uncle Franjo's finger; Branko and Ruška were brought there soon afterward and then from there they were taken to Marko Drljo's house. Only witness Mara Delinac stated that she gave 100 German marks to one of the soldiers; the soldier gave the money back to her only to return after a while and tell her that he had to take the money. However, this witness did not link this with the accused Salčin either.

¹⁵⁸ Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 April 2012, page 107.

889. Therefore, as noted above, it is true that there was looting and that money, gold and all other valuables were taken from the population, but the Court could not find beyond a reasonable doubt that the accused Salčin participated in seizing other person's property, as alleged in the factual account of the Amended Indictment; consequently, in the absence of reliable evidence, the Court absolved the accused from criminal responsibility for the said charge.

890. Moreover, under the Amended Indictment the Prosecution charged the accused Dževad Salčin that he, at the relevant time, *“fired at the crucifixes that they found in the houses.”* However, as none of the examined witnesses confirmed this fact – more precisely, as no one testified about this circumstance or was asked about it by the Prosecution – the Court had no dilemma about the finding on these allegations.

2. The accused Senad Hakalović

891. As for the charges that the accused Senad Hakalović, on 16 April 1993, in the hamlet of Gaj, ordered Ivan Drljo aka Crni to go to the village escorted by two soldiers known to the accused and bring back HVO members who were outside of combat operations (Zdravko Drljo and Željko Blažević), and that, having done that, he was executed together with Zdravko Drljo, Željko Blažević, Nedeljko Krešo, Pero Krešo and Franjo Drljo, the Court acquitted the accused of that charge on the grounds that the Prosecution failed to prove beyond a reasonable doubt that the accused perpetrated the acts charged under the Amended Indictment.

892. The Court examined a number of witnesses on these circumstances who were present in Gaj at the time of the incident in question, primarily witness Dragan Drljo who gave a detailed account of events from that day in his testimony: how unknown troops entered the hamlet of Gaj, how he was captured outside a pigsty and how he was told to call the others from the basement to surrender.

893. The witness further stated that he saw his mother Milka Drljo, uncle Franjo, Cecilija Drljo, his sister Andrijana, Ruža Drljo and Kata Bojčić coming out of the basement, that the unknown soldiers who frisked them found his brother's card on his mom and ordered her to go to Križ to get him and the other soldiers. In his testimony the witness said that those soldiers were taking him through the village and that he saw one of Zaim's sons; when asked which one, the witness answered that Zaim had three sons (Senad, Sead and

Sejdo) and he could not “distinguish” them. The witness further stated that at the moment when his mother and his brother Ivan came to the village he was standing next to Zaim's son who told his brother “Halt, Crni!” (Ivan's nickname was Crni), whereupon Zaim's son took Ivan's rifle and took him away somewhere. As for the witness, one of the soldiers took him to Andrija Krešo's house and then to Marko Drljo's house.

894. While he was in Drljo's house the witness cannot recall where his brother Ivan was; he stated that they were in the house for a while and then they got out. At that point women from Kreše showed up (Bosiljka Krešo, Anica Drljo, Jela Ljubić etc.), they were all lined up against a wall¹⁵⁹, the women and children were separated, and the men (including his brother) were executed. The witness also stated that he saw when Branko and Ruža Mlikota were brought there, as well as the moment when Branko told the soldiers that he would give them some money, but he did not recognize those soldiers.

895. The witness explained that he saw one of Zaim's sons approximately 15 days prior to the events in Gaj passing by in a tractor and he talked to him; as far as the witness can remember the name of that son of Zaim's was Senad, and he described him as being “... a bit robust, blond, with slightly prominent cheeks, red. Perhaps 175, 180 cm tall, thereabout...”¹⁶⁰

896. When asked if he saw Senad Hakalović on that day during the events in Gaj, the witness answered that he did not see him. When called upon to look around the courtroom and say whether the person that he had seen a few days ahead of the events in Trusina, the person he had talked to and the person that he had identified as Senad Hakalović was present in the courtroom, the witness identified the accused Senad Hakalović and said that he was the person who was driving a tractor 10-15 days prior to the incident in question.¹⁶¹ Answering a Court's question, the witness confirmed that when his mother returned from Križ he was standing next to Zaim's son. When further asked to specify which one, the witness answered “another one, not the one in the courtroom.”¹⁶² Furthermore, the witness claims that Zaim's son was in the circle among the soldiers who carried out the execution, but “not the one here, the other one. The other one... I did not see the one who is here that

¹⁵⁹ The witness stated that he saw his brother Ivan, uncle Franjo, Pero Krešo, Nedjeljko Krešo and Željko Blažević were lined up against a wall.

¹⁶⁰ Transcript of main trial hearing S1 1 K 003369 10 Krl of 1 July 2011, page 11.

¹⁶¹ Ibid, page 33.

¹⁶² Transcript of main trial hearing S1 1 K 003369 10 Krl of 11 July 2011; page 64.

day”¹⁶³, and added that he knew the Zaim's son who was in the courtroom from before, but on that day *“I did not see him; I saw his brother.”*¹⁶⁴

897. Witness Cecilija Šimunović, who knew the accused Senad Hakalović from before as they were schoolmates, did not see him in the hamlet of Gaj on the day in question either. This witness alleged that on that day, when the attack began, she was hiding in the basement with her father Franjo and mother Mara, her aunt Milka Drljo and her daughter Andrijana, and were later joined by Ruža Drljo. She added that when she got out of the basement she saw many unknown soldiers outside.

898. The witness further stated that as they were standing outside her old house, soldiers brought in Branko Mlikota and it was (only) then that she recognized Sead Hakalović; Branko asked him if he was Zaim's son and he replied that he was not *“but I recognized him because I knew him.”* As for her cousin Ivan Drljo, the witness stated that she saw him when he and others (Pero Krešo, Stipe Ljubić, Nedeljko Krešo) were brought in, but she cannot recall by whom, because she did not know many soldiers there. They were standing lined up with them for a while (except Stipe Ljubić who was taken away), and Zdravko Drljo and Željko Blažević were brought there later on.

899. The witness further stated that all of them were lined up, then were taken into Marko Drljo's house, forced out again, the women and children separated and then the men were executed. Among the soldiers in Gaj she recognized Sead Hakalović, son of Zaim Hakalović; he was wearing a military uniform and was armed. The witness knew Zaim's sons Senad, Sejdo, Sead and Sabit, and was able to tell them apart. When asked if on that day in Gaj she saw Senad Hakalović whom, according to her words, *“she knew for a long time, almost the same generation, they went to school”*¹⁶⁵, the witness answered negatively.

900. The witness also claims that on that day she saw the arrival of HVO members from Križ, the arrival of Željko Blažević and Zdravko Drljo in Gaj with troops, the arrival of her cousin Ivan Drljo. However, she was adamant that she did not see any of Zaim's sons in their close vicinity or in the group of soldiers who were standing opposite from the soldiers who were executed. She said she saw the Zaim's son whom she previously mentioned (Sead) *“when we were attacked, he was there. We were lined up and he came right next*

¹⁶³ Ibid, page 65.

¹⁶⁴ Ibid.

to us, he stopped and when Branko Mlikota asked him if he was a son of Zaim's, he said 'no, why do you ask?' And he was there. I do not recall about later... I did not see him after that."¹⁶⁶

901. It is a fact that witness Milka Drljo (Dragan Drljo's mother), while testifying about a soldier who sent her son Ivan Drljo aka Crni to the village to get Željko Blažević and Zdravko Drljo, said that that soldier was Senad Hakalović, and she identified him in the courtroom. However, the Court could not give credence to this witness's testimony considering that it has not been corroborated by other witnesses who were examined on these circumstances and who were also in Gaj at the time when the incident in question took place.

902. Specifically, witness Milka Drljo stated that she saw two Zaim's sons in Gaj on the day in question. The first son of Zaim's that she saw was after she got out of the basement together with Franjo and Mara Drljo, Cecilija Drljo, Ruža Drljo, Kata Bojčić and daughter Andrijana (she also saw her son Dragan Drljo outside) and went to Marko Drljo's house where they found Branko and Ruža Mlikota. According to the witness, Branko recognized Zaim's son there, he told him "I know you, you are a son of Zaim's", whereupon he replied "*old man, don't tell me... you must not say, I'm not Zaim's son*"¹⁶⁷. This son of Zaim's was wearing a uniform, he thinks it was black: when asked if she recognized that soldier, the witness stated that she did, she used to see him and described him as being "*thin... a bit thin, with a somewhat dark complexion, he was not altogether blond.*"¹⁶⁸ According to this witness, unknown soldiers, together with Zaim's son, took Branko away and they never saw him again.

903. Witness Milka Drljo saw another son of Zaim's in Gaj when he approached her son Ivan Drljo and told him, as the witness put it at the main trial, "*Crni, you need to go down there to Kreše, to Gaj, to fetch Zdravko and Željko*"¹⁶⁹ and not to think about escaping. According to the witness, this son of Zaim's (whom she also knew) was of medium height, a bit plump, with a fair hair and a lighter complexion, he was like a roadside trader, selling goods displayed on the hood of his tractor, or van.

¹⁶⁵ Transcript of main trial hearing S1 1 K 003369 10 Krl of 11 March 2011, page 20.

¹⁶⁶ Ibid, page 80.

¹⁶⁷ Transcript of main trial hearing S1 1 K 003369 10 Krl of 30 May 2011, page 18.

¹⁶⁸ Ibid.

¹⁶⁹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 30 May 2011, page 22.

904. However, Dragan Drljo, who saw one of Zaim's sons in Gaj, stated that at the moment when his mother and his brother Ivan came to the village from Križ he was standing next to Zaim's son (not Senad) who on that occasion told Dragan's brother "Halt, Crni!" whereupon the Zaim's son took a rifle from him and took him somewhere. On the other hand, witness Cecilija Šimunović does not link the Zaim's son that she saw in Gaj (Sead Hakalović) to the events involving her cousin Ivan Drljo but states that she saw when Ivan Drljo and others (Pero Krešo, Stipe Ljubić, Nedeljko Krešo) were brought by unknown soldiers, and that Zdravko Drljo and Željko Blažević were subsequently brought from houses without specifying who brought them. In saying so, both witnesses, without hesitation, claim that they did not see Senad Hakalović in Gaj on that occasion.

905. The Court also reviewed Defense Exhibit (O-III-40) - Record of Interview of Witness Milka Drljo, Prosecutor's Office of BiH KT-RZ-107/05 dated 11 February 2010, in which the witness stated that the order given to her son Ivan to fetch the other soldiers could be heard by her sister-in-law **Mara Drljo** and Ruža Drljo (the witness was not examined at the main trial) who were in her close vicinity, and that **Ruža Mlikota** was able to hear Zaim's son¹⁷⁰ telling Branko Mlikota to go to his house.

906. In that context, the Court assessed the testimony of those witnesses. Specifically, in her trial testimony Mara Drljo said that on the morning of the attack she was hiding in the basement together with residents of the Gaj hamlet¹⁷¹; after they got out of the basement and were lined up near an old house, she saw *"one of Zaim's sons being there, I don't know what he was doing."*¹⁷² As for the victim Ivan Drljo, the witness confirmed that his mother was sent for him to Križ, but the witness does not know who that person was, adding that when Ivan came from Križ someone called him 'Crni', but she did not know who that was¹⁷³.

¹⁷⁰ During the examination the Prosecutor put the following question to the witness: *"was anyone else in her close vicinity when she heard Zaim's son Senad Hakalović telling Branko Mlikota to go to his house escorted by two soldiers whom she did not recognize"* despite the fact that the accused Senad Hakalović is not charged with that under the Indictment and despite the fact that the witness, in the Witness Interview Record composed on the premises of the Prosecutor's Office of BiH KT-RZ-107/05 on 16 December 2008, under No. 14, recognized and identified the person who was recognized by Branko Mlikota, and that person, according to a CIPS statement, is Sead Hakalović.

¹⁷¹ The witness stated that she was in the basement with Milka Drljo, Cecilija and Adrijana; Dragan was brought in later, and then came Ruža Drljo and Ruža Mlikota.

¹⁷² Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 December 2011, page 17.

¹⁷³ Ibid, page 14; **Prosecutor:** *"Did late Ivan have a nickname, Mrs. Mara?"* **Witness:** *"Yes, they called him 'Crni'."* **Prosecutor:** *"Did any of the soldiers speak to him that morning when he came from Križ?"* **Witness:** *"Someone called him 'Crni', I do not know who it was"*, **Prosecutor:** *"Having arrived from Križ, was Ivan in Gaj the entire time?"* **Witness:** *"Well, yes, but they were killed soon thereafter."*

907. The witness saw when Milka Drljo came from Križ and with her were HVO soldiers (Nedeljko Krešo, Franjo Drljo, Stipo Ljubić, Pero Krešo, Ivan Drljo, Željko Blažević, Andrija Drljo and Zdravko Drljo), maintaining that after he came from Križ Ivan Drljo was in the hamlet of Gaj the entire time. Regarding the identification of one of Zaim's sons, the witness explained "... *I recognized him by his father, but I did not see what he was doing.*"¹⁷⁴ She knew that Zaim Hakalović had three or four sons, and added that Branko Mlikota shouted once or twice "*You're Zaim's... as to which one, what he was, I don't know.*"¹⁷⁵

908. Witness Ruža Mlikota testified at the trial how on the day when the attack began she was taken to the village, towards the houses of the Drljo family where other civilians were gathered as well; there she saw Milka Drljo and her children (Dragan and Andrijana), Franjo and Mara Drljo and their daughter Cecilija Šimunović, Ruža Drljo and Kata Bojčić, and soon thereafter soldiers brought her husband Branko there. The witness then stated that the soldier who had brought her husband put a pistol to his ear and demanded money, so Branko gave him some shillings, but the witness did not say that it was Zaim Hakalović's son. The witness further claimed that Milka Drljo went to get her son Ivan on Križ before the witness came to Gaj and she says she saw Ivan coming from Križ with his arms raised in the air "... *I don't know, they immediately sent him down there, I don't know, I did not hear who it was. He was sent to get Blažević and Drljo, Zdravko. They were at home.*"¹⁷⁶

909. As for Zaim's son (whom she knew by sight; she knew his father but did not know his name), the witness mentioned that he was present in Marko Drljo's house and said that "*one Hakalović entered. He went to the pantry and tossed drawers in the kitchen*"¹⁷⁷; she described him and said that he was "*blond, thin, of medium height, not big,*"¹⁷⁸ perhaps middle-aged. When called upon to see if "soldier Hakalović" was present in the courtroom, although she pointed to the accused Senad Hakalović, she did say "*I don't know, it has changed... the hair has changed, I think it was this one.*"¹⁷⁹ When asked by the Court if she was sure that he was that person, she said "*I reckon it is, everything has changed, but I*

¹⁷⁴ Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 December 2011, page 17.

¹⁷⁵ Ibid, page 18.

¹⁷⁶ Transcript of main trial hearing S1 1 K 003369 10 Krl of 14 March 2011, page 19.

¹⁷⁷ Ibid, page 29.

¹⁷⁸ Ibid, pp 30-31.

¹⁷⁹ Ibid, page 37.

reckon one hundred percent that it is."¹⁸⁰ However, when asked by the Defense, she explained that she knew that Zaim had several sons; she could not describe all of them because she knew them by sight *"they all resembled one another."*¹⁸¹

910. Consequently, this witness's testimony has not sufficiently convinced the Court that the accused Senad Hakalović perpetrated the acts charged under the Amended Indictment, considering that the witness has no knowledge of the incident/acts with which the accused is charged, as well as the fact, as it ensues from this witness's testimony, that she identified the accused Senad Hakalović during the investigation because her son who was present when she was giving the statement and was shown photographs "pointed" to him (*"... as my son was there, he says here these ones, these ones, when he said it, I too saw that everything, that they were all there"*¹⁸²).

911. Furthermore, in the Court's view the credibility and accuracy of witness Milka Drljo's testimony has been challenged by the testimony of protected witness O-III-3 who testified at the main trial about the information he had, related to the identification of the accused Hakalović by witness Milka Drljo. Specifically, the witness alleged that he was present when Milka Drljo went to identify the accused, and also when she returned. Upon her return, those present asked her if she was "able to identify him," whereupon she replied "yes, I was, I identified him, he was No. 3." The others asked her how she knew that and she replied that Mario told her that he would be No. 3, but she should not tell that to others because the numbers would be shifted thereafter.

912. Milka Drljo was not asked much about the identification and she did not talk about it. One person did ask her if she knew Senad, whereupon she replied *"it is not that I do not know him, because we all knew one another. I heard from Branko Mlikota that he was Zaim's son, but I was not 100% sure, and Branko Mlikota was killed back then...* When asked by someone if she saw him, she said that she heard from Branko Mlikota that he was Zaim's son and that he was there, and she said, one Mario said, *"if we prove that Senad even set his foot there he'll get at least 10 years."*

913. According to the witness, *"This, when Milka said that she would go for identification, I think it was in early September or October, cannot recall the year..."*

¹⁸⁰ Ibid, page 38.

¹⁸¹ Ibid, page 62.

¹⁸² Ibid, page 34.

914. In that context, the Court reviewed Defense Exhibit (O-III-41¹⁸³) wherefrom it ensued that witness Milka Drljo, in the presence of investigators of the Prosecutor's Office of BiH Mario Kapetanović and Amra Hendo, identified the accused Senad Hakalović on 1 October 2009. Specifically, the record of identification of persons states that under No. 3 (the witness was shown five persons for identification and the accused Senad Hakalović was under No. 3) witness Milka Drljo identified the person as the soldier who was present in the Trusina village with other soldiers and his brother, a soldier, when the Croat population was attacked.

915. The testimony by other witnesses (Anica Blažević¹⁸⁴, Mara Delinac¹⁸⁵, protected witness "S"¹⁸⁶, Bosiljka Krešo¹⁸⁷, Jela Ljubić¹⁸⁸ and Luca Krešo¹⁸⁹) did not contribute to the

¹⁸³ **O-III-41** – Letter from the Prosecutor's Office of BiH KT-RZ-107/05 dated 23 September 2009, Record of Identification of Persons no. 02-21-9-1/09 dated 1 October 2009.

¹⁸⁴ Witness Anica Blažević stated that Ivan Drljo came for her husband Željko Blažević that day and told him that he had to surrender or everyone would be killed if he did not surrender. After her husband surrendered, the witness and her sister Mara Delinac were taken to Bosiljka Krešo's house; Jela Ljubić was there too, and then all of them were taken to Gaj. Upon their arrival in Gaj, the witness saw Franjo Drljo, Nedeljko Drljo, Nedeljko Krešo, Ivan Drljo, Pero Krešo, her husband and Zdravko Drljo lined up; Zdravko Drljo attempted to escape and was killed. The witness stated that on that occasion "she saw Senad Hakalović among those soldiers" in a camouflage uniform; she could not recall if he was armed. After they went around the house, the lined up people were killed by automatic gunfire.

¹⁸⁵ Witness Mara Delinac confirmed that Ivan Drljo came to their house that day; he was frightened and told Željko Blažević that they needed to surrender. After that, Željko and Ivan went to get Zdravko and then the three of them went to surrender. The witness observed their departure towards Gaj to surrender through a window. The witness confirmed that she and her sister were first taken to Bosiljka Krešo's house; Jela Ljubić was there too. After that, they were taken to Gaj. In Gaj, she saw Pero Krešo, Nedeljko Krešo, Željko Blažević, Ivan Drljo, Andrija Drljo and Franjo Drljo lined up by an old house, with their arms above their heads. "I also saw the Hakalović guy there, I spoke to him, I touched his shoulder... I was so happy to see him." The witness told him that she knew him, but he replied that the fact that she knew him meant nothing, and turned away. The witness stated that she knew the father of that Hakalović guy, he was wearing a camouflage uniform and was armed; the witness described him as "*he was plumpish, brown*", she did not know his name at the time but in the courtroom she identified Senad Hakalović.

¹⁸⁶ Protected witness "S" states that on that day Ivan Drljo came for Zdravko Drljo and told him "we go up there and we need to find the others; women and children have been captured in the village." Zdravko got out and the two of them went looking for the others, but they only found Željko Blažević. The witness saw the three of them leaving for the village, more precisely, they took the road leading to Gaj (although the same road can be taken to reach Križ).

¹⁸⁷ Bosiljka Krešo states that when the attack began her sister Jela Ljubić and Luca Krešo (who stayed for about 20 minutes) were hiding in her house; she looked out through a window and saw Ivan Drljo and someone telling him to go and get Bosanac and Željko (a voice said "Crni, get back here immediately, we'll kill your mom and brother and sister"). Soldiers appeared at her house door, among them Senad Hakalović and a soldier called 'Mrav'. Luca Krešo and Jela Ljubić with their children were together with the witness in the house; unknown soldiers took them to Gaj soon thereafter. As they were entering the village the witness saw the dead body of Zdravko Drljo as well as five people lined up against Marko Drljo's house. When they approached the lined up people, she recognized Sead Hakalović, she thinks he was the other son of Zaim's, he had a camouflage uniform, he was armed. She saw Senad Hakalović only that morning, for about 20 minutes, not again during the day.

¹⁸⁸ Jela Ljubić testifies that on the morning of the attack she was in the house of her sister Bosiljka Krešo, while Luca Krešo joined them soon afterwards. That's when the shooting started and through a window the witness saw many soldiers around the house of Tunja Drljo and Anica Blažević; before long those soldiers came to her sister's house, entered the house and looked for men and weapons. The witness does not know how many soldiers entered the house; they kept coming in and going out. When asked if she knew the soldiers who entered the house, the witness answered that she asked one of the soldiers as if she knew him from somewhere, whereupon he replied that he knew her too but knew Bosiljka Krešo better. The witness added "*I think I used to see him, but I do not know his first or last name, who or what...*" She used to see him passing by the house in a tractor. She described him and said "*light complexion, light.*" When she told Bosiljka that she knew him, Bosiljka told her "*he is Zaim's son.*" When called upon by the Prosecution to identify the person referred to by her sister as Zaim's son, the witness answered "I think it is the one sitting next to you," and then said "*it's him. He was there.*" They set out to Gaj after a while, where the witness saw the dead body of Zdravko Drljo. They were taken into Marko Drljo's house and then forced out and taken to the spot where Željko Blažević, Ivo Drljo, Nedeljko Krešo, Pero Krešo, Franjo Drljo and Nedeljko Krešo were lined up against a wall. When asked if upon

clarification of a decisive fact (the presence of the accused Senad Hakalović), considering that all those witnesses, at the time when according to the Amended Indictment the act with which the accused Hakalović is charged (*"in the Gaj hamlet... ordered Ivan Drljo to fetch HVO members"*) occurred, were in the Kreše hamlet, and that only later, when HVO members Zdravko Drljo and Željko Blažević were already in Gaj (except for protected witness "S"), did they arrive in Gaj escorted by unknown soldiers.

916. Moreover, the testimony by the cited witnesses also vary in terms of the fact where exactly, if at all, they saw the accused Hakalović in the hamlet of Gaj where, as was said, they arrived later, i.e. just before the execution of HVO members. Witness Bosiljka Krešo, who saw Ivan Drljo from her house back in the hamlet of Kreše and heard an unknown voice saying "Crni, get back here immediately, we'll kill your mom, brother and sister", said that Zaim's son Senad came to her house, whereas witness Jela Ljubić maintained that in the house she saw a person that was familiar to her and that her sister told her that that person was Zaim's son (in the courtroom she identified him to be Senad Hakalović). None of the two witnesses saw Zaim's son in Gaj; only Bosiljka Krešo saw Sead Hakalović (the other son of Zaim's) in Gaj.

917. On the other hand, witnesses Anica Blažević and Mara Delinac (who were also in Bosiljka Krešo's house on that day) saw Senad Hakalović upon their arrival in Gaj hamlet, whereas witnesses Luca Krešo (who stayed briefly in Bosiljka Krešo's house and then went towards another hamlet where her children were held) and protected witness "S" (who saw through her window the departure of three HVO members towards Gaj to surrender) did not mention seeing any of Zaim's sons that day.

918. The accused Senad Hakalović was also not seen in the Gaj hamlet on the day in question by Prosecution witnesses Enes Gagula¹⁹⁰ (who said that Senad's brother Sead Hakalović was in Gaj on the day in question and added *"with us, at the level of the*

their arrival in Gaj she saw the person whom she had seen in her sister's house (and told her sister that she may know him), the witness answered *"I was not paying attention, I was not looking. It is possible that he was there, but I was not paying attention and I was not looking. I saw him there in my sister's house, but I was not paying attention up there."*

¹⁸⁹ Witness Luca Krešo corroborated the testimony given by witnesses Bosiljka Krešo and Jela Ljubić in the part that on the morning of the attack she was in Bosiljka Krešo's house together with Anica Blažević, Jela Ljubić and Mara Delinac, from which she saw some soldiers passing around houses, some of whom came to their door. One soldier entered the house and they got out, adding that she did not recognize anyone. Before long the witness left escorted by an unknown soldier in the direction of the house where her children were held.

¹⁹⁰ Transcript of main trial hearing S1 1 K 003369 10 Krl of 7 February 2011, pp. 34-35; **Prosecutor:** *"Does the name Sead Hakalović ring a bell?"* **Witness:** *"Yes. A member of Tigers of the 45th Mountain Brigade."* **Prosecutor:** *"Did you see him, although you already answered, that day in Trusina?"* **Witness:** *"Yes, he was there."* **Prosecutor:** *"Does the name Senad Hakalović ring a bell?"* **Witness:** *"I know that man... from before the war."* **Prosecutor:** *"All right. Did you see him in Trusina that day?"* **Witness:** *"I said in my statement that he was with me in Marajevac, but not in Trusina."*

*Brigade, it was never customary to have two brothers participating in the same operation... Consequently, since his brother Sead participated in the operation it is logical that Senad did not participate in the operation*¹⁹¹) or protected witness “B”¹⁹² who was adamant that he did not see Senad Hakalović in Trusina on the day in question.

919. However, the mere presence of the accused Senad Hakalović in the hamlet of Gaj at the relevant time, to which a number of witnesses did in fact point (and their testimony has been previously analyzed), as well as protected witness “E” (who, when describing the events in the Gaj hamlet just before the execution of the lined up people, stated that he “was surprised when he saw Senad Hakalović in a corner on the right-hand side”¹⁹³), in the absence of other evidence that the accused committed the acts charged, is of no relevance to the Court, considering that his presence in Gaj hamlet is not included in the charges in the Amended Indictment.

920. The Defense for Senad Hakalović examined a number of witnesses (protected witnesses O-III-1, O-III-2, O-III-3, as well as witnesses Redžo Poturović, Mustafa Hakalović, Edin Čolak, Ismet Redžić, Mušan Padalović etc.) with regard to, *inter alia*, the alibi, i.e. whereabouts of the accused Senad Hakalović on the day in question. However, as the Prosecution (bearing the burden of proof) failed to prove beyond any reasonable doubt that the accused perpetrated the acts charged under the Amended Indictment, the Court finds that it is neither relevant nor necessary to analyze and expound on the testimony of the said witnesses.

921. Consequently, taking into consideration the discrepancies in the testimony given by Prosecution witnesses analyzed above, as well as uncertainty in the testimony by witness Milka Drljo in terms of being able to tell apart Zaim's sons in relation to the decisive fact of presence of Senad Hakalović at the moment when Ivan Drljo went to get HVO soldiers, the Court could not rely on the presented evidence to find beyond any reasonable doubt that the accused Senad Hakalović committed the criminal offense charged, and, accordingly, decided as set forth in the operative part of the Judgment.

¹⁹¹ Ibid, page 47.

¹⁹² Transcript of main trial hearing S1 1 K 003369 10 Krl of 18 April 2011, pp. 67-68; **Defense Counsel:** “Do you know if Senad Hakalović was a member of the 45th Brigade?” **Witness:** “I did not see him at all, I cannot say anything, I do not know either way.” **Defense Counsel:** “Did you see him in Trusina on the day in question?” **Witness:** “No... I didn’t.” **Defense Counsel:** “You did not see him... let us go chronologically, you did not see Senad Hakalović on the night prior to the attack in the elementary school in Parsovići either?” **Witness:** “Let me be clear: I did not see that guy at all. To avoid further questions: I did not see him at all in the village of Trusina.”

¹⁹³ Transcript of main trial hearing S1 1 K 003369 10 Krl of 15 October 2012, page 56.

3. Acquitting part in relation to the accused Nedžad Hodžić

922. The Court acquitted the accused Nedžad Hodžić of the charge that he, on the morning of 16 April 1993, participated in a well prepared and previously planned attack on civilians of Croat ethnicity in the village of Trusina, leading one prong of the attack, being aware that there would be civilian victims in that attack and agreeing to that; the attack resulted in the murder of civilians Tomo (Andrija) Drljo born in 1926, Andrija (Ilija) Drljo born in 1947, Kata (Ivan) Drljo born in 1937, Kata (Mićo) Drljo born in 1918, Ivan (Pero) Drljo born in 1939, Branko (Andrija) Mlikota born in 1925, Smiljko (Mirka) Krešo born in 1940, Velimir (Andrija) Krešo born in 1934, Ivica (Jure) Krešo born in 1935, Ilija (Ante) Ivanković born in 1926, Anđa (Jure) Ivanković born in 1936, Jure (Ante) Anđelić born in 1926, Stipo Mandić born in 1928, Anto Drljo born in 1936, Milenko (Stipe) Mandić born in 1961, and serious injuries of civilians Mara Krešo born in 1942, Anđelka (Vinka) Šagolj born in 1969, Arijana (Pero) Krešo born in 1988 and Mario (Rade) Krešo born in 1991. The Court acquitted the accused on the grounds that the Prosecution failed to prove that the accused perpetrated the acts charged under the Amended Indictment.

923. As it ensues from the facts set out in the Indictment, the accused Hodžić is charged with “leading” one prong of the attack, but is at the same time charged with the murder of all the civilians in Trusina who were killed during the operation/attack on this village, with several civilians being injured, notwithstanding the fact that, according to a majority of the examined witnesses, the village was attacked from several directions (between two and four).

924. First of all, the Court notes that based on the testimony of the examined witnesses and the documentary evidence tendered at the main trial (as discussed in the convicting part of the reasons adduced for the Judgment) it has been determined beyond doubt that during the attack on the village of Trusina – in which, among other members of the SOPN, the accused Nedžad Hodžić participated – civilians of Croat ethnicity referred to under this Count were murdered or wounded. Many witnesses - residents of the village of Trusina (Luca Krešo, Anđelka Šogolj, Anica Krešo, Marija Miškić, Jela Ljubić, Mara Delinac, Anica Blažević, Bosiljka Krešo, Cecilija Šimunović, Ruža Mlikota, Mara Drljo, Milka Drljo, Dragan Drljo and protected witness “S”) - testified about those circumstances, and their testimony is referred to in the previous part of the Judgment relating to the accused Bojadžić.

925. Consequently, it indisputably ensues from the said testimony that the Court finds to be convincing and correct that during the attack on the village of Trusina on the day in question a number of civilians of Croat ethnicity were murdered or wounded, which, in addition to the residents of the village, has been confirmed by many examined witnesses-members of the SOPN who participated in the operation on Trusina, to be discussed in more detail in the paragraphs below.

926. However, in order to consider the charges against the accused Hodžić, the Court's task was to find, on the basis of the presented evidence, whether the accused Hodžić led one prong of the attack and, if so, which one, and whether the aforementioned civilians were killed or wounded within that prong of the attack, in order to determine the responsibility of the accused Hodžić for the said acts.

927. To that end, the Court assessed the testimony by examined witnesses-SOPN members who spoke in detail about the events in the village of Trusina on 16 April 1993 – the directions of the attack, the number and composition of the groups as well as the leaders of the groups – and concluded that the witness testimony varied to a certain degree on this subject: some witnesses claimed that there were two groups in the attack, whereas other witnesses claimed that there were three and even four groups. Similarly, the witnesses were not uniform on who led the individual groups or even the names of unit members in each group.

928. Specifically, protected witness “C” stated that they launched the operation, in Samko's estimate, being divided in two to three groups. His group was led by Samko, but he did not know who led the other groups or the platoon to which the accused Hodžić belonged. Witness Enes Gagula, who had the role of “guide/pointer”, stated that he was in one of three groups of Zuka's soldiers that carried out the attack. The task of his group (15-20 soldiers) was to attack Križ, he remembered protected witness “J” being in his group, the leader was one of Zuka's soldiers, but he cannot recall who it was.

929. In direct examination, protected witness “B” stated that there were four groups, they numbered 6-7 members of the Zulfikar unit, and that his group (which went left towards the village) was led by Gezo¹⁹⁴. However, during cross examination, in connection with the direction of movement and the objective of attack of his group, the witness changed his

¹⁹⁴ Transcript of main trial hearing S1 1 K 003369 10 Krl of 11 April 2011, pp. 43-44: **Prosecutor:** “Witness, please, who was the leader of your group?” **Witness B:** “Me, in the group where I was, Gezo was in charge.”

testimony and confirmed that it was true what he said in the interview given to SIPA on 20 November 2008¹⁹⁵ and in the interview to the Prosecutor's Office of BiH on 5 December 2008¹⁹⁶, i.e. that the objective of his group was to "cut off the road to Trusina", also that before that the objective of his and another group was to neutralize the Križ Hill¹⁹⁷, and that after attacking the Križ Hill they were to go left and reach the houses in the village.

930. According to the witness, his group, aside from Gezo (who was leading them), included Orho, protected witness "A", Kovačević, while Kokić moved some 15-20 meters away from them. The witness does not know who led the group that was at their side or the other groups for that matter. However, on the subject of composition and leaders of the groups, the Defense pointed to a discrepancy when compared to this witness's statement given on record on 5 December 2008 that his group included *"Gezo, protected witness 'D', Kokić; Nedžad Hodžić aka Džon Vejn was in the second group, his group included Dževad Salčin aka Struja, Bota, Ramiz Bećiri, Nijaz Kadić and others. There was a fourth group at some distance from this group, which included Popara, Džeko and others; he does not know who led this group."*

931. In contrast, witness Ramiz Bećiri stated that they were divided in three groups in Parsovići and that each group had its own direction of the attack. The witness's group numbered 12-15 people, it went across the center and included protected witnesses "M" and "D", Džeko, Kokić, possibly Zolja, and Senad Čorbo. According to this witness, the group that included Orho (and possibly Menta) went right for the hill where a trench was

¹⁹⁵ At the trial, defense counsel read out a portion of the statement saying as follows: *"my group headed by Gezo set out towards the highest hill. I believe it was called Križ and it was immediately above the Trusina village because that was our task. We were told that there was an HVO line on the Križ Hill, i.e. we were told that there were dugouts and/or trenches on that hill. When we came to the trench, we fired a 'zolja' or 'osa' from a distance of about 15 meters because Gezo had an RPG, and then we opened fire. After the 'zolja,' HVO members each discharged a burst of fire. Then we opened fire too. Gezo and Koka headed for the dugout in which we had previously fired a 'zolja' or 'osa' and told us when they returned that two men were dead, I saw Gezo approaching the dugout, and before he returned he said 'they're all dead, lets' go'..."*

¹⁹⁶ Defense counsel read out the following portion of the testimony as well, identical to the previous one, providing, *inter alia*, *"After we captured Križ, Gezo said that we would separate from the others and go left."*

¹⁹⁷ Transcript of main trial hearing S1 1 K 003369 10 Krl of 18 April 2011, page 27: **Witness:** *"...We, when Gezo fired, they fired a bit and, most likely, I assume, they ran away, Gezo told us to go left, down, we were supposed to go down, we had a house on that, er, road, and to go down on that road, to man that road..."* **Defense Counsel:** *"forget the road, we will revisit it later. Now we are talking about the time before you came to Križ. You stated on both records, which I have just read out clearly and decisively, the name, the designation of the hill that was your task, Križ, and you described in detail your actions, Gezo's actions, the guide, what happened during the firing, return of fire, checks on the dead and so on, tell us which is true, what we have just read out, what you said twice on record, the first time to SIPA and the second time to the Prosecutor, or what you said the last time, because they differ greatly."* **Witness:** *"What I said the first time, that one is correct."* **Defense Counsel:** *"That means that your objective was the Križ Hill, is that correct?"* **Witness:** *"Yes. We and the group that was at our side, I know one of them."* **Defense Counsel:** *"I am not asking you about the other group, I am asking about your group, was the objective of your group the Križ Hill?"* **Witness:** *"Yes, on the right-hand side that was our task, they went to that... Praga."*

located (Križ). The witness's group went through the village, while the group that included Džoni and Samko went left. The witness added that the leader of his group was Džeko, the leader of the left-hand group was Samko, while the leader of the right-hand group was (he thinks) Orhan – Orho.

932. Protected witness “M” also spoke about three groups, i.e. two groups entered the village while a third group went towards Križ, adding that he was in the right-hand group that was going up the hill and included Samko, Džeko, Ramiz Bećiri, protected witness “O”. As for the group leaders, the witness stated that Samir Šemsović (Samko) led one of the groups, he cannot recall the other group but he thinks that it was either Popara or Nedžad because they had more powers within the unit.

933. However, these allegations about the number and composition of the groups are not corroborated by protected witness “O”. This witness stated that they started the attack from two directions, and that he went to the right-hand side of the hill (he later learned that it was called Gaj) and went into action there; he was the first to enter the village, followed by protected witness “M” and later by Džeko. The second group that went left and was led by Samko included Zolja, Nedžad Hodžić, Enes Popara, Geza etc. When asked about the group leaders, the witness did not give a concrete answer but said that, in his opinion, Samko was the main leader, and that Džeko and Nedžad were there too, and they had Motorolas and *“they regarded themselves a kind of leaders.”*¹⁹⁸

934. The Court also took into consideration the testimony given by witnesses who testified at the trial that they were in the group led by Nedžad Hodžić. Protected witness “A” stated that Nedžad and Samko each led one group, and there were about three to four groups. In addition to the witness, other group members included protected witnesses “B” and “R”, Orhan, Ramiz Bećiri etc.

935. In contrast to the testimony by protected witness “R”,¹⁹⁹ who stated that he was in the group with the accused Džoni heading towards the village, while Rasema Handanović was in Samko's group, witness Rasema Handanović – Zolja confirmed that Džoni and Samko led two groups, but she, together with Orhan and Džeko, was in Nedžad's group going through the village, whereas Samko was in another one.

¹⁹⁸ Transcript of main trial hearing S1 1 K 003369 10 Krl of 3 September 2012, page 29.

¹⁹⁹ Protected witness “R” testified that they were divided in two groups before they reached Trusina: one group went right for the Croat trenches, including Samko (who was in charge of the operation), Džeko, Struja and Zolja, while the witness

936. The witness also added that Nedžad singled her out and told her to join another group, which did not mean that there were only those two groups; she did not know how many groups there were exactly. As for the movement of those two groups, the witness stated that some of them were moving along the upper part of Trusina while others were below on the lower part, and so some of them went directly to the village while others went right uphill from the houses. Protected witness “X” too stated that there were two groups led by Samko and Nedžad respectively; the witness was in Nedžad Hodžić’s group, which included protected witnesses “B” and “R”.

937. Aside from the fact that the Court could not rely on the foregoing testimony to determine with certainty the number and composition of groups, the witness testimony suggests that groups existed at the very beginning of the attack before the unit members started entering the village, and that the groups effectively ceased to exist and became mixed as they entered the village, whereupon almost all the members rallied by the store, at the end of the operation, when a majority of residents of Trusina were murdered or wounded and when Samir Šehović (considered by most witnesses as the person in charge of the operation) and Ahmet Kokić were wounded; after that moment, according to witnesses (Rasema Handanović, protected witnesses “R” and “B”²⁰⁰), the accused Nedžad Hodžić assumed command.

938. The explanation, accepted by the Court, is given by witness Rasema Handanović who, while speaking about two groups led by Samko and Nedžad respectively, and describing the movement of the groups that she saw, stated *“when we entered the village the groups no longer existed, it was all mixed up.”*²⁰¹ When asked by the Defense about the first group that came to the village, the witness stated: *“As I said before, at the beginning of the operation the groups became mixed up, they no longer existed. It is therefore possible that someone from one group or another.., the group became mixed up as we entered the village because it was not a vast territory to have enough room to*

was in the other group with Džoni and Orhan. The witness stated that his group entered the village; Džoni led one group and Samko the other.

²⁰⁰ Transcript of main trial hearing S1 1 K 003369 10 Krl of 11 April 2011, page 40: **Prosecutor:** *“All right. Stop there, witness. Do you know who the commander of the operation in the village was?”* **Witness B:** *“As far as I know, the commander in the village was Samko. After Samko was transported away, after he was wounded, Nedžad Hodžić was in charge.”*

²⁰¹ Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 April 2012, page 126.

*spread a line... it was a small space,*²⁰² plus not a lot of time elapsed between the departure from the starting positions and our entering the village.

939. A similar explanation was given by protected witness “X” who also said that there were two groups and that he was in Nedžad Hodžić's group. However, the witness stated that although the groups got separated ahead of Trusina, all the groups made visual contact²⁰³, i.e. they started mixing as they were entering (descending into) the village²⁰⁴.

940. The finding that upon entering the village the groups no longer existed, i.e. they were mixed up is supported by protected witness “E” who testified that he was in the group with Samir and ‘Džoni’, whereas unit member Džeko was heading towards Križ with a task to take the hill, considering that the witness claims to have seen Džeko in the village (Gaj) when they were standing there. The witness later learned that Džeko sent someone's mother to Križ so that soldiers would surrender (reasons for the acquitting part for the accused Senad Hakalović), and so he did not attack Križ but entered the village directly.

941. Moreover, the witness maintained that upon entering the village they went down to a store where the witness saw a unit member nicknamed ‘Pile’, which was odd because he did not know if he was with them or in Džeko's group.

942. Protected witness “A” too stated that groups no longer existed in the village, i.e. there was a separation within the groups because, as the witness testified at the trial, 30-40 soldiers were positioned to form the shape of an arch and they did not set out in the attack as a group but formed a skirmish line. When describing his movement, the witness alleged that at one moment he and protected witness “R” separated from their group and reached the houses in the village, while the others from the group went to the other side.²⁰⁵ After a while, *“Orhan aka Orho came from somewhere and joined us there,”*²⁰⁶ and

²⁰² Ibid, pp 129-130.

²⁰³ Transcript of main trial hearing S1 1 K 003369 10 Krl of 2 April 2012, page 29; **Witness „X“:** “We, as we were entering the village, internally had an agreement, or not internally, an agreement, but a logical sequence of events, as the groups were moving, to rally at some point, nowhere specific, but at some point, we, as soon as, as soon as we entered the village, I, all the groups made visual contact.”

²⁰⁴ Transcript of main trial hearing S1 1 K 003369 10 Krl of 16 April 2012, page 29; **Witness:** “I don't think Samko was wounded on a cross-roads but on a curve.” **Defense Counsel:** “On a curve. All right. That means that you rallied there, correct?” **Witness:** “No, actually we, as we were entering the village we, descending into the village, entering the village, whichever you prefer, I am telling you that I am not well versed in geographical terms. We gradually started mingling around...”

²⁰⁵ Transcript of main trial hearing S1 1 K 003369 10 Krl of 10 October 2011, page 46. **Prosecutor:** “....tell me, you say you set out together with Nedžad. Were, were only you with Nedžad, only you with, were, who, were there other unit members in that group who set out with Nedžad?” **Witness:** “Yes, yes, there were other soldiers too, and we all set out together, but we set out, I said **we did not all set out as a group but we formed a kind of a skirmish line.**” **Prosecutor:** “Tell me: do you recall some of those who were in your, in, with you and Nedžad in the group?” **Witness:** “I remember Sami being with me, Aldin Kurtić aka Džems, I do not know who else exactly, I cannot recall who else was

together they headed for Buturović Polje; they came to a store where there were already 7-8 members of the unit.

943. The witness also stated that Ramiz Bećiri was in his “platoon”. He set out with him from the starting point. However, upon entering the village, the witness does not know where Bećiri went. They met half an hour later by the store. Therefore, although they belonged to the same group, they were not together the entire time. Witness Ramiz Bećiri too confirmed that there were separations within the groups at some point. Admittedly, this witness does not mention protected witness “A” being in his group. However, when describing his movement through the village he stated that they split before they reached a stream: Kokić and the witness went to the right, while the protected witness “O” went straight ahead²⁰⁷. The witness, Kokić, Samko, and protected witness “A” reached the store.

944. The witness testimony indisputably indicates that Samko was leading the unit in the attack on the village and that Nedžad Hodžić assumed command of the unit after Samko was wounded, when everything was over, whereupon they returned to Gaj where the captured HVO members were executed, for which the Court found the accused Hodžić responsible.

945. Consequently, relying on the evidence mentioned above, the Court could not beyond any reasonable doubt establish who from among the members of the Zulfikar unit was in which group and in which prong of the attack, considering that the witnesses who were examined on these circumstances were not sure of that, in order to possibly link their actions to the criminal responsibility of the accused Hodžić. The Prosecution failed to prove (or even attempt to prove) during the trial exactly which civilians were murdered in the prong of the attack that, according to the Amended Indictment, was led by Nedžad Hodžić in order to link the accused to those murders, i.e. to establish a connection between leading a prong of the attack and the ensuing consequence.

*with me in the group because I said when, when shooting started in, because, a machine-gun was firing at us. **And so at one moment we split, one group went on one side, while I and Džems went in another direction** and thus we came across a house, I entered, I saw there was no one in the house, we moved on...”*

²⁰⁶ Transcript of main trial hearing S1 1 K 003369 10 Krl of 10 October 2011, page 46.

²⁰⁷ Transcript of main trial hearing S1 1 K 003369 10 Krl of 1 November 2010, page 32: **Witness:** “I, four or five of us went further down the village... there was an orchard there, and we descended to some streams. We went down... we split just before we reached the stream. Kokić and I went to the right, there was a stone wall there, protected witness “O” went straight ahead.”

946. The Court also addressed an allegation made by the Prosecutor in his closing argument that Kata Drljo, another Kata Drljo, Veljko Krešo and Ivan Drljo were murdered in one prong of the attack, whereas Smiljko Krešo, Milenko and Stipo Mandić were killed in the prong of the attack pursued by another group. This clearly suggests that the Prosecution finds that not all the civilians in the village were killed in the prong of attack pursued by only one of the groups, but at the same time charges the accused Hodžić, leader of one prong of the attack, with all the murders of civilians in the village.

947. Based on the foregoing, the Court finds that the responsibility of the accused Nedžad Hodžić for the acts of perpetration as they are listed in the facts of the Amended Indictment has not been proved, and ultimately acquits the accused of responsibility for the criminal offense of War Crimes against Civilians in violation of Article 173 of the CC of BiH.

X. CHANGES TO THE FACTUAL ACCOUNT IN THE INDICTMENT

948. The Court has made some changes to the facts in the Judgment's operative part, making sure that the offense remains the same, i.e. the same incident with all the essential elements constituting elements of the criminal offense, thereby preserving the objective identity between the Indictment and the Judgment.

949. Specifically, the Court has made interventions in terms of other circumstances contributing to a more precise identification of circumstances surrounding the commission of the criminal offense, without violating the integrity of elements of the criminal offense in the case in question.

950. Accordingly, the Court, as explained in paragraph 456, omitted from the convicting part of the Judgment's operative part a portion pertaining to the status of the "Zulfikar" SOPN unit to which the accused Memić, Hodžić and Bojadžić belonged. Specifically, the factual account retained the wording SOPN ARBIH "Zulfikar" while the wording ŠVK (Supreme Command Staff) has been omitted for the reason that the Court did not address the issue of whether or not the SOPN ARBIH "Zulfikar" was attached to the Supreme Command Staff at the relevant time, considering that this fact is immaterial to this trial.

951. Moreover, the Court has made some interventions in the introductory part of the operative part by omitting from the factual account the word "*civilian*" in front of the wording

“population of the village of Trusina”, as well as the wording “which attack resulted in the deaths of 15 civilians, seven soldiers of the Croat Defense Council who had previously surrendered, and the wounding of four people, including two children,” for the reason that the factual account represents a consequence of the overall attack on the village of Trusina, which is mentioned in the factual account of the Judgment for each of the accused.

952. Similarly, in the introductory part, the Court (in lieu of the word *“well”*) added the word *“previously,”* finding that it but specifies the character of the attack.

953. Furthermore, taking into consideration the presented evidence, the Court has altered the Judgment’s operative part in relation to the accused and harmonized it with the established facts. Concretely, in the Judgment’s operative part, in relation to the accused Memić, in lieu of the wording *“after Nedžad Hodžić gave the order”* the Court inserted the following words: *“after Nedžad Hodžić ordered ‘firing squad, open fire!’”*; in relation to the accused Hodžić, in lieu of the wording *“gave the order”* the Court used the wording *“ordered ‘firing squad, open fire!’”*; and in relation to the accused Bojadžić, the wording *“who then ordered ‘firing squad, open fire!’”*

954. In making these interventions, the Court was guided by the principle that Court’s interventions in the factual account are allowed provided that they focus on specification of the offense, making sure not to exceed the charges and place the accused in a more difficult position with more serious charges.

955. Based on the foregoing, the Court concludes that the factual account of the offense is harmonized with the established facts, the legal qualification of the offense is not more serious, and the changed portions of the Indictment do not place the accused in a more difficult position.

956. According to the Appellate Division of the Court of BiH,²⁰⁸ in such cases the first-instance panel is not under obligation to render an acquittal; it suffices to include in the reasoning the grounds for omitting certain actions and consequences from the operative part of the judgment.

²⁰⁸ Judgment of the Appellate Division of the Court of BiH of 1 July 2013, Case No. S1 1 K 013165 13 Krž, pp. 11 and 12.

957. The accused Mensur Memić and Nedžad Hodžić are convicted of committing the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY in conjunction with Article 22 thereof, and the accused Nihad Bojadžić of the criminal offense of War Crimes against Prisoners of War in violation of Article 144 the CC of SFRY and the criminal offense of War Crimes against Civilian Population in violation of Article 142 of the CC of SFRY. The CC of SFRY has been adopted on the basis of the Law on Application of the Criminal Code of the Republic of Bosnia and Herzegovina and the Criminal Code of SFRY. The Prosecutor's Office of BiH has proved that the accused Mensur Memić and Nedžad Hodžić, by carrying out acts of perpetration, and the accused Nihad Bojadžić by giving an order, acted in violation of the prohibitions laid down in common Article 3 of the Geneva Conventions, i.e. in violation of the prohibition of murder of protected persons, as explained above. The Court has found that the acts of the accused satisfy all the essential elements of the cited criminal offenses.

958. “Elements of murder, under international customary law, are as follows: the victim's death, the death caused by an act or omission on the part of the accused or the person or persons for whose acts or omissions the accused bears criminal responsibility. Act or omission on the part of the accused or the person or persons for whose acts or omissions the accused bears criminal responsibility have been committed with intent: deprivation of life or inflicting serious bodily injury or inflicting a serious injury, being reasonably aware that such an act or omission is likely to cause the death.”

959. The International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda have systematically defined 'murder' as the death of a victim caused by an act or omission perpetrated by the accused with intent to deprive the victim of his/her life or to inflict serious bodily injuries, which he had reason to know could cause the death.

960. The Court of BiH has previously identified the elements of the criminal offense of murder:

1. Deprivation of life
2. Direct intent to deprive a person of their life, because the perpetrator was aware of his act and he desired to carry out that act.

961. As explained above, the Court relied on the presented evidence to determine the deaths of the captured soldiers-HVO members referred to in the factual account of the Judgment's operative part. Moreover, as noted above, the Court found that the deaths of those persons were a result of the act of order issued by the accused Bojadžić, and then also by the accused Hodžić, as well as of the accused Memić's and the accused Hodžić's act of firing from their firearms.

962. Consequently, the Court has found that both accused (Memić and Hodžić) are responsible as co-perpetrators in perpetrating the act of murder of prisoners of war. Specifically, Article 22 of the CC of SFRY provides as follows: *"If several persons jointly commit a criminal act by participating in the act of commission or in some other way, each of them shall be punished as prescribed for the act"* – meaning that complicity under Article 22 of the CC of SFRY implies a plurality of persons, a decisive contribution and common intent.

963. The Court has reliably found that the accused committed the offense, i.e. that the accused Bojadžić, who led the attack on the village, gave an order via radio to his subordinate - the accused Nedžad Hodžić - to execute the captives, after which the accused Hodžić ordered SOPN members to open fire, whereupon he, together with the accused Mensur Memić and other members of the "Zulfikar" unit, opened fire at the HVO soldiers who were lined up and murdered them.

964. Considering that the case law on conduct of multiple persons in committing the criminal offense of war crimes provides that it suffices to prove that those persons acted jointly and that they are responsible as direct perpetrators of murders of multiple victims, the Court, taking into consideration all the circumstances surrounding the murder of the soldiers, found that the accused Memić and Hodžić, as co-perpetrators, with other unit members, participated in the murder of the said soldiers following an order given by the accused Bojadžić, and that they are responsible for the deaths of all the victims regardless of whether or not the two accused fired lethal shots that killed each individual victim.

965. Moreover, the Court, taking into consideration all the circumstances surrounding the incident, found that the accused Bojadžić, Hodžić and Memić acted with direct intent at the relevant time, i.e. they were aware that by their actions they violated rules of international

law and that their actions would result in the death of soldiers – prisoners of war, and the accused desired that very consequence.

966. The accused's intent clearly ensues from the circumstances of the attack on the village from several directions, murder of a large number of civilians in the attack; the civilians were previously lined up and then executed, with the accused's participation determined beyond doubt.

967. Regarding the accused Nihad Bojadžić, the Court has found that he also committed the criminal offense of War Crimes against Civilian Population by ordering his subordinate members of the Special-Purpose Detachment “Zulfikar” of the Army of BiH to attack the village of Trusina and that no one in the village should be left alive; the accused's subordinates obeyed his order and murdered 15 and wounded four civilians in the attack, including two children. The Court established these indisputable facts relying on the aforementioned testimonial and documentary evidence.

968. Furthermore, the Court took into account all the circumstances surrounding the incident in question when the accused Bojadžić ordered an attack on the village from several directions, being aware of the fact that there were civilians in the village (as discussed above), clearly indicating that the accused Bojadžić acted with direct intent, i.e. he was aware that his order would affect persons protected by international conventions in time of an armed conflict, and when, notwithstanding that, he gave the order that no one in the village should be left alive (followed by killing and wounding of civilians in the village), the only possible conclusion is that the accused desired that very consequence.

969. Based on the foregoing, the Court determines that it has been proved that the accused Nihad Bojadžić, by acting in the manner described above, by his actions committed the criminal offense of War Crimes against Civilian Population, finding that all the essential elements of this criminal offense have been satisfied, in particular because this criminal offense can be committed by a direct perpetrator or an order-issuing authority, and there is no doubt that the accused Bojadžić did so by giving the aforementioned orders.

XII. SENTENCING

970. The purpose of punishment is prescribed in the General Part of the Criminal Code of the Socialist Federal Republic of Yugoslavia.

971. Articles 2 of the CC of SFRY provides: *“The protection of man and other basic values of a society and the application of criminal justice compulsion, when and to the extent necessary to suppress socially dangerous activities, represents the basis and limits for deciding on criminal acts and imposing criminal sanctions.”*

972. In cases involving criminal offenses of War Crimes against Civilian Population and War Crimes against Prisoners of War, the implication is that the nature and intensity of the danger is extremely high as those are serious criminal offenses prescribed by the Code, carrying imprisonment for a term of between 5 and 20 years.

973. Furthermore, the Criminal Code also prescribes purposes and circumstances that the Court needs to take into consideration when meting out and imposing a punishment, and they can be divided in two groups: the ones that pertain to the particular criminal offense and its impact on the community (including the victims), and the ones that pertain to the individual accused.

974. Under Article 41 of the CC of SFRY, the Court shall fix the punishment for the perpetrator of a criminal act within the limits provided by statute for such an act, taking into account the purpose of punishment and all the circumstances bearing on the magnitude of punishment (extenuating and aggravating circumstances).

975. Under Articles 5 and 33 of the CC of SFRY, the punishment must be sufficient so as to act as a deterrent on others to respect the legal system and not perpetrate similar acts, as well as strengthening the moral fiber and influencing the development of citizens' social responsibility and discipline. In order to prevent future war crimes, such crimes need to be defined as the most serious crimes, and the perpetrators cannot go unpunished.

976. There is a lot of statutory considerations relevant to the purpose of punishment, such as rehabilitation and specific deterrence, affecting the punishment of a convicted person as an individual. They include: the degree of responsibility; the offender's conduct prior to the commission of the criminal offense, at the time of commission of the criminal

offense or close to that time and after the commission of the criminal offense, the motive and personality of the offender.

977. When meting out a punishment, the cited circumstances can be regarded as aggravating or extenuating, their purpose being to assist the Court in determining a sentence that is necessary and proportionate to the purposes and circumstances already considered in connection with the offense and the impact on the community, and adjusting the sentence along the lines of deterrence and rehabilitation of the specific offender.

978. When meting out the type and amount of punishment for the accused Mensur Memić, Nedžad Hodžić and Nihad Bojadžić, the Court was guided by the general principles in fixing punishment laid down in Article 41 of the CC of SFRY and the purpose of punishment laid down in Article 33 thereof. The Court is satisfied that the imposed punishment meets the purpose of punishment in its entirety, bearing in mind the degree of criminal responsibility of the accused and the severity of the ensuing consequences.

a. Punishment for the accused Mensur Memić

979. Having deliberated on the type and amount of punishment, the Court found the accused Mensur Memić guilty of the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY and sentenced him to ten (10) years' imprisonment, finding that the sentence is proportionate to the seriousness of the criminal offense, the degree of criminal responsibility, the participation and role of the accused, and the ensuing consequences, and that it meets the purpose of punishment laid down in Article 33 of the CC of SFRY.

980. When meting out the punishment for the accused Memić, the Court took into account that the accused acted as a co-perpetrator, knowingly and willingly contributing to the commission of the criminal offense as described in the operative part herein.

981. Regarding the extenuating circumstances on the part of the accused, the Court took into consideration his personal situation (married), and that he did not have a criminal record. Although the accused are expected to behave properly and respect the court, the Court notes that the accused indeed behaved properly and respected all the decisions of the Court. Moreover, the Court was mindful of the fact that the accused was a relatively

young person (27 years old) at the time of commission of the offense of which he has been found guilty.

982. In the Court' view, the aggravating circumstances on the part of the accused include the manner of perpetration of the criminal offense described in the operative part, the degree of injury to the protected object, and the consequences of the committed act (the number of victims).

983. Having assessed all the cited circumstances in their totality, the Court relied on them to impose the punishment on the accused as stated above, finding that the punishment meets the purpose of punishment, and will serve as a measure of both special and general deterrence.

984. Under Article 50 of the CC of SFRY, the period of time that the accused Mensur Memić spent in pre-trial custody from 16 September 2009 until 8 February 2013 shall be credited towards the imposed sentence of imprisonment.

b. Punishment for the accused Nedžad Hodžić

985. Having deliberated on the type and amount of punishment, the Court found the accused Nedžad Hodžić guilty of the criminal offense of War Crimes against Prisoners of War in violation of Article 144 of the CC of SFRY and sentenced him to twelve (12) years' imprisonment, finding that the sentence is proportionate to the seriousness of the criminal offense, the degree of criminal responsibility, the participation and role of the accused, and the ensuing consequences, and that it meets the purpose of punishment laid down in Article 33 of the CC of SFRY.

986. When meting out the punishment for the accused Hodžić, the Court took into account that the accused acted as a co-perpetrator, knowingly and willingly contributing to the commission of the criminal offense as described in the operative part herein.

987. When meting out the punishment for the accused Hodžić, the Court found the following extenuating circumstances on the part of the accused: no previous criminal record, his family situation (father of two children) and his health condition. The Court also took into consideration that the accused was a relatively young person (23 years old) at the time of commission of the offense of which he has been found guilty.

988. In the Court' view, the aggravating circumstances on the part of the accused include the manner of perpetration of the criminal offense described in the operative part herein, the capacity and role of the accused at the relevant time, the degree of injury to the protected object, and the consequences of the committed act (the number of victims).

989. Having assessed all the cited circumstances in their totality, the Court relied on them to impose the punishment on the accused as stated above, finding that the punishment meets the purpose of punishment, and will serve as a measure of both special and general deterrence.

990. Under Article 50 of the CC of SFRY, the period of time that the accused Nedžad Hodžić spent in pre-trial custody trial from 16 September 2009 until 19 January 2010 and from 19 March 2010 until 19 March 2013 shall be credited towards the imposed sentence of imprisonment.

c. Punishment for the accused Nihad Bojadžić

991. Having deliberated on the punishment, the Court found the accused Nihad Bojadžić guilty of the criminal offense of War Crimes against the Civilian Population in violation of Article 142 of the CC of SFRY and sentenced him to twelve (12) years' imprisonment, and the criminal offense of War Crime against Prisoners of War in violation of Article 144 of the CC of SFRY and sentenced him to ten (10) years imprisonment; by applying Article 48 of the CC of SFRY, the Court sentenced the accused to a compound sentence of imprisonment for a term of fifteen (15) years.

992. The Court has found that this sentence is proportionate to the seriousness of the offense, the participation and role of the accused, and that it meets the purpose of punishment laid down in Article 39 of the CC of BiH.

993. Regarding the accused Nihad Bojadžić, the Court first of all took into consideration that the accused ordered his subordinates to perpetrate the offenses, which led to the consequences described in the reasons above.

994. Furthermore, when meting out the punishment for the accused Nihad Bojadžić, the Court found the following extenuating circumstances on the part of the accused: his family situation (divorced, father of two children) and no previous criminal record. Although the accused are expected to behave properly and respect the court during criminal

proceedings, the Court notes that the accused indeed behaved properly and respected all the decisions of the Court. In the Court's view, the aggravating circumstances on the part of the accused include the manner of perpetration of the criminal offenses described in the operative part herein, the degree of injury to the protected object, and the consequences of the committed act (the number of victims – murdered and wounded civilians and prisoners of war).

995. For the reasons stated above as well as the degree of participation of the accused in committing the criminal offenses of which he has been found guilty, the Court holds that the imposed individual sentences for the committed acts as well as the imposed compound sentence of imprisonment are adequate to all the cited circumstances and the personality of the accused as the perpetrator, and that they meet the purpose of punishment in its entirety, and will serve as a measure of both special and general deterrence.

996. Under Article 50 of the CC of SFRY, the period of time that the accused Nihad Bojadžić spent in pre-trial custody from 4 November 2009 until 28 April 2013 shall be credited towards the imposed sentence of imprisonment.

XIII. DECISIONS ON COSTS OF THE PROCEEDINGS

997. Pursuant to Article 188(1) of the CPC of BiH, in conjunction with Article 186(2) thereof, the accused Mensur Memić, Nedžad Hodžić and Nihad Bojadžić must reimburse the costs of the criminal proceedings as well as the scheduled amount, which shall be determined by the Court in a separate decision upon obtaining necessary information.

998. Regarding the acquitting part of the Judgment, the accused Dževad Salčin, Senad Hakalović and Nedžad Hodžić are relieved of the duty to reimburse costs of the proceedings in respect of the acquitting part, and those costs, pursuant to Article 189(1) of the CPC of BiH, shall be paid from within the Court's budget appropriations.

XIV. DECISION ON CLAIMS UNDER PROPERTY LAW

999. Under Article 198(2) and (3) of the CPC of BiH, the Court instructs the injured parties to take civil action to pursue their claims under property law, considering that the information gathered during this trial does not provide a solid basis for complete or partial

adjudication, so that determining the amount of claims under property law would unnecessarily delay the trial.

RECORD-TAKER

Legal adviser

Amra Hodžić-Zećo

PRESIDING JUDGE

JUDGE

Željka Marenić

LEGAL REMEDY: The parties and defense counsel may file an appeal against this Judgment with a Panel of the Appellate Division of the Court, within fifteen (15) days after service of the written copy of the Judgment.

Under Article 293(4) of the CPC of BiH, the injured parties may contest the judgment only with respect to the decision of the Court on the costs of the criminal proceedings and with respect to the decision on the claims under property law.

*Appeal should be filed with this Court in a sufficient number of copies.

ANNEX 1- EVIDENCE

a) DATES OF TESTIMONY OF EXAMINED PROSECUTION WITNESSES

	Witness	Date of testimony	Note
1	Janja Drljo	20 September 2010	
2	Šefko Poturović	28 September 2010	
3	Luca Krešo	8 October 2010	
4	Nusret Hanić	12 October 2010	
5	Marija Miškić	26 October 2010	
6	Enes Begeta	29 October 2010	
7	Ramiz Bećiri	1 November 2010 and 2 November 2010	
8	Bosiljka Krešo	9 November 2010 and 12 November 2010	
9	Arijana Krešo	15 November 2010	
10	Jure Krešo	23 November 2010	
11	Nikola Drljo	6 December 2010	
12	Mijo Anđelić	10 December 2010 and 17 January 2011	
13	Celija Anđelić	4 February 2011	
14	Enes Gagula	7 February 2011 and 14 February 2011	
15	Elmedin Čaušević	21 February 2011 and 28 February 2010	
16	Cecilija Šimunović	11 March 2011	
17	Ruža Mlikota	14 March 2011	
18	Tomislav Mlikota	14 March 2011	
19	Sead Ćosić	21 March 2011	
20	Himzo Hondo	21 March 2011	
21	Atif Karović	25 March 2011 and 1 April 2011	
22	Witness "M"	28 March 2011 and 4 April 2011	
23	Ilija Drljo	8 April 2011	
24	Witness "B"	11 April 2011 18 April 2011 22 April 2011 and 9 May 2011	
25	Safet Haketa	9 May 2011	

26	Bakir Alispahić	16 May 2011	
27	Kadira Poturović	23 May 2011	
28	Enver Mujala	23 May 2011	
29	Milka Drljo	30 May 2011 and 3 June 2011	Revoked protection measures, had the pseudonym "G"
30	Witness "L"	13 June 2011 and 17 June 2011	
31	Fikret Muslimović	20 June 2011	
32	Dragan Drljo	1 July 2011 and 11 July 2011	
33	Muharem Košarić	18 July 2011	
34	Sead Branković	18 July 2011 and 8 August 2011	
35	Sead Šehić	2 September 2011	
36	Friar Zdenko Marko Karačić	5 September 2011	
37	Ramo Masleša	19 September 2011	
38	Amir Begić	19 September 2011	
39	Ibrahim Turak	26 September 2011	
40	Abdulah Mašić	26 September 2011	
41	Sabro Hasković	3 October 2011	
42	Dževad Rađo	3 October 2011	
43	Witness "A"	10 October 2011 14 October 2011 and 17 October 2011	
44	Šaćir Arnautović	17 October 2011 and 21 October 2011	
45	Bahrudin Fazlić	24 October 2011	
46	Midhat Karović	24 October 2011	
47	Mujo Pirušić	31 October 2011	
48	Jela Ljubić	14 November 2011 and 28 October 2011	Revoked protection measures, had the pseudonym "H"
49	Jusuf Jašarević	5 December 2011	
50	Anica Blažević	9 December 2011	Revoked protection measures, had the pseudonym "F"
51	Mara Drljo	16 December 2011 and 19 December 2011	
52	Nusret Šahić	23 December 2011 and 6 January 2012	

53	Branimir Džamonja	6 January 2012	
54	Hamza Višća	27 January 2012	
55	Vahidin Čomor	30 January 2012	
56	Hasan Poturović	3 February 2012	
57	Witness "C"	10 February 2012 and 13 February 2012	
58	Suvad Rogo	20 February 2012	
59	Muamer Huseinbegović	24 February 2012	
60	Said Demirović	27 February 2012	
61	Irfan Masleša	2 March 2012 and 5 March 2012	
62	Anđelka Šagolj	9 March 2012	
63	Ivan Šagolj	12 March 2012	
64	Munir Alibabić	16 March 2012 and 19 March 2012	
65	Anica Krešo	23 March 2012	
66	Rasema Handanović	30 March 2012 16 April 2012 20 April 2012 and 23 April 2012	
67	Witness "X"	2 April 2012 13 April 2012 and 16 April 2012	
68	Sulejman Perva	7 May 2012	
69	Salko Šahinović	11 May 2012	
70	Salko Sultić	14 May 2012	
71	Jovan Divjak	18 May 2012 and 25 May 2012	
72	Witness "N"	21 May 2012	
73	Vahid Karavelić	1 June 2012 and 4 June 2012	
74	Witness "R"	11 June 2012 and 15 June 2012	
75	Mara Delinac	25 June 2012	Revoked protection measures, had the pseudonym "I"
76	Murat Kahrović	29 June 2012	
77	Esad Ramić	2 July 2012 and 6 July 2012	
78	Witness "J"	9 July 2012	

79	Witness "Z"	27 August 2012	
80	Witness "O"	3 September 2012 14 September 2012 and 24 September 2012	
81	Miralem Memić	24 September 2012	
82	Witness "S"	1 October 2012	
83	Witness "E"	15 October 2012 22 October 2012 and 29 October 2012	
84	Nehru Ganić	5 November 2012 12 November 2012 19 November 2012 and 10 December 2012	Military expert
Prosecution's rebutting evidence			
85	Nusret Điver	20 October 2014	
86	Ćazim Ćibo	20 October 2014	
87	Salko Gušić	20 October 2014 and 27 October 2014	
Prosecution's additional evidence			
88	Zoran Barun	12 January 2015	

b) LIST OF ADMITTED PROSECUTION'S DOCUMENTARY EVIDENCE

T-1 – Record of Interview of Witness Janja Drljo, no. KT-RZ 107/05 dated 25 September 2009;

T-2 - Record of Interview of Witness Janja Drljo, no. KT-RZ 107/05 dated 30 June 2009;

T-3 – Discharge Summary, Institute for the Protection of Mother and Child-Pediatric Surgery Clinic, for the patient Arijana Krešo, dated June 1993; medical report by the Mostar Clinical Hospital dated 21 September 2006; Decision by the Social Welfare Center of the City of Mostar dated 7 September 2007;

T-4 - Record of Interview of Witness Enes Gagula, no. KT-RZ 107/05 dated 2 November 2009;

T-5 - Record of Interview of Witness Elmedin Čaušević, no. KT-RZ 24/10 dated 2 June 2010;

T-6 - Record of Interview of Witness Atif Karović, no. KT-RZ 107/05 dated 8 January 2009;

T-7 – Excerpts from the Chronicle by Friar Zdenko Karačić, a total of five pages;

T-8 - Record of Interview of Witness Mara Drljo, no. KT-RZ 107/05 dated 12 February 2010;

T-9 - Record of Interview of Witness Irfan Masleša, no. KT-RZ-107/05 dated 7 April 2010;

T-10 – Death Certificate for Jasmin Guska, no. 09-15-3-12173/11 dated 4 October 2010;

T-11 - Record of Interview of Witness Jasmin Guska, no. 17-04/2-5-04-2-283/10 dated 21 May 2010;

T-12 - Record of Interview of Witness Jasmin Guska, no. 17-04/2-5-04-2-310/10 dated 28 May 2010;

- T-13** - Death Certificate for Šime Krešo, no. 04/1-VI-15-3-179/10 dated 7 October 2010;
- T-14** - Record of Interview of Witness Šime Krešo, no. KT-RZ-107/05 dated 3 June 2009;
- T-15** – List of documents used by expert Nehru Ganić to compose his report;
- T-16** – Decision by the Presidency of the Republic of Bosnia and Herzegovina on Declaring a State of War (*Official Gazette of RBiH*, 7/92, 20 June 1992);
- T-17** - Decision by the Republic of Bosnia and Herzegovina on the Abolishment of the State of War (*Official Gazette of RBiH*, 50/95, 28 December 1995);
- T-18** – Decree Law on the Armed Forces of the Republic of Bosnia and Herzegovina (*Official Gazette of RBiH*, PR No. 1163/92, 20 May 1992);
- T-19** - Decision on Establishment of Croatian Defense Council no. 2/92 dated 8 April 1992 (*Official Gazette of HZ Herceg-Bosna*);
- T-20** – Order by the ŠVK OS RBiH /Supreme Command of the Armed Forces of the Republic of Bosnia and Herzegovina/ no. 02/607-1 dated 10 June 1993 ordering cessation of all combat operations against the units of the HVO /Croatian Defense Council/ in RBiH.
- T-21** – Letter from the Chief of Staff of the 4th Corps no. 02/1-966-92/93 dated 27 March 1993, warning that Zuka's unit surrounded a Croatian village in the vicinity of Konjic, ERN No.: 0129-8532;
- T-22** - Report by a member of the ŠVK OS RBiH no. 1-1 dated 30 April 1993 on the complexity of the situation in the territory of Konjic Municipality as well as clashes between the ARBiH /Army of the Republic of Bosnia and Herzegovina/ and the HVO, ERN No.: 01832608;
- T-23** - Interim Report by the Commander of the Igman OG /Operations Group/ no. CV-282-05/93 dated 13 March 1993 on a clash between the ARBiH and the HVO in the area of Neretvica, ERN No.: 0183-2876;
- T-24** – Combat Report by the Igman OG Commander no. 03/592-7-2 dated 18 April 1993 on the continuation/resumption of the conflict between the 4th Corps and the HVO, ERN No.: 0183-2912;
- T-25** - Interim Report by the Igman OG Commander, no. 02/665-2 Igman OG Commander dated 18 April 1993 on complication of the relations with the HVO and an armed conflict between the ARBiH and the HVO in the village of Lepenica, ERN No.: 01832913;
- T-26** - Interim Report by the Igman OG Commander no. 03-592/7 dated 18 April 1993 on clashes with the HVO, ERN No.: 01832914;
- T-27** - Combat Report by the Igman OG Commander no. 03-592/8 dated 19 April 1993 on the escalation of the clash between the HVO and the ARBiH in the area of Jablanica-Konjic, ERN No.: 01832916;
- T-28** - Daily Combat Report by the Igman OG Commander no. 03-592/10 dated 21 April 1993 on the clashes between the ARBiH and the HVO in the area of Konjic, ERN No.: 01832919;
- T-29** - Daily Combat Report by the Igman OG Commander no. 1-20/8 dated 22 April 1993 on the clashes with the HVO in the area of Konjic and the Neretva River, ERN No.: 01832920 - 01832921;
- T-30** – Assessment of the situation and a proposal of measures by the Assistant Commander of the 44th Mountain Brigade for Intelligence Affairs, no. 06/70-1-11/93 dated 23 May 1993, regarding an armed conflict with the HVO in the area of Grabovica with the participation of units of Zulfikar SOPN (Special-Purpose Detachment), ERN No.: 04036133 – 04036134;
- T-31** – Attack Order, IZM OZ SZ Hercegovina /forward command post of northwest Herzegovina operations zone/ no. 01-459 dated 11 May 1993, stating that Kostajnica and

the Neretvica valley are in a horrible situation and that around 10,000 Croats were in encirclement, ERN No.: 03641778 – 03641780;

T-32 – Instructions on manner of gathering facts on war crimes forwarded by the 4th Corps Command, no. 07-1971/93 dated 17 March 1993, ERN No.: 03639519 - 03639526;

T-33 – Order by the Chief of ŠVK OS R BiH no. 14/75-24 dated 13 March 1993 restructuring the Neretvica Brigade into the 45th Mountain Brigade with the unit No. VJ 5096, ERN No.: 01850113;

T-34 - Daily Combat Report by the Igman OG Commander no. 03-592/4 dated 16 April 1993 on a clash with the HVO near Konjic and the involvement of Zulfikar unit in the clash, ERN No.: 01832910;

T-35 – Collective Report for 16 April 1993 by the HVO Main Staff dated 17 April 1993, stating that the village of Trusina was attacked, ERN No.: 06172036 – 06172039;

T-36 – HVO Main Staff Daily Intelligence Report no. 03-442/93 dated 20 May 1993, stating that the clashes between the ARBiH and the HVO were still ongoing in the territory of Konjic Municipality, ERN No.: 04200883 – 04200885;

T-37 – HVO Military Police Administration situation report for 18 April 1993 no. 02-4/3-02-971/93 dated 19 April 1993, stating that the clashes between the ARBiH and the HVO were still ongoing in the area of the Neretvica and there is information about a massacre in Trusina, ERN No.: 01544499 – 01544501;

T-38 – Letter from the Assistant Commander of Herceg Stjepan Brigade Konjic for Information and Propaganda Affairs, no. 01/322 dated 25 April 1993, referring to fighting in the area of Turije-Zabrđa-Zaslavlja in Konjic and on Zlatar structure in Konjic Municipality, ERN No.: 01528830;

T-39 - Report by the Commander of OZ JIH /southeast Herzegovina operations zone/ no. 01-2900/93 dated 15 May 1993 on fighting around Croatian settlements in the Neretvica valley, ERN No.: 01518832;

T-40 - Report by the Herceg Stjepan Brigade Konjic Commander dated 16 April 1993 on a violent clash between the HVO and the ARBiH in the village of Trusina and a massacre of civilians in the village of Trusina, ERN No.: 01516484;

T-41 – Report by the Information and Investigation Department of the HVO Main Medical Staff no. 02-5/1-42/93 dated 4 May 1993, listing a chronology of events in the territory of Konjic in connection with the slain and wounded HVO soldiers and civilians of Croatian ethnicity, ERN No.: 01504401 – 01504402;

T-42 – Order by the 4th Corps Commander no. 02-3145-1/93 dated 16 April 1993 on continuation/resumption of combat operations against the HVO in, among others, the area of the Neretvica;

T-43 - 4th Corps Command Report no. 02-2560-14-1/93 dated 14 April 1993, stating that a conflict with the HVO in Konjic and Jablanica municipalities began;

T-44 - Herceg Stjepan Brigade Konjic Report dated 20 May 1993 – a summary of clashes between the HVO and the ARBiH as well as the crimes committed by ARBiH units against civilians in the territory of Konjic Municipality, ERN No.: 01027336;

T-45 – Interim Report by the Command of OZ SB /Central Bosnia Operations Zone/ Vitez no. 240-8-I/93 dated 9 April 1993, stating that Muslim forces were preparing an attack on Croatian villages in Klis (the Neretvica valley), ERN No.: 01014912;

T-46 - Order by the Igman OG Commander no. 01/15 dated 24 April 1993 sent to the Commander of Zulfikar Special-Purpose Detachment, requesting (re)deployment of some troops to Jablanica because of the conflict with the HVO, ERN No.: 01853999;

T-47 – Letter from the Igman OG Military Security Service no. 08-21-20/93 dated 27 April 1993, stating, among other things, that Zulfikar unit played a crucial role in defending Konjic, ERN No.: 04035004 – 04035005;

T-48 - Report “Herceg Bosna” Konjic, dated 24 March 1993, on continuation/resumption of combat operations between the HVO and the ARBIH in the area of Konjic Municipality, ERN No.: 01507024 – 01507025;

T-49 – Letter from the president of the Wartime Presidency of Konjic and Jablanica municipalities dated 19 April 1993, referring to heavy combat operations in the area of Konjic and Jablanica municipalities;

T-50 - Report on the situation in Jablanica, Chief of Staff of the 4th Corps and the Commander of the 44th Mountain Brigade, no. 02/389-1/93 dated 15 April 1993, stating that according to available information combat operations in the areas of Konjic-Parsovići and Here-Kuti-Šćipe have been going on for two days;

T-51 – Letter from the Neretva Brigade Commander, Jablanica, no. 07/232-1-4/93 of 24 March 1993, referring to a tense situation and a clash between the ARBIH and the HVO in the area of the Neretvica;

T-52 - Report by the Chief of Security of the 44th Mountain Brigade no. 07/379-9/93 dated 4 May 1993, referring to clashes with the HVO as well as the situation in the Neretvica valley;

T-53 - Report by the Municipal Defense Staff of the 44th Mountain Brigade no. 07/379-35/93 dated 21 May 1993, stating that respective representatives of the ARBIH and the HVO visited Konjic municipality and the Neretvica valley together with UNPROFOR;

T-54 - Order by the Igman OG Commander no. 07/499-1/93 of 5 May 1993 prohibiting subordinate units from contacting HVO representatives for the purpose of preventing leakage of secret military information;

T-55 – Letter from the Command of the BVP /Military Police Battalion/ of the 4th Corps dated 14 April 1993 stating, among other things, that the security situation in the areas of Konjic, Jablanica and Prozor is complex, which resulted in an armed conflict between the ARBIH and the HVO in the area of the Neretvica;

T-56 – Report by the 4th Corps Command on the situation in the area of responsibility of the 4th Corps no. 02/1-3200-1/93 dated 17 April 1993, showing, among other things, that the 43rd Mountain Brigade received assistance from Zuka in the territory of Konjic on 14 April 1993 and that fighting in all parts of Konjic Municipality resumed on 16 April 1993;

T-57 – Letter from the Commander of the 4th Corps Military Police Battalion dated 13/14 April 1993, informing the 4th Corps about intelligence indicating an outbreak of an armed conflict between the ARBIH and the HVO in the area of Konjic municipality;

T-58 – Letter from the 45th Mountain Brigade Commander no. 05-1223/93 dated 1 June 1993;

T-59 – Assessment of the security situation in the territory of Konjic by the Chief of the 4th Corps Security Organ no. 07-2260-20/93 of 2 April 1993; authenticity and lawfulness: certified photocopy from the archive SSIOBP PFMO archival repository of the Ministry of Defense of BiH;

T-60 – Report by the 4th Corps Command on the security situation in the area of Konjic no. 07-2245/93 dated 24 March 1993 stating, among other things, establishment of a joint HVO- ARBIH committee with a task to organize cessation of combat operations in Konjic, raise the blockade of the Mostar-Jablanica-Konjic road, carry out an exchange of prisoners of war and undertake any other measures aimed at defusing the situation;

T-61 - Report by the HVO Municipal Council of Konjic no. 01-251/95 dated 13 March 1995, ERN No.: 01575145 – 01575152;

- T-62** – Official Note by the SIS /Security and Information Service/ Center Mostar no. 02-08-2-670/96 of 2 April 1996, ERN No.: 01572938 – 01572954;
- T-63** – Information on war crimes committed in the municipalities of Jablanica and Konjic, SIS Center Mostar, no. 02-08-2-282/96 of 5 February 1996, ERN No. 01571162 – 01571173;
- T-64** – Weekly Report by the Croatian Information Center Zagreb no. 1 dated 9 August 1993, ERN No.: 00201542- 00201548;
- T-65** - Report on genocide against the Croatian population in Konjic Municipality, composed at the Herceg Stjepan Brigade Konjic and logged on 25 April 1993 at the HVO Main Staff; the report, among other things, describes the crime in Trusina, ERN No.: 01032198 – 01032199;
- T-66** – A brief chronology and survey of war crimes committed by members of the Army of BiH in the municipalities of Mostar, Konjic, Jablanica and Prozor, composed by the HR HB /Croatian Republic of Herceg-Bosna/ Committee on War Crimes, no. 27/95 of 30 March 1995; the chronology and review describe, among other things, the crime in the village of Trusina, ERN No.: 00302925 – 00302946;
- T-67** - Original survey by the Center for Gathering Documents and Processing of Information on Homeland War Zagreb entitled “Konjic – Some of war crimes and grave breaches of law of war and the Geneva Conventions committed in 1992, 1993 and 1994”, of 1 June 1994;
- T-68** – A brief report on wartime incidents in Konjic municipality dated 17 April 1994 mentioning, among other things, a massacre in the village of Trusina and requesting establishment of a committee for the purpose of inspecting the terrain and establishing facts;
- T-69** – Study of genocide against Croats in Konjic Municipality committed by Muslims in the period March-July 1993, composed by the president of the HVO Public Services Office Konjic in August 1993, ERN No.: 1102004824 -1102004828;
- T-70** - Crime committed against the Croats in the village of Trusina, parish of Žitače, of 15 April 1993, with a survey of persons who were murdered and the burial locations;
- T-71** – Letter from the HR HB Service for Exchange of Prisoners and Other Individuals no. 01/IP-551/94 dated 16 August 1994 mentioning, among other things, a massacre in the village of Trusina, ERN No.: 01570649 – 01570656;
- T-72** - Letter from the HR HB Service for Exchange of Prisoners and Other Individuals no. 01-IP-446/94 dated 9 June 1994 in connection with a Report by military assistant to the UNPROFOR Commander for Sector Southwest stating, among other things, the Service's request for handover of 23 dead bodies from Trusina village, Konjic Municipality, ERN No.: 01298931 – 01298932;
- T-73** - Letter from the Konjic Municipality Public Services Office no. 17-X.76/94 dated 21 October 1994, with information about murdered civilians and soldiers in Trusina village on 16 April 1993, ERN No.: 00302911 – 00302912;
- T-74** – Press release by the Information Office of the Command of the Central Bosnia Operations Zone- Vitez Forward Command Post no. 08-5-191/93 of 8 May 1993, mentioning, among other things, the attack on Trusina village, ERN No.: 01020689 – 01020690;
- T-75** – Letter from the Herceg Stjepan Brigade Konjic Commander dated 23 April 1993, ERN No.: 01507120;
- T-76** - Press release, IPD /information and propaganda/, HVO Rama Brigade, HZ HB /Croatian Community of Herceg-Bosna/, of 2 May 1993;

- T-77** – Document: Intentional executions, murders and infliction of serious bodily injuries, ERN No.: 0530-2150 - 0530-2211;
- T-78** – Report of fact of death issued by Konjic Registry Office no. 2657/94 of 9 November 1994, for Ilija Ivanković; photocopy of section record no. 377/94; photocopy of a burial permit for Ilija Ivanković issued by the Pathology Department of KBC /Clinical Hospital/ Split on 9 November 1994, with laissez-passers;
- T-79** - Report of fact of death issued by Konjic Registry Office no. 2655/94 of 9 November 1994, for Anđa Ivanković; photocopy of section record no. 376/94; photocopy of a burial permit for Anđa Ivanković, issued by the Pathology Department of KBC Split on 9 November 1994, with laissez-passers;
- T-80** - Report of fact of death issued by Konjic Registry Office no. 2656/94 of 9 November 1994, for Pero Krešo; photocopy of section record no. 395/94; photocopy of a burial permit for Pero Krešo issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-81** - Report of fact of death issued by Konjic Registry Office no. 2652/94 of 9 November 1994, for Stipo Mandić; photocopy of section record no. 379/94; photocopy of a burial permit for Stipo Mandić by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-82** - Report of fact of death issued by Konjic Registry Office no. 2654/94 of 9 November 1994, for Milenko Mandić; photocopy of section record no. 386/94; photocopy of a burial permit for Milenko Mandić, issued by Split Clinical Hospital dated 9 November 1994, with laissez-passers;
- T-83** - Report of fact of death issued by Konjic Registry Office no. 2663/94 of 9 November 1994, for Ante Drljo; photocopy of section record no. 383/94; photocopy of a burial permit for Ante Drljo, issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-84** - Report of fact of death issued by Konjic Registry Office no. 2653/94 of 9 November 1994, for Ivan Drljo; photocopy of section record no. 384/94; photocopy of a burial permit for Ivan Drljo, issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-85** - Report of fact of death issued by Konjic Registry Office no. 2665/94 of 9 November 1994, for Ivan Drljo (born in 1971); photocopy of section record no. 329/94; photocopy of a burial permit for Ivan Drljo (born in 1971); issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-86** - Report of fact of death issued by Konjic Registry Office no. 2660/94 of 9 November 1994, for Željko Blažević; photocopy of section record no. 393/94; photocopy of a burial permit for Željko Blažević issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-87** - Report of fact of death issued by Konjic Registry Office no. 2668/94 of 9 November 1994, for Nedeljko Krešo; photocopy of section record no. 396/94; photocopy of a burial permit for Nedeljko Krešo issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-88** - Report of fact of death issued by Konjic Registry Office no. 2659/94 of 9 November 1994, for Juro Anđelić; photocopy of section record no. 382/94; photocopy of a burial permit for Juro Anđelić issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-89** - Report of fact of death issued by Konjic Registry Office no. 2669/94 of 9 November 1994, for Velimir Krešo; photocopy of section record no. 381/94; photocopy of a burial permit for Velimir Krešo issued by Split Clinical Hospital on 9 November 1994, with laissez-passers;
- T-90** - Report of fact of death issued by Konjic Registry Office no. 2664/94 of 9 November 1994, for Zdravko (Ivan) Drljo; photocopy of section record no. 387/94; photocopy of a

burial permit for Zdravko (Ivan) Drljo issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-91 - Report of fact of death issued by Konjic Registry Office no. 2662/94 of 9 November 1994, for Ivica Krešo; photocopy of section record no. 380/94; photocopy of a burial permit for Ivica Krešo issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-92 - Report of fact of death issued by Konjic Registry Office no. 2261/94 of 9 November 1994, for Andrija Drljo; photocopy of section record no. 390/94; photocopy of a burial permit for Andrija Drljo issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-93 - Report of fact of death issued by Konjic Registry Office no. 2267/94 of 9 November 1994, for Tomo Drljo; photocopy of section record no. 391/94; photocopy of a burial permit issued by "Firule" Clinical Hospital Split on 9 November 1994, with laissez-passer;

T-94 - Report of fact of death issued by Konjic Registry Office no. 2651/94 of 9 November 1994, for Kata Drljo; photocopy of section record no. 378/94; photocopy of a burial permit for Kata Drljo issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-95 - Report of fact of death issued by Konjic Registry Office no. 2666/94 of 9 November 1994, for Franjo Drljo; photocopy of section record no. 394/94; photocopy of a burial permit for Franjo Drljo issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-96 - Report of fact of death issued by Konjic Registry Office no. 2671/94 of 9 November 1994, for Stipo Ljubić; photocopy of section record no. 389/94; photocopy of a burial permit for Stipo Ljubić issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-97 Report of fact of death issued by Konjic Registry Office no. 2670/94 of 9 November 1994, for Kata Drljo (born in 1932); photocopy of section record no. 385/94; photocopy of a burial permit for Kata Drljo (born in 1932) issued by Split Clinical Hospital on 9 November 1994, with laissez-passer;

T-98 Report of fact of death issued by Konjic Registry Office no. 2658/94 of 9 November 1994, for Branko Mlikota; photocopy of section record no. 388/94; photocopy of a burial permit for Branko Mlikota issued by "Firule" Clinical Hospital Split on 9 November 1994, with laissez-passer;

T-99 – Death Certificate HNK /Herzegovina-Neretva Canton/ - Konjic Municipality for Zdravko Drljo, no. 09-15-3-4307/08 of 26 December 2008; Notarized photocopy of decision declaring Zdravko Drljo dead issued by Konjic Municipal Court no. R 171/05 od 22 December 2005;

T-100 - Death Certificate HNK – Konjic Municipality for Krešo Pero, no. 09-15-3-4311/08 of 26 December 2008; Notarized photocopy of decision declaring Pero Krešo dead issued by Konjic Municipal Court no. R 545/99 dated 26 January 2000;

T-101 - Death Certificate HNK – Konjic Municipality for Nedeljko Krešo, no. 09-15-3-4316/08 of 26 December 2008; Notarized photocopy of decision declaring Nedeljko Krešo dead issued by Konjic Municipal Court no. R 68/00 of 17 April 2000;

T-102 - Death Certificate HNK – Konjic Municipality for Ivan Drljo, no. 09-15-3-4312/08 of 26 Municipality 2008; Notarized photocopy of decision declaring Ivan Drljo dead issued by Konjic Municipal Court no. R 530/99 of 10 January 2000;

T-103 - Death Certificate HNK – Konjic Municipality for Željko Blažević, no. 09-15-3-4313/08 of 26 Municipality 2008; Notarized photocopy of decision declaring Željko Blažević dead issued by Konjic Municipal Court no. R 8/2000 of 23 February 2000;

T-104 - Death Certificate HNK – Konjic Municipality for Smiljko Krešo, no. 09-15-3-4309/08 of 26 Municipality 2008; Notarized photocopy of decision declaring Smiljka Krešo dead issued by Konjic Municipal Court no. R 544/99 of 26 January 2000;

T-105 - Death Certificate HNK – Konjic Municipality for Andrija Drljo, no. 09-15-3-4314/08 of 26 December 2008; Notarized photocopy of decision declaring Andrija Drljo dead issued by Konjic Municipal Court no. R 531/99 of 10 January 2000;

T-106 - Death Certificate HNK – Konjic Municipality for Branko Mlikota, no. 09-15-3-4290/08 of 25 December 2008; Notarized photocopy of decision declaring Branko Mlikota dead issued by Konjic Municipal Court no. 07 56 V 009072 06 V of 7 December 2006;

T-107 - Death Certificate HNK – Konjic Municipality for Franjo Drljo, no. 09-15-3-4310/08 of 26 December 2008; Notarized photocopy of decision declaring Franjo Drljo dead issued by Konjic Municipal Court no. R 529/99 of 10 January 2000;

T-108 - Death Certificate HNK – Konjic Municipality for Tomo Drljo, no. 09-15-3-4289/08 of 25 December 2008; Notarized photocopy of decision declaring Tomo Drljo dead issued by Konjic Municipal Court no. R 30/00 of 4 April 2000;

T-109 - Death Certificate HNK – Konjic Municipality for Ivan Drljo, no. 09-15-3-4295/08 of 26 December 2008; Notarized photocopy of decision declaring Ivan Drljo dead issued by Konjic Municipal Court no. R 170/05 of 22 December 2005;

T-110 - Death Certificate HNK – Konjic Municipality for Anđa Ivanković, no. 09-15-3-4318/08 of 26 December 2008; Notarized photocopy of decision declaring Anđa Ivanković dead issued by Konjic Municipal Court no. R 140/02 of 27 April 2004;

T-111 - Death Certificate HNK – Konjic Municipality for Ilija Ivanković, no. 09-15-3-4317/08 of 26 December 2008; Notarized photocopy of decision declaring Ilija Ivanković dead issued by Konjic Municipal Court no. R 139/02 of 27 April 2004;

T-112 - Death Certificate HNK – Konjic Municipality for Ivan Krešo, no. 09-15-3-4308/08 of 26 December 2008; Notarized photocopy of decision declaring Ivan Krešo dead issued by Konjic Municipal Court no. R 533/99 of 14 January 2000;

T-113 - Death Certificate HNK – Konjic Municipality for Juro Anđelić, no. 09-15-3-4287/08 of 25 December 2008; Notarized photocopy of decision declaring Juro Anđelić dead issued by Konjic Municipal Court no. R 363/98 of 1 October 1998;

T-114 - Letter from HNK, Prozor-Rama Municipality, Gračac Registry Office no. 37/99 of 17 February 2009 with the original death certificate HNK – Rama Prozor Municipality for Stipo Mandić, no. 8/09 of 12 February 2009 and original death certificate HNK – Prozor Rama Municipality for Milenko Mandić, no. 9/09 of 12 February 2009;

T-115 - Letter from the Service for Administration, Public Services and Inspection Affairs of Konjic Municipality no. 09-15-3-4286/08 of 26 December 2008; Original birth certificate HNK –Konjic Municipality for Kata Drljo no. 09-15-1-4319/08 of 26 December 2008; Original birth certificate HNK – Konjic Municipality for Krešo Velimir no. 09-15-1-4291/08 of 25 December 2008; Original birth certificate HNK – Konjic Municipality for Anto Drljo no. 09-15-1-4292/08 of 25 December 2008; Original birth certificate HNK – Konjic Municipality for Kata Drljo no. 09-15-1-4293/08 of 25 December 2008; Original marriage certificate HNK – Konjic Municipality for Stipe Ljubić and Jela Bekavac no. 09-15-1-4291/08 of 25 December 2008;

T-116 - Letter from Široki Brijeg Municipality - Biogradi Local Office no. 200-1/21 of 8 January 2009; Original death certificate HNK- Široki Brijeg Municipality for Stipe Ljubić no. 202-1/21 of 8 January 2009; report for entry in the Register of Deaths of Stipe Ljubić, Široki Brijeg Municipality, no. 02 of 7 February 1995;

T-117 - Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 01/2-41-32/09 of 12 November 2009 delivering authenticated photocopies of military documents for Mensur Memić, Dževad Salčin, Nedžad Hodžić and Senad Hakalović;

- T-118** - Order by the Special-Purpose Detachment Commander no. 1-10-878/94 dated 16 April 1994;
- T-119** - Information on the anniversary of establishment of the unit, no. 04-10-2303/94 of 19 August 1994;
- T-120** - Order 86-1 dated 22 January 1993 with supplement to order ŠVK OS no. 86-1, Head of the OS Department for Organization, no. 86-2 of 5 February 1993, ERN 01850039-01850041;
- T-121** - Order by the Chief of ŠVK OS RBiH /Supreme Command Staff of the Armed Forces of the Republic of Bosnia and Herzegovina/ no. 13/37-39 dated 4 March 1993, ERN No.: 01805165;
- T-122** - Letter from the Chief of ŠVK OS RBiH no. 02/280-1 dated 18 February 1993, informing the Special-Purpose Detachment Commander Zulfikar Ališpago about the order given to OS Jablanica and Konjic to issue matériel to his Detachment, and a letter to Neretvica Brigade Commander no. 02/280-1 of 18 February 1993 on release of captured vehicles and drivers, ERN No.: 01858638 – 01858639;
- T-123** - Order by the Chief of ŠVK OS RBiH no. 14/75-22 dated 11 March 1993 for transfer of 100 military conscripts from the 9th Motorized Brigade to the Special-Purpose Detachment attached to the ŠVK OS RBiH, ERN No.: 01850108;
- T-124** - Proposal by the Special-Purpose Detachment Commander no. 1-10-901/94 of 11 April 1994 on awarding incentives;
- T-125** - Letter from the 4th Corps Command no. 02/1-966-122/93 of 13 April 1993;
- T-126** - VOB 8 book 02 VJ /military unit/ 5683- 4th IDB / Reconnaissance and Sabotage Battalion/ to the names Zulfikar Ališpago, Nihad Bojadžić and Samir Šemsović;
- T-127** - Vob-8 book 03 VJ 5683- 4th IDB to the name of Ahmet Kokić;
- T-128** - Transcript of an interview between Zuka and MG /*abbreviation unknown*/ received at the Main Staff of OS RBiH no. 03/30-40 of 25 February 1993;
- T-129** - Report on visits to units of ŠVH OS RBiH no. 014/7-27-1 dated 6 November 1993, informing the Chief of Security Administration about the status of combat readiness of units and commands in the area of responsibility of the 6th Corps;
- T-130** - Report by the Commander of the Special-Purpose Detachment I OG Sjever 2 Zulfikar Ališpago–Zuka no. 1-10-182/93 dated 17 November 1993 sent to the ŠVK Sarajevo;
- T-131** - Report by the Military Security Sector of the 6th Corps Command no. 8-21-127/93 dated 19 November 1993;
- T-132** - Letter from the Military Security Sector of the 6th Corps Command no. 08-22-99/93 of 17 September 1993;
- T-133** - Report on unlawful conduct of a group of members of Special unit „Zuka“ located on the Igman, composed by the Hadžići Public Security Station, no. 17-8/01-36/93 of 15 February 1993;
- T-134** - Basic information on unlawful actions of Zulfikar Ališpago – Zuka composed by the Security Administration of the RBiH Ministry of Defense no. 01.3-I/2-559 of 29 August 1994 for Mr. Alija Izetbegović, President of the Presidency of RBiH;
- T-135** - Official notes by the Department for KO /Command and Operations/ Sarajevo, Security Administration, of 27 December 1993, about a conversation between Vahid Bogunić and Zuka;
- T-136** - Letter from the Security Sector of the 4th Corps Command no. 07-2260-67/93 of 17 April 1993, informing the Security Administration of ŠVK OS RBiH and the security

organ of the 1st Corps of the ARBiH that a woman was wounded during “rowdy behavior” of Zuka’s units in Jablanica on 12 April 1993;

T-137 - Report by the Command of the 4th Corps BVP /Military Police Battalion/ dated 12 April 1993, informing, among others, the 4th Corps Security Sector about a harassment of citizens and a public disturbance in Jablanica caused by members of the special unit “of Zuka from the Igman”;

T-138 - Order by the 4th Corps Commander no. 01-3063/93 dated 14 April 1993, showing an escalation of HVO forces in the area of responsibility of the 4th Corps wanting to block ABiH units and keep in encirclement the towns of Mostar, Jablanica and Konjic;

T-139 - Personal unit file of Nihad Bojadžić;

T-140 - Order by the Chief of ŠVK OS RBiH no. 05/7-39 (1.K) dated 22 January 1993;

T-141 - List of people taken out of “Silos” – Tarčin prison to Butmir and handed over to Butmir V.P. /Military Police/ u 4. MT.BR no. 23-1/93 dated 2 February 1993, composed by Zulfikar Ališpago, Commander of “Zulfikar” Special-Purpose Detachment;

T-142 - List of people who were in prison and are now transferred to Goražde Operations Group no. 28-1/93 dated 3 February 1993, composed by Zulfikar Ališpago, Commander of “Zulfikar” Special-Purpose Detachment;

T-143 - List of people who were in prison and who now remain in “Zulfikar” unit no. 29-1/93 dated 3 February 1993, composed by Zulfikar Ališpago, Commander of “Zulfikar” Special-Purpose Detachment;

T-144 - Combat Report dated 17 April 1993 composed by PNS /Assistant Chief of Staff/ for INP of the 4th Corps;

T-145 - Response by the Deputy Commander of the Special-Purpose Detachment of the ŠVK no. 1-10-321/94 of 10 January 1994 to Mr. Robert Monion, Head of the ICRC Mission, regarding information on four prisoners of Serbian ethnicity;

T-146 - Report by the Commander of SO PN ŠVK OG Sjever 2 Zulfikar Ališpago – Zuka no. 1-10-117/93 dated 31 October 1993;

T-147 - Establishment and Wartime Record of the “Zulfikar” Special-Purpose Detachment attached to the Supreme Command Staff no. 1-10-212/93 of 4 December 1993;

T-148 - Order by Sefer Halilović, Chief of ŠVK OS RBiH, no. 02/397-1 dated 15 March 1993;

T-149 - Order by the 1st Corps Commander no. 05/7-42 dated 23 January 1993;

T-150 - List with codes of terms, participants and locations, Special unit SOPN ŠVK OS RBiH, with Nihad Bojadžić having the code name BLACK;

T-151 - Report on the course of combat operations in the territory of RBiH for 20 April 1993, ŠVK OS RBiH no. 02/1-111 of 21 April 1993;

T-152 - Order on application of rules of law of war in the armed forces of the Republic of Bosnia and Herzegovina no. 1291/92 od 23.08.1992 issued by Alija Izetbegović, president of the Presidency of RBiH, ERN 00498463;

T-153 - Order by the Igman OG Commander no. 99/1/93 dated 24 January 1993, 018338801 – 01833802;

T-154 - Letter from the Department for Organization of OS ŠVK OS RBiH no. 14/197-1 of 25 March 1993, informing the OP Group Command about the use of seal and stamp, ERN 01850140;

T-155 - Special information by the Security Administration of ŠVK RBiH numbers: 1, 87, 91 and 98 of 14 March 1993, 8 June 1993, 9 June 1993 and 14 June 1993, ERN 0496-5082 – 0496-5574;

T-156 - Record of Interview of Witness Nihad Bojadžić dated 9 September 2004 International Criminal Tribunal for the former Yugoslavia (English version), ERN 0361-4175 – 0361-4180;

T-157 - Certified translation of the document no. T-156 (B/C/S version);

T-158 - Letter-physical security for the transfer dated 1 February 1993, composed by Chief of ŠVK OS R BiH Sefer Halilović, ERN 0057-7860;

T-159 - Order by Sefer Halilović, Chief of ŠVK OS R BiH, no. 14/75-36 dated 1 April 1993, ERN 00577861;

T-160 - Authorization by the Chief of ŠVK OS R BiH Sefer Halilović no. 001/167-148 of 18 April 1993, ERN 01858881;

T-161 - Letter from Salko Gušić, Commander of OG- Bradina IKM no. 01/37 dated 30 April 1993, ERN 00577868;

T-162 - Authenticated copy of Regular Report by the Igman Command no. cv-020-08/93 of 6 August 1993, Vahid Karavelić, ERN 0183-3014 – 0183-3015;

T-163 - Bulletin of the Security Administration of ŠVK R BiH no. 33 og 15 April 1993, ERN 0403-6429 – 0403-6433;

T-164 - Extracts from the minutes of the meeting of the Wartime Presidency of Jablanica Municipality held on 13 May 1993, ERN 0363-2706 – 0363-2708;

T-165 - Letter on refusal to carry out an order without an explanation no. 02-4/8 of 10 March 1993 composed by the Igman OG Command, signed by Chief of Staff Sabro Hasković, ERN 0183-3085;

T-166 - Observation on the situation on the Igman and the free territory, stating, among other things, that Zuka's deputy Nihad Bojadžić physically strong, seemingly stupid, but cunning and shrewd and often reacts noisily and impetuously and does not hesitate to use a weapon ERN 0200-0083 – 0200-0088;

T-167 - Authenticated photocopy of a document entitled 'Zelena fascikla' /green folder/, ERN 0363-2812 – 0363-2841;

T-168 - Proposal of a combat order by the Igman OG Commander for combat operations no. 01-1/13 of 4 April 1993, ERN 01833119 – 01833121;

T-169 - List of soldiers of the Special-Purpose Detachment of ŠVK, ERN 02098414-02098424;

T-170 - Document with ERN numbers 04696990 – 04697003; part of it is Report by the Deputy Commander of SOPN ŠVK "Zulfikar" Nihad Bojadžić no. CV-255-07/93 dated 12 July 1993 ERN 0469-6996;

T-171 - Letter from the R BiH Ministry of Foreign Affairs no. 01-509/93 of 19 April 1993, ERN 0185-8152;

T-172 - State Investigation and Protection Agency Official Note no. 17-04/2-04-2-1140/09 of 23 September 2009, with an authenticated photocopy of Letter from the Hadžići Health Center no. 07-1-330-1/09 dated 27 July 2009 (delivering medical documents for Ahmet Kokić, with a 4-page attachment) and Letter from the Hadžići Health Center no. 07-1-331-1/09 dated 7 September 2009 (delivering medical documents for Samir Šemsović, with a 4-page attachment);

T-173 - Record of opening of temporarily seized objects and documents, seized pursuant to Order of the Court of BiH no. X-KRN-09/786 dated 27 January 2010;

T-174 - Letter from the F BiH Ministry of Defense-Mostar Secretariat of Defense no.13/10-02/7-O/96 of 5 November 1996, confirming that military conscript Mensur Memić was no longer registered with the Mostar Secretariat of Defense;

T-175 - Original certificate of the 4th Corps – the 4th IDB /Reconnaissance-Sabotage Battalion/ “Zulfikar” no. 05/4-10-2332-1/95 of 9 December 1995 on the wounding of Mensur Memić in the village of Vrci on 13 May 1993;

T-176 - Original notification by the 4th Corps, VJ /military unit/ 5683 no. 04-10-2284/95 of 2 December 1995, that Mensur Memić was a member of VJ 5683 unit from 7 April 1993 until 30 October 1995 at which he was transferred to the 5th Corps in Bihać;

T-177 - Statement of injury sustained by Mensur Memić, the 4th Corps - VJ 5683 no. 05/4-10-2325/95 of 8 December 1995, stating that Mensur Memić, a platoon leader at the 4th IDB “Zulfikar” was wounded on 13 May 1993 in the village of Vrci, Konjic municipality;

T-178 - Official Appraisal of Mensur Memić by the 4th Corps, VJ 5683 no. 05-10-80/95 of 21 December 1995, containing an opinion about Mensur Memić’s participation in the war;

T-179 - Certificate issued by the 1st Corps – KZR /*abbreviation unknown*/ of the 40th Division no. 27-03/8-19/99 of 4 February 1999, confirming that Mensur Memić was a member of VJ 5683 (the 4th IDB) from 7 April 1993 until 20 November 1995;

T-180 - Original order no. 8-1/1-57 by the Commander of the Main Staff of the Army of RBiH dated 30 October 1995, transferring Mensur Memić from the 4th IDB to the 5th Corps;

T-181 - Certificate of salaries disbursed to Dževad Salčin, a member of OS RBiH, no. 592074504059, stating that the said individual was in the armed forces from 15 April 1992 until 22 April 1996; authenticity and lawfulness: original document;

T-182 - Decision on Demobilization, the 4th Corps, VJ 5683 no. 04-10-349-3/96 of 26 April 1996, stating that Dževad Salčin was discharged from the VJ 5683 on 4 May 1996;

T-183 - Certificate issued by the Mostar Defense Administration, no. 22.10/02-03-22-854-1-RVIS-113/04 of 29 December 2004, confirming that Dževad Salčin performed military duties at the VJ 5683;

T-184 - Certificate issued by the 4th Corps, VJ 5683, no. 05/4-10-1152/97 of 15 September 1997, confirming that Dževad Salčin was wounded on 13 September 1994 in the area of Vrbač, Konjic;

T-185 - Certificate issued by the 4th Corps, VJ 5683, no. 04-10-377-1/96 of 28 March 1996, confirming that Dževad Salčin was a member of VJ 5683 of the 4th Corps starting from 18 July 1992;

T-186 - Original certificate issued by the 4th Corps Special-Purpose Detachment no. 1-10-793/94 of 1 April 1994, confirming that Dževad was a member of the special-purpose detachment starting from 18 July 1992;

T-187 - Request for conferring a rank within the unit by soldier Dževad Salčin; Salčin confirms in this request to have participated in the operation in Trusina;

T-188 - Original military card issued to Dževad Salčin no. 3964318 of 21 September 1994;

T-189 - Order by the Special-Purpose Detachment Commander no. 1-10-1201/94 dated 23 May 1994;

T-190 - Personnel files of “Neretvica” Brigade no. 03-872-3/93 of 6 March 1993, indicating that Senad Hakalović was a member of this brigade (see ERN No. 0156-3888) ERN No.: 01563864 – 01563906;

T-191 - Record of Questioning of the Suspect Mensur Memić no. KT-RZ-107/05 dated 16 September 2009;

T-192 - Record of Questioning of the Suspect Mensur Memić, no. KT-RZ-107/05 dated 16 September 2009;

T-193 - Record of Questioning of the Suspect Senad Hakalović, no. KT-RZ-107/05 dated 16 September 2009;

T-194 - Record of Questioning of the Suspect Senad Hakalović, no. KT-RZ-107/05 dated 16 September 2009;

T-195 - Record of Questioning of the Suspect Dževad Salčin, no. KT-RZ-107/05 dated 16 September 2009;

T-196 - Record of Questioning of the Suspect Dževad Salčin, no. KT-RZ-107/05 dated 16 September 2009;

T-197 - Record of Questioning of the Suspect Dževad Salčin, no. KT-RZ-107/05 dated 22 September 2009;

T-198 - Record of Questioning of the Suspect Mensur Memić, no. KT-RZ-107/05 dated 20 October 2009;

T-199 - Record of Questioning of the Suspect Senad Hakalović, no. KT-RZ-107/05 dated 20 October 2009;

T-200 - Record of Questioning of the Suspect Dževad Salčin, no. KT-RZ-107/05 dated 20 October 2009;

T-201 - Record of Questioning of the Suspect Dževad Salčin, no. KT-RZ-107/05 dated 9 December 2009;

T-202 - Appointment – SOPN ŠVK no. 1-10/110-93 of 29 October 1993;

T-203 - Cover letter by the State Investigation and Protection Agency no. 17-04/2-04-2-337-168/07 dated 18 January 2010 accompanying letter from the MUP RS /Ministry of the Interior of the Republika Srpska/ no. 02/7-10978/09 dated 13 October 2009 and letter from the Federation of BiH Police Administration no. 14/2-2-21 dated 7 December 2009;

T-204 - Letter from the Ministry of Justice of BiH no. 07-14-5-11196/09 dated 22 December 2009, accompanying letter from the MUP of the Republic of Serbia no. 235-14360/09 dated 1 December 2009;

T-205 - Record of Questioning of the Suspect Nedžad Hodžić no. KT-RZ 107/05 dated 16 September 2009;

T-206 - Record of Questioning of the Suspect Nedžad Hodžić no. KT-RZ 107/05 dated 16 September 2009;

T-207 - Record of Questioning of the Suspect Nedžad Hodžić no. KT-RZ 107/05 dated 16 October 2009;

T-208 - Decision on Advancement within the Army of the Republic of Bosnia and Herzegovina no. 02-111-542/94 adopted by the Presidency of RBiH on 5 August 1994, ERN 01836927 – 01836932;

T-209 - Letter from the Igman OG Commander Salko Gušić, dated 26 April 1993, ERN 00577864;

T-210 - Letter from the Igman OG Commander Salko Gušić, dated 26 April 1993, ERN 00577865;

T-211 - Letter from the Igman OG Commander Salko Gušić, no. 578-4/93 dated 27 April 1993, ERN 00577866;

T-212 - Letter from the Igman OG Commander Salko Gušić, no. CV-638-4/93 dated 30 April 1993, ERN 00577867;

T-213 - Record of Questioning of the Suspect Nihad Bojadžić, Prosecutor's Office of BiH, no. KT-RZ 107/05 dated 4 November 2009;

T-214 - Decision by Jusuf Jašarević, Chief of the Security Administration Sarajevo, no. 209/93 dated 2 November 1993, ordering Nihad Bojadžić into detention for a period of three days for the criminal offense of Undermining the Military and Defensive Power in violation of Article 121(2) of the CC of SFRY;

T-215 - Permanent unlimited pass for Nihad Bojadžić to enter and leave Sarajevo undisturbed no. 001/167-29 of 15 March 1993, issued by the Chief of ŠVK OS RBiH Sefer Halilović;

T-216 - Decision by Jusuf Jašarević, Chief of the ŠVK Security Administration, no. 209-1/93 dated 4 November 1993 terminating the detention of Nihad Bojadžić on grounds for suspicion that he committed the criminal offense of Undermining the Military and Defensive Power as the grounds for detention no longer exist;

T-217 - Part of the wartime logbook of SOPN ŠVK Zulfikar od 2 April 1993 do 25 April 1993;

T-218 - Order by the Chief of ŠVK OS RBiH Sefer Halilović no. 02/311-1 dated 24 February 1993;

T-219 - Decision by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10-232/93 dated 10 December 1993;

T-220 - Press release by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10-139/93 of 4 November 1993;

T-221 - Report on reconnaissance of Bake- SOPN ŠVK dated 19 October 1993;

T-222 - Response by the Deputy Commander of SOPN ŠVK no. 1-10-322/93 of 10 January 1994;

T-223 - Order by the Commander of SOPN ŠVK no. 1-10-172/93 dated 12 November 1993;

T-224 - Order by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10-141/93 dated 4 November 1993;

T-225 - Order by the SOPN ŠVK Commander dated 21 October 1993;

T-226 - Order by the SOPN ŠVK Commander dated 21 October 1993;

T-227 - Order by the SOPN ŠVK Commander dated 28 January 1993;

T-228 - Order by the SOPN ŠVK Commander no. 1-10/63 dated 24 October 1993;

T-229 - Order by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10-149/93 dated 5 November 1993;

T-230 - Order by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10/96-93 dated 27 October 1993;

T-231 - Order by the Commander of SOPN ŠVK and OG Sjever 2 no. 1-10/109-93 dated 29 October 1993;

T-232 - Contents of a paper bag confiscated pursuant to Order of the Court of BiH no. X-KRN-09/786 of 27 January 2010, a total of 19 CDs and 1 floppy disk, integral wartime logbook;

T-233 - Supplement to Combat Report by the 1st Corps Command to the Supreme Command Staff of OS RBiH, no. 05/6-215 of 17 April 1993;

T-234 - Regular Combat Report, RBiH-Army of RBiH-4th Corps Command, no. 02/1-3200-17/93 dated 20 April 1993;

T-235 - Letter from the ŠVK Communications Center-Department for Cryptographic Data Protection Sarajevo dated 15 April 1993;

T-236 - Official Note, Armed Forces of RBiH-9th Mountain Brigade Command, Security Organ, no. s-03-205/93 of 23 March 1993;

T-237 - Report, Army of RBiH-4th Corps Command no. 01-3239/93 dated 18 April 1993;

T-238 - Order by the Commander of the Army of RBiH, the 4th Corps Command, no. 01-3092/93 dated 16 April 1993;

T-239 - Assessment of military-security situation in the territory of Jablanica-Konjic-Prozor in the context of relations between ARBiH and the HVO, RBiH, ARBiH-Security Organ, Ministry of the Interior, RO /war department/ of SDB /State Security Service/ Jablanica od 7 May 1993;

T-240 - Report by the ARBiH-4th Corps Command to the 4th Corps Security Sector dated 16 April 1993;

T-241 - Tasks of the Supreme Command Staff of OS RBiH by the Security Administration, no. 03/30-87 of 14 April 1993;

T-242 - Order by the ARBiH-4th Corps Command no. 01/34 dated 29 April 1993;

T-243 - Meeting between the 1st Corps Commander and the brigade commanders, an extract from the conversations, OS RBiH, 1st Corps-Sarajevo, Security Sector Sarajevo, no. 04/651-1 of 7 April 1993;

T-244 - Report on some security-related developments and conditions in the Igman Operations Group area of responsibility, Armed Forces of RBiH-1st Corps-Security Sector, dated 21 February 1993;

T-245 - Situation and some military organization problems in the IGMAN OG area of responsibility, OS BiH-1st Corps-Sarajevo, Security Sector Sarajevo, no. 04/393-1 of 20 February 1993;

T-246 - Daily report about the security situation in the 1st Corps area of responsibility for 24 April 1993, OS BiH, 1st Corps-Sarajevo, Security Sector Sarajevo, no. 04/740-1 dated 24 April 1993;

T-247 - Daily report about the security situation in the 1st Corps area of responsibility for 18 April 1993, OS BiH, 1st Corps-Sarajevo, Security Sector Sarajevo, no- 04/709-1 dated 18 April 1993;

T-248 - Daily report about the security situation in the 1st Corps area of responsibility for 17 April 1993, OS BiH, 11st Corps-Sarajevo, Security Sector Sarajevo, no. 04/701-1 dated 17 April 1993;

T-249 - Daily report about the security situation in the 1st Corps area of responsibility for 16 April 1993, OS BiH, 1st Corps-Sarajevo, Security Sector Sarajevo, no. 04/694-1 dated 16 April 1993;

T-250 - A handwritten letter, OS RBiH, Military Security Service to the Security Administration, no. 08-21-9/93 of 21 March 1993;

T-251 - Report no. 5-03-250/93 of 29 March 1993 written by Nihad Šehić, Assistant Commander for Security at the 9th Mountain Brigade;

T-252 - Arrest Report – 1st Corps Security Sector no. 04/546-1 dated 21 March 1993;

T-253 - Letter from the Igman OG Chief of Security no. 08-21-2/93 of 2 March 1993 sent to the ŠVK Security Administration and the 1st Corps Security Sector;

T-254 - Official Note by the Security Administration of 13 May 1993 logged at the Main Staff of Armed Forces Security Administration; the tile reads '1xNSVB 1.Korpusa Analitika – u bilten' /1st Corps analysis – for the bulletin/;

T-255 - Letter from PKB /Assistant Commander for Security/ of IGMAN OG no. 08-21-19/93 of 26 April 1993;

T-256 - A handwritten letter from the IGMAN OG Military Security Service no. 08-22-16/93 dated 18 March 1993;

T-257 - Military organization problems and security-related conditions at the IGMAN OG - IGMAN OG Military Security Service no. 08-21-5/93 of 9 March 1993;

T-258 - The relations between Sefer Halilović and Mustafa Hajrulahović Talijan- 1st Corps Security Sector no. 04/468-1 of 8 March 1993;

T-259 – Report on the work of special military tribunals-“Igman” Command no. 10/45-1 dated 24 July 1993;

T-260 - Position of the Head of Administration for Organizational and Mobilization Affairs no. 14/75-140 of 15 November 1993;

T-261 - Order by the Commander of OS RBiH no. 14-75/100 dated 1 September 1993;

T-262 - Order by the Commander of OS RBiH no. 14/75-63 dated 5 July 1993;

T-263 - Order by the Commander of OS RBiH no. 14/75-57 dated 19 June 1993;

T-264 - Order by the Commander of OS RBiH no. 14/75-52 dated 10 June 1993;

T-265 - Order by the Commander of Staff of OR BiH no. 14/75-51 dated 9 June 1993;

T-266 - Order by the Chief of ŠVK no. 14/75-40 dated 12 April 1993;

T-267 - Order by the 1st Corps Commander no. 01/157-1/2 dated 6 February 1993;

T-268 - Tasks signed by the Chief of Military Security Administration no. 03/35-62 of 14 April 1993;

T-269 - Decision on Advancement within the ARBiH no. 02-111-707/94 dated 5 October 1994, ERN 01811772- 01811781;

T-270 - Regular Combat Report by the Igman OG Commander no. 03-592/6 dated 17 April 1993, ERN 01832911;

T-271 - Order by the ŠVK Commander no. 02/732-1 dated 12.06.1993, sent to Igman OG Command, ERN 01805205;

T-272 - Letter sent by Zuka seeking assistance from Sefer Halilović no. CV-323-07/93 of 18 July 1993, ERN 01298635;

T-273 - Tasks of the Military Security Service with an instruction to document war crimes no. 03/21-23 of 13 March 1993, sent by the ŠVK Security Administration to the commands of the 2nd, 3rd, 4th and 5 corps;

T-274 - Letter from the HNK MUP Police Administration no. 02-02/13-07 dated 18 June 2007;

T-275 - Letter from the Prosecutor’s Office of BiH to Konjic Municipal Court KTA-RZ 107/05 dated 9 February 2010;

T-276 - Letter from Konjic Municipal Court no. 56-0-Su-010-0000220 dated 12 February 2010;

T-277 - Cover letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 01/02-41-24/10 of 16 March 2010, with attachments;

T-278 - Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 01/02-41-24/10 of 8 April 2010, with enclosed information;

T-279 - Military analysis by and a professional opinion of retired Brigadier-General Nehru Ganić dated June 2010;

T-280 - Order by the Prosecutor’s Office of BiH ordering expert Nehru Ganić to perform an expert analysis, no. KT-RZ 24/10 dated 14 May 2010;

T-281 - Letter from the 4th Corps Command no. 737-06 of 3 September 1993, ERN 01298657;

T-282 - Order by the Chief of GSS VK no. 01-563-1-3/93 dated 2 September 1993, ERN 01831483;

T-283 - Conclusions and tasks from a meeting of Main Staff officers and the corps commanders, held in Zenica on 21-22 August 1993 no. 31-2-03-302-7/6-42/99 of 29 August 1993, signed by the Commander of ŠVK OS RBiH, ERN 01831684-01831689;

T-284 - Order by the Chief of ŠVK OS R BiH no. 14/75-21 dated 10 March 1993, ERN 01850107;

T-285 - Order by the Chief of ŠVK OS R BiH dated 17 April 1993, ERN 01858750;

T-286 - Letter from the Commander of ŠVK OS R BiH delivering membership of and resubordination, no. 1-297-380 of 5 October 1993, ERN 01859452;

T-287 - HVO reports no. 01-2478/93 dated 22 April 1993, 21 April 1993 and 23 April 1993, strictly confidential, no. 03-370/93, ERN 02897561-02897565;

T-288 - Interim Report by the Commander of the 1st Corps- Igman OG no. 29-02/93 dated 10 March 1993, ERN 01833816-01833817;

T-289 - Report by the Head of the HR H-B Service for Exchange of Prisoners and Other Individuals no. 01-IP-105/94 dated 7 February 1994- ERN 04215739;

T-290 - Letter from the SIS of HR H-B Ministry of Defense delivering information on Zulfikar Ališpago, no. 02-08-1-8244/96 of 30 July 1996- ERN 01543204-01543205;

T-291 - Information Report by the "Herceg Stjepan" Brigade Konjic enclosed with a transcript of an intercepted conversation by Klis radio listening group, dated 29 May 1993, ERN 01506654-01506658;

T-292 - Collective Report by the HVO Main Staff for 12 March 1993, composed on 13 April 1993, ERN 01505230-01505235;

T-293 - Combat activities in Herzegovina, no. 04/1708-1 of 27 September 1993 composed by the 1st Corps Command Security Sector, sent to the Security Administration of ŠVK ERN 03642827-03642828;

T-294 - Order by the Chief of ŠVK OS R BiH no. 124-1 dated 7 February 1993- ERN 01858594;

T-295 - A handwritten document, ERN 00577845-00577846;

T-296 - Order by the Army of R BiH 4th Corps Commander no. 837-06 dated 7 September 1993;

T-297 - Warning by the Chief of ŠVK of 24 July 1993, ERN 01858829;

T-298 - Attack Order "Defense of people's rights –Vrdi 93" by the Commander of SOPN ŠVK issued on 17 September 1993, ERN 02098426;

T-299 - Tasks signed by the ŠVK OS Commander no. 1/297-629 of 13 December 1993, ERN 06012642-06012643;

T-300 - Order by the Army of R BiH 6th Corps Commander no. 01/2628-2 dated 20 September 1993- ERN 02196076;

T-301 - Order by the Commander of SOPN SVK and OG Sjever 2 dated 25 October 1993, ERN 01298675;

T-302 - Request by the Commander of the Special-Purpose Detachment of the Supreme Command Staff of 18 August 1993, ERN 04034881;

T-303 - Letter from the 4th Corps Commander, no. 838-06 dated 7 September 1993, ERN 01298325;

T-304 - Extract from the minutes of the meeting of Wartime Presidency of Jablanica Municipality held on 27 September 1993, ERN 03632702;

T-305 - Order by the Chief of Main Staff of Supreme Command of R BiH, no. 001/167-93 dated 26 March 1993- ERN 01858727;

T-306 - Special Report no. 153 of 12 August 1993, ERN 04036873-04036874;

T-307 - Complaint by the Deputy Commander of ŠVK OS R BiH Jovan Divjak regarding his involvement in the work of ŠVK OS R BiH of 28 August 1993, ERN 02000095-02000097;

- T-308** - Site report from the IV Motorized Brigade area of responsibility composed by Nermin Eminović, Security Organ of District Defense Staff Sarajevo, dated 11 February 1993, ERN 04035202-04035203;
- T-309** - Extract from the minutes of enlarged meeting of the Wartime Presidency of Jablanica Municipality held on 7 December 1993- ERN 03632616-03632622;
- T-310** - Bulletin no. 117 of 8 July 1993, Security Administration of ŠVK R BiH, ERN 04035576-04035582;
- T-311** - Report sent from IKM of ŠVK OR R BiH to the Military Security Service Administration of OS R BiH, dated 13 September 1993, ERN 02196120-02196121;
- T-312** - Report by the Chief of ŠVK OS Security Administration on the escape of 22 prisoners of war from Jablanica no. 03/39-56 dated 9 November 1993, with supporting documents: Report by the Military Security Sector of the 6th Corps Command no. 08-21-111/93 dated 3 November 1993, ŠVK OS Security Administration-shedding light on the escape of prisoners no. 03/39-55 of 2 November 1993, as well as two reports by the commander of SOPN ŠVK and OG Sjever 2 no. 1-10-117/93 dated 31 October 1993, ERN 06064428-06064434;
- T-313** - Decree Law on Special Military Tribunals, *Official Gazette of RBiH*, no. 12- pp 321-323, 13 August 1992;
- T-314** - Decree Law on Amendments to the Decree Law on the Armed Forces of RBiH, *Official Gazette of RBiH*, no. 27, 31 December 1993;
- T-315** - Decree Law on Amendments to the Decree Law on District Military Tribunals, *Official Gazette of RBiH*, no. 17, 5 August 1993;
- T-316** - Decree Law on Amendments to the Decree Law on the Armed Forces of R BiH, *Official Gazette of RBiH*, no. 12. p. 316, 13 August 1992;
- T-317** - Decree Law on Defense, *Official Gazette of RBiH*, no. 4, pp. 142-152, 20 May 1992;
- T-318** - Decision on Declaring Imminent Threat of War, *Official Gazette of RBiH*, no. 1, pp 1-2, 9 April 1992;
- T-319** - Code of Military Discipline, *Official Gazette of RBiH*, no. 12, pp. 329-335, 13 August 1992;
- T-320** - Rules of Service in the Army of R BiH, *Official Gazette of RBiH*, no. 11, pp. 289-294, 1 August 1992;
- T-321** - Decree Law on Amendments to the Decree Law on Service in the Army of RBiH, *Official Gazette of RBiH*, no. 16, 1 July 1994;
- T-322** - Decree Law on Amendments to the Decree Law on Service in the Army of RBiH, *Official Gazette of RBiH*, no. 8, 14 April 1993;
- T-323** - Decree Law Service in the Army of RBiH, *Official Gazette of RBiH*, no. 11, 1 August 1992, pp. 271-279;
- T-324** - Order on application of rules of law of war in the armed forces of RBiH, *Official Gazette of RBiH*, no. 15, 5 September 1992, p. 369;
- T-325** - Letter to Prosecutor Vesna Budimir by Dževad Salčin dated 22 March 2010;
- T-326** - Record of Questioning of the Suspect Zulfikar Ališpago, Prosecutor's Office of BiH, no. KT-RZ-107/05 dated 1 February 2010;
- T-327** - Record of Questioning of the Suspect Zulfikar Ališpago, Prosecutor's Office of BiH, no. KT-RZ-24/10 dated 2 June 2010, with a transcript and a CD;
- T-328** - Decree Law on adoption and application of Federal laws that are applied in BiH as Republic laws, *Official Gazette of RBiH*, no. 2, 11 April 1992, pp. 5-9;

T-329 - Decree on Promulgating the Law on the Foundations of the State Security System, *Official Gazette of SFRY*, no. 15, 30 March 1984;

T-330 - Decree Law on Amendments to the Law on Internal Affairs, *Official Gazette of RBiH*, no. 14, 18 August 1992, pp. 349-354;

T-331 - Decision on uniform principles for application of means and methods used by state security organs in the course of their work, dated 17 April 1985;

T-332 - Decision on application of proper means and methods of state security towards certain office holders in SR BiH dated 5 June 1990;

T-333 - Request for access to the Archive of the OSA /Intelligence-Security Agency/ BiH, no. KT-RZ 107/05 of 10 May 2010;

T-334 - Report by the OSA BiH no. 04/7-6369/10 dated 18 May 2010;

T-335 - Official Note by the AID /Agency for Investigation and Documentation/ BiH no. S-1/08-1236/02 of 13 February 2002;

T-336 - Cover letter and a Proposal by the CSB /Security Services Center/ – SDB Sector Sarajevo no. 837 of 18 March 1993;

T-337 - Proposal by the SDB Sector Sarajevo no. 5742 of 10 June 1993, ERN No. 01471835;

T-338 - Decision by the SDB Sarajevo no. 06-145 dated 10 June 1993, ERN No. 01471836;

T-339 - Report on indicative behavior of subject Hase – Sarajevo CSB – SDB Sector;

T-340 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 6472-378 of 2 March 1993 and audio recording of the intercepted conversation;

T-341 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 6552-485 of 19 March 1993 and audio recording intercepted conversation;

T-342 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 508-7635 of 23 March 1993 and audio recording of the intercepted conversation;

T-343 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 6472-526 of 25 March 1993 and audio recording of the intercepted conversation;

T-344 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 7125-531 of 26 March 1993 and audio recording of the intercepted conversation;

T-345 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 546-7322 of 29 March 1993 and audio recording of the intercepted conversation;

T-346 - MUP RBiH – SDB Sector Sarajevo – transcript an intercepted conversation no. 547tr-7630 of 29 March 1993 and audio recording of the intercepted conversation;

T-347 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 648-tr. 6434 of 14 April 1993 and audio recording of the intercepted conversation;

T-348 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 7298 of 16 April 1993 and audio recording of the intercepted conversation;

T-349 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 674 tr.7587 of 16 April 1993, ERN 01754414 – 01754423 and audio recording of the intercepted conversation;

T-350 - MUP RBiH – SDB Sector Sarajevo – transcript of an intercepted conversation no. 680-7427 of 16 April 1993 and audio recording of the intercepted conversation;

T-351 - MUP RBiH – Sektor SD SDB Sector B Sarajevo- transcript of an intercepted conversation no. 706-7692 of 18 April 1993 and audio recording of the intercepted conversation;

T-352 - MUP RBiH – SDB Sector Sarajevo- transcript of an intercepted conversation no. 7657- 707 of 18 April 1993, ERN 01755402- 01755410 and audio recording of the intercepted conversation;

T-353 - MUP RBiH - SDB Sector Sarajevo - transcript of an intercepted conversation no. 736-6957 of 26 April 1993, ERN 0175-5515 - 0175-5517 and audio recording of the intercepted conversation;

T-354 - Two CDs - audio recordings of intercepted conversations;

T-355 - Request, Republic of Bosnia and Herzegovina, Army of the Republic of BiH, IV Corps, Special-Purpose Detachment no. 1-10-1063/94, Jablanica, 9 May 1994;

T-356 - Letter of Commendation, Republic of Bosnia and Herzegovina, Army of the Republic of BiH, IV Corps, Special-Purpose Detachment no. 1-10-1005/94, Jablanica, 14 April 1994;

T-357 - Notification, no. 08-13/5-4924/13 of 18 April 2013;

T-358 - Record of Interview of Protected Witness “D”, Bosnia and Herzegovina, Ministry of Security, State Investigation and Protection Agency-Center for Investigation of War Crimes, no. 17-04/2-04-2-1234/08, dated 5 November 2008;

T-359 - Record of Interview of Witness Redo Poturović, Bosnia and Herzegovina, Ministry of Security, State Investigation and Protection Agency- Center for Investigation of War Crimes, no. 17-04/2-04-2-158/08, dated 13 November 2008;

T-360 - Statement by witness Edin (son of Smail) Čolak, Konjic, 31 October 2009;

T-361 - Report, Bosnia and Herzegovina, F BiH, Herzegovina-Neretva Canton, Ministry of the Interior, no.: Pov.02-02/4-2-14/13, 15 March 2013;

T-362 - Archival label for a book, log no. 21;

T-363 - Decision, Bosnia and Herzegovina, FBiH, Ministry of Defense, no. 04-34-4-1756/01, Sarajevo, 20 March 2001;

T-364 - Certificate of a commando training for visiting military personnel, Republic of Turkey, ground forces, Sarajevo, 20 June 2014;

T-365 - Receipt on temporary seizure of objects, original, SIPA, 26 August 2014, discharge summary, patient protocol, protocol for the wounded - Enes Čibo;

T-366 - “Suhodol” Wartime Hospital, Tarčin, 16 April 1993 - Nusret Dživer;

T-367 - Letter by Munir Alibabić addressed to Alija Izetbegović;

T-368 - Notarized letter from the Municipal Court of Konjic, no. 07 56 K 007274 06 K of 16 October 2012, enclosed with judgments and record of the Cantonal Court of Mostar;

T-369 - Authenticated letter by the Commander of the Army of R BiH 44th Mountain Brigade, attn. Salko Glušić;

T-370 - Operational records for witness Bedirhan Mešić, no. 02/3-3-04-8-2/4859 of 17 December 2014;

T-371 - Criminal record information for Bedirhan Mešić, CJB Istočno Sarajevo, no. 11-2/02-234-203/14 of 16 January 2015.

c) DATES OF TESTIMONY OF THE WITNESSES FOR THE ACCUSED

MENSUR MEMIĆ, DŽEVAD SALČIN, SENAD HAKALLOVIĆ AND NIHAD BOJADŽIĆ

No.	Witness	Date of testimony	Note
1	Milka Drljo	3 June 2011	Also examined as a Prosecution witness
2	Mensur Memić	18 March 2013 and 25 March 2013	The accused as witness
3	Munevera Mujala	8 April 2013	For the I – accused
4	Nedžada Lepara	8 April 2013 and 15 April 2013	For the I – accused
5	Dževad Salčin	15 April 2013 and 22 April 2013	The accused as witness
6	Almir Šahinović	6 May 2013	Expert in land surveying for the III – accused
7	Witness “D”	6 May 2013 and 20 May 2013	For the I, III, IV and V – accused
8	Redžo Poturović	27 May 2013	For the III and V – accused
9	Mustafa Hakalović	27 May 2013	For the III and V – accused
10	Edin Čolak	10 June 2013 and 1 July 2013	For the III – accused
11	Ismet Redžić	10 June 2013	For the III – accused
12	Mušan Padalović	1 July 2013	For the III – accused
13	Witness “K”	8 July 2013	For the III, IV and V – accused
14	Witness “O-III-2”	15 July 2013	For the III – accused
15	Witness “O-III-3”	15 July 2013	For the III – accused
16	Muharem Hakalović	26 August 2013	For the III and V – accused
17	Salko Moro	16 September 2013	For the III – accused
18	Witness “O-III-1”	23 September 2013	For the III – accused
19	Asim Džambasović	23 September 2013 14 October 2013 28 October 2013 and 11 November 2013	Military expert for the III – accused
20	Prof. Abdulah Kučukalić	2 December 2013	Expert in neuropsychiatry for the

			IV – accused
21	Senad Mikić	30 December 2013	For the V – accused
22	Remzija Šiljak	30 December 2013	For the V – accused
23	Edhem Godinjak	13 January 2014	For the V – accused
24	Ramiz Drekočić	20 January 2014	For the V – accused
25	Aida Volić, MD	27 January 2014	For the V – accused
26	Nusret Đelilović	27 January 2014	For the V – accused
27	E. J.	3 February 2014	For the V – accused
28	Reuf Hero	3 February 2014	For the V – accused
29	Avdulah Kajević	10 February 2014	For the V – accused
30	Nijaz Habibija	10 February 2014	For the V – accused
31	Aziz Mušanović	24 February 2014	For the V – accused
32	Ilijas Mustafić	24 February 2014	For the V – accused
33	Nihad Bojadžić	24 March 2014 7 April 2014 28 April 2014 5 May 2014 12 May 2014 26 May 2014 and 9 June 2014	The accused as witness
34	Fatima Kozić	9 May 2014	For the V – accused
35	Nusret Avdibegović	30 May 2014	For the V – accused
36	Sakib Alihodžić	30 May 2014	For the V – accused
37	Fadil Karić	30 May 2014	For the V – accused
38	Witness “V”	15 September 2014	For the V – accused
39	Elvedin Ibrahimović	15 September 2014	For the V – accused
40	Zijad Mušić	29 September 2014	For the V – accused
41	Hasan Hakalović	15 December 2014	For the V – accused
42	Mirsad Čaušević	15 December 2014	For the V – accused
Additional evidence of the Defense			
43	Berdihan Mešić	22 December 2014	For the I – accused
44	Witness “O-III-3”	12 January 2015	For the III – accused

d) DOCUMENTARY EVIDENCE OF THE ACCUSED DŽEVAD SALČIN

O-II-1 - Report on the alleged massacre in the village of Trusina composed by a Human Rights Committee Zagreb, ERN 00395145 od 24 May 1993 (certified translation into Bosnian and a copy in English);

e) DOCUMENTARY EVIDENCE OF THE ACCUSED SENAD HAKALOVIĆ

- O-III-1** - Report by expert Almir Šahinović dated 29 March 2013;
- O-III-1A** - Decision by the Mayor of Konjic Municipality no. 10-36-1-758/2007 dated 24 May 2007;
- O-III-1B** – Map of Trusina and the hamlets, scale 1:2500;
- O-III-1C** – Map of Trusina in a reduced scale, used by the expert at the trial hearing on 6 May 2013;
- O-III-2** - Letter from the Prosecutor's Office of BiH no. T20 0 KTRZ 0005047 05 dated 23 April 2013 confirming that the original Record of Interview of Witness "D" is on the premises of the Prosecutor's Office of BiH, with the Record of Interview of Witness "D" dated 7 January 2009 enclosed;
- O-III-3** - Official Note by SIPA no. 17-04/2-5-04-2-469/10 of 16 April 2010;
- O-III-4** - Record of Interview of Witness "K" dated 30 September 2009;
- O-III-5** - Death Certificate HNK- Konjic Municipality for Bećir Pokvić, no. 09-15-3-1519/13 of 5 July 2013; Death Certificate HNK- Konjic Municipality for Emir Pokvić, no. 09-15-3-1520/13 of 5 July 2013;
- O-III-6** - Birth Certificate HNK- Konjic Municipality for Amina Hakalović, no. 09-15-1-13852/09 of 14 October 2009, Birth Certificate HNK- Konjic Municipality for Anida Hakalović, no. 09-15-1-13853/09 of 14 October 2009, Birth Certificate KS- Centar Municipality for Evela Hakalović, no. 08/13-2-316554 of 14 October 2009, Birth Certificate KS- Centar Municipality for Emsela Hakalović, no. 08/13-2-316555 of 14 October 2009;
- O-III-7** - Marriage Certificate HNK- Konjic Municipality for Senad Hakalović and Bahra Hakalović (maiden name Boloban), no. 09-15-2-2402/09, Birth Certificate HNK- Konjic Municipality for Sanel Hakalović, no. 09-15-1-2439/2009 of 20 October 2009, Birth Certificate HNK- Konjic Municipality for Sead Hakalović, no. 09-15-1-2437/2009/09 of 20 October 2009, Birth Certificate HNK- Konjic Municipality for Sejdo Hakalović, no. 09-15-1-2438/2009 of 20 October 2009, Death Certificate HNK- Konjic Municipality for Sabit Hakalović, no. 09-15-3-2440/09 of 20 October 2009;
- O-III-8** - Judgment of the Cantonal Court of Mostar, no. 07 0 K 004062 10 K of 24 September 2010;
- O-III-9** - Judgment of an Appellate Panel of the Supreme Court of the Federation of Bosnia and Herzegovina, no. 07 0 K 004062 11 Kžk of 20 October 2011;
- O-III-10** - Judgment of the Court of BiH, case no. S 11 K 009162 12 Kro, sent out on: 30 May 2012;
- O-III-11** - Expert analysis by expert Asim Džambasović dated May 2013, Order of the Court of BiH dated 13 March 2013, decision on corrigendum dated 15 March 2013;
- O-III-12** – Authenticated photocopy of a military card for Senad Hakalović;
- O-III-13** – Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 07/33-01-03/1-711/09-1 dated 10 December 2009, with an attachment- authenticated photocopies of military documents for Senad Hakalović, Sabit Hakalović and Ivan Drljo;
- O-III-14** - DVD – video recording of the positions in Trusina;
- O-III-15** – Motion by Attorney Kolić dated 16 April 2013 with attachments: Response by OKO /Criminal Defense Section/ dated 30 April 2013, Order by the ŠVK no. 02/436-1 dated 23 March 1993 (ICTY authentication), instructions on further activities of 23 March

1993 (ICTY authentication) and Report by ŠVK no. 02/1-82 dated 23 March 1993 (ICTY authentication);

O-III-16 – Letter from the “Neretvica” Brigade Parsovići dated 27 March 1993;

O-III-17 – Report on the situation in BiH composed by the IV Corps Command, no. 03-3109/93 od 16 April 1993;

O-III-18 – Regular Combat Report by the 44th Mountain Brigade Command, Jablanica, no. 02/70-1-68/93 dated 14 April 1993;

O-III-19 – Letter from the IV Corps Command, dated 14 April 1993;

O-III-20 – Interim Report by the IV Corps Command, no. 02-2560-15-2/93 dated 15 April 1993;

O-III-21 - Order by the ŠVK no. 02/213-1 dated 6 February 1993;

O-III-22 – Letter dated 15 April 1993, signed by Esad Ramić, Safet Ćibo, Zuka and Nihad;

O-III-23 – Consent to deploy units in the area of Jablanica, no. 01-592-7-4 of 19 April 1993;

O-III-24 - Motion by Attorney Kolić dated 15 May 1993 with attachments: Response by the OKO dated 27 May 2013, Order by the Igman OG no. 01/1 dated 22 April 1993 (ICTY authentication), Order by the Igman OG-Bradina IKM no. 01/44/93 dated 2 May 1993 (ICTY authentication), Order by the Igman OG Command-Bradina IKM no. 01-130/93 dated 20 May 1993 (ICTY authentication);

O-III-25 - Motion by Attorney Kolić dated 16 April 2010 with attachments: Response by the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 07-03-427/10 dated 12 July 2010, certificates and documents of the OS for Zdravko Drljo and Željko Blažević;

O-III-26 - Motion by Attorney Kolić dated 23 October 2009, Response by the MUP HNK Administration and Support Authority no. 02-03/1-4-15-09-1582/09 dated 5 November 2009, Motion by Attorney Kolić dated 11 November 2009, Letter from the Court of BiH no. X-KRN-09/786 dated 13 November 2009, Letter from the MUP HNK Administration and Support Authority no. 02-03/1-15-65-377/09 dated 16 December 2009, ID card files for Senad Hakalović, Sead Hakalović, Sabit Hakalović and Sejdo Hakalović, Letter from the Prosecutor's Office of BiH no. KT-RZ-107/05 dated 10 March 2011 with a CIPS certificate for Senad Hakalović;

O-III-27 - Motion by Attorney Marsela Bajramović dated 6 November 2012, Letter from “Seonica” Elementary School no. 654/12 dated 9 November 2012, elementary school diploma – transcript for Senad Hakalović no. 653/12 of 8 November 2012, photocopy of page 80 from Register no. IV;

O-III-28 - Motion by Attorney Marsela Bajramović dated 6 November 2012, Letter from “Seonica” Elementary School no. 664/12 of 16 November 2012, photocopy of page 1238 from the Register no. II for Mara Drljo, photocopy of page 3 from the Register no. IV for Anica Drljo;

O-III-29 - Motion by Attorney Marsela Bajramović dated 4 December 2012, certificated by OKO dated 4 December 2012 signed by attorney Marsela Bajramović, Birth Certificate for Damir Krešo, Birth Certificate for Dalibor Krešo;

O-III-30 – Letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 07/33-01-03/1-12/09 dated 29 April 2009, certificate on salaries disbursed to members of OS R BiH issued to Sead Hakalović, personal form 7, VOB-1 form;

O-III-31 – Motion by Attorney Kolić dated 26 October 2009, Letter from the MUP HNK Administration and Support Authority no. 02-03/1-4-15-09-1588/09 dated 9 November 2009, ID card file for Ivan Drljo;

O-III-32 – Album of photographs of buildings/structures in Trusina; photographs taken by the office of attorney Kadrija Kolić on 7 November 2010;

O-III-33 - Record of Interview of Witness Janja Drljo no. KT-RZ-107/05 dated 30 June 2009, Record of Interview of Witness Janja Drljo no. KT-RZ-107/05 dated 25 September 2009, Record of Interview of Witness Janja Drljo no. 17-04/2-04-2-864/07 dated 21 August 2007;

O-III-34 - Record of Interview of Witness Šefko Poturović no. 17-04/2-04-2-1139/08 dated 6 November 2008;

O-III-35 - Record of Interview of Witness Marija Miškić no. KT-RZ-107/05 dated 5 November 2009, Record of Interview of Witness Marija Miškić no. KT-RZ-107/05 dated 29 June 2009, Statement by Witness Marija Miškić no. KO-5-II-02MMI dated 21 November 1994;

O-III-36 – Statement by Witness Bosiljka Krešo no. KO-5-II-02BKM dated 21 November 1994, Record of Interview of Witness Bosiljka Krešo no. 02-08-2-1568/94 dated 20 November 1994, Record of Interview of Witness Bosiljka Krešo no. KT-RZ-107/05 dated 17 June 2009, Record of Interview of Witness Bosiljka Krešo no. KT-RZ-107/05 dated 10 February 2010, Record of Interview of Witness Bosiljka Krešo no. KT-RZ-107/05 dated 5 November 2009, Statement by witness Bosiljka Krešo /redacted/;

O-III-37 - Record of Interview of Witness “M” no. KT-RZ-107/05 dated 4 November 2009;

O-III-38 - Record of Interview of Witness Ilija Drljo no. KT-RZ-107/05 dated 30 January 2009;

O-III-39 - Record of Interview of Witness “B” no. KT-RZ-107/05 dated 11 December 2008, Record of Interview of Witness “B” no. KT-RZ-107/05 dated 21 October 2009;

O-III-40 - Record of Interview of Witness Milka Drljo no. KT-RZ-107/05 dated 16 December 2008, Record of Interview of Witness Milka Drljo no. 17-04/2-04-2-742/07 dated 11 July 2007, Record of Interview of Witness Milka Drljo no. KT-RZ-107/05 dated 11 February 2010;

O-III-41 – Letter from the Prosecutor’s Office of BiH no. KT-RZ-107/05 dated 23 September 2009, Record of Identification of Persons no. 02-21-9-1/09 dated 1 October 2009;

O-III-42 - Record of Interview of Witness “L” no. KT-RZ-107/05 dated 29 October 2009;

O-III-43 - Record of Interview of Witness Dragan Drljo no. KT-RZ-107/05 dated 4 November 2009, Record of Interview of Witness Dragan Drljo no. KT-RZ-107/05 dated 16 December 2008, Record of Interview of Witness Dragan Drljo no. 17-04/2-04-2-827/07 dated 16 August 2007, Record of Interview of Witness Dragan Drljo no. KT-RZ-107/05 dated 12 February 2010;

O-III-44 - Record of Interview of Witness “H” dated 7 August 1993, Record of Interview of Witness “H” no. 17-04/2-04-2-750/07 dated 12 July 2007, Record of Interview of Witness “H” no. KT-RZ-107/05 dated 19 January 2009, Record of Interview of Witness “H” no. KT-RZ-107/05 dated 4 November 2009, Record of Interview of Witness “H” no. KT-RZ-107/05 dated 11 February 2010, Statement by witness “H” (ERN 01569884), Official Note no. 192/94-5 dated 20 November 1994, Mostar PU Official Note no. 03-9/22 dated 13 October 1994, Statement by witness “H” dated 5 May 1993, Official Note dated 19 November 1994;

O-III-45 - Record of Interview of Witness Jusuf Jašarević, no. KT-RZ-107/05 dated 6 April 2010;

O-III-46 - Record of Interview of Witness "F" no. 17-04/2-04-2-743/07 dated 13 July 2007, Record of Interview of Witness "F" no. KT-RZ-107/05 dated 20 January 2009, Record of Interview of Witness "F" no. KT-RZ-107/05 dated 4 November 2009, Record of Interview of Witness "F" no. KT-RZ-107/05 dated 10 February 2010, Statement by witness "F" given before the ICTY on 21 August 2003 (and the English version), Official Note no. 17-04/2-04-2-1191/09 dated 5 October 2009;

O-III-47 - Record of Interview of Witness Mara Drljo no. 17-04/2-04-2-832/07 dated 14 August 2007, Record of Interview of Witness Mara Drljo no. KT-RZ-107/05 dated 19 June 2009, Record of Interview of Witness Mara Drljo no. KT-RZ-107/05 dated 5 November 2009, Record of Interview of Witness Mara Drljo no. KT-RZ-107/05 dated 12 February 2010;

O-III-48 - Record of Interview of Witness „C“, no. 17-04/2-04-2-1154/08 dated 11 November 2008;

O-III-49 - Record of Interview of Witness Anđelka Šagolj, no. KT-RZ-107/05 dated 5 March 2010;

O-III-50 - Record of Interview of Witness Ivan Šagolj, no. KT-RZ-107/05 dated 3 March 2010;

O-III-51 - Record of Interview of Witness "X", no. KT-RZ-107/05 dated 18 December 2008;

O-III-52 - Record of Interview of Witness "I", no. KT-RZ-107/05 dated 19 June 2009, Record of Interview of Witness "I", no. 17-04/2-04-2-830/07 dated 14 August 2007, Record of Interview of Witness "I" no. KT-RZ-107/05 dated 8 October 2009, Record of Interview of Witness "I" no. KT-RZ-107/05 dated 10 February 2010, Record of Interview of Witness "I" no. T20 0 KTRZ 0002945 12 dated 16 March 2012, Record of Identification of Persons no. 02/21-9-2/09 of 1 October 2009;

O-III-53 - Record of Interview of Witness "J", no. KT-RZ-107/05 dated 25 September 2009, Record of Interview of Witness "J" no. KT-RZ-107/05 dated 12 November 2009;

O-III-54 - Record of Interview of Witness "O" no. KT-RZ-107/05 dated 14 October 2009, Record of Interview of Witness "O" no. KT-RZ-107/05 dated 21 October 2009, Record of Interview of Witness "O" no. KT-RZ-107/05 dated 16 January 2012;

O-III-55 - Record of Interview of Witness "S" no. 17-04/2-04-2-867/07 dated 21 August 2007, Record of Interview of Witness "S" no. KT-RZ-107/05 dated 10 February 2010, Record of Interview of Witness "S" no. T20 0 KTRZ 0002954 12 dated 18 May 2012;

O-III-56 – Statement by witness "E" dated 13 April 1996, Record of Interview of Witness "E" no. KT-RZ-107/05 dated 12 January 2009 (with photographs), Record of Interview of Witness "E" no. KT-RZ-107/05 dated 18 January 2010 (with photographs);

O-III-57 – Notification by the Prosecutor's Office of BiH no. T20 0 KTRZ 0005038 10 dated 21 May 2013;

O-III-58 – Official Note by SIPA, Center for Investigation of War Crimes, no. 17-04/2-04-2-173/10, dated 8 February 2010;

O-III-59 - Official Note SIPA, Center for Investigation of War Crimes, no. 17-04/2-04-2-4/10 dated 31 December 2009.

f) DOCUMENTARY EVIDENCE OF THE ACCUSED NEDŽAD HODŽIĆ

O-IV-1- Forensic Psychiatry Report on Nedžad Hodžić dated 23 January 2015;

O-IV-2- Psychologist's Report on Nedžad Hodžić, KCUS /Sarajevo University Hospital/ Psychiatric Clinic, dated 20 January 2015

g) DOCUMENTARY EVIDENCE OF THE ACCUSED NIHAD BOJADŽIĆ

- O-V-1** - Map – neighborhoods and roads around Trusina, signed by witness Remzija Šijak on 30 December 2013;
- O-V-2** - Letter from the HZ-HB HVO “Herceg Stjepan” Brigade Konjic no. 02-88-1/92 dated 15 October 1992, signed by Zdravko Šagolj;
- O-V-3** - Letter from HZ-HB HVO Southeast Herzegovina Operations Zone (a list of pieces of artillery and ammunition) dated 11 February 1993;
- O-V-4** - Topographic map of Trusina and the surrounding area, signed by witness Remzija Šijak on 30 June 2014;
- O-V-4a** – Topographic map of Trusina and the surrounding area, signed by witness Nusret Avdibegović on 30 December 2013;
- O-V-5** - Map – ethnic composition of Trusina and the surrounding area, signed by witness Remzija Šijak on 30 December 2013;
- O-V-6** - Personal file of Jure Krešo, a member of OS BiH, dated 18 December 2009;
- O-V-7** - Letter from the Igman OG dated 21 January 1993 entitled “Solving the problem of defending the Igman and a broader free territory – proposals”, sent to the 1st Corps Command, ERN 01833795 - 01833798;
- O-V-8** - Letter from the Igman OG dated 7 July 2014 entitled “Work guidelines - order, delivered by the Igman OG”, ERN 00577859;
- O-V-9** - Photographs: 0-9a, 0-9b, 0-9;
- O-V-10** – Personal file of witness “M”;
- O-V-11** - Vob-8 form, file no. 3/31;
- O-V-12** - Vob-8 form, file no. 3/8;
- O-V-13** - Decision on Advancement within the Army of the Republic of Bosnia and Herzegovina, dated 12 January 1996;
- O-V-14** - Order, strictly confidential, No. 14/75-96, 29 August 1993;
- O-V-15**- Vob-8 form, file no. 2/14;
- O-V-16**- *Official Gazette of RBiH*, 18 August 1992;
- O-V-17**- *Official Gazette of the Socialist Federal Republic of Yugoslavia*, 30 March 1984;
- O-V-18**- *Official Gazette of Republic of Bosnia and Herzegovina*, 11 April 1992;
- O-V-19**- Decision by the Presidency of SR BiH dated 5 June 1990;
- O-V-20**- Decision on Application of Operational-Technical Measures “TISA” and “KOTA”, dated 23 August 1991;
- O-V-21** - Official note on establishing an OTS /tactics and operations unit/, of 2 September 1991;
- O-V-22** – Official note on establishing OTS, of 25 December 1991;
- O-V-23** - Report, no. 04/7-1636/11, dated 15 February 2011;
- O-V-24** - Vob-8 form, file no. 3/1;
- O-V-25** - Order by the president of the Presidency of RBiH dated 16 August 1995;
- O-V-26** - Decision on appointing an adviser to the Presidency of RBiH, dated 13 August 1992;
- O-V-27** – Draft “Rules of Service for Military Security in the Armed Forces of the Republic of Bosnia and Herzegovina”, 6 September 1992;

O-V-28 - Rules of Military Security Service in the Armed Forces of R BiH, 11 September 1992;

O-V-29 - Draft "Rules of Service for Military Police in the Armed Forces of the Republic of Bosnia and Herzegovina", no. 02/340 – 1348, 7 September 1992;

O-V-30 - Rules of Service for Military Police in the Armed Forces of the Republic of Bosnia and Herzegovina, 1 September 1992;

O-V-31 – Order by the ŠVK OS R BiH, no. 05/7-39, dated 22 January 1993;

O-V-32 – Re: Order by the Chief of Supreme Command Staff of OS R BiH, strictly confidential, no. 86-1, dated 22 January 1993;

O-V-33 - Order by the Igman OG, 99/1 /93 dated 24 January 1993;

O-V-34 - Order by the Igman OG, dated 26 January 1993;

O-V-35 - Report on combat operations in the Igman OG area of responsibility, dated 28 January 1993;

O-V-36 - Request on account of a car theft, Zenica, 13 November 1993;

O-V-37 – Military Lexicon, Military Institute, Belgrade, 1981;

O-V-38 - Regular Combat Report, delivered to the 1st Corps Command, dated 17 April 1993;

O-V-39 - Authorization, no. 001/167-148, of 18 April 1993;

O-V-40 - Order, strictly confidential, no. 01/3, dated 22 April 1993;

O-V-41 - Order, strictly confidential, no. 14/75-40, dated 12 April 1993;

O-V-42 - Order, strictly confidential, no. 01/30, dated 27 April 1993;

O-V-43 - Order, strictly confidential, no. 01-775, dated 4 May 1993;

O-V-44 - Daily Combat Report, delivered to the 1st Corps Command, strictly confidential, no. 03-592/4, dated 16 April 1993;

O-V-45 – Records of wounded members, file no. 19/1, R BiH, Army of the Republic of Bosnia and Herzegovina, IV Corps, unit designation: VJ 5683;

O-V-46 – Order for Active Operations Op no. 1 Section 1:25.000 Konjic 1, 2, 3 and 4, dated 22 April 1993;

O-V-47 - Daily Combat Report, delivered to the 1st Corps Command, strictly confidential, no. 1-20/8, dated 22 April 1993;

O-V-48 - Special Report no. 46 dated 30 April 1993;

O-V-49 – List of soldiers of the Special-Purpose Detachment of the ŠVK;

O-V-50 – Part of a wartime logbook;

O-V-51 - Vob-1 form;

O-V-52 – Appointment to service of military persons in the time of war in "Zulfikar" unit, Jablanica, NUMBER 1-10/110-93, of 29 October 1993;

O-V-53 - Order no. 1-10-878/94 dated 16 April 1994;

O-V-54 – List of people who were in prison and are now transferred to the Goražde Operations Group, no. 28-1/93, dated 3 February 1993;

O-V-55 - Letter, Croatian Community of Herceg-Bosna, Croatian Defense Council-"Herceg Stjepan" Brigade, strictly confidential, no. 05/44-1, dated 16 January 1993;

O-V-56 - Decision, State Security Service and IV Uprava /Administration/, Sarajevo, dated 8 April 1991;

O-V-57 – Official Note by the SDB /State Security Service/ Sector, of 15 January 1992;

O-V-58 - Decision by the State Security Service, Sarajevo dated 9 October 1992;

O-V-59 - Letter from the Intelligence- Security Agency of BiH, Sarajevo, no. 04/7-3606/12 dated 2 April 2012;

O-V-60 - Decision by the State Security Service, Sarajevo, no. 03-73 dated 5 November 1992;

O-V-61 - Decision by the State Security Service, Sarajevo, no. 04-35 dated 1 April 1992;

O-V-62 - Letter, no.19-209 dated 27 July 1994;

O-V-63 - Letter dated 14 September 1994;

O-V-64 - Letter no. 08-03/7-4-04-2-267/12/ME, dated 4 September 2012;

O-V-65 – Proposal of the SDB Sector Sarajevo, no. 5742 of 10 June 1993;

O-V-66 – Decision by the State Security Service, no. 06-145 dated 10 June 1993;

O-V-67 – Letter from the OSA /Intelligence and Security Agency/ BiH, no. 04/7-3553/12 of 30 March 2012;

O-V-68 – Report no. 02/4-233-156/93, dated 31 July 1993;

O-V-69 - Certificate no. 01-19/12 dated 14 March 2012;

O-V-70 - Decision, PR. 02-011-306/93 dated 8 June 1993;

O-V-71 – Proposal no. 837 dated 18 March 1993;

O-V-72 - Vob-1 form;

O-V-73 – Supplement to Combat Report, 1st Corps Command, delivered to the Supreme Command Staff of OS RBiH, strictly confidential, no. 05/6-215 od 17 April 1993;

O-V-74 – Attack Order, R BiH, Army of the Republic of Bosnia and Herzegovina, special-purpose detachment of the ŠVK, Jablanica, 11 September 1993;

O-V-75 - Order, R BiH, Army of the Republic of Bosnia and Herzegovina, Special-Purpose Detachment of the ŠVK, 00-2, Jablanica, 21 October 1993;

O-V-76 - Order, RBiH Army of Bosnia and Herzegovina, Special-Purpose Detachment of the ŠVK SARAJEVO, Jablanica, 21 October 1993;

O-V-77 – Order issued to the Commander of Company - “Zulfikar” unit, no. 1-20/96-93 dated 27 October 1993;

O-V-78 – Official Note no. 17-04/2-04-2-1140/09 dated 23 September 2009;

O-V-79 – Records of wounded-killed-missing members, IV Corps, unit designation: VJ 5683;

O-V-80 - Vob-8 form, file no. 2/39;

O-V-81 - Letter no. 04-02/3-2-4895/99 dated 22 November 1999;

O-V-82 - Order, delivered to the GSS VK (for information), the Command of the 6th Corps, the commands of the units: “Silver-Fox”, “Handzar divizija” and “Zulfikar” Detachment, no. 01/563-1-3/93 dated 2 September 1993;

O-V-83 – Archival label for a book, Vob-8 form;

O-V-84 – Information from SFOR, Sarajevo, 14 October 1999;

O-V-85 – Directive no. 5 dated 14 April 1993;

O-V-86 – Letter no. 108-1 dated 28 January 1993;

O-V-87 – Petition for Mr. Janko Bobetko, Commander of the Main Staff of the Republic of Croatia, dated 4 April 1993;

O-V-88 – Letter no. 001/167-26 dated 11 March 1993;

O-V-89 – Contents of the speech by the Chief of ŠVK, delivered to all the corps, file no. 01/1, 19 March 1993;

O-V-90 – Special Report dated 22 July 1993, from HRC /*abbreviation unknown*/ Zenica;

O-V-91 - Order, strictly confidential, no. 14/75-51 dated 9 June 1993;

O-V-92 - Order, strictly confidential, no. 14/75-52 dated 10 June 1993;

O-V-93 - Order, strictly confidential, no. 14/75-63 dated 5 July 1993;

O-V-94 – Archival list dating from 1993;

O-V-95 - Report on the course of combat operations in the 1st Corps area of responsibility on 16 April 1993, delivered by the IB /Intervention Brigade/ of the Goražde OG;

O-V-96 - Supplement to Combat Report, delivered to the Supreme Command Staff of OS R BiH on 18 April 1993;

O-V-97 - Report on the course of combat operations in the 1st Corps area of responsibility on 17 April 1993, delivered by the IB of the Goražde OG;

O-V-98 – RBiH, Command of the Defense of “Igman”, Supplement to Combat Report, 30 July 1993, delivered to the SSVK of OS R BiH, attn. Commander, attn. Chief of Staff;

O-V-99 - RBiH, Armed Forces of the Republic of BiH, “Igman” Command, strictly confidential, no. 03-125, 30 July 1993, delivery of information to the SUPREME COMMAND STAFF OF OS R BiH and the 1st Corps Command;

O-V-100 – Military records for protected witness “R”;

O-V-101 - Request, 1st Corps Command, confidential no. 05/9-53 dated 12 March 1993;

O-V-102 - Order to continue combat operations issued to the Neretvica Brigade Command, IGMAN OPERATIONS GROUP, strictly confidential no. 01/5, Bradina, 22 April 1993, at 21:00 hrs;

O-V-103 – Letter from the ŠVK Communications Center- Department for Cryptographic Data Protection Sarajevo dated 15 April 1993, seeking assistance in the form of deploying troops towards Jablanica and Neretvica, signed by Neretva Brigade Commander Enes Kovačević and Neretva Brigade Assistant Commander Šaban Spiljak, sent to Commander Zuka on the Igman, 9th Brigade Commander Nezir Kazić and “Suad Alić” Brigade Commander Cerovac;

O-V-104 - Letter from the 44th Mountain Brigade Command no. 02/392-2/93 dated 15 April 1993, signed by Neretvica Brigade Commander Enes Kovačević and Neretvica Brigade Assistant Commander Šaban Spiljak, sent to the Igman OG (attn. Salko Gušić); enclosed is Letter from the Court of BiH no. S1 1 K 010294 12 Kri dated 23 June 2014 confirming that this document has been admitted as a Defense exhibit in the case of Edin Džeko;

O-V-105 - Letter from the Special-Purpose Detachment of the ŠVK OS R BiH dated 15 April 1993, signed by Esad Ramić, dr Safet Ćibo, Zuka and Nihad; sent to the ŠVK OS R BiH (Sefer Halilović);

O-V-106 – Letter from the 4th Corps Command no. 02/1-3200-1/93 dated 17 April 1993, sent to all unit commands, signed by Commander Atif Pašalić;

O-V-107 - Combat Report by the 4th Corps, Bradina, dated 17 April 1993, 20:00 hrs, signed by Esad Ramić, PNS /Assistant Chief of Staff/ za ONP /operations and training/ of the 4th Corps, sent to the 4th Corps Commander;

O-V-108 – Letter from the 4th Corps Command, no. 02/1-3200-27/93 dated 22 April 1993, signed by Sulejman Budaković on behalf of the Commander, sent to the ARBiH 3rd Corps Command;

O-V-109 - Order by the 4th Corps Command, strictly confidential no. 01/34 dated 29 April 1993, signed by Commander Arif Pašalić;

O-V-110 – Personal data for members of the Army of R BiH “Neretvica” Brigade no. 03-872-3/93 of 6 March 1993, sent to the 4th Corps Command (ERN 01563864-01563865, 01563905-01263906);

O-V-111 - Order by the Igman OG, strictly confidential no. 01/53, Bradina, 3 May 1993, signed by Commander Salko Gušić, sent to the Commander of the Battalion of the 7th Mountain Brigade, Čelebići work unit;

O-V-112 - Letter from the 6th Corps Command, strictly confidential no. 01/_ , Bradina, dated 24 June 1993, signed by Commander Salko Gušić, sent to the Op ŠO /municipal defense staff/ Konjic, Jablanica, Prozor, Gornji Vakuf, Visoko, Fojnica, Hadžići, Kalinovik, Kiseljak, Kreševo, Trnovo, the commands of the 43rd, the 44th, the 45th, the 9th, the 81st, the 317th and the 49th mountain brigades, the commands of the 8th Motorized Brigade and the 50th Motorized Brigade, the Command of the Special-Purpose Detachment, part of "Crni labudovi", SILVER FOX Independent Platoon, 1st PDO /anti-sabotage detachment/ and the 2nd PDO G. Vakuf;

O-V-113 – Daily Report for 27 June 1993, strictly confidential no. 01/179-19 (handwritten: 05-346-1/93), Bradina, dated 28 June 1993, signed by the Organ for Morale, Information and Propaganda and Religious Affairs, sent to the Igman OG Command, OpŠO Konjic, Jablanica, Prozor, G.Vakuf, Visoko, Fojnica, Hadžići, Kalinovik, Kiseljak, Kreševo and Trnovo, the commands of the 8th Motorized Brigade and the 50th Motorized Brigade, the Command of the Special-Purpose Detachment, part of "Crni labudovi", SILVER FOX Independent Platoon, the 1st PDO and the 2nd PDO G. Vakuf;

O-V-114 – Analysis of a one-year work, AR BiH, ŠVK of OS R BiH, No. (handwritten) 31-2-03-302-7/2-6/99, signed by Army General Rasim Delić;

O-V-115 – Letter from the GSS of the Supreme Command of OS RBiH, no. 112-1, Sarajevo, 29 January 1993, sent to the Neretvica Brigade-Security Sector (attn. Mr. Jusuf Hadžajlija); signed by Sefer Halilović;

O-V-116 - Bulletin of the Security Administration of the ŠVK of OS BiH, no. 262, 23 December 1993;

O-V-117 - Report by the MUP R BiH – Operation "Trebević- 3" Staff – Section for Analysis; no. A-01-63/94, dated 22 January 1994, signed by Ramo Masleša, Chief of CSB /Security Services Center/ Mostar, and Alija Ismet, Deputy Commander of the 6th Corps, sent to the ŠVK OS R BiH Sarajevo, the MUP RBiH Sarajevo and the MUP RBiH (attn. Minister) and 02;

O-V-118 – Attack Order issued by the SOPN ŠVK: "Defense of People's Rights – Vrđi 93", Jablanica, 17 September 1993, signed by Zulfikar Ališpago, Commander of the Special-Purpose Detachment of the ŠVK;

O-V-119 – Records of wounded-killed-missing members: Adnan Hošić; IV Corps; unit designation "Special-Purpose Detachment", no. 05/4-3-10-2845;

O-V-120 - Statement of injury of witness "O", confidential, no. 05/4-10-2342/95 dated 11 December 1995;

O-V-121 – Order no. 8-1/6-43 by the Commander of the Main Staff of AR BiH dated 25 June 1996 on conferring a rank within the Army of RBiH, signed by Rasim Delić, sent to the 4th Corps Command;

O-V-122 - Decision on conferring a rank within ARBiH, Presidency of RBiH, military secret, confidential, no. 02-011-497/96, dated 24 June 1996, signed by Alija Izetbegović, president of the Presidency of RBiH, delivered to the 4th IDB /reconnaissance-sabotage battalion/;

O-V-123 - Letter from the 3rd Corps Command no. 02/31-91 of 11 January 1993, Zenica, military secret, strictly confidential, signed by Commander Enver Hadžihasanović;

O-V-124 - VOB-1 and a certificate of salaries disbursed to witness "E";

O-V-125 - Decision by the Security Administration of ŠVK OS, no. 209/93 dated 2 November 1993, on ordering Nihad Bojadžić into detention and Decision by the Security

Administration of ŠVK no. 209-1/93 dated 4 November 1993 on termination of Nihad Bojadžić's detention;

O-V-126 - Order by the Special Department for War Crimes of the Prosecutor's Office of BiH assigning military expert Nehru Ganić to perform an expert analysis, no. KT-RZ 24/10 dated 14 May 2010;

O-V-127 - Order by the 3rd Corps Command, no. 02/33-628 dated 8 March 1993, military secret, strictly confidential, signed by Commander Enver Hadžihasanović, sent to all the brigade commands and all the OpSO;

O-V-128 - Order on application of rules of law of war in the armed forces of RBiH, no. 1291/92 dated 23 August 1992, signed by Alija Izetbegović, president of the Presidency of RBiH;

O-V-129 - Instruction on activities of documenting and making reports on war crimes, 4th Corps Command, no. 07-1971/93, of 17 March 1993;

O-V-130 - Daily Combat Report by the 4th Corps Command, no. 02/1-966-64/93 dated 20 March 1993, signed by 4th Corps duty officer Esad Ramić on behalf of the Commander, sent to the ŠVK OS RBiH, Operations Center;

O-V-131 - Daily Operational Report by the 4th Corps Command, no. 02/1-966-70/93 dated 21 March 1993, signed by Arif Pašalić, sent to the Operations Center of ŠVK OS RBiH Sarajevo;

O-V-132 - Regular Combat Report by the Command of "Neretva" Brigade of the 4th Corps of the Army of RBiH, no. 02/70-1-47/93 dated 22 March 1993, signed by Commander Enes Kovačević and duty officer Senad Džino, sent to the 4th Corps Command;

O-V-133 - Interim Operational Report by the 7th "Suad Alić" Brigade of the 4th Corps, dated 23 March 1993, signed by Commander Midhat Cerovac;

O-V-134 – Interim Operational Report by the 7th "Suad Alić" Brigade of the 4th Corps, no. 02-211/93 dated 23 March 1993, signed by Commander Midhat Cerovac;

O-V-135 - Report by the "Neretva" Brigade Command, no. 02-/70-1-48/93 dated 23 March 1993, signed by Commander Enes Kovačević;

O-V-136 – Combat Report by the 4th Corps Command, strictly confidential no. 2208/93 dated 23 March 1993, signed by duty officer Mirsad Husković, sent to the ŠVK OS RBiH;

O-V-137 - Report on a new situation in Konjic Municipality by the 7th "Suad Alić" Brigade of the 4th Corps, no. 01/01-907 dated 23 March 1993, signed by Commander Midhat Cerovac, delivered to the Wartime Presidency of Konjic Municipality, the 4th Corps Command, GŠ /Main Staff/ of OS RBiH and the Presidency of RBiH;

O-V-138 - Report on the security situation in Konjic territory, 4th Corps Command-Security Organ, no. 07-2245/93 dated 24 March 1993, signed by Sejo Branković on behalf of the Chief of Security and Commander Arif Pašalić;

O-V-139 – Letter from the "Neretva" Brigade Command, Jablanica, no. 07/232-1-4/93 of 24 March 1993, signed by Commander Enes Kovačević, sent to the 4th Corps Command-Chief of the Security Organ;

O-V-140 – Letter from the "Neretva" Brigade, Parsovići, dated 27 March 1993, signed by Commander Hasan Hakalović, sent to the 4th Corps – Mostar;

O-V-141 - Daily Operational Report, 4th Corps Command, no. 02-2560-4/93 dated 4 April 1993, signed by Sulejman Budaković, Chief of Staff, sent to the ŠVK RBiH – Operations Center;

O-V-142 – Operational Report by the 7th "Suad Alić" Brigade Konjic, the 4th Corps, no. 02-238/93 dated 4 April 1993, signed by operations and training officer Edin Pajić;

O-V-143 - Daily Operational Report by the 4th Corps Command, no. 02/1-966-111/93 dated 7 April 1993, signed by duty operations officer Jasenko Sijerčić, sent to the ŠVK OS RBiH;

O-V-144 - Daily Operational Report by the 4th Corps Command, no. 02/1-966-115/93 dated 8 April 1993, signed by Chief of Staff Sulejman Budaković, sent to the ŠVK OS RBiH;

O-V-145 – Letter from the 4th Corps Military Police Battalion dated 13/14 April 1993, military secret, strictly confidential, signed by Commander Nusret Šahić, sent to the 4th Corps;

O-V-146 - Regular Combat Report by the 44th Mountain Brigade Command no. 02/70-1-68/93 dated 14 April 1993, signed by Commander Enes Kovačević, sent to the 4th Corps Command;

O-V-147 - Order by the 4th Corps Commander no. 01-3063/93 dated 14 April 1993, signed by Arif Pašalić, delivered to OPŠO /municipal defense staff/ Jablanica, OPŠO Konjic, the 43rd, the 44th and the 45th mountain brigades, BVP /Military Police battalion/, of the Prozor Mountain Brigade, 4th Corps Chief of Staff Tetak, Mr. Đemal Trešnjo, ONO /All-People's Defense/ of the 4th Corps;

O-V-148 - Report on the situation in Jablanica by the 44th Mountain Brigade Command, strictly confidential no. 02/389-1/93 dated 15 April 1993, signed by 4th Corps Chief of Staff Sulejman Budaković and Commander of the 44th Mountain Brigade Enes Kovačević, sent to the attention of Chief of the ŠVK OS RBiH;

O-V-149 - Regular Operational Report by the 4th Corps Command, no. 0271-966-133/93 dated 16 April 1993, signed by duty operations officer Mirsad Husković on behalf of the Commander, sent to the ŠVK OS RBiH;

O-V-150 – Report by the 4th Corps Command no. 03-3177/93 dated 16 April 1993, signed by 4th Corps Commander Arif Pašalić, sent to all brigades and independent battalions;

O-V-151 - Report on the situation in BiH, 4th Corps Command, no. 03-3109/93 dated 16 April 1993;

O-V-152 - Order, 4th Corps Command, no. 02-3145-1/93 dated 16 April 1993, signed by Commander Arif Pašalić;

O-V-153 - Interim Operational Report by the 4th Corps Command, no. 02-1565-1/93 dated 22 April 1993, duty operations officer Asim Peco, ŠVK Sarajevo;

O-V-154 - Regular Combat Report by the Igman OG Command, strictly confidential no. 03/6-34 dated 22 March 1993, signed by Chief of Staff Sabro Hasković, sent to the 1st Corps Command;

O-V-155 – Official Note by the Security Organ of the 9th Mountain Brigade, no. s-03-205/93 of 23 March 1993;

O-V-156 - Regular Combat Report by the Igman OG Command, strictly confidential no. 03/6-35 dated 23 March 1993, sent to the 1st Corps Command;

O-V-157 - Report on conduct and events on 28 March 1993 by members of the 8th Motorized Brigade, no. 5-03-250/93 of 29 March 1993, signed by Assistant Commander for Security Nihad Šehić;

O-V-158 – Combat Order no. 1 issued by the Igman OG Commander, no. 01-1/13 dated 4 April 1993, signed by Igman OG Commander Salko Gušić, sent to the 1st Corps Command;

O-V-159 - Combat Report by the Igman OG Command dated 8 April 1993, signed by Commander Salko Gušić;

O-V-160 – Regular Combat Report by the Igman OG Command, strictly confidential no. 03-6/50 dated 9 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-161 - Daily Combat Report by the Igman OG Command, strictly confidential no. 03-6/52 dated 11 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-162 - Regular Combat Report by the Igman OG Command, strictly confidential no. 378-4/93 dated 15 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-163 - Interim Report by the Igman OG Commander no. 02/665-2 dated 18 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-164 – Interim Report on combat operations in the Igman OG area of responsibility, strictly confidential no. 03-592/7 dated 18 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-165 – Supplement to Combat Report by the Igman OG Command no. 03-592/7-3 dated 18 April 1993, signed by the Commander, sent to the 1st Corps;

O-V-166 - Supplement to Combat Report by the 1st Corps Command, strictly confidential no. 05/6-217 dated 20 April 1993, sent to the IB /Intervention Brigade/ of the Goražde OG; enclosed is Letter from the Court of BiH no. S1 1 K 0010294 12 Kri dated 4 June 2014 confirming that this document has been admitted as a Defense exhibit in the case of Edin Džeko;

O-V-167 – Letter from the Igman OG-Military Security Service, no. 08-22-58/93 dated 21 April 1993, signed by Sabit Subašić – PKB /Assistant Commander for Security/, sent to the 1st Corps-Security Sector (attn. Šaćir Arnautović);

O-V-168 - Daily Combat Report by the Igman OG Command, strictly confidential no. 03-592/10 dated 21 April 1993, signed by Igman OG Commander Salko Gušić, sent to the 1st Corps Command;

O-V-169 - Supplement to Combat Report by the 1st Corps Command, strictly confidential no. 05/6-234 dated 23 April 1993, signed by Mustafa Hajrulahović - Talijan, sent to the ŠVK OS RBiH;

O-V-170 - Report on the course of combat operations in the 1st Corps area of responsibility on 22 April 1993, strictly confidential no. 05/6-236 od 23 April 1993, signed by Chief Asim Džambasović, sent to the IB of the Goražde OG;

O-V-171 - Report on the course of combat operations in the 1st Corps area of responsibility on 24 April 1993, strictly confidential no. 05/6-241 dated 25 April 1993, sent to the Igman OG, and strictly confidential no. 05/6-241 dated 25 April 1993, sent to the IB of the Goražde OG; both reports signed by Chief Asim Džambasović;

O-V-172 – Regular Combat Report by the Igman OG Command, strictly confidential no. 01-05/93 dated 30 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-173 - Supplement to Combat Report by the 1st Corps Command, strictly confidential no. 05/6-301-2 od 13 May 1993, signed by Mustafa Hajrulahović - Talijan, delivered to ŠVK OS RBiH and IKM /Forward Command Post/ ŠVK OS RBiH – Zenica;

O-V-174 – Physical security for transfer, OS RBiH, ŠVK, od 1 February 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, delivered to the Special-Purpose Detachment “Zulfikar”;

O-V-175 – Letter from the Chief of ŠVK OS RBiH, strictly confidential no. 02/280-1 dated 18 February 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the

Commander of the Special-Purpose Detachment Zulfikar Ališpago; and letter from the ŠVK OS RBiH, strictly confidential no. 02/280-1 dated 18 February 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to "Neretvica" Brigade Commander;

O-V-176 – Orders by the Chief of ŠVK OS RBiH, confidential no. 13/37-39 dated 4 March 1993, signed by the Chief of ŠVK OS Sefer Halilović;

O-V-177 - Order by the ŠVK OS RBiH, strictly confidential no. 14/75-22 dated 11 March 1993, Transfer of v/o /conscript/, signed by the Chief of ŠVK OS RBiH Sefer Halilović, delivered to the 1st Corps Command, the 9th Motorized Brigade and the Special-Purpose Detachment ŠVK OS;

O-V-178 - Order by the ŠVK OS RBiH, confidential, no. 02/397-1 dated 15 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the Igman OG Command;

O-V-179 – Proposal by the 1st Corps Command, strictly confidential, no. 05/7-203 of 6 April 1993, signed by Commander Mustafa Hajrulahović -Talijan, sent to ŠVK OS RBiH (Mr. Sefer Halilović); enclosed Letter from the Court of BiH no. S1 1 K 0010294 12 Krl dated 4 June 2014 confirming that this document has been admitted as Defense exhibit O-177 in the case of Edin Džeko;

O-V-180 - Letter from the ŠVK, strictly confidential, no. 02/533-1 dated 24 April 1993, signed by Zirco Suljević, upon authorization by the Chief of the Supreme Command of OS RBiH, sent to the 4th Corps Command;

O-V-181 - Order to deploy troops to Jablanica, OGI /Igman Operations Group/-IKM Bradina, strictly confidential, no. 01/15 dated 24 April 1993 at 12:30 hrs, signed by Commander Salko Gušić, sent to the Commander of the Special-Purpose Detachment Zulfikar;

O-V-182 – Letter from the OS R BiH, Igman, Military Security Service, no. 08-21-19/93 dated 26 April 1993, signed by PKB /Assistant Commander of the Battalion/ - Sabit Subašić, sent to the Security Administration and the 1st Corps – Security Sector;

O-V-183 - Decision by the ŠVK on establishment of the 6th Corps of the Army of RBiH and areas of responsibility of the 1st, 3rd, 4th and 6th Corps no. 14/76-7 dated 9 June 1993, signed by Rasim Delić, Commander of the Main Staff of OS RBiH;

O-V-184 – Letter from the 1st Corps Command, strictly confidential, no. 06/13-223 of 12 June 1993, Organizational changes-proposal, signed by Commander Mustafa Hajrulahović - Talijan, sent to the ŠVK OS RBiH; enclosed Letter from the Court of BiH no. S1 1 K 0010294 12 Krl dated 23 June 2014 confirming that this document has been admitted as a Defense exhibit in the case of Edin Džeko;

O-V-185 - Order by the ŠVK, strictly confidential, no. 14/75-100 dated 1 September 1993, signed by Rasim Delić, Commander of the Main Staff of OS RBiH;

O-V-186 - Decision on uniform principles for application of means and methods used by state security organs in the course of their work dated 17 April 1985;

O-V-187 - Report on the course of combat operations in the areas of responsibility of the 1st, the 2nd, the 3rd, the 4th and 5th Corps on 17 and 18 May 1993, strictly confidential, no. 05/6-308-2 dated 19 May 1993, sent to all operations groups, all brigades and independent battalions, signed by Chief Asim Džambasović;

O-V-188 - Supplement to Combat Report by the 1st Corps Command, strictly confidential, no. 05/6-227 of 20 April 1993, signed by Mustafa Hajrulahović - Talijan, sent to the ŠVK OS RBiH;

O-V-189 - Supplement to Combat Report by the 1st Corps Command, strictly confidential no. 05/6-223 of 19 April 1993, signed by Mustafa Hajrulahović - Talijan, sent to the ŠVK OS RBiH;

O-V-190 - Daily Combat Report by the Igman OG Command, strictly confidential, no. 78-4/93 dated 5 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-191 - Daily Combat Report by the Igman OG Command, strictly confidential, no. 03-6/48 dated 7 April 1993, signed by Igman OG Commander Salko Gušić, sent to the 1st Corps Command;

O-V-192 - Combat Report for 19 April 1993, Igman OG, strictly confidential, no. 03-592/8 dated 19 April 1993, sent to the 1st Corps Command;

O-V-193 – Letter from the OGI, strictly confidential, no. 01-592-7-4 dated 19 April 1993, Consent for deployment of units in the area of Jablanica, signed by Salko Gušić, sent to the 1st Corps Command;

O-V-194 - Letter from the OGI no. 01/8 dated 23 April 1993, Increased Readiness, signed by Salko Gušić, sent to the commands of the 44th and the 45th Mountain Brigade, OŠO /municipal defense staff/ Konjic units, MUP /Ministry of the Interior/ Konjic units and special units;

O-V-195 - Combat Report for 24 April 1993, OGI IKM Bradina no. 01/11-1 dated 24 April 1993, signed by Commander Salko Gušić, sent to the Igman OG Command for the 1st Corps and the 4th Corps;

O-V-196 - Supplement to Combat Report OGI IKM Bradina, strictly confidential, no. 03-592/14 of 24 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-197 - Combat Report for 25 April 1993, OGI IKM Bradina no. 01/11-3 dated 25 April 1993, signed by Commander Salko Gušić, sent to the Igman OG Command and the 4th Corps Command; enclosed letter from the Court of BiH no. S1 1 K 0010294 12 Krl dated 23 June 2014 confirming that this document has been admitted as a Defense exhibit in the case of Edin Džeko;

O-V-198 – Interim Report by the OGI IKM Bradina, strictly confidential, no. 01/11-2 dated 25 April 1993, signed by Commander Salko Gušić, sent to the commands of the 1st and the 4th Corps;

O-V-199 – Regular Combat Report by the 44th Mountain Brigade Command. no. 02/70-1-104/93 dated 26 April 1993, signed by Commander Enes Kovačević, sent to the Igman OG- Bradina IKM;

O-V-200 – Operational Report by the 4th Corps Command, no. 02/1-3200-08/93 dated 18 April 1993, signed by duty operations officer Jasenko Sijerčić, sent to the ŠVK OS RBiH Sarajevo;

O-V-201 – Regular Report by the 4th Corps Command, no. 02-2560-15-2/93 dated 15 April 1993, signed by duty operations officer Adil Trgo, sent to the ŠVK OS RBiH;

O-V-202 - Operational Report, 4th Corps Command, no. 02-2560-14-1/93 dated 14 April 1993, signed by 4th Corps duty operations officer Mehmed Žilić, sent to the OC /Operations Center/ of the ŠVK OS RBiH;

O-V-203 - Letter from the 4th Corps Command, strictly confidential, no. 02/1-966-125/93 dated 14 April 1993, signed by Arif Pašalić, sent to the ŠVK RBiH;

O-V-204 - Report on the responsibility for unsuccessful combat operations in the area of Trnovo - Igman, ŠVK OS RBiH, strictly confidential, no. 02/978-1 dated 7 August 1993, signed by Muhamed Vezagić, Mušir Brkić and Jusuf Jašarević, sent to the Commander of the Main Staff of the Army of RBiH;

O-V-205 - Letter from the ŠVK, strictly confidential, no. 02/510-1 dated 17 April 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the 4th Corps Command;

O-V-206 - Letter from the ŠVK no. 001/167- 74 dated 22 March 1993, Meeting with the HVO Main Staff, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the 4th Corps Commander Arif Pašalić;

O-V-207 - Letter from the ŠVK, strictly confidential, no. 02/336-1 dated 2 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to HVO Main Staff Mostar;

O-V-208 - Letter from the ŠVK, strictly confidential, no. 02/347-1 of 4 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to HVO Mostar Defense Department – Mr. Bruno Stojić and Milivoje Petković;

O-V-209 - Letter from the ŠVK, no. 129-1 dated 10 February 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, addressed to Mr. Rajić;

O-V-210 - Letter from the ŠVK, strictly confidential, no. 02/212-1 dated 7 February 1993, signed by the Chief of ŠVK Sefer Halilović, sent to the HVO Main Staff Mostar;

O-V-211 - Letter from the ŠVK no. 02/197-1 dated 3 February 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the HVO Main Staff Mostar;

O-V-212 - Order by the ŠVK, strictly confidential, no. 02/155-1 dated 27 January 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the commands of the 1st, the 2nd, the 3rd, the 4th and the 5th Corps;

O-V-213 – Letter from the 4th Corps Command, strictly confidential, no. 838-06 dated 7 September 1993, signed by Commander Arif Pašalić, sent to the IKM ŠVK;

O-V-214 - Combat Report for 23 April 1993, OGI, strictly confidential, no. 01/11 dated 23 April 1993, signed by Commander Salko Gušić, sent to the Igman OG Command;

O-V-215 – Combat Report by the Igman OG Command, strictly confidential, no. 03-6/51 dated 10 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps Command;

O-V-216 – Agreement on Cessation of Hostilities in BiH concluded between General Milivoje Petković and General Sefer Halilović dated 12 May 1993 (in Bosnian and English);

O-V-217 - Law on Internal Affairs (consolidated version), published in *Official Gazette of SR BiH*, 18/90, 29 June 1990;

O-V-218 – Tape recording of the regular 229th session of the Presidency of RBiH held on 26 November 1993 (relevant page: no. 27);

O-V-219 – Letter from the ŠVK OS RBiH-Administration for Morale, IPD and VP /Information and Propaganda and Religious Affairs/, no. 02/17-90 dated 16 April 1993, "Report on factors influencing the combat morale of the units, commands and staffs of OS RBiH", military secret, confidential, signed by Ivan Brigić, delivered to all the Corps, air-force groups Mostar, Bihać, Tuzla, Igman OG and OkSO /abbreviation unknown/ Doboj;

O-V-220 - Letter from the ŠVK OS RBiH-Administration for Morale, IPD and VP, no. 02/17-91 dated 17 April 1993 " Report on factors influencing the combat morale of the units, commands and staffs of OS RBiH", military secret, confidential, signed by Ivan Brigić, delivered to all the Corps, air-force groups Mostar, BIHac, Tuzla, Igman OG and OKSO Doboj;

O-V-221 - Letter from the ŠVK OS RBiH-Administration for Morale, IPD and VP, no. 10-45 dated 19 April 1993 "Analysis of state of combat morale (in the period 11-18 April 1993)";

O-V-222 - Letter from the ŠVK OS RBiH on appointment, confidential, no. 001/167-154 dated 27 April 1993, signed by the Chief of the Main Staff of ARBiH Sefer Halilović, delivered to HE Lord David Owen, A. Izetbegović, M.Boban, HVO Main Staff, Main Staff of ARBiH, joint commands;

O-V-223 – Combat Report for 18 April 1993, Igman OG Command, strictly confidential, no. 03/592-7-2 dated 18 April 1993, signed by Commander Salko Gušić, sent to the 1st Corps;

O-V-224 - Official assessment for Colonel Nihad Bojadžić, reg. no. HN200662, for the from 21 February 1996 until 14 October 1997, illegible signature by the chief assessor, date 30 July 2003; Letter of Thanks to the 4th IDB /Reconnaissance-Sabotage Battalion/ Zulfikar for its contribution in the defense of Drežnica dated 6 April 1995; Letter of Commendation by the Army of the Federation of BiH for Colonel Nihad Bojadžić dated 15 April 2000, signed by Commander Rasim Delić; Letter of Commendation for Colonel Nihad Bojadžić, confidential, no. 30-19/34-7/08-96/39/01 dated 10 September 2001, signed by Brigadier General Nedžad Ajnadžić, Deputy Commander; Order to bestow a watch with an inscription to Colonel Nihad Bojadžić dated 7 April 2004, signed by Colonel General Atif Dudaković, Commander, and Major-General Ivica Zeko, Deputy Commander; Letter of Commendation for Colonel Nihad Bojadžić from the Joint Command the Army of the Federation of BiH, Doctrine and Training Command dated 10 September 2001; Disbursement of pecuniary award to Colonel Nihad Bojadžić by the Army of the Federation of BiH of 8 April 2005, signed by Major-General Hajrudin Grabovica, Commander; Letter of Thanks from the Joint Command of the Army of the Federation of BiH, Professional Development Center Command dated 6 July 2005; Letter of Commendation for Detachment Commander Nihad Bojadžić from the 4th Corps dated 15 April 1994; Letter of Commendation for Colonel Nihad Bojadžić from the Joint Command the Army of the Federation of BiH, no. 30-11/34-7/1-1249-15/00 dated 24 March 2000; Letter of Commendation from the 4th Corps to Detachment Commander Nihad Bojadžić dated 15 April 1994; Letter of Commendation from the Army of RBiH to Nihad Bojadžić dated 10 August 1994; Letter of Commendation from the Army of RBiH to the SOPN dated 30 August 1994; Letter of Commendation by the 4th Corps to the 4th IDB "Zulfikar" headed by Major Nihad Bojadžić dated 15 April 1995;

O-V-225 - Letter of Commendation from the Ministry of Defense to Brigadier Nihad Bojadžić dated 1 December 2008; Certified translation into Bosnian of a letter sent by Colonel P.A. Kellet OBE dated 23 December 2005 and the original document in English; Certified translation into Bosnian of a letter sent by Major-General with the UK Army J P Kiszely dated 14 November 2001 and the original document in English; Certified translation into Bosnian of a letter sent by Colonel Lawrence Sansone dated 3 June 1999 and the original document in English; Certified translation into Bosnian of a letter sent by Major-General Erdal Ceylanoglu, Commander of National Security Academy, dated 11 June 2002 and the original document in Turkish; Certified translation into Bosnian of a letter sent by the United States European Command, dated 25 October 1999 and the original document in English; Letter from Brigadier General Bernd Papenkort, Chief Military Advisor to the Special Representative of the UN Mission to BiH, dated 7 February 2001, addressed to General Dudaković and expressing gratitude to, among others, Colonel Nihad Bojadžić;

O-V-226 – Death Certificate for Mujesira Bojadžić (maiden name Komatina) dated 16 April 1984;

O-V-227 - Order by the ŠVK, strictly confidential, no. 02/732-1 dated 12 June 1993, signed by the ŠVK Commander Rasim Delić, sent to the Igman OG Command;

O-V-228 - Order by the ŠVK, suspension of establishment of the 6th Corps, strictly confidential, no. 14/75-57 dated 19 June 1993, signed by Rasim Delić, Commander of the Main Staff of OS RBiH, sent to the 6th Corps Command Igman;

O-V-229 – Letter of warning by the ŠVK no. 02/1595-485 of 24 July 1993, signed by the Chief of ŠVK Sefer Halilović, sent to Igman Defense Command;

O-V-230 – Authorization by the ŠVK, no. 02-146-3 of 2 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović;

O-V-231 - Order by the ŠVK, strictly confidential, no. 02/386-1 dated 12 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the 1st Corps Command, Commander of the Special-Purpose Detachment “Zulfikar” Igman;

O-V-232 - Order by the ŠVK for the establishment of a Military Police Battalion, strictly confidential, no. 14/75-27 dated 20 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović;

O-V-233 - Order by the ŠVK for recruitment of personnel to the ŠVK Special-Purpose Detachment, no. 14/75-36 dated 1 April 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the 1st Corps Command;

O-V-234 - Order by the ŠVK, no. 001/167-149 dated 18 April 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović;

O-V-235 – Order by the ŠVK, no. 001/167-153 dated 25 April 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović;

O-V-236 - Order to deploy Military Police unit to the village of Trešnjevica; OGI IKM Bradina; strictly confidential, no. 01/48/93, Bradina, 2 May 1993 at 19:20 hrs; signed by Salko Gušić;

O-V-237 - “Monograph *Zlatni ljiljani* (golden lilies) and decorated members of ARBiH 1992-1995”, Sarajevo, 2000 (pages 1, 2, 3, 291, 485);

O-V-238 - VOB-8, protected witness “A”; VJ 5683 – 4. IDB, book no. 3; Personal file – protected witness “A”; group 5; sub-group 1; section 1; sub-section:3, vob-1, certificate on salaries;

O-V-239 – Letter from the HVO Main Staff dated 23 March 1993, sent to “Herceg Stjepan” Brigade; signed by the Chief of the HVO Main Staff Brigadier Milivoj Petković;

O-V-240 - VOB-8- protected witness “O”, VJ 5683-4.IDB, book no. 3;

O-V-241 -Original letter from the Federation of BiH Ministry for Veterans and Disabled Veterans of Defense War of Liberation no. 07-03-122/10 dated 28 February 2011 and the original request by the defense;

O-V-242 – Certificate issued by the Federation of BiH Ministry of Defense-Mostar Defense Administration, Konjic Defense Department, no. 22-07-49-897/04-01, of 14 December 2004 for Ivan (son of Andrija) Drljo; Certificate on the circumstances surrounding the death of Ivan (son of Andrija) Drljo issued by the 56th “Herceg-Stjepan” Home Guard Regiment Konjic, confidential 035-01/96-02/01 1719-07-96-267; Ljubuški, 7 February 1996, signed by Major Mladen Zebić, unit commander;

O-V-243 - Certificate issued by the Federation of BiH Ministry of Defense-Mostar Defense Administration, Konjic Defense Department no. 22-07-49-934/04-01 of 14 December 2004 for Nedeljko (son of Marko) Krešo;

O-V-244 - Certificate issued by the Federation of BiH Ministry of Defense-Mostar Defense Administration, Konjic Defense Department, no. 22-07-49-927/04-01 of 14 December 2004, for Pero (son of Smiljko) Krešo;

O-V-245 - Certificate issued by the Federation of BiH Ministry of Defense-Mostar Defense Administration, Konjic Defense Department, no. 22-07-49-1164/04-03 of 5 November 2004 for Stipe (son of Pave) Ljubić; Decision by the HR-HB Ministry of Defense on acknowledging the right to family disability pension to the widow and children of late Stipe Ljubić no. 02-45-06/96-01 dated 20 March 1996;

O-V-246 - Certificate issued by the Federation of BiH Ministry of Defense, no. 22-07-49-1426/04-01 of 2 December 2004, on the death of Milenko (son of Stipo) Mandić;

O-V-247 - Certificate on the circumstances surrounding the death of Zdravko (son of Ivan) Drljo issued by the 56th "Herceg-Stjepan" Home Guard Regiment Konjic, confidential 035-01/96-02/01 1719-07-96-1080, Ljubuški, 6 May 1996;

O-V-248 - Certificate issued by the Federation of BiH Ministry of Defense Mostar Defense Administration, Konjic Defense Department, no. 22-07-49-884/04-01, of 14 December 2004 for Željko (son of Slavko) Blažević; Certificate on the circumstances surrounding the death of Željko (Slavko) Blažević issued by the 56th "Herceg-Stjepan" Home Guard Regiment Konjic pov. (illegible), Ljubuški, 24 January 1996;

O-V-249 – Certificate issued by the Federation of BiH Ministry of Defense Mostar Defense Administration, Konjic Defense Department, no. 17-22-07-41-1-622/07-01, of 21 May 2007, Mostar for Nikola (son of Tomo) Drljo; Minutes of the Ministry of Defense of BiH on the harmonization of military records for Nikola (son of Tomo) Drljo, no. 17-07-03-25-704/07 of 7 May 2007, Vob 3 for Nikola (son of Tomo) Drljo;

O-V-250 - Certificate issued by the Federation of BiH Ministry of Defense Mostar Defense Administration, Konjic Defense Department, no. 17-22-07-49-1-719/07-01 of 11 June 2007 for Mijo (son of Ante) Anđelić; Minutes of the Ministry of Defense of BiH on the harmonization of military records for Mijo (son of Ante) Anđelić no. 17-07-03-25-1530/07 of 8 June 2007; Personal file for officer Mijo (son of Ante) Anđelić;

O-V-251 – Letter from the ŠVK, strictly confidential, no. 02/405-1 of 17 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the HVO Main Staff Mostar;

O-V-252 – Request by the ŠVK for the return of a convoy and permission for the convoy to pass no. 001/167-73 of 22 March 1993, signed by the Chief of ŠVK OS RBiH Sefer Halilović, sent to the HVO Main Staff Mostar;

O-V-253 – Report by the ŠVK on the course of combat operations in the territory of RBiH for a 24-hour period on 22 March 1993, confidential, no. 02/1-82 dated 23 March 1993;

O-V-254 - Report by the ŠVK on the course of combat operations in the territory of RBiH for a 24-hour period on 24 March 1993, confidential, no. 02/1-84 dated 25 March 1993;

O-V-255 – Report by the ŠVK OS RBiH, Intelligence Administration, strictly confidential, no. 02/76-311 dated 9 April 1993, signed by Acting Chief of Intelligence Administration (name illegible);

O-V-256 - Supreme Command Staff of the Armed Forces, Report on the course of combat operations in the territory of RBiH for a 24-hour period on 13 April 1993, confidential, no. 02/1-104 dated 14 April 1993;

O-V-257 - Supreme Command Staff OS RBiH, Administration for Morale, IPD and VP, Report on the factors influencing the combat morale of the units, commands and staffs of OS RBiH, no. 02/17-89 dated 15 April 1993;

O-V-258 - Supreme Command Staff of the Armed Forces, Report on the course of combat operations in the territory of RBiH for a 24-hour period on 14 April 1993, confidential, no. 02/1-105 dated 15 April 1993;

O-V-259 – Notification by the ŠVK about the intentions of the HVO in the area of Jablanica, strictly confidential, no. 02/502-1 of 16 April 1993, signed by Jovan Divjak, Deputy Chief of Staff of the ŠVK OS RBiH, sent to the 4th Corps Command; enclosed Letter from the Court of BiH no. S1 1 K 0010294 12 Krl dated 23 June 2014 confirming that this document has been admitted as a Defense exhibit in the case of Edin Džeko;

O-V-260 - Notification by the ŠVK about the situation in the Neretvica area, strictly confidential, no. 02/503-1 of 16 April 1993, signed by Jovan Divjak, Deputy Chief of Staff of the ŠVK, sent to the 4th Corps Command;

O-V-261 - Supreme Command Staff of the Armed Forces, Report on the course of combat operations in the territory of RBiH for a 24-hour period on 15 April 1993, confidential, no. 02/1-106 dated 16 April 1993;

O-V-262 - Supreme Command Staff of the Armed Forces, Report on the course of combat operations in the territory of RBiH for a 24-hour period on 16 April 1993, confidential, no. 02/1-107 dated 17 April 1993;

O-V-263 – Report, Supreme Command Staff the OS RBiH, Administration for Morale, IPD and VP, Report on the factors influencing the combat morale of the units, commands and staffs of OS RBiH, no. 02/17-92 dated 18 April 1993, delivered to all the corps, air-force groups Mostar, BIHać, Tuzla, Igman OG and OKSO Dobro;

O-V-264 – Supreme Command Staff of the Armed Forces, Report on the course of combat operations in the territory of RBiH for a 24-hour period on 18 April 1993, confidential, no. 02/1-109 dated 19 April 1993;

O-V-265 – Letter from the ŠVK, strictly confidential, no. 1/297-509 dated 1 November 1993, signed by Rasim Delić, Commander of the ŠVK OS RBiH, sent to the 6th Corps Command (attn. Commander and Asim Džambasović);

O-V-266 – List with codes of terms, participants and names of locations of the special unit SOPN ŠVK OS RBiH (Nihad Bojadžić's code name "Black");

O-V-267 – Staff of Operation "TREBEVIĆ 3", Section for Analysis, Report no. A-01-242/94 dated 15 February 1994, signed by Ramo Masleša, Chief of the Mostar CSB, and Alija Ismet, Deputy Commander of the 4th Corps, sent to the RBiH Ministry of Defense and RBiH MUP;

O-V-268 – Ministry of the Interior, Response to a letter by Munir Alibabić, od 27 July 1994, no. 11-2306 of 12 August 1994, signed by Interior Minister Bakir Alispahić;

O-V-269 – Ministry of the Interior, Committee for the Reassessment of the Work of Employees, Sarajevo, Request for determination of the state of a portion of documents, SDB Sector Sarajevo, for the period 24 June 1992 – 10 June 1993, no. 11-2542 of 4 October 1994;

O-V-270 – Official Note by the Crime Police Sector, Homicide and International Law Department no. 01/23-30/98 of 27 May 1998, the note composed by Fadil Zolota and Alija Jašarević;

O-V-271 - Daily Operational Report by the 4th Corps Command, strictly confidential, no. 02-1720-13/93 dated 13 March 1993, signed by 4th Corps Chief of Staff Sulejman Budaković;

O-V-272 – Copy of minutes of a meeting between commanders of ABIH units and SJB Chief(s), held in Hadžići on 20 March 1993;

O-V-273 - Daily Operational Report, 4th Corps Command, no. 02/1-966-78/93 dated 22 March 1993, signed by duty operations officer Adil Trgo, sent to the ŠVK OS RBiH;

O-V-274 - Daily Report, 4th Corps Command, no. 02/1-966-83/93 dated 24 March 1993, signed by duty operations officer Džemal Bajramović, sent to the ŠVK OS RBiH;

O-V-275 - Interim Operational Report by the 7th "Suad Alić" Brigade of the 4th Corps, no. 02-230/93 dated 31 March 1993, signed by Commander Midhat Cerovac;

O-V-276 – Regular Combat Report by the 44th Mountain Brigade, Jablanica, no. 02/70-1-63/93 dated 9 April 1993, signed by Commander Enes Kovačević and duty operations officer Mustafa Škampo, sent to the 4th Corps Command – duty operations officer Mostar;

O-V-277 - Daily Operational Report, 4th Corps Command, strictly confidential, no. 02/1-966-121/93 dated 13 April 1993, signed by Chief of Staff Sulejman Budaković, sent to the ŠVK OS RBiH;

O-V-278- Operational Report, 4th Corps Command, no. 02-2560-14/93 dated 14 April 1993, signed by Commander Arif Pašalić and duty operations officer Mehmed Žilić;

O-V-279 – Operational Report by the 7th “Suad Alić” Brigade of the 4th Corps, no. 02-260/93 dated 14 April 1993, signed by operations and training officer Pajić;

O-V-280 – Letter from the 44th Mountain Brigade of the 4th Corps, no. 02/68-1-27/93 of 14 April 1993, signed by Commander Enes Kovačević and Šaban Spiljak, Assistant Commander for Morale, sent to the 7th “Suad Alić” Brigade (attn. Commander), Konjic;

O-V-281 – Interim Report by the 4th Corps Command, no. 02-2560-15-2/93 dated 15 April 1993, signed by duty operations officer Adil Trgo, sent to the OC /Operations Center/ of the ŠVK OS RBiH;

O-V-282 – Letter from the Neretvica Brigade, Konjic, dated 19 April 1993 at 14:05 hrs, sent to the ŠVK Sarajevo and the 4th Corps Mostar;

O-V-283 – Command of the 45th Brigade, Višnjevica IKM, Attack Order op.no.1 section 1:50000 Konjic 2 I 4. dated 27 April 1993, at 20:00 hrs, signed by Commander Hase Hakalović;

O-V-284 - Letter from the 4th Corps, Jablanica Security Organ and the MUP RBiH – RO /war department/ of SDB Jablanica dated 29 April 1993, military secret, strictly confidential, (very urgent), sent to the OGI-Bradina, Chief of Security of the 4th Corps, Chief of Staff of the 4th Corps – for information and the 44th Mountain Brigade Jablanica;

O-V-285 - Letter from the 4th Corps Command, Jablanica Security Organ, dated 1 May 1993, signed by Sejo Branković as officer in the 4th Corps OB /Security Organ/, sent to the OGI Bradina Salko Gušić, Neretvica Brigade Parsovići, 7th “Suad Alić” Brigade (attn. Midhat Cerovac);

O-V-286 - Regular Combat Report by the 44 44th Mountain Brigade, no. 02/70-1-108/93 dated 2 May 1993, military secret, strictly confidential, signed by Enes Kovačević, sent to the Igman OG-Bradina IKM;

O-V-287 – Regular Combat Report by the 44th Mountain Brigade of the 4th Corps, no. 02/70-1-110/93 dated 3 May 1993, strictly confidential, military secret, signed by Commander Enes Kovačević, sent to the Igman OG-Bradina IKM;

O-V-288 - Order by the 9th Mountain Brigade Command, no. 01-1147-04/93 dated 15 April 1993, signed by 9th Mountain Brigade Commander Nezir Kazić;

O-V-289 – Request by the 1st Corps Command, strictly confidential, no. 05/9-67 of 19 April 1993, signed by Mustafa Hajrulahović - Talijan, sent to the Chief of ŠVK OS RBiH (attn. Sefer Halilović);

O-V-290 – Order by the “Neretva” Brigade Command no. 02/68-1-19/93 dated 24 March 1993 signed by Commander Enes Kovačević, delivered to the Command of the 2nd Battalion, Fire Support Company, Logistics Organ, Chief of Communications;

O-V-291 - Letter from the 4th Corps Command, no. 01-2562/93 of 4 April 1993, strictly confidential, military secret, urgent, to be delivered immediately, signed by Sulejman Budaković on behalf of the Commander, delivered to the 1st Mostar Brigade, the Bregava, Neretva, Neretvica and S.Alic brigades, 49th Mountain Brigade, Military Police, Prozor Battalion, OpSSO Konjic, OpSSO Jablanica and OpSSO Prozor;

O-V-292 – Combat Attack Order “U”, 4th Corps, 7th “Suad Alić” Mountain Brigade, no. 02-239/93 dated 4 April 1993, signed by Commander Midhat Cerovac;

O-V-293 - Order by the 44th Mountain Brigade no. 02/68-1-26/93 dated 14 April 1993, signed by Enes Kovačević;

O-V-294 - Order by the 4th Corps Command, no. 01-3191/93 dated 17 April 1993, signed by Commander Arif Pašalić, sent to all 4th Corps units;

O-V-295 - Order by the Igman OG Command no. 04-9/11 dated 25 February 1993, signed by Chief of Staff Sabro Hasković, sent to the Commander of IDOD /reconnaissance-sabotage/ "Crni Labudovi";

O-V-296 - Order by the Igman OG Command "Preparation of units for upcoming combat operations", strictly confidential, no. 04-9/48 dated 25 March 1993, signed by Commander Salko Gušić;

O-V-297 - Order by the Igman OG Command, strictly confidential, no. 04-9/65 dated 3 April 1993, signed by Commander Salko Gušić;

O-V-298 - Order by the Igman OG Command, no. 04-9/67 dated 3 April 1993, signed by Commander Salko Gušić, sent to the 4th Motorized Brigade, the 9th Mountain Brigade, the 8th Motorized Brigade, 81.brd pla, "Crni labudovi";

O-V-299 - Order by the Igman OG, strictly confidential, no. 04-9/76 "Information on matériel and distribution of the PVO /anti-aircraft defense/" dated 9 April 1993, signed by Commander Salko Gušić, sent to the commands of the 4 Motorized Brigade, the 9th Mountain Brigade, the 8th Motorized Brigade, the 81st Mountain Brigade, SJ Zulfikar and *Crni labudovi*;

O-V-300 - Order by the Igman OG, confidential, no. 04-9/77 dated 9 April 1993, signed by Commander Salko Gušić, sent to the commands of the 4 Motorized Brigade, the 9th Mountain Brigade, the 8th Motorized Brigade, the 81st Mountain Brigade, DIV /Sabotage-Reconnaissance Platoon/ Crni labudovi, Zulfikar;

O-V-301 - Order by the Igman OG no. 01/44/93 dated 2 May 1993, signed by Commander Salko Gušić, sent to the Commander of the 3rd Mountain Brigade Konjic;

O-V-302 - Order by the Igman OG no. 01/120/93 dated 18 May 1993, signed by Commander Salko Gušić, sent to the commands of the 43rd, the 44th, the 45th and the 9th Mountain Brigade, SO Zulfikar, *Crni labudovi*, OpSSO Konjic, Jablanica BVP /Military Police Battalion/;

O-V-303 - Order by the OGI Command no. 01/121/93 dated 18 May 1993, signed by Commander Salko Gušić, sent to the commands of the 43rd, the 44th, the 45th and the 9th Mountain Brigade, SO Zulfikar, "Crni labudovi", OpSSO Konjic, Jablanica BVP;

O-V-304 - Order by the ŠVK, strictly confidential, no. 02/104-1 dated 19 January 1993, signed by the Chief of ŠVK OS R BiH Sefer Halilović, sent urgently to the 4th Corps Command (attn. Arif Pašalić);

O-V-305 - Order by the ŠVK dated 26 January 1993, signed by the Chief of ŠVK OS R BiH Sefer Halilović, delivered to the 1st Corps Command, the Mechanized Brigade Command Sarajevo, the Command of the Special Brigade of the Armed Forces, the Organization Department of the Armed Forces;

O-V-306 – Order by the ŠVK, strictly confidential, no. 02/196-1 of 2 February 1993, signed by the Chief of ŠVK OS R BiH Sefer Halilović, sent to the Igman OG Command (attn. Zulfikar – Zuka);

O-V-307 – Order by the ŠVK no. 02/213-1 dated 6 February 1993, signed by the Chief of ŠVK OS R BiH Sefer Halilović, sent to the commands of the 1st, the 3rd and 4th Corps – attn. Commanders.

O-V-308 – Order by the ŠVK to provide security for a judge's return to Zenica, strictly confidential, no. 02/231-1 dated 10 February 1993, signed by the Chief of Staff Sefer Halilović, sent to the Igman OG Command;

O-V-309 – Order by the ŠVK (no No.) dated 17 April 1993, signed by the Chief of ŠVK OS R BiH Sefer Halilović, sent to the Igman OG Command;

O-V-310 - Order by the ŠVK, strictly confidential, no. 02/561-1 dated 28 April 1993, signed by Jovan Divjak, Deputy Chief of the ŠVK OS R BiH, sent to the commands of the 1st, the 3rd and the 4th Corps;

O-V-311 – Letter from the 8th Mountain Brigade Command no. 102/1/93 dated 16 January 1993, signed by 8th Mountain Brigade Commander Zulfikar Ališpago;

O-V-312 – Report by the OGI /Igman Operations Group/ no. 02-4/3 dated 5 March 1993, signed by Igman OG Chief of Communications (name illegible), delivered to the Igman OG Command;

O-V-313 – Supplement to Combat Report by the Igman OG Command, strictly confidential no. 03-592/7-3 of 18 April 1993, at 23:00 hrs, signed by Commander Gušić Salko, sent to the 1st Corps;

O-V-314 – Wartime Presidency of Konjic Municipality and Igman OG Command-Bradina IKM “Communication”, no. 01/16 of 19 April 1993, signed by president Safet Ćibo and commander Salko Gušić;

O-V-315 - Letter from the Igman OG dated 26 April 1993, signed by Commander Salko Gušić, sent to the Jablanica OpŠO /municipal defense staff/, attn. Nihad Bojadžić (ERN 01854012);

O-V-316 – Letter from the OGI Command dated 26 April 1993, signed by Commander Salko Gušić, sent to the Jablanica OpŠO, attn. Nihad Bojadžić (ERN 01854013);

O-V-317 – Combat Report by the OGI Command-BRADINA IKM, confidential, no. 01/11-5 dated 28 April 1993, signed by the Commander (name illegible), delivered to the Igman OG, 4th Corps Command;

O-V-318 – Letter from the Igman OG Command, strictly confidential no. CV-638-4/93 dated 30 April 1993, signed by Salko Gušić, Igman OG Commander, sent to the OpŠO Jablanica, attn. Nihad Bojadžić;

O-V-319 – Criminal Report filed by the Security Administration of the ŠVK R BiH against Sefer Halilović dated 1993, sent to the District Military Prosecutor’s Office, enclosed defense’s request for delivery of documents sent to the OSA /Intelligence and Security Agency/ dated 12 February 2013 and the original document – Response by the OSA to the defense’s request no. 04/7-2999/13 of 12 February 2013 delivering the criminal report against Sefer Halilović;

O-V-320 – Article from *Večernji list* entitled “After his arrest Zuka gave his brother a USB stick with a book on it” published on 3 February 2010;

O-V-321 - Certificate, 4th Corps, 4th IDB-Zulfikar, no. 05/4-10-127/96 of 23 January 1996 for Nihad Bojadžić; Statement on injury, 4th Corps, 4th IDB no. 05/4-10-127-1/96 of 24 January 1996 for Nihad Bojadžić;

O-V-322 – Letter from Nihad Bojadžić, Deputy Commander of the Special-Purpose Detachment SVK OS R BiH, no. 01/93 dated 26 April 1993;

O-V-323 – Motion by attorneys Edina Rešidović, Vasvija Vidović and Kadrija Kolić for the disqualification of Deputy Chief Prosecutor of the Prosecutor’s Office of BiH Vesna Budimir from the criminal cases conducted before the Court of BiH against Nihad Bojadžić, Senad Hakalović and investigation cases against Edin Džeko dated 16 January 2012; Prosecutor’s Office of BiH Record of Questioning of the Suspect Zulfikar Ališpago, no. KT-RZ-107/05; Letter by the Prosecutor’s Office of BiH addressed to the Sarajevo Canton Ministry of the Interior (Predrag Kurteš, Chief of Crime Police Sector,) dated 23 September 2009; Letter from Vitez Military District, HR-HB, “Jajce, SIO /*abbreviation unknown*/, Marko Baković, official note” dated 17 October 1996, no. 02-08-14-8921/96, official secret, strictly confidential, composed by coordinator Mato Zeko, sent to the Chief of SIS /Security and Information Service/ of the HR-HB /Croatian Community of Herceg-Bosna/ Ministry of

Defense; Letter from attorneys Vasvija Vidović and Edina Rešidović dated 10 January 2012 addressed to Mr. Željko Komšić, Mr. Bakir Izetbegović and Mr. Nebojša Radmanović, members of the Presidency of BiH; Response by the Secretariat of the Presidency of BiH to the attorneys' letter, no. 05-13-1-69-1/12 dated 11 January 2012; Letter from the Prosecutor's Office of BiH dated 21 May 2007 addressed to Goran Mihaljević – liaison officer with the ICTY, signed by Prosecutor Vesna Tančica; Letter from the Office of Croatian Liaison Officer with the ICTY, no. 45/07 dated 23 May 2007, The Hague, signed by Goran Mihaljević – ICTY liaison officer, addressed to Prosecutor Vesna Tančica; Decision by the Office of Croatian Officer with the ICTY no. 05/03čv, The Hague, dated 6 January 2003; Anonymous letter sent via *BH Pošta* to attorney Vasvija Vidović, received on 17 January 2011; Order by the Court of BiH no. X-KRN-09/786 dated 9 September 2009 ordering a search of apartments, houses and other premises; Motion by defense attorneys for Nihad Bojadžić for delivery of documents and other evidentiary material dated 8 June 2010, sent to the Prosecutor's Office of BiH (attn. Prosecutor Vesna Budimir); Motion by defense attorneys for Nihad Bojadžić, dated 23 June 2010, for delivery of documents and other evidentiary material and comments on issues raised at the status conference held on 16 June 2010, sent to the Prosecutor's Office of BiH (attn. Prosecutor Vesna Budimir); Response by the Prosecutor's Office of BiH dated 2 July 2010 to the Motion by defense attorneys for Nihad Bojadžić dated 23 June 2010; Letter from defense attorneys for Nihad Bojadžić sent to the Prosecutor's Office of BiH (attn. Prosecutor Vesna Budimir) dated 24 November 2011; Motion by attorneys for Nihad Bojadžić for delivery of documents pursuant to Article 47(3) and (4) of the CPC of BiH sent to the Prosecutor's Office of BiH dated 2 December 2011; Motion by attorney Kadrija Kolić, counsel for the 3rd accused Senad Hakalović, to gain access to documents, sent to the Prosecutor's Office of BiH on 16 October 2009; Statement by Atif (son of Mustafa) Karović, dated 9 November 2009 taken by attorney Edina Rešidović; e-mail (redacted) by Lisa Hay sent to the address of attorney Edina Rešidović on 11 July 2011 and e-mail by attorney Edina Rešidović (redacted) sent to the address of Lisa Hay of 7 November 2011; electronic return air ticket issued by *Fibula Air* travel agency on 10 December 2009 to Vasvija Vidović (Sarajevo-Munich-Oslo); Judgment imposed on Mirsad Repko by the District Court of Borgarting in the Kingdom of Norway on 12 April 2010; Schedule and dates of testimony of witnesses in the criminal case against Mirsad Repko (in Norwegian); e-mail correspondence of attorney Vasvija Vidović on 16 April, 19 April and 5 May 2011; Letter from attorneys Edina Rešidović, Vasvija Vidović and Kadrija Kolić sent to Chief Prosecutor Serge Brammertz dated 12 January 2012; Complaint by attorneys Vasvija Vidović, Edina Rešidović and Kadrija Kolić sent to the HJPC on 19 January 2012; Request for search of the electronic data base(name Mato Zeko) sent to the OKO /Criminal Defense Section/ on 19 December 2011; Letter from the OKO: documents from the electronic database, dated 15 December 2011; Response by the Prosecutor's Office of BiH dated 22 February 2012, no. A-837/11, sent to attorneys Vasvija Vidović and Edina Rešidović; Letter from attorneys Edina Rešidović and Vasvija Vidović sent to the Acting Chief Prosecutor Jadranka Lokmić Misirača, dated 13 February 2012; Letter from attorneys Edina Rešidović and Vasvija Vidović, sent to the Acting Chief Prosecutor Jadranka Lokmić Misirača, dated 9 February 2012; Supplement to Complaint (19 January 2012) by attorneys Vasvija Vidović, Edina Rešidović and Kadrija Kolić, sent to the HJPC on 23 January 2012; Rules on Internal Organization of the Prosecutor's Office of BiH (*Official Gazette of BiH*, 31/10); Law on Legal Assistance and Official Cooperation in Criminal Matters between the FBIH, the RS and the Brcko District of BiH; Decision by Chief Prosecutor Jadranka Lokmić Misirača, no. A-35/12, dated 19 January 2012; Official Note by the Prosecutor's Office of BiH (Regional Prosecution Team no. V), dated 5 October 2009 in case no. KT RZ 107/05 with attachments (constituting an integral part of the said official note); Letter from attorneys Edina Rešidović and Vasvija Vidović sent to the Chief Disciplinary Prosecutor Arben

Murtezić on 24 February 2012; Letter from Vitez Military District no. 02-08-14-4103/96, dated 9 February 1996, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title "Zlatko Aleksovski, intelligence"; Letter from Vitez Military District no. 02-08-14-675/95, dated 10 August 1995, sent to the IZM /Forward Command Post/ of Vitez ZP /Military District/, with the title "Relocation of persons of Serbian ethnicity"; Letter from Vitez Military District no. 02-08-14-5419/96, dated 10 April 1996, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title "Mass graves"; Letter from Vitez Military District no. 02-08-14-5318/96, dated 4 April 1996, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title "Mass graves in Vitez"; Letter from Vitez Military District no. 02-08-14-4866/96, dated 13 March 1996, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title: "Intelligence"; Letter from the Federation of BiH Minister of Defense-Joint Command of the Army of the Federation of BiH, 1st Guards Corps of the Army of the Federation of BiH, 3rd Guards Brigade Vitez, Command -S-2, no. 02-08-14-4266/97, dated 25 September 1997, with the title "Goran Mikulić, attorneys' visit"; List of inspected and requested documents from the Archive of the Croatian Information Service, no. 753; Letter from the HVO Security and Information Service, Department for SIS with the Vitez ZP, no. 02-08-14-836/97, dated 18 February 1997, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title: "Anto Nobile, interview with potential witnesses, report"; Letter from the HVO Security and Information Service, Department for SIS with the Vitez ZP, no. 02-08-14-316/97, dated 20 January 1997, sent to the SIS Administration of the HR-HB Ministry of Defense, with the title: "Međugorje, report"; Letter from attorneys Edina Rešidović and Vasvija Vidović addressed to HE Ambassador of the United States of America to BiH, dated 15 February 2012; Appeal filed by Nihad Bojadžić, Edin Džeko and Senad Hakalović, represented by attorneys Edina Rešidović, Vasvija Vidović and Kadrija Kolić respectively, to the Constitutional Court of BiH on 7 February 2012, received on 8 February 2012 under no. AP-549/12; Letter from attorneys Edina Rešidović and Vasvija Vidović sent to the HJPC (president of the HJPC and Office of Disciplinary Prosecutor, re: UDT: 10499/12), dated 11 July 2012; Letter from attorneys Edina Rešidović and Vasvija Vidović sent to Mr. Christopher Engels, Head of the Judicial and Legislative Reform Section of the OSCE Mission to BiH, dated 26 April 2012; Supplement to Complaint (19 January 2012) by attorneys Vasvija Vidović, Edina Rešidović and Kadrija Kolić, sent to the HJPC, dated 23 January 2012, and Supplement to Complaint (23 January 2012) dated 11 April 2012; Letter from attorneys Edina Rešidović and Vasvija Vidović sent to the Chief Disciplinary Prosecutor Arben Murtezić, dated 27 March 2012; Letter from HJPC president Milorad Novković, no. 01-50-454-2/12 dated 19 March 2012, sent to the Office of Disciplinary Prosecutor (CC: attorneys Edina Rešidović and Vasvija Vidović); Letter from HJPC president Milorad Novković, no. 01-50-454-3/12 dated 21 March 2012, sent to attorneys Edina Rešidović and Vasvija Vidović; Notification from the HJPC Office of Disciplinary Prosecutor no. UDT-10499/12, dated 9 March 2012, sent to attorneys Edina Rešidović and Vasvija Vidović; Letter from the SIS Center Uskoplje, no. 02-4/2-7 69/93, military secret, strictly confidential, Uskoplje, dated 12 November 1993, entitled: "Assessment of Unit", signed by Mate Zeko, officer, assistant commander for SIS; Report by the HVO SIS Center Kiseljak no. 1751-07/3-07/95-57, military secret, strictly confidential, dated 8 February 1995, signed by Chief Ivica Marjanović, sent to the SIS Administration of the HR HB Ministry of Defense; Letter from the RDB /State Security Department/ Center Sarajevo, Ilidža Division, strictly confidential, no. 376/94, dated 23 September 1994, op. worker 422, 419, signed by the Chief of Ilidža Division (name illegible); Letter from the HVO Security and Information Service, Army Command, Department for Intelligence and Security, Vitez Center, no. 02-08-6-565/97 Busovača, dated 27 June 1997, case: Enver Hadžihasanović, Prosecution witness, intelligence, signed by Chief Anto Sališković, sent to the Mostar Administration, attn. Zvonko Seasar, Assistant Chief of Staff;

- O-V-324** – Request by the Commander of the ŠVK Special-Purpose Detachment Zuka dated 1 August 1993, Sunday, 23:24 hrs, sent to the ŠVK ARBiH;
- O-V-325** - Certificate issued by the 4th Corps- 4th IDB “Zulfikar” no. 05/4-10-2332-1/95 of 9 December 1995, on the wounding of Mensur Memić in the village of Vrci on 13 May 1993, signed by Major Commander Nihad Bojadžić;
- O-V-326** – Photograph of Nihad Bojadžić;
- O-V-327** – Organizational chart of the Main Staff of OS R BiH, 9 August 1993;
- O-V-328** – Parts of the book “Brigade Rules”, Federal Secretary for People’s Defense, military secret, internal, pp. 60, 62,67, 68 and Chapter 3 – title “Command and Control”;
- O-V-329** - Decisions on appointment of members of the presidency of the BPS political party dated 16 April 2012, 25 January 2013, 23 September 2013, and the Response by the BPS political party dated 24 October 2013 addressed to attorney Edina Rešidović;
- O-V-330** – A 13-minute video footage of the village of Trusina;
- O-V-331** – Map- Trusina military positions, signed by witness Remzija Šijak, date: 30 December 2013;
- O-V-332** – Croatian lexicon –the notion/concept of the placebo effect;
- O-V-333** – Statement issued by the Office of the President of the Presidency of R BiH of 2 November 1993 (ERN 01823372);
- O-V-334** - Order by the Presidency of R BiH dated 26 November 1993 no. 02-111-740/93, signed by Alija Izetbegović, president of the Presidency of R BiH;
- O-V-335** - Decision on Advancement within the Army of R BiH no. 02-111-542/94 dated 5 August 1994, signed by Alija Izetbegović, president of the Presidency of R BiH (ERN 01836927-01836932);
- O-V-336** - Protocol of out-patients and medical protocol for in-patients at the in-patient clinic of the “Suhodol Wartime Hospital” Tarčin for the month of April 1993, with an attachment;
- O-V-337** - Decision on joining all the armed forces in the territory of R BiH no. 01-011-306/92 dated 9 April 1992, signed by Alija Izetbegović, president of the Presidency of R BiH;
- O-V-338** – Provisional instruction on organization and use of R BiH territorial defense staffs, strictly confidential, no. (illegible) 17-1, 10 April 1992;
- O-V-339** – Extract from VOB 8, VJ 5683- 4th IDB, for Aziz Mušanović;
- O-V-340** - VOB 8 book, 2 VJ 5683 – 4th IDB for Nihad Bojadžić;
- O-V-341** – Extract from SOPN’s wartime logbook for: 6 January, 7 January, 8 January 1993, and for the period from 14 January until 17 January 1993;
- O-V-342** - Report of a visit to the free territory, delivered by the ŠVK, strictly confidential no. 02/118-1 dated 14 January 1993, signed by Jovan Divjak, Deputy Chief of the ŠVK OS R BiH, sent to the Chief of ŠVK Sefer Halilović;
- O-V-343** – Order by the ŠVK no. 02/28-1 dated 7 January 1993, signed by Jovan Divjak, Deputy Chief of the ŠVK OS R BiH, sent to the Commander of the 8th Mountain Brigade – Mr. Zulfikar-Zuka Igman;
- O-V-344** – Letter from the MUP- Sarajevo CSB – SNB /National Security Service/ Sector, dispatch, strictly confidential, no. 76/93 dated 27 January 1993, signed by Predrag Čeranić, Head of SNB Sector Sarajevo, sent to Dragan Kijac, Under-Secretary of the National Security Service;
- O-V-345** – Special-Purpose Detachment Zulfikar List of people taken out of “Silos” – Tarčin prison to Butmir and handed over to Butmir V.P. /Military Police/ u 4. MT.BR no. 23-

1/93 of 2 February 1993, composed by Zulfikar Ališpago, Commander of “Zulfikar” Special-Purpose Detachment; Special-Purpose Detachment Zulfikar “List of people who were in Silos prison and are now transferred to Bjelimići” no. 26-1/93 of 2 February 1993 signed by Nihad Bojadžić on behalf of Commander Zulfikar Ališpago; Special-Purpose Detachment Zulfikar “List of people who were in prison and are now transferred to the Goražde Operations Group-1st Foča Brigade – Commander Fehim Bibić on Grebak”, signed by Nihad Bojadžić on behalf of Commander Zulfikar Ališpago; Special-Purpose Detachment Zulfikar “List of people who were in prison and are now transferred to the 1st Igman Battalion”, no. 21-1-/93 of 2 February 1993, signed by Nihad Bojadžić on behalf of Commander Zulfikar Ališpago; Special-Purpose Detachment Zulfikar “List of people who were in prison and are now transferred to the 1st Foča Brigade-Commander Fehim Bibić” no. 27-1/93 of 3 February 1993, development of the Army of the Federation of BiH, dated 6 July 2005; Letter of Commendation for Detachment Commander Nihad Bojadžić by the 4th Corps dated 15 April 1994; Letter of Commendation for Colonel Nihad Bojadžić by the Joint Command of the Army of the Federation of BiH, no. 30-11/34-7/1-1249-15/00 dated 24 March 2000, “List of people who were in prison and now go to Sarajevo, handed over to the MP in Butmir” no. 30-1/93 of 3 February 1993, signed by Commander Zulfikar Ališpago; Special-Purpose Detachment Zulfikar, List of people who were in prison and who now remain in “Zulfikar” unit no. 29-1/93 dated 3 February 1993, composed by Commander Zulfikar Ališpago;

O-V-346 - Report on arresting Igman OG security organ by Zulfikar Ališpago aka Zuka and members of his unit, 1st Corps- Security Sector, no. 04/546-1 od 21 March 1993, signed by Šaćir Arnautović, on behalf of Assistant Commander for Security, sent to the Security Administration of ŠVK OS R BiH;

O-V-347 – Establishment of the Igman OG, order, strictly confidential, 03/151-1 dated 15 January 1993, signed by 1st Corps Commander Mustafa Hajrulahović - Talijan, sent to the 9th Mountain Brigade Command;

O-V-348 - Order by the 1st Corps Command, strictly confidential no. 01/157-1 dated 19 January 1993, signed by 1st Corps Commander Mustafa Hajrulahović - Talijan, sent to Igman OG Commander Dževad Rađo;

O-V-349 - Decision on the establishment of the Croatian Community of Herceg-Bosna dated 18 November 1991, signed by Mate Boban, president of the HZ HB, published in *Official Gazette of HZ Herceg Bosna* (ERN 00688985-00688986);

O-V-350 - Decision on the establishment of the Croatian Defense Council dated 8 April 1992, signed by Mate Boban, president of the HZ HB, published in *Official Gazette of HZ Herceg Bosna* (ERN 00688988);

O-V-351 – Order by the HVO Main Staff no. Z-01-11 dated 10 April 1992, signed by HVO president Mate Boban (ERN 00689056);

O-V-352 – Order by the Main Staff no. 01-331/92 dated 8 May 1992, signed by Major-General Ante Roso;

O-V-353 – Extract from SOPN’s wartime logbook for: 23 March, 24 April, 25 March, 31 March, 1 April and 2 April 1993;

O-V-354 – Certificate no. 03-13-1251/14 od 27 January 2014, Service for Joint Administrative Services of Hadžići Municipality, signed by Hamdo Ejubović, municipal mayor (Nihad Bojadžić was the best man at Zulfikar Ališpago’s wedding);

O-V-355 – Letter from the 4th Corps Military Police Battalion dated 12 April 1993, sent to the 4th Corps Security Sector;

O-V-356 – Letter from the 4th Corps Command no. 02/1-966-122/93 dated 13 April 1993, signed by duty operations officer Alija Muhibić, sent to the ŠVK OS RBiH- Security Administration;

O-V-357 - Order Op.no.1, Command of the 4th Corps of ABiH, state secret no. 02-2147/93, signed by Commander Arif Pašalić, sent to the commanders of the 1st Mostar Brigade, the 7th “Suad Alić” Brigade, the Neretva Brigade, the Neretvica Brigade, the Bregava Brigade and the Military Police Battalion;

O-V-358 - Extract from SOPN’s wartime logbook for the period 9-12 March 1993;

O-V-359 – File of wounded-killed-missing members of the Army of RBiH za Marcus Stetefeld and file of wounded-killed-missing members no. 0514-26-10-2845, VJ 5683;

O-V-360 – Letter from the Igman OG Command, confidential, no. 06-16/93 dated 14 April 1993, delivered to the Supreme Command Staff (ERN 01834242-01834245);

O-V-361 - MUP RBiH- SDB Sector Sarajevo- transcript of an intercepted conversation no. 7657 -707 od 18 April 1993 ERN 01755402- 01755410 and audio recording of the intercepted conversation;

O-V-362 - MUP RBiH- SDB Sector Sarajevo- transcript of an intercepted conversation no 648-tr. 6434 of 14 April 1993 and audio recording of the intercepted conversation;

O-V-363 - MUP RBiH, SDB Sector Sarajevo - transcript of an intercepted conversation no 6257-655 of 15 April 1993 and audio recording of the intercepted conversation;

O-V-364 - MUP RBiH, SDB Sector Sarajevo - transcript of an intercepted conversation no 7298 of 16 April 1993 and audio recording of the intercepted conversation;

O-V-365 - MUP RBiH, SDB Sector Sarajevo - transcript of an intercepted conversation no 674 tr.7587 of 16 April 1993 ERN 01754414 - 01754423 and audio recording of the intercepted conversation;

O-V-366 - MUP RBiH, SDB Sector Sarajevo – transcript of an intercepted conversation no 680-7427 of 16 April 1993 and audio recording of the intercepted conversation;

O-V-367 - MUP RBiH- SDB Sector Sarajevo – transcript of an intercepted conversation no 706-7692 of 18 April 1993 and audio recording of the intercepted conversation;

O-V-368 - Order for Combat Operations by the 44th Mountain Brigade Command no. 01/769-1/93 dated 26 June 1993;

O-V-369 – Official Note by the Crime Police Sector-Homicide and International Law Department no. 01/2.3-30/98 dated 27 May 1998;

O-V-370 - Decision by the District Court of Trebinje no. Kv. 33/03 dated 30 May 2003 refusing as unfounded the Motion by the District Public Prosecutor’s Office Trebinje to order Nihad Bojadžić into pretrial custody, signed by Judge Nada Ćorić;

O-V-371 - Order on terminating an investigation issued by the District Public Prosecutor’s Office of Trebinje no. 29/03 dated 25 November 2003, signed by Deputy District Public Prosecutor Vaso Kurtović;

O-V-372 – Order by the Court of BiH no. X-KRN-09/786 dated 25 March 2010- search of Nihad’s prison cell;

O-V-373 – Letter from the Defense for Nihad Bojadžić sent on 30 March 2010 to the attention of the Preliminary Proceedings Judge of the Court of BiH and Prosecutor Vesna Budimir “Grave breaches of the rights of the defense”;

O-V-374 - VOB 2A, 2 and 3 protected witness “O”;

O-V-375 – Article from *Slobodna Bosna* entitled “Prosecutor Vesna Budimir filed a report against Mario Kapetanović, inspector at SIPA Department for War Crimes, for taking money from Zulfikar Ališpago“, published on 1 August 2013;

- O-V-376** – Motion by the Defense for Nihad Bojadžić for taking urgent measures sent on 26 December 2011 to the Prosecutor's Office of BiH, the Court of BiH, the OKO, the SIPA;
- O-V-377** – Motion by the Defense for Nihad Bojadžić for delivery of documents sent on 13 August 2013 to the SIPA (attn. Goran Zubac);
- O-V-378** – Response by the State Investigation and Protection Agency no. T 16-04/2-2-04-2-337-360/07 of 22 August 2013;
- O-V-379** – Motion by the Defense for Nihad Bojadžić for delivery of documents sent on 13 August 2013 to the Prosecutor's Office of BiH;
- O-V-380** – Motion the Defense for Nihad Bojadžić for delivery of documents sent on 30 September 2013 to the Prosecutor's Office of BiH;
- O-V-381** – Letter from the Prosecutor's Office of BiH no. A-I-341/13 dated 14 February 2014, signed by Goran Salihović, Chief Prosecutor TBIH, addressed to attorneys Vasvija Vidović and Edina Rešidović;
- O-V-382** – Analysis by the HVO RPG /radio interception group/ of KV /Command Platoon/ – „Luna 1“, Mostar, 16 April 1993 (ERN 06231307-06231309 and authentication on p. 06231696);
- O-V-383** - Interim Analytical Report by the ORD /*abbreviation unknown*/ of OZ JIH /Southeastern Herzegovina Operations Zone/ no. 07-0028/93 dated 17 April 1993, military secret, strictly confidential, signed by Josip Kožul, Head of CED /Electronic Operations Center/ of Southeastern Herzegovina Operations Zone;
- O-V-384** – Letter by Alija Izetbegović, president of the Presidency of RBiH, addressed to Zulfikar Ališpago Zuka, Commander of the SOPN and OG Sjever 2, dated 28 November 1993;
- O-V-385** – Letter from the 44th Mountain Brigade Command no. 02/70-1-87/93 dated 19 April 1993, signed by Neretvica Brigade Commander Enes Kovačević and Neretvica Brigade Assistant Commander Šaban Spiljak, sent to the Igman OG (attn. Commander Salko Gušić);
- O-V-386** – Interim Report by the 44th Mountain Brigade Command no. 02/70-1-70/93 dated 15 April 1993, signed by Commander Enes Kovačević, sent to the 4th Corps Command (attn. Mr. Pašalić);
- O-V-387** – Letter from the 4th Corps Military Police Battalion dated 17 April 1993 sent to the 4th Corps Security Sector;
- O-V-388** - Letter from the 4th Corps Military Police Battalion dated 20 April 1993 sent to the 4th Corps Security Sector;
- O-V-389** - Letter from the 4th Corps Military Police Battalion dated 21 April 1993 sent to the 4th Corps Security Sector;
- O-V-390** - Letter from the 4th Corps Military Police Battalion dated 15 April 1993 sent to the 4th Corps Security Sector;
- O-V-391** – Report by the MUP Sarajevo, no. 01-337 dated 15 April 1993, signed by Ismet Dahić, Assistant Minister, sent to the ŠVK OS RBiH, enclosed Letter from the Jablanica SJB, no. 16-7/1-211-105 dated 14 April 1993, signed by Chief Emin Zebić;
- O-V-392** - Statement from the protocol of the in-patient clinic of Suhodol Wartime Hospital for 17 April 1993, enclosed letter from Hadžići Health Center;
- O-V-393** - Interim Report by the CED /Electronic Operations Center/ of the HVO, RPG KV “APOLLO” za 9 July 1993;
- O-V-394** - Interim Report by the CED of the HVO, RPG KV “APOLLO”, for 10 July 1993;
- O-V-395** – Interim Report by the CED of the HVO, RPG KV “APOLLO”, for 12 July 1993;

O-V-396 – Part of SOPN's wartime logbook for 9 November 1993 and 11 November 1993;

O-V-397 – Interim Report, strictly confidential, no. 02-10-169/93 dated 11 November 1993, signed by Nihad Bojadžić, Deputy Commander of the SOPN ŠVK and OG "Sjever 2", to Zulfikar Ališpago Zuka, enclosed Letter from the Court of BiH no. S1 1 K 008494 12 Krl dated 13 May 2014 and a letter from the Ministry of Defense;

O-V-398 – Letter from the Jablanica SJB /Public Security Station/, strictly confidential, no. 16-7/1-80-50/93 dated 23 September 1993, "Report on some elements of the political-security situation", sent to the MUP RBiH-Minister and the Mostar CSB-Chief, signed by Station Chief Emin Zebić;

O-V-399 - Report, municipal defense staff, 44th Mountain Brigade, no. 07/379.35/93 dated 21 May 1993, strictly confidential, military secret, signed by Zajko Sihirlić, Assistant Commander for Security, and Fadil Kevrić, Assistant Commander for Intelligence, sent to the Igman OG and the Security Sector;

O-V-400 - Order by the Commander of ŠVK OS RBiH Rasim Delić, strictly confidential, no. 02/607-1 dated 10 June 1993, on the cessation of combat operations between the HVO and the ARBiH, sent to the commands of 1st and the 3rd Corps and the Igman OG;

O-V-401 – Attack Order, HZ-HB, HVO, IZM /Forward Command Post/ of Southwestern Herzegovina Operations Zone, no. 01-459 dated 11 May 1993, military secret, strictly confidential, signed by Commander Željko Šigelj, delivered to the Commander of the 1st Tactical Group (Colonel Miljenko Filipović), Commander of the 2nd Tactical Group (Colonel Dragan Inić), Commander of the 3rd Tactical Group (Ilija Franjić);

O-V-402 - Report dated 15 April 1993, 08:00 hrs, military secret, HVO, "Herceg Stjepan" Brigade;

O-V-403 – Order by the 4th Corps Command, no. 01-3063/93 dated 15 April 1993, signed by Commander Arif Pašalić, delivered to the OpŠO Jablanica and Konjic, the 43rd, the 44th, the 45th mountain brigade, Military Police Battalion, Prozor bb /mountain battalion/, the 4th Corps Chief of Staff Tetak, Džemal Trešnjo, operations and training-4th Corps;

O-V-404 – KO /extension unknown/ assessment, AR BiH, 6th Corps, 44th Mountain Brigade, strictly confidential, no. 07/1637-1/93 od 12 December 1993, sent to the 6th Corps Command, SVB Konjic, signed by Zajko Zihirlić, Assistant Commander for Security;

O-V-405 - Letter from the Court of BiH no. S1 1 K 0010294 12 Krl dated 4 June 2014 signed by Judge Šaban Maksumić, sent to attorney Edina Rešidović, confirming that Defense exhibits 1-15 have been admitted as Defense evidence in the case against Edin Džeko before the Court of BiH;

O-V-406 – Letter from the Court of BiH no. S1 1 K 00110294 12 Krl dated 23 June 2014, signed by Judge Šaban Maksumić, sent to attorney Edina Rešidović, confirming that documents listed in Defense's Motion dated 7 June 2014 have been admitted as Defense evidence in the case against Edin Džeko before the Court of BiH and the Defense's Motion dated 7 June 2014;

O-V-407 – Delivery of documents by the BiH Ministry of Defense, 22 June 2012, no. 13-04-1-240-167/08, in connection with the Court's Consent no. S1 1 K 003369 10 Krl of 23 May 2012;

O-V-408 - Certificate issued by the HR Herceg-Bosna Ministry of Defense, VP 1719, confidential, 035-01/96-02/01, Ljubuški, 9 December 1996;

O-V-409 - Certificate issued by the Ministry of Defense of FBiH, HVO, confidential, 035-01/97-02/01, Ljubuški, 19 May 1997;

O-V-410 - Certificate issued by the FBiH Ministry of Defense, confidential, 035-01/97-02/01, Ljubuški, 7 January 1997;

O-V-411 - Certificate issued by the Ministry of Defense of FBiH, HVO, confidential, 035-01/97-02/01, Ljubuški, 28 May 1997;

O-V-412 - Certificate issued by the Ministry of Defense of FBiH, HVO, confidential, 035-01/97-02/01, Ljubuški, 9 June 1997;

O-V-413 - Certificate issued by the Konjic Defense Department, Mostar Defense Administration, Federation of BiH Ministry of Defense, no. 22-07-49-258/04-01, Mostar, 10 August 2004;

O-V-414 - Certificate for Franjo /son of Ilija/ Drljo, Ministry of Defense, Croatian Republic of Herceg-Bosna, VP 1719, confidential, 035-01/96-02/01, Ljubuški, 22 November 1996;

O-V-415 - Certificate for Zdravko /son of Ivan/ Drljo, Ministry of Defense, FBiH, HVO, confidential, 035-01/97-02/01, Ur.no. 1719-07-97-462, Ljubuški, 28 May 1997;

O-V-416 - Certificate for Milenko /son of Stipo/ Mandić, Ministry of Defense, FBiH, HVO, confidential, 035-01/97-02/01, Ur.no. 1719-07-97-153, Ljubuški, 7 March 1997;

O-V-417 - Certificate on the circumstances surrounding the death of Stipo /son of Andrija/ Mandić, "Herceg Stjepan" Brigade Konjic, 1st Battalion, Mostar, 15 January 1996;

O-V-418 - Record of Interview of Protected Witness "R", Prosecutor's Office of BiH, no. KT-RZ-107/05, Sarajevo, 8 March 2010;

O-V-419 - Record of Interview of Witness Jure Krešo, Prosecutor's Office of BiH, Sarajevo, no. KT-RZ-107/05, 26 August 2009;

O-V-420 - Record of Interview of Witness Šaćir Arnautović, Prosecutor's Office of BiH, Sarajevo, no. KT-RZ-107/05, 1 June 2009;

O-V-421 - Record of Interview of Witness Ilija Drljo, Prosecutor's Office of BiH, Sarajevo, no. KT-RZ-107/05, 30 January 2009;

O-V-422 - Record of Interview of Witness Anica Krešo, Prosecutor's Office of BiH, Sarajevo, no. KT-RZ-107/05, 4 March 2010;

O-V-423 - Record of Interview of Witness Muamer Huseinbegović at the Konjic PU /Police Department/, no. 17-04/2-04-2-308/10, date: 26 May 2010, SIPA, Ministry of Security of BiH;

O-V-424 – Official Note, SIPA; Ministry of Security of BiH, SIPA, no. 17-04/2-04-2-106/09, date: 27 January 2009;

O-V-425 - Record of Interview of Protected Witness "K", Prosecutor's Office of BiH no. KT-RZ-107/05 dated 30 September 2009;

O-V-426 - Record of Interview of Witness Mara Delinav, Prosecutor's Office of BiH no. KT-RZ-107/05 dated 19 June 2009;

O-V-427 - Record of Interview of Witness Jela Ljubić, Prosecutor's Office BiH no. KT-RZ-107/05, dated 11 February 2010;

O-V-428 - Record of Interview of Witness Vahidin Čomor, Prosecutor's Office of BiH, no. KT-RZ-107/05, Sarajevo, 19 May 2010;

O-V-429 - Record of Interview of Witness Sead Branković, Ministry of Security, SIPA, no. 17-04/2-04-2-225/10, date: 14 April 2010;

O-V-430 - Record of Interview of Witness "C", Prosecutor's Office of BiH no. KT-RZ-107/05 dated 6 January 2009;

O-V-431 - Record of Interview of Protected Witness "Z", Prosecutor's Office of BiH no. KT-RZ-107/05 dated 17 May 2010;

O-V-432 - Record of Interview of Protected Witness "A", Prosecutor's Office of BiH no. KT-RZ-107/05 dated 7 May 2009; Record of Interview of Protected Witness "A", Prosecutor's Office of BiH no. KT-RZ-107/05 dated 19 October 2009; Record of Interview of Protected

Witness “A”, Prosecutor’s Office of BiH no. KT-RZ-107/05 dated 4 December 2008 and Record of Interview of Protected Witness “A”, Ministry of Security of BiH, SIPA, no. 17-04/2-04-2-1197/08 dated 28 November 2008;

O-V-433 - Record of Interview of Protected Witness “M”, Prosecutor’s Office of BiH no. KT-RZ-107/05, dated 4 November 2009;

O-V-434 - Record of Interview of Protected Witness “O”, Prosecutor’s Office of BiH no. KT-RZ-107/05 dated 21 October 2009;

O-V-435 - Record of Interview of Protected Witness “S”, Prosecutor’s Office of BiH no. T20 0 KTRZ 002954 12 dated 18 May 2012;

O-V-436 - Record of Interview of Protected Witness “X”, Prosecutor’s Office of BiH no. KT-RZ-107/05 dated 18 December 2008;

O-V-437 – Official Note, Ministry of Security of BiH, no. 17-04/2-2-04-2-396/10, date: 23 March 2010; the note was composed by Mario Kapetanović and Dalibor Milošević;

O-V-438 – Notification in the case of Zulfikar Ališpago, Ministry of Security, BiH, NCB INTERPOL SARAJEVO, no. 16-3-04-5-IP-I-RZ-18610-3, date: 25 January 2010, signed by Deputy Director Mirela Znaor;

O-V-439 - Decision on Appointment to the Training and Doctrine Command of the Army of FBiH, Federation of BiH Ministry of Defense, no. 07-03-11-4/99, Sarajevo, 12 February 1999 signed by Deputy Minister Sakib Mahmuljin;

O-V-440 – Notification sent by the Court of BiH to attorney Vasvija Vidović, no. S1 1 K 010294 12 Krl, Sarajevo, 3 July 2014, signed by Judge Šaban Maksumić;

O-V-441 – Newspaper articles: *Nezavisne novine*, *Dnevni avaz*, *Glas Srpske*, *Slobodna Bosna*, *Dani*;

O-V-442 - Record of Interview of Witness “V”, Prosecutor’s Office of BiH, Sarajevo, no. KT-RZ-107/05, dated 7 April 2010, Record of Interview of Witness “V”, Ministry of Security, no. 17-04/2-04-2-71/10 dated 26 January 2010;

O-V-443 – Combat Report, Republic of BiH, Army of RBiH, “Lisin” Battalion Command, village of Bradina, 4th Corps Command, no. 02/1-3169193, to the 4th Corps Commander, date: 15 April 1993 at 23:00 hrs, signed by Esad Ramić;

O-V-444 - Report on the situation in Jablanica and a wider area, 44th Mountain Brigade Command, strictly confidential, 02/70-1-69/93, Jablanica, 15 April 1993, 23:00 hrs, signed by Sulejman Budaković;

O-V-445 – Transfer for V/1 Ahmet Kokić, RBiH, Army of RBiH, 4th Corps, Special-Purpose Detachment, no. 04-10-1890/94, date: 20 July 1994, signed by Commander Nihad Bojadžić;

O-V-446 – Platform for activities of the Presidency of Bosnia and Herzegovina in Time of War, published in *Official Gazette of R BiH*, 8, 2 July 1992;

O-V-447 – Plea Agreement concluded between the Prosecutor’s Office of BiH and Rasema Handanović no. T20 0 KTRZ 000 2955 12 of 2 March 2012 and the operative part of Judgment of the Court of BiH no. S1 1 K 009162 12 Kro dated 30 April 2012 for Rasema Handanović;

O-V-448 – Intelligence Report, Army Post Office No. 7097, Mrkonjić Grad, dated 25 July 1993;

O-V-449 - Record of Questioning of the Suspect Hasan Hakalović, Prosecutor’s Office of BiH, no. KT-RZ-107/05, dated 23 March 2010; Record of Questioning of the Suspect Hasan Hakalović, Prosecutor’s Office of BiH, no. KT-RZ-107/05, dated 19 April 2010; Record of Questioning of the Suspect Senad Memić, Prosecutor’s Office of BiH, no. KT-RZ-107/05, dated 12 May 2010; Record of Questioning of the Suspect Jusuf Hadžajlija,

Prosecutor's Office of BiH, no. KT-RZ- 107/05, dated 15 December 2009; Record of Interview of Witness Mustafa Buturović, SIPA, Center for Investigation of War Crimes, no. 17-04/2-04-2-1061/08, od 22 October 2008; Redacted witness interview record, Prosecutor's Office of BiH, no. KT-RZ 107/05, dated 16 March 2010;

O-V-450 - Interim Report, HVO dated 10 July 1993;

O-V-451 – Information Report, “Herceg Stjepan” Brigade Konjic dated 28 May 1993;

O-V-452 - Information Report, “Herceg Stjepan” Brigade Konjic dated 11 June 1993;

O-V-453 – Interim Report by the HVO dated 17 April 1993;

O-V-454 - Intelligence report, “Herceg Stjepan” Brigade Konjic dated 29 May 1993;

h) EXPERT WITNESSES EXAMINED WITH REGARD TO THE HEALTH CONDITION OF THE ACCUSED NEDŽAD HODŽIĆ

No.	Witness	Date of testimony	Note
1	Omer Ćemalović, MD	24 January 2011	Expert in neuropsychiatry
2	Prof. Alma Mehmedbašić – Bravo	9 December 2013	Expert in neuropsychiatry
3	Nera Zivlak – Radulović, MD	17 February 2014	Expert in forensic psychiatry

S-1 - Medical report for Nedžad Hodžić dated 14 January 2009

S-2 - Medical report for Nedžad Hodžić dated 28 December 2009

S-3 - Medical report for Nedžad Hodžić dated 29 June 2010

S-4 - Medical report for Nedžad Hodžić dated 18 August 2010

S-5 - Medical report for Nedžad Hodžić dated 10 January 2011

S-6 - Medical report for Nedžad Hodžić dated 14 May 2012

S-7 - Medical report for Nedžad Hodžić dated 12 April 2013

S-8 - Medical report for Nedžad Hodžić dated 25 October 2013

S-9 - Medical report for Nedžad Hodžić dated 30 January 2014